INTERNET
The Votes and Proceedings for the House of Representatives are available at:
Proof and Official Hansards for the House of Representatives,
the Senate and committee hearings are available at:

SITTING DAYS—2001

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>6, 7, 8, 26, 27, 28</td>
</tr>
<tr>
<td>March</td>
<td>1, 5, 6, 7, 8, 26, 27, 28, 29</td>
</tr>
<tr>
<td>April</td>
<td>2, 3, 4, 5</td>
</tr>
<tr>
<td>May</td>
<td>9, 10, 22, 23, 24</td>
</tr>
<tr>
<td>June</td>
<td>4, 5, 6, 7, 18, 19, 20, 21, 25, 26, 27, 28</td>
</tr>
<tr>
<td>August</td>
<td>6, 7, 8, 9, 20, 21, 22, 23, 27, 28, 29, 30</td>
</tr>
<tr>
<td>September</td>
<td>17, 18, 19, 20, 24, 25, 26, 27</td>
</tr>
<tr>
<td>October</td>
<td>22, 23, 24, 25, 29, 30, 31</td>
</tr>
<tr>
<td>November</td>
<td>1, 12, 13, 14, 15, 19, 20, 21, 22</td>
</tr>
<tr>
<td>December</td>
<td>3, 4, 5, 6, 10, 11, 12, 13</td>
</tr>
</tbody>
</table>

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
- **SYDNEY**: 630 AM
- **NEWCASTLE**: 1458 AM
- **BRISBANE**: 936 AM
- **MELBOURNE**: 1026 AM
- **ADELAIDE**: 972 AM
- **PERTH**: 585 AM
- **HOBART**: 729 AM
- **DARWIN**: 102.5 FM
Tuesday, 25 September 2001

The PRESIDENT (Senator the Hon. Margaret Reid) took the chair at 2.00 p.m., and read prayers.

QUESTIONS WITHOUT NOTICE
Goods and Services Tax: Compliance Costs

Senator GEORGE CAMPBELL (2.00 p.m.)—My question is to the Assistant Treasurer. How does the minister respond to Stephen Harris, CEO of the Institute of Chartered Accountants in Australia, whose comments in the Australian Financial Review on 22 August 2001 were highly critical of the way in which the government forced tax reform upon Australian business? Isn’t Mr Harris correct when he states:

... the legislative process behind the new tax system has failed to deliver on its key objectives: a simpler system of taxation with lower compliance costs.

Can the minister confirm that this is a view expressed by the CEO of the same institute the government often likes to hold up as being an independent voice on tax reform? How can Mr Harris’s views be ignored?

Senator KEMP—The government has delivered arguably the most substantial tax reform since Federation. The objectives of tax reform were to create a more competitive tax system. I think that has certainly happened, among other things. Senator Campbell, let me outline some of the key objectives of tax reform. One was to deliver substantial cuts in personal income tax—$12 billion of tax cuts. Promised and delivered. Another key reform in the package was to cut the corporate tax from Labor’s 36 per cent to 30 per cent. Promised and delivered. Another area was to cut the plethora of indirect taxes and to abolish Labor’s unfair wholesale sales tax. Promised and delivered. Another element was to provide for the states a guaranteed growth tax. As Senator Campbell would know, all of the revenue from the GST goes to state governments. It goes to Mr Carr, Mr Bracks, Mr Beattie, Dr Gallop and so on. The Labor premiers obtain the GST revenue, and not one of them has complained about it—not one. A key element of the reform was to give a growth tax to the states. Promised and delivered.

Another key element or objective of tax reform—you asked me about the objectives of tax reform—was to take the taxes off exports. Promised and delivered. One of the reasons why Senator Campbell should be pleased with what has happened with tax reform is that, in this very uncertain environment we now find ourselves in, to have a very competitive export sector has been a great boon to the Australian economy, particularly to rural and regional Australia. The commitment in relation to the export sector was promised and delivered. Senator, you should look across the spectrum and note that this government’s objectives in tax reform have been delivered.

You raised a number of other issues. I think your question indicated that you felt that the issue had been rushed through the parliament. The parliamentary process took a long time, not a short time. There was no rushing of bills through the parliament. In fact, I think everyone would agree that in the process of bringing about tax reform the Senate spent an absolutely inordinate amount of time on this issue. We had three or four committees investigating various aspects of the bill. The total sitting time of those committees was in the order of a year if you add them together. I do not think there was any rushing of the legislation through the parliament.

Let me now turn to the compliance issue. This government is always very mindful of the need to keep down compliance costs. We are one government that is always prepared to work—particularly with small business—to cut back on compliance costs. There were issues raised by small business in relation to compliance costs, particularly in relation to BAS—(Time expired)

Senator GEORGE CAMPBELL—Madam President, I ask a supplementary question. In light of Mr Harris’s highly critical comments, can the minister confirm that Minister Macfarlane’s media release of 24 September featured nothing to alleviate the substantial GST compliance burden on small businesses despite the admission in Mr Macfarlane’s leaked cabinet submission that
the government needed to do more? Can the minister deny that this means that small business has nothing more to look forward to on that front, in contrast with Labor’s proposal to substantially simplify the BAS by offering a ratio method alternative to burdensome BAS calculations?

Senator KEMP—There is one thing that small business are worried about—the possible election of a Labor government. The Labor Party is not the party of small business; the Labor Party is the party of the trade union bosses. About that there can be no argument. Senator George Campbell mentioned the package that was announced by Mr Macfarlane recently. Let me quote from the Australian Chamber of Commerce and Industry. ACCI stated that it supports the major initiatives in the package. In contrast to the Labor Party, business supports the package. The Sydney Morning Herald today announced that the $22 million unveiled by the Howard government yesterday will liberate small business from red tape. The Labor Party is running a political line, and why wouldn’t it run a political line given the state—(Time expired)

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from Sweden, led by the Speaker, Mrs Birgitta Dahl. On behalf of honourable senators, I have pleasure in welcoming you to the Senate and trust that your visit will be both informative and enjoyable. With the concurrence of honourable senators, I propose to invite the Speaker to take a seat on the floor of the Senate.

Honourable senators—Hear, hear!

Mrs Dahl was thereupon seated accordingly.

QUESTIONS WITHOUT NOTICE

Education: Government Policy

Senator FERGUSON (2.08 p.m.)—My question is to the Minister representing the Minister for Education, Training and Youth Affairs, Senator Ellison. Will the minister advise the Senate of the Howard government’s latest initiative to increase access to university education and vocational training for young Australians? What is the government doing to retain and attract highly skilled scientists and researchers to work in Australian universities? Is the minister aware of any alternative policies?

Senator ELLISON—What a very good question from Senator Ferguson. Education—and vocational education in particular—is a matter that all Australians would be concerned about. Just a few weeks ago, Dr Kemp, the Minister for Education, Training and Youth Affairs, announced an extra 20,000 places in tertiary education over the next five years. That came under our Backing Australia’s Ability plan. What is important is that 670 of those places are in regional Australia. Six hundred and seventy places in regional Australia will give Australians living in regional areas extra opportunities in accessing tertiary education.

Senator Ferguson also asked about what we are doing to keep Australia’s best brains in the country. This has been talked about for some time, and we have a plan. We announced it today with our Federation Fellowships scheme. Over the next five years, 125 fellowships will be offered in an effort to bring back Australia’s best minds from overseas and keep them in Australia. Under this scheme, each fellowship will receive $1.25 million over five years, making it the most prestigious and richest publicly funded research fellowship ever offered in Australia. I hope Senator Carr is listening to this, because the 15 fellowships that we announced today are to bring back to Australia Australians, who are involved in that important research and keep them here. This is a plan to deal with the brain drain that has been of concern to Australians over recent years. We have a plan.

In relation to vocational education, we have a record number—just over 320,000—of Australians in formal training. That is 2½ times the number of apprenticeships on offer under the former Labor government. We have made great inroads in addressing the 70 per cent of young Australians who did not go to university. This is about addressing that vast majority of young Australians who do not go to university and giving them training opportunities. Senator Ferguson also asked
about alternative policies. All we get from the opposition is noodle nation, this Knowledge Nation. Alan Ramsey said of Mr Beazley, the Leader of the Opposition:

Being lectured by Beazley in the abstract on what he might or might not stand for is now all too late. That is what happens when a political party leaves everything to the end and gets overwhelmed by events.

We are seeing a party which has no policy. In fact, their so-called Knowledge Nation, or noodle nation, has been totally devoid of any plan. Where does it address the brain drain that I mentioned? Where does it address bringing back Australians from overseas who have gone to study and research at other institutions? Where does it address giving that 70 per cent of young Australians those training opportunities that I have mentioned? It does not. In fact, as Mr Beazley said about noodle nation, ‘If it hadn’t been for that little design of Barry’s, it would have been talked about for one day and disappeared.’ Guess what. It has disappeared.

What we are announcing today is a comprehensive plan to keep Australia’s smartest minds in the country and to bring back those Australians who have left Australia to study overseas. What we have announced recently is increased places in the tertiary education sector, especially an extra 670 places for students in regional Australia. That is good news for all Australians, especially young Australians.

Coles Myer and Daimaru: Job Losses

Senator COOK (2.13 p.m.)—My question is to the Assistant Treasurer, Senator Kemp. Will the minister confirm that today 2,010 jobs will be lost in the Coles Myer and Daimaru department stores? Is the minister aware that the Chairman of Coles Myer, Mr Stan Wallis, in a letter to the shareholders on 6 August this year laid the blame for Coles Myer’s difficulties, saying:

The profit downturn is also due to a very difficult and challenging economic and retail trading environment, further impacted by the introduction of the Goods and Services Tax. The GST and its implementation have severely influenced consumer buying patterns and profitability, mainly in our non-food general merchandise and apparel business.

Is the minister also aware that today the director of operations for Daimaru Australia, Dennis Hirschfield, stated:

... increasing competition and the introduction of the GST have not assisted with the company’s efforts to turn the stores around.

Are these two significant retailers wrong when they assert that the GST has helped trigger these closures?

Senator KEMP—Thank you to Senator Cook for the question. I have been waiting for a while to get a question from Senator Cook, and I am always pleased to receive one from him. Let me make a general comment before I get to the specifics of the question. We have seen a general campaign in this parliament and in question time in particular against the GST. Listeners to radio and watchers of TV would think that the Labor Party were opposed to the GST. They have attempted to talk down the Australian economy. One would have thought that they were opposed to the GST. Let me assert that the Labor Party will be keeping the GST. As the Treasurer has said, the Labor Party apparently hate the GST so much they are proposing to keep the GST! One of the reasons I believe the Labor Party are—to put it politely, and not to put too fine a point on it—struggling at the moment is that no-one knows what the Labor Party stands for. What is the point of standing up in question time and attacking the goods and services tax if you propose to keep it as part of your policy? It is no wonder the public are absolutely astonished at the hypocrisy of the Labor Party.

When you have policy gurus like Senator Robert Ray and Senator John Faulkner, it is not surprising you muck up your policy; it is not surprising you do it. The public are now, I believe, focusing on the Labor Party and wondering what on earth it stands for. The fact of the matter is, Senator Cook, the Labor Party, if it gets into government, will be keeping the GST.

Senator Cook interjecting—

Senator KEMP—Yes, it will, Senator Cook. It will be keeping the GST.

Senator Carr—What about answering the question!
Senator KEMP—I have waited to debate roll-back in this chamber. I have waited day after day to debate roll-back.

Senator Cook—Madam President, I rise on a point of order. The minister has had more than two minutes now to conclude his attack upon the Labor Party, but over 2,000 workers have lost their jobs today. Can he actually answer the question?

The PRESIDENT—What is the point of order, Senator?

Senator Cook—the point of order is relevance. Madam President, over 2,000 workers have lost their jobs today, and the minister cannot even answer the question.

The PRESIDENT—Senator Kemp, it is a long preamble and I draw your attention to the question.

Senator KEMP—Let me turn to the specifics of the question. This government has placed particular attention in its management of the economy on creating jobs. The fact is that over 800,000 jobs have been created by this government since it came into office. Sales in the retail sector broadly reflect what is happening in the wider economy. I would remind the Senate that the largest personal income tax cuts in Australian history were introduced at the same time as the goods and services tax and would have had a strong positive effect on private consumption spending. The Australian economy grew by 0.9 per cent in the June quarter of this year. Australia’s economy—I think this is important to remember in the light of the attacks on the goods and services tax raised by Senator Cook—is arguably one of the world’s fastest growing. When we turn to the state of Victoria where some of these re-trenchments are occurring, Mr Bracks, the Premier of Victoria, states that retail sales in Victoria have risen by 18.7 per cent over the last year—not a bad performance at all. In relation to the Daimaru issue, it is true that that company has shown poor profits over the last 10 years, so I think it is a little rich to blame the GST for the problems that company is having. The point I am making is that the Australian economy has performed well because this government is a good manager of the economy. Of course it is concerned when workers lose their jobs. (Time expired)

Senator COOK—Madam President, I ask a supplementary question. Might I remind the minister that the economy has grown by external demand due to a 50 cents in the dollar exchange rate. Can the minister confirm that since the GST was introduced there has been a loss of 87,700 full-time jobs? Isn’t it true that these 2,010 job losses today will only add to that figure—more victims of the GST job destroying tax? Can the minister deny that the Treasurer has now comprehensively broken his August 1998 GST promise that ‘The combination of higher growth and improved work incentives’—due to the GST—‘will deliver more jobs and lower unemployment’?

Senator KEMP—The management of the economy, including tax reform, has delivered more jobs and stronger growth to the Australian economy. That is the fact. In comparison with other economies, the Australian economy is one of the high growth economies. But if, as Senator Cook says, the goods and services tax is a jobs destroying tax, can I pose this question to him: why is the Labor Party proposing to keep the goods and services tax?

Senator Cook—we aren’t.

Senator KEMP—Senator Cook says, ‘We aren’t.’ Senator Cook says that they are not proposing to keep the goods and services tax. Where are the Labor Party going to raise the $27 billion that the goods and services tax raised? This is just complete foolishness from the Labor Party. No wonder you are struggling in the polls, Senator Cook, with a performance like this.

Australian Labor Party: Centenary House

Senator FERRIS (2.20 p.m.)—My question is directed to Senator Abetz representing the Minister for Finance and Administration. What is the Commonwealth government’s approach to leasing arrangements which do not stand up to this government’s standards of responsible economic management? Given that the Labor Party owns Centenary House’s exorbitant rental arrangements, has the Labor Party responded to government
requests to renegotiate that lease to a reasonable level?

Senator ABETZ—I thank Senator Ferris for her timely question. Senator Ferris is quite correct in her question, where she does identify the government’s responsible economic management and our high standards. Of course, it is the economic strengths that Australia currently enjoys—including, might I add, another 880,000 jobs under this government—that speak volumes and bear testament to the sound economic management of this country under the Howard-Anderson-Costello leadership. Senator Ferris is also correct to identify Labor’s Centenary House lease as a rental roort which, might I add, was engineered by the Australian Labor Party whilst they were still in government to lease a property owned by the Australian Labor Party to the taxpayers of Australia at a rate way above market rental so that, at the end of the 15-year lease, the Australian taxpayers will have had to pay in excess of $36 million above and beyond the true and fair market rental.

The Australian Labor Party have attempted to put down some alternative policies. We have had Mr Beazley talking about heart bypass operations and hip replacements. Let me remind Mr Beazley and the Labor Party that that $36 million that they are roorting out of the taxpayers’ pockets would have paid for 2,160 heart bypass operations or 2,880 hip replacement operations. So much for their commitment to health policy. If we turn to education and noodle nation, that $36 million would have paid for 576 schoolteachers for a year, 3,240 new university places or 432 new portable classrooms. I think that Senator Ferris, senators on this side and, indeed, responsible Australians would all agree that a $36 million profit over a 15-year period is completely inappropriate, especially by a party led by a person who poses as the alternative Prime Minister of this country.

The Australian Labor Party has had eight years to fix this roort. During the last five or so years the Labor Party has been led by Mr Beazley. Mr Beazley has had the opportunity—

Senator ABETZ—That is using the term loosely, I agree. Senator Knowles. He has led the Australian Labor Party for the past five or so years and he has had the opportunity to product differentiate himself from the sleazy Keating era of the deal making, but he has not raised one finger. Indeed, quite uncharacteristically, he has been very, very quiet. He has failed the tests of moral leadership, of controlling his party or, indeed, just of simple decency. The turning of a blind eye by Mr Beazley to this roort speaks volumes about his character. It also speaks volumes of what Labor would do if they were ever returned to government. Given the opportunity, they would repeat this roort. Mr Beazley is unfit to lead his party. He is also unfit to lead the nation.

Australian Taxation Office: Refunds

Senator MURPHY (2.25 p.m.)—My question is directed to the Assistant Treasurer, Senator Kemp. Is the minister aware of a recent statement issued by the Commissioner of Taxation, Michael Carmody, which blamed taxpayers for making mistakes on this year’s tax return and thereby delaying the issuing of their refunds? Didn’t Mr Carmody cite as two main areas where people are making errors in their returns government changes to the mechanisms for claiming for the low income aged persons tax offset and also the family tax benefit? Given the reasons cited by Mr Carmody, does the minister agree with Mr Carmody’s assessment that taxpayers are in fact to blame for the government’s botched tax reform agenda?

Senator KEMP—There is no botched tax reform. The only botch that I am aware of is the Labor Party policy botch and the Labor Party confusion on policy. A statement was put out on 8 August by the tax commissioner on BAS refunds, and I assume it is the one which Senator Murphy is referring to. In that statement, Mr Carmody urged businesses which have business activity statement refunds outstanding to contact the tax office and provide their bank details so that they can get their payment as quickly as possible.

Senator Murphy interjecting—
The PRESIDENT—Order! Senator Murphy, you can ask a supplementary question later.

Senator KEMP—Senator, you should have been more specific in your question, I would have to say. It is a bit hard for me to forecast exactly what you are going to say, but we do know that the Labor Party will be attempting to in some way attack the GST, even though—surprise, surprise, guess what—the Labor Party proposes to keep the GST. That is quite astonishing. So what Mr Carmody did—as a good tax commissioner would always do—was, where taxpayers had particular concerns about refunds, to make sure that they contacted the tax office, and the phone number was on the press statement urging them to do so. The commissioner has said—and the government fully agrees with this—that the tax office wants to ensure that people get their refunds as quickly as possible. He mentioned in the press release that the tax office had written to and phoned people who had not got their refunds and who may have some concerns in an effort to get them to finalise their refunds. I think that the commissioner, Mr Carmody, has shown the commitment of the tax office and, indeed, reflects the commitment of the government to make sure that the refunds are processed and paid to people as soon as possible.

I come back to the original point I made: the Labor Party are flailing around at present, desperate to get themselves an issue. The Labor Party, after 5½ years in opposition, are without any clear policy. If we asked the people in the gallery what the Labor Party’s policies were after 5½ years in opposition, the fact of the matter is that no-one would know. There would be something called rollback, but no-one knows what rollback is, no-one knows what rollback will cost and no-one knows how rollback will be financed. There is a policy, apparently, called Knowledge Nation or noodle nation, but no-one will debate that. So, Senator, I hope that answers your question. I do want to stress that this government and indeed the tax office are very keen that refunds be paid to people as quickly as possible.

Senator MURPHY—Madam President, I ask a supplementary question. I am sorry to disappoint the minister, but he has not answered my question. I refer the minister to the statement issued by the commissioner on 17 September this year. Can the minister say whether he agrees with the comment made by the ATO spokesman shortly after Mr Carmody’s statement that many of the mistakes may have been caused by a lack of communication between tax agents and their clients? Doesn’t this show that the ATO is happy to blame not only the taxpayers but also tax agents, burdened by unprecedented paperwork, for not being able to keep up? When is the minister going to step up and accept that the responsibility actually lies with his government?

Senator KEMP—We have brought in major tax reform, as I mentioned in an earlier answer. That has posed particular challenges to the Taxation Office, business, tax agents, accountants and all those that have been involved in this process. The important point, Senator, is to ensure that the tax office works closely with tax agents and accountants to make sure that, in the implementation of tax reforms, particular problems are dealt with and ironed out. From the government’s perspective, we are always anxious to make sure that this is done as efficiently and as quickly as possible. You do not bring in change of the nature that we have brought in without having to bring the community up to speed; without having the cooperation of the community and the cooperation of tax agents and accountants. I can assure you, Madam President, and the Senate that the government will always work closely with them to make sure the implementation is done as quickly and as efficiently as possible. (Time expired)

Community Organisations: Public Liability Insurance

Senator CHERRY (2.31 p.m.)—My question is addressed to the Minister for Family and Community Services. It concerns not-for-profit community organisations, many of which are funded by her department. A recent survey by the Queensland Council of Social Services shows that, since the collapse of HIH Insurance, the cost of public liability insurance for community organisations has risen by 30 to 40 per cent—and in many cases by more than 100 per cent. Is the minister concerned by the lack of
Is the minister concerned by the lack of competition now apparent in the provision of public liability insurance for community organisations? Are insurance companies over-pricing premiums in respect of risk? Will the minister be initiating research to ensure that insurance companies are not profiteering at the expense of community organisations? Will the minister consider supplementing grants to ensure that services are not scaled back as a result of the HIH collapse?

Senator VANSTONE—I thank the senator for his question. It is a good question because, as members of the Senate may well know, we have over four million volunteers in Australia. On top of those volunteers we have people—who themselves are probably, although not necessarily, volunteering—who are organising them. They are in the community organisations that need the sort of insurance referred to. I am aware that there have been some reports of quite dramatic increases in insurance premiums that have been levied following the collapse of HIH. Incidentally, I welcome the Democrats’ commitment to competition, producing lower price outcomes. I understand my colleague Senator Alston would also welcome a commitment from the Democrats in that respect—especially in relation to telecommunications services. But I am pleased to see that they do recognise that competition can serve to assist in bringing prices down.

Many people believe that HIH had undersold the true value of insurance costs and that that has meant the market has had to adjust in order to account for the real risks and costs involved. To put that another way: some people think that HIH got a larger share of the market by underpricing and that that may have contributed to its not having the sort of money it should have had in order to keep going. I do not assert that as a fact; I just indicate that a lot of people believe that is the case, that the company was not run properly and it did not price its services properly. Consequently it went broke. In the meantime, in offering lower costs, it forced prices down unrealistically, in a way that they otherwise might not have trended.

My federal colleague Joe Hockey, the Minister for Financial Services and Regulation, has referred the issue of across-the-board premium increases to the ACCC. No doubt I will hear from Minister Hockey when he has had a report back on that. In addition, advice from the insurance sector suggests that a marked increase in the number of public liability claims is also a big driving force behind the increase in insurance premiums. That is affecting virtually every sector that requires insurance, including the community sector. The Commonwealth, as I am sure you will understand, has little and probably no influence over the cost of insurance policies for volunteers—or, not to restrict it to those activities undertaken by volunteers, for community organisations in the other aspects of their work. The cost of volunteer insurance is driven largely by the commercial and legal environment that organisations operate in today. I have asked the department to closely monitor developments in conjunction with Treasury, the ACCC and Volunteering Australia.

I conclude by saying, firstly, that I do not have any advice, anecdotal or otherwise, that insurance companies have been seeking to profiteer at the expense of community groups. If I understood the words you used to mean that, it implies that you think some insurance companies might be particularly targeting community groups to ramp up premiums and get more money from just them rather than the rest of the sector. I would not like to think you meant that, but I give you the opportunity to address that point.

Secondly, Senator Cherry asked whether the Commonwealth will supplement grants to community organisations to assist them to maintain the same level of insurance. Costs go up every day, for different reasons, for a wide variety of groups. Not all community sector groups get grants from the government. I think, therefore, for the government to increase grants to those who are lucky enough already to get a government grant—an act that would be to the disadvantage of those who do not get one—would be unfair. In any event, it would be an acknowledgment yet again to some people—maybe such as you, Senator—who encourage the view that, if something is wrong, if the price goes
up, they should go to the government—(Time expired)

Senator CHERRY—Madam President, I ask a supplementary question. Thank you, Minister, for that answer. I am pleased you are at least monitoring this area. Does the minister acknowledge at least that many not-for-profit organisations are doing the work previously done by government and by transferring that service from government through contracting out you are also transferring the risk? Does that not create the need for you to actually give more prominence to the concerns that the sector is raising about the rising cost of insurance? Will the minister acknowledge at least that many not-for-profit organisations are doing the work previously done by government and by transferring that service from government through contracting out you are also transferring the risk? Does that not create the need for you to actually give more prominence to the concerns that the sector is raising about the rising cost of insurance? Will the minister be considering alternatives as part of ensuring that these costs are kept down, such as the American approach of narrowing liability or, indeed, capping liability for not-for-profit organisations, as being considered by some state governments?

Senator VANSTONE—Senator, even in my former job as Minister for Justice and Customs in the Attorney-General’s portfolio, I did not have responsibility for the question of product liability or capping liability on insurance premiums, et cetera. That area is not in my portfolio. Let me come to the point you ask about where the not-for-profit sector is doing work that might have been done in the past by the government because we have contracted it out. Those contracts frequently come up for renewal and that is the time for renegotiation for any price increases as a consequence of a whole range of matters that might have happened in the first contract period.

Australian Taxation Office: Job Cuts

Senator LUNDY (2.38 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Can the minister confirm that the Commissioner of Taxation announced massive job losses of 1,300 full-time staff and 1,000 part-time staff on 30 August by a pre-recorded video message that was delivered after he left for annual leave? Was the minister’s or Treasurer’s approval sought for the ATO’s intended course of action in advising ATO staff of these job cuts? Did the government approve this action? Finally, what guarantees did the government seek from the ATO that these job losses would not result in reduced services to those who are still struggling with the new tax system and a reduced capacity to deal with tax evasion at the top end of town?

Senator KEMP—It is a matter for the Commissioner of Taxation to make decisions on how the information is conveyed to staff. I would make the point that the Taxation Office is a very big operation, with offices right round Australia. I would have thought, Senator Lundy, that it made a bit of sense to do a video to announce those staff losses. I do not know whether the implication of your question is that the commissioner should have visited each office. I am sure he does, but obviously on a particular day when the announcement is made the commissioner will work out the best way in which to inform staff of what the tax office plans are. In fact, I would imagine that the use of videotape and TV are important ways in which staff are kept informed of what happens in the tax office.

Let me turn to the other part of the question. The government is committed to ensuring that the ATO is fully resourced to meet its responsibilities. Staffing levels at the tax office after redundancies will be around, I am advised, 17,800. This is nearly 1,800 up on the level of 30 June 1996, just after this government came into office. There have been some changes in the functions of the tax office, but the point I am making is that when this government came into office, according to the advice I have received, staff numbers were in the order of 16,000. Since this government has come into office, it is important to note that the numbers employed in the tax office have actually risen, not fallen, as someone might have taken from your question. The government has increased funding of the tax office and it has increased staffing.

In relation to the redundancies that Senator Lundy mentioned, it was always expected that once tax reform had been bedded down staff numbers would be reduced. This is why the commissioner announced the redundancies that he did. Let me make it very clear to the Senate that key compliance areas, such as large business tax and aggressive tax plan-
ning, will not be affected. Of course, there is always change. We have brought in major tax reform. In order to assist with the bringing in of tax reform, staff numbers at the tax office rose substantially. Now tax reform has been bedded down, staff numbers are being peeled back. But I think the important point to note for Senator Lundy is that staff numbers at the tax office, I am advised, are still higher than the numbers that were at the tax office when we came in to government.

Senator LUNDY—Madam President, I ask a supplementary question. Do the massive job cuts in the ATO indicate that the government does not believe Australian businesses need the same level of assistance with the GST? Does it indicate that the government believes the GST transitional period is over?

Senator KEMP—What it means, Senator Lundy, is that you will always have to adjust resources to the requirements of the time, and decisions are made. I can go through what I said in answer to your initial question, which I do not think you listened to, Senator Lundy. If I may take it from your supplementary, I do not think you listened to a word that I said. The trouble is that, as I have pointed out before, Senator Lundy always has a supplementary question written down and so, regardless of the answer, regardless of the facts in the answer, Senator Lundy hops up to her fleet and reads out the written question. Senator Lundy, I think it would probably help both of us if you went back and had a close look at the original answer. I think you will find that the key facts were included in that particular answer.

Senator Lundy—Don’t avoid the question. Answer the question.

Senator KEMP—And you shouting out does not help your case one little bit.

Afghanistan: Australian Commitment

Senator BROWN (2.43 p.m.)—My question is to Senator Minchin in his capacity as Minister representing the Minister for Defence. Regarding the impending invasion of Afghanistan in pursuit of terrorists, is it a fact that the US Secretary of Defense Donald Rumsfeld has asked Australia to commit ground troops? If so, what has been the government’s response? Can the minister acquaint the Senate with what Minister Reith says are pretty significant capabilities that Australia has to offer towards this forthcoming invasion of Afghanistan?

Senator MINCHIN—I am aware of press reports today suggesting that the US will ask for such a commitment from Australia, but I am not aware of any such commitment having been made. The Prime Minister has made it clear that we will respond to the best of our ability to any request made by the United States that we can comply with that is appropriate and sensible from our point of view. The Prime Minister has not ruled out the provision of ground troops, but at this stage no formal request has been made, to my knowledge, for any particular form of assistance. That will obviously depend on the nature of the response by the United States, which is still being effectively formulated.

Obviously, the government will keep the Australian people informed in relation to the commitments that we should make or will be required or asked to make, and will do so in the national interest. What pleases me is the extent to which the Australian people, as indicated by published polls, have shown that they do believe the government is correct to indicate its preparedness and willingness to participate with the civilised world in the endeavours led by the United States to bring to justice those responsible for these horrendous crimes against humanity committed in New York. Our response to that will be sympathetic, supportive and appropriate.

Senator BROWN—Madam President, I further ask: is it the case that Secretary Rumsfeld has made a request, or is this press reportage getting ahead of actual communications with the Australian government? Secondly, regarding ground troops, how is the government going to get itself out of the costly debacle of having the Manoora, the troop carrier, tied up at Nauru following the bungling of the Tampa affair by the government?

Senator MINCHIN—That was a ridiculously gratuitous comment from Senator Brown. The government has said through the Minister for Defence, Peter Reith, that we
need the Manoora. These people must get off the boat.

Senator Schacht—Are you going to starve them to death? Are you going to throw them overboard to the sharks? Do you agree with what your parliamentary secretary said?

The President—Senator Schacht, if you have a question, you can be placed on the list.

Senator Minchin—The government will use all appropriate, sensible and reasonable means to persuade the people who are on the boat to leave the boat, as they should. We will need the Manoora, we need that boat back, so we will take appropriate steps to have those people leave the boat.

Goods and Services Tax: Ansett Tickets

Senator O'Brien (2.47 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Is the minister aware that the Treasurer said on ABC radio this morning in relation to the payment of GST on worthless Ansett tickets:

If you are entitled to a refund of the full amount—and the full amount includes GST—you are entitled to a refund of the full amount of GST.

Wasn't this an attempt by the Treasurer to dupe angry Ansett ticket holders into believing that the government was going to ensure they got back the GST paid on their tickets? Isn't it actually true that ticket holders will only get their GST back if they were lucky enough to have paid for their tickets by credit card? What about those who have paid for tickets using cash or cheque or on account? And what about businesses that have been told to repay the GST to the ATO if they have already claimed a tax credit for the cost of the flight?

Senator Kemp—I answered this question in some detail in this parliament on Monday, and I have exactly the same brief in front of me. Frankly, if you ask a question on Monday and you get a detailed answer, you cannot expect to come in here because you are too lazy or you cannot remember what you have asked. The point I am making is that this question was answered. I went through the position of an individual and I went through the position of a company, whether they were registered or not registered. I went through that in quite some detail. I then referred Senator O'Brien to the press statement that was put out by the tax commissioner on this issue. The only duping in this whole game that we are seeing is that the Labor Party are pretending that they are opposed to the GST. That is the duping involved here.

Senator Cook—We are.

Senator Kemp—‘We are,’ says Senator Cook. Let me just repeat: is the Labor Party going to abolish the GST?

Government senators—No.

Senator Kemp—Hold on. Madam President, I was wondering whether anyone in the Labor Party could indicate to me whether the Labor Party will be abolishing the GST.

Senator Cook—We are going to roll it back.

The President—Order! Senator Cook, you are out of order by shouting out. Senator Kemp, I invite you to ignore the interjections and deal with the question.

Senator Kemp—At the start of question time Senator Cook said he was opposed to the GST. Now he is saying that the GST will be rolled back. I make the 28th offer: if Senator Cook would like to send me a note across the chamber that they are prepared to debate the roll-back after question time, I will be happy to be here. The Labor Party will not want to debate that, because they do not know what roll-back is, they do not know how much roll-back will cost and they do not know how it will be funded. Let me just go through it again for Senator O'Brien. Airline customers who have paid for domestic flights that have since been cancelled can seek a refund of the ticket price from the relevant airline or credit card supplier. The GST is in the final price charged by the airline for the supply of the flight. If the supply is not made, it is a contractual matter between the airline and the customer. Any refund to the customer—and I think this is what the Treasurer said on radio this morning—must include the GST.

I could answer the whole thing again, but we answered it on Monday. We looked at the issue of companies on Monday. I know that the Labor Party have not got the world's
greatest questions committee—I accept that. I accept that time is running out. We have had every GST question that you could possibly think of, so that we even now repeat today the questions that we had on Monday. There is an issue of duping the public, and it is a very serious issue. That issue is that the Labor Party are pretending that they do not support the GST when they do. One of the reasons why you are struggling in the polls at the moment is that no-one knows what the Labor Party stand for. No-one knows what roll-back is. Senator Cook says the Labor Party are opposed GST and then we hear the Labor Party are going to keep it. What utter and complete confusion. Five-and-a-half years in opposition, and there is total and absolute confusion. As the Treasurer says, ALP stands for Australian Lazy Party.

Senator O'BRIEN—Madam President, I ask a supplementary question. The Treasurer said this morning:

What if you are an unsecured creditor in a winding-up? Will you get the full face value of the ticket? That is another question, an insolvency question.

Minister, doesn’t he mean that those people will not get the GST back? Is the minister aware that a number of Ansett ticket holders have been told that their banks will not refund the GST? Examples include people like Mr Kevin Archer from Tasmania, whose family paid $2,535 for now useless tickets and who has been told by his bank that he can forget about obtaining a refund of the $230-plus he paid in GST for a flight he will never take. Now that so many Australian travellers are out of pocket, will the government refund GST and other government charges on these now worthless tickets?

Senator KEMP—I went through this in exquisite detail on Monday. We now have about 40 seconds left for this answer. Senator O’Brien stood up and asked a very similar question on a very similar issue to the one he asked on Monday. Senator O’Brien, I refer you to the answer I gave on Monday. If you want to ask me on this tomorrow, I will still refer you to the answer I gave you on Monday. A press statement has been put out by the commissioner on this, there has been a statement by the Treasurer in the other place and there was a statement by me in this chamber. Frankly, Senator, I would urge you to read what has already been put on the record. I know that that is hard for you, but please do it.

Economy: Innovation and Knowledge

Senator COONAN (2.54 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. What actions are being taken by the coalition government to ensure that Australia has an innovative, knowledge based economy? Is the minister aware of any alternative proposals and are they worthy of serious consideration?

Senator ALSTON—That is a very important question from Senator Coonan, because we are very much committed to an innovative, knowledge based nation—we are the only crowd in town that are. We are concerned to capitalise on very strong economic growth, low interest rates, low inflation rates, the paying off of $60 billion worth of Labor debt and, of course, five consecutive budget surpluses. Who in their right mind would want to put any of that at risk? If you want to build on it, what you do is move down the innovation action plan path that we outlined back in January this year. It involves some 21,000 new university places in science, mathematics and engineering, and it allows people to have HECS like loan schemes. It involves the doubling of ARC competitive research grants, and it involves major funding for national research facilities and university research infrastructure and the expansion of the cooperative research centres. All of these are part and parcel of a serious attempt to ensure that Australia continues to maintain world’s best practice.

The real question is: why won’t the Labor Party sign on to this? With $2.9 billion, it is by far and away the biggest effort ever to try to do something constructive, to identify the 21st century as the era of ideas.

Senator Cook—It’s not good enough.

Senator ALSTON—But no, there they are: ‘It’s not good enough.’ They’re going to spend even more! That is what we are being told, is it? I imagine that you are desperate to change the subject and to talk about anything
except Knowledge Nation, because that is the alternative, that is what is on the table at the moment. Listen to what Mr Beazley said about Knowledge Nation a couple of months back:

You’re not going to achieve anything next year or maybe even the year after that. But by about four or five years in you might be achieving a bit ... Firstly you’ve got to get your ducks in a row ... So getting the ducks in a row is what you do for the first year or two on the start up.

Flip-flop man really does not stand for anything. He is not flipping or flopping: he is actually doing nothing for the first term of government. So why on earth would anyone vote for him? You might as well say, ‘Come back in three years time and tell us what you’ve got in mind.’ The public are not going to cop that; they are much more interested in seeing action and they know the innovation action plan is the way to go.

Mr Beazley probably felt a bit embarrassed about that exposition of Knowledge Nation, so under cover of darkness a week or two back we got a big Knowledge Nation announcement. What is he going to do? What does he stand for? The first element is that he is going to have a Knowledge Nation summit, then he is going to have a Knowledge Nation parliamentary committee, then he is going to have a Knowledge Nation cabinet committee, he is going to have a Knowledge Nation unit in the Department of the Prime Minister and Cabinet and he is also going to have a Knowledge Nation council with scientists.

Government senators interjecting—

Senator ALSTON—That is not all: he is also going to have a COAG Knowledge Nation coordinating committee. So he has really covered all the bases; he has really stitched it up! In about five years time, all these experts will tell him what to do and then he will start doing it—that is the grand plan. If you stand for nothing, you will fall for anything. The public will not fall for this rubbish; they know that you do not stand for anything at all.

Senator Cook—It is not the plan—that is a Liberal Party lie.

The PRESIDENT—Senator Cook, cease shouting. You can debate the matter later.

Senator ALSTON—You cannot all belong to the Robert Ray ‘anything but policy’ faction. If you are serious about policy, why would you do a Senator Faulkner? In nearly six years, he has never been on any current affairs program on a Sunday morning. He refuses point-blank because he has nothing to say about policy. That is the sad part of it. Labor think that they can get through on rorts, scams and sleaze—it does not work. The fact is that the public do want to know a bit more about how you create a knowledge nation other than getting out there and saying that you stand for it. Labor stand for education and health too, I believe—that is about all we know after 5½ years. (Time expired)

Senator COONAN—Madam President, I ask a supplementary question. The minister has outlined some features of world’s best practice in the knowledge based economy. Are there other innovative policy approaches about which the minister can inform the Senate?

Senator ALSTON—Yes, creating a billion dollars worth of regional infrastructure is not a bad start, is it, Senator Boswell? And of course who has not signed on to one cent of that? Who did not sign on to Networking the Nation? Who has not signed on to all these critically important things?

Opposition senators interjecting—

Senator ALSTON—All you had to do was go out and say, ‘Well, we think it’s a good idea. If we had been in government we would have done it ourselves,’ but no, you had to run around carping, following your union line, opposing it all—in fact complaining bitterly that it is arm’s length.

They want it to be more within government so they can have the discretion—that is what they are on about. Instead all we have had of course are these silly, absurd ‘What I Stand For’ speeches and, as Alan Ramsey said, of course why does Mr Beazley want to get out there humiliating himself in this manner? It is self-flagellation of the highest order, isn’t it? It is a tragic and pathetic indictment of someone who ‘does not have a leadership bone in his body’.
Opposition senators interjecting—

Senator ALSTON—That is the sad thing, and you blokes are going down with the ship—and you know it. If you had done the hard work, you would have had a serious policy debate, but you have not, and you are gone. (Time expired)

Australian Defence Force: Surveillance Operation

Senator FAULKNER (3.00 p.m.)—My question is directed to Senator Minchin, representing the Minister for Defence. Minister, what is the cost of the additional surveillance being undertaken by the Australian Defence Force in the Indian Ocean and to the north of Australia? Can I also ask whether Defence will be supplemented for this additional tasking, or is the Defence portfolio being expected to absorb these unforeseen costs?

Senator MINCHIN—The defence forces are performing a vital role in their functions in relation to the patrols that they are undertaking. It is critical to Australia’s security that we do undertake those patrols and send a very clear message that we are not prepared to tolerate unauthorised arrivals of this kind, so those patrols are essential. In relation to the costs that you have asked for, I am happy to take that on notice and see if I can provide you with some information.

Senator FAULKNER—Madam President, I ask a supplementary question. I thank the minister for taking the question on notice. I also ask the minister to confirm that it is now the government’s intention that the current naval operation being conducted in our northern waters, which according to some sources is costing more than $20 million a week, will actually continue indefinitely. Will any other Royal Australian Navy operations and exercises have to be cut in order to pay for this indefinite operation?

Senator MINCHIN—Mr Reith was asked this question on Sunday and answered it in the form of saying that these patrols and these activities will continue. He did not give any further details. If there are further details that he can make available, I will obtain them for you.

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

ANSWERS TO QUESTIONS WITHOUT NOTICE

Ansett Australia

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (3.02 p.m.)—A couple of days ago Senator Harradine asked me about air services to Tasmania, and he asked me particularly to talk about Hobart and Devonport later on. I inform Senator Harradine that the government has announced today that it will provide the administrator of Kendell with a $3.5 million loan to help the airline fly again. The loan will enable Kendell to resume services in South Australia and some flights between Melbourne and Tasmania. The airline will operate after 27 September from Melbourne to Burnie and Devonport and King Island. The loan that we are giving will be drawn from the rapid route recovery scheme, which Mr Anderson announced last week. That scheme is helping airlines restart services on routes that were served only by Ansett or its subsidiaries.

I would inform Senator Harradine as well that since Ansett’s collapse Qantas has been operating additional services between Hobart and Melbourne and will continue to operate an extra flight every day of this week. It has been deploying aircraft from the former Impulse fleet to operate in this supplementary capacity. While loads on the Hobart—Melbourne leg were light last week due, no doubt, to the school holidays coming to an end, bookings and loadings on all other sectors last week and this week have been heavy. In relation to Devonport, I am advised that Qantas continues to operate up to three flights per day from Melbourne to Devonport through its subsidiary, Southern Australian Airlines.

ANSWERS TO QUESTIONS ON NOTICE

Questions Nos 3682-3689

Senator O’BRIEN (Tasmania) (3.04 p.m.)—Pursuant to standing order 74(5)(a), I ask the Minister representing the Minister for
Transport and Regional Services for an explanation as to why answers have not been provided to questions on notice Nos 3682 through to 3689. The questions were lodged on 3 July this year and have remained unanswered for 83 days, well outside the period provided by the standing orders.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (3.04 p.m.)
I thank Senator O'Brien for giving me notice that he was going to ask that question. The questions were Nos 3682 to 3689. I am advised that Senator O'Brien was seeking specific details on when the proposal was first raised and what contact was made with the various organisations about the proposal dealing with the Moree bypass. I am advised by the department that, in order to respond to several of the issues raised in the questions on notice, it was necessary to obtain advice from the Roads and Traffic Authority part of the New South Wales government bureaucracy. This material has taken some time to gather and as recently as last Friday, 21 September 2001, information requested was received by my department from the Roads and Traffic Authority. Some of the questions also relate to material which dates back a number of years. Specific files had to be obtained from archives and information relevant to the questions assembled and thoroughly checked. I am told that a response is being prepared and will be provided as soon as possible.

Senator O'BRIEN (Tasmania) (3.06 p.m.)—I move:
That the Senate take note of the minister's explanation.
There are in fact a large number of questions to Mr Anderson that remain unanswered, and I will pursue those answers at a later time. I have sought an explanation as to why answers have not been forthcoming to these questions because the questions go to an important matter, and that is the integrity of the government's road funding programs as administered by Mr Anderson. It is important that the allocation of funding for roads—whether that funding be part of the national highway, roads of national importance or the black spots programs—is based on the merit of the project. Funding should not be allocated to meet the political need of the minister or one of his colleagues.

I put these questions on notice because it has been suggested to me that in relation to the possible construction of a bypass around Moree a political imperative might have outweighed the merit of the project. Perhaps the minister might be able to throw some light on exactly what happened in relation to the proposed Moree bypass. Firstly, when was the proposal for a bypass around Moree first brought to Mr Anderson's attention or to the attention of his staff? Who raised the Moree bypass proposal with the minister or his staff and how was the proposal first raised? When the proposal for a Moree bypass was first raised with the Department of Transport and Regional Services, who raised the proposal, and how was it first raised with the department? I understand that Mr Anderson or his staff contacted the Moree Plains Council about the proposed Moree bypass. If that is correct, when was that contact made and who initiated the contact? I have also been advised that Mr Anderson or his staff contacted the Moree Chamber of Commerce about the proposed Moree bypass. If that is also correct, when was that contact made and who initiated the contact?

Madam Deputy President, as you are aware, I have also taken a great deal of interest in the selection process for the Albury bypass, and I continue to take a close interest in the selection process currently under way for a bypass around the township of Murrumbateman. I now have a very keen interest in the route selection process for a possible bypass around Moree. I want to know about the assessment process, particularly how it has been undertaken to date, of the route selection for the proposed Moree bypass, and what role the Department of Transport and Regional Services has played, or will play, in this route selection process. It has certainly played a very active, if informal, role in the Murrumbateman bypass selection process. I am interested to get advice from Mr Anderson as to his role or that of his staff in the Moree route selection process. In the case of the Murrumbateman bypass, the former minister Mr Sharp had a very active interest
so I am seeking advice from Mr Anderson as to who initiated the route selection process and what the cost has been to date.

I want to know what public consultative process has been followed in relation to the above route selection process, who is managing that process and the outcome of it. In particular, I am interested to know how many routes are currently under consideration. The route selection process for both Albury and Murrumbateman has been nothing short of a disaster. In relation to Albury, the process was clearly flawed from the beginning and wasted millions of dollars of taxpayers' money, and Mr Anderson managed to stand by and watch all that happen. It is a tragedy that the minister applied the same approach to the collapse of Ansett Australia, but the cost of this latest Anderson disaster will not be a few million dollars of taxpayers' money but around 1½ per cent of gross domestic product.

As with the Moree bypass, the issue at hand is the very integrity of the government's federal roads program. Organisations seeking funding through the black spots program are required to meet the terms of the eligibility criteria detailed on the Department of Transport and Regional Services web site. As you would expect, those criteria go directly to the issue of road safety and how safety can be enhanced, or safety hazards removed, through this capital works program. It is essential that people who seek funds through the black spots program can be confident that their application will be properly assessed against the criteria. It is essential that the projects meet these criteria and that priority is given to funding the worst trouble spots. The black spots program should be a program with very little flexibility and even less ministerial direction and discretion. It should not be a pot of money to meet the short-term political needs of the transport minister or his office; it should be a pot of money to address the high risk points in the national road system, and it should be aimed at saving lives.

The reason I am still seeking access to that material is that I am concerned that in relation to this black spots project—project N00752—very few, if any, of the criteria were met. I have also placed a number of questions on notice in relation to black spots, selection criteria and the extent to which this project met those criteria. Those questions are numbered 3672 through to 3681. I now have the answers to those questions, and they are very enlightening indeed. As I told the Senate, I have been advised that the recommendation that went to the then minister, Mr Vaile, was that this application for funding not be approved. I have been advised that the application progressed only because the department was pressured by the then minister's land transport adviser.

As with the Moree bypass, the issue at hand is the very integrity of the government’s federal roads program. Organisations seeking funding through the black spots program are required to meet the terms of the eligibility criteria detailed on the Department of Transport and Regional Services web site. As you would expect, those criteria go directly to the issue of road safety and how safety can be enhanced, or safety hazards removed, through this capital works program. It is essential that people who seek funds through the black spots program can be confident that their application will be properly assessed against the criteria. It is essential that the projects meet these criteria and that priority is given to funding the worst trouble spots. The black spots program should be a program with very little flexibility and even less ministerial direction and discretion. It should not be a pot of money to meet the short-term political needs of the transport minister or his office; it should be a pot of money to address the high risk points in the national road system, and it should be aimed at saving lives.

The reason I am still seeking access to that material is that I am concerned that in relation to this black spots project—project N00752—very few, if any, of the criteria were met. I have also placed a number of questions on notice in relation to black spots, selection criteria and the extent to which this project met those criteria. Those questions are numbered 3672 through to 3681. I now have the answers to those questions, and they are very enlightening indeed. As I told the Senate, I have been advised that the recommendation that went to the then minister, Mr Vaile, was that this application for funding not be approved. I have been advised that the application progressed only because the department was pressured by the then minister’s land transport adviser.

I have been advised that Mr Vaile ignored that departmental advice and approved the project despite the fact that it did not qualify for funding—and I want to go to those answers. I asked when it was that Minister Vaile or his department was first contacted about possible funding for this black spots project which happened to be in the very marginal seat of Eden-Monaro. I am told that the department was first contacted on the 23 July 1997, and that that first contact was by—you guessed it—the former minister’s land transport adviser. I am told that a formal application for funding for the projects—

Senator Ian Macdonald—I raise a point of order, Madam Deputy President. This is all very interesting and obviously grounds for a good debate at some time, but Senator O’Brien is taking note of my reasons on why answers to questions dealing with the Moree bypass have not been tabled within time. I gave the explanation as to why those answers were not tabled on time and I indicated that an answer would be coming. Senator O’Brien, quite rightly, has moved that the Senate take note of my answer. One might then think, reasonably, that his comments in
the debate should address my answer to the questions relating to the Moree bypass.

Senator O’Brien is now talking, and has been for some time—I did not want to interrupt him; I thought he was getting to a conclusion—about a range of road projects that have nothing to do with the Moree bypass. He is talking about Roads to Recovery, black spots and a whole range of issues hundreds of kilometres from Moree. As I say, it is a good issue on which to have a debate at some time, but surely we have some rules in the Senate that the debate must be relevant to the motion moved.

Senator O’Brien—Madam Deputy President, on the point of order: this debate is about the non-answering of questions which relate to the government’s road funding programs. There have been a number of occasions when we have been advised by Minister Macdonald—and I have not been critical of him in the past on this count—that answers would be forthcoming, as he did today, only to find that up to two months later no such answers have been given. This is in all probability the last week that this Senate will have the opportunity to receive the answers before the election. For him to say, ‘We are having some difficulty getting some material and we might give you the answers some time in the future,’ is in fact almost a guarantee that we are not going to get the answers. In relation to that, I think I am entitled in this debate to raise other occasions when this minister, or the minister that this minister represents, has chosen to use various devices to avoid giving answers to questions. In that context, what has occurred with respect to another example of just such behaviour by the minister is relevant to this debate.

The DEPUTY PRESIDENT—There is no point of order, Senator Macdonald.

Senator O’Brien—Thank you, Madam Deputy President. As I was saying, that formal application was in fact lodged by Mr Vaile’s land transport adviser in Mr Vaile’s office. The application came with a note—and I will quote it again—that said:

Dear Lochie—

that is the name of the land transport adviser—

Could you please fill in the details for items 10, 11, 12 and 13 on our behalf. We do not have a copy of the quote from the local road contractor that we left with you.

I also asked in my questions for details of the composition of the New South Wales black spots consultative panel that would have considered this application. I asked the minister whether that panel had formally endorsed the application. I have now been told that the panel did not formally endorse the application. The reason given for that was as follows:

... the nomination was received after the panel meeting was conducted.

Should we conclude from this answer that this panel met only once or should we conclude from this answer that the application for funding did not fit the criteria, would not have been accepted by the panel for that reason and was processed through a different assessment regime—the then minister’s land transport adviser?

Senator Ian Macdonald—Madam President, I would have appreciated some reasons for your last ruling against my point of order, but can I raise a different point of order. I know that we have got a lot of important things to discuss in the Senate over the next few days, but Senator O’Brien has quite clearly read every single word that he has spoken in this debate. I draw your attention to standing order 187, which deals with that issue.

Senator McKiernan—Do your colleagues know that you are doing this?

The DEPUTY PRESIDENT—Order, Senator McKiernan!

Senator Ian Macdonald—Don’t worry about it, Senator McKiernan; I’m raising this particular standing order at this particular time.

Senator O’Brien—Madam President, on the point of order: I believe that I am entitled to observe my notes as I speak, and that is what I am doing.

The DEPUTY PRESIDENT—There is no point of order, Senator Macdonald.
Senator O’Brien is entitled to read from his copious notes and to quote directly.

**Senator O’BRIEN**—In those questions I asked the minister whether these submissions for funding included:

... a commitment to provide funding, labour or materials from other government or community and/or industry sources.

The reason I asked that question is that a contribution in the form of money is a key selection criterion under this program. It does not seem unreasonable to me to ask just how much support for a particular project there is and what form that support might take. The answer to that question, unfortunately, was no—that is, there was no financial or material backing for the application. So I asked the minister whether any conditions were imposed on this black spot funding approval and who imposed those conditions. The answer was that, yes, conditions were imposed and that they were in fact imposed by—yes, you guessed it—the minister’s land transport adviser; not the Commonwealth Department of Transport and Regional Services and not even the then minister but the land transport adviser himself.

The first condition was that the contract be let by way of reverse tender. This is a vital condition if there is no actual black spot identified in the application but just a 12-kilometre stretch of road. The second condition was that tenders be advertised in the local newspapers, and that is also an important condition if you want to gain the maximum political advantage from this sort of exercise. The final condition was that no money be paid out unless it was approved by the minister’s office—and, yes, that is again the minister’s land transport adviser. That seems to me a highly irregular approach to financial control in relation to a program funded by the Commonwealth and administered by the New South Wales Roads and Traffic Authority.

I want to go back to the black spot criteria and how this project measured up. According to the guidelines proposed, projects must be able to demonstrate a benefit cost ratio of at least two. But in relation to this project the minister advised me that, while there would have been a benefit cost ratio calculated by the RTA, he was unable to say what it was and was unable to get that advice from the New South Wales authority. That sounds similar to the advice that the minister told us he had from Minister Anderson about the matter I raised today. How could the transport department assess this submission and how could the minister approve this application without knowing the benefit cost ratio?

A second key black spot criterion relates to casualty rates on the section of road. The minimum eligibility criterion is an average of 0.2 casualty crashes per kilometre per annum over five years. The five-year average for this section of road was 0.137. If that test is not met, a project will be considered if it is a top-10 crash road in the state. But the minister advised that there was no comparison made in relation to this section of road with others in the region and therefore, I assume, with others in the state.

According to the guidelines for the program, up to 20 per cent of funds is available for sites that do not meet the above criteria but have been recommended on the basis of an official road safety audit report. There was no such audit report done on this project. So, Madam Deputy President, it is important that not only the terms of the return to order in relation to the Delegate to Delegate River Road black spots are met but also the minister answer the series of questions asked in relation to the Moree Bypass so that we can determine whether or not the same political fix has been put in on this project as was put in on the Delegate to Delegate River Road.

**Senator IAN MACDONALD** (Queensland—Minister for Regional Services, Territories and Local Government) (3.22 p.m.)—I have to say that it is unlike Senator O’Brien to use a series of innuendos and suggestions to try to make a political point against a minister in the government. Some outrageous suggestions were made, Madam Deputy President, which I could have taken a point of order on. I had hoped that perhaps you might have of your own accord stopped Senator O’Brien, but that was not to be. He has made allegations and raised innuendos without one skerrick of evidence in support of them.
Senator Chapman interjecting—

Senator IAN MACDONALD—Not a scintilla—thank you, Senator Chapman—of support for those particular allegations. The Senate is again being used in the weeks before an election by Senator O’Brien to try to make a very cheap political point when the minister is not here to answer, a point which I happen to know is completely without foundation. Senator O’Brien alleges, quite wrongly, that Mr Anderson is blocking access to information—an absolutely outrageous suggestion. Senator O’Brien indicated that he has got the information for the last series of questions that he raised.

Senator O’Brien spoke at length about black spots. He mentioned that the Federal Road Safety Black Spot Program is a very good program, and I certainly agree. If Senator O’Brien agrees with that, and I think he does, I would have preferred him to have spent some of his time in his speech explaining why the Australian Labor Party actually cancelled that program when it was in government. It was a good program and the Labor Party cancelled it. Perhaps the Senate and those people who might be listening to this debate would have been better served had Senator O’Brien explained why the Labor Party cancelled—got rid of—the black spots program.

Fortunately, when the Howard government was elected in 1996 the black spots program was reintroduced. It has been a great program. It has saved a lot of lives. It has been universally supported around the countryside and around Australia generally. Senator O’Brien is pinpricking and nitpicking about a particular incident. I am not aware of it, and I do not think anyone else is. Senator O’Brien, go and ask the residents in the area that you are talking about—was it at Tumut or Cooma?—whether or not this was a good program. I am sure you would get an overwhelming yes vote from those people.

It would be interesting to ask the Labor Party candidate in that area—I think it was in the electorate of Eden-Monaro—whether he supports the black spot road funding there. We can tell the Labor Party candidate and certainly all of the people there that Senator O’Brien does not support it, and I assume that means that the federal parliamentary Labor Party do not support it. But it would be interesting to ask the candidate whether he supports it. I might suggest that we will find out—I will look at the Hansard—where this particular black spot is and arrange for the Labor candidate to be asked the questions: ‘Do you believe in black spots? Do you like this program? ’Is it saving lives?’ That should be an interesting exercise.

Madam Deputy President, back to the debate in hand: you have ruled that the debate can be about anything. I do not agree with that, so I will confine my final remarks to the issue before us—that is, the reason we have been unable to answer these questions. For those that might be interested—and I suspect there are not too many—to get this information required a great deal of research. We had to go back a number of years and get files out of archives. We also had to get some assistance from the New South Wales Roads and Traffic Authority.

Madam Deputy President, as a New South Wales senator, you will know that the Roads and Traffic Authority is an authority of the New South Wales government. You would also be aware that the New South Wales government is controlled by the Australian Labor Party—that is, one of Senator O’Brien’s colleagues in the state sphere. I am informed that one of the reasons we have not been able to answer questions is that the New South Wales Roads and Traffic Authority have taken some time to gather material. Even last Friday—just a few days ago—we were still getting material from the Roads and Traffic Authority. So, as I have indicated, we will work on that. A response is being prepared.

Madam Deputy President, you are aware that the Department of Transport and Regional Services is a very efficient department, well run and organised. But it has so many questions of the sort—without being too personal, Senator O’Brien—

Senator Forshaw—You don’t like questions, do you? You don’t like information.

Senator IAN MACDONALD—They are written by a very good adviser to Senator O’Brien but they are voluminous, they go on
forever—like Senator O’Brien’s speech: written by a very good adviser but goes on forever. All of these questions go nowhere and mean nothing. For all of the work the department goes through to give the answers, I would almost love it if you got here in this chamber, Senator Forshaw, and used that information—

The DEPUTY PRESIDENT—Address the chair, please, Senator Macdonald.

Senator IAN MACDONALD—to bring down the government! At least you would think that it was a worthwhile exercise of the whole process. We get these enormous numbers of questions, and my department—

Senator Forshaw interjecting—

The DEPUTY PRESIDENT—Order! Senator Forshaw, would you please cease your interjections. Senator Macdonald, address the chair; thank you.

Senator IAN MACDONALD—The department is a very efficient one, but under the weight of the questions that are put on notice by Senator O’Brien it might take longer than other departments to get these things answered. I might also mention, while I am on the subject, that as Senator O’Brien would well know, the whole department, particularly the transport section of the department, has been working diligently seven days a week—I would hazard a guess, and I think I would not be proved wrong, that it has been working almost 20 hours a day, seven days a week—in the last two or three weeks on the issue that is of major importance to the people of Australia, and that is the collapse of Ansett Australia.

We have been trying to get people back to their places of origin. We have been trying to get passengers in the air. We have been trying to ensure that country services are operating. They are certainly not operating to the extent that we would want, but in a short period of time the department, at Mr Anderson’s direction, has been doing a fabulous job in conjunction with the administrator. Mr Anderson is a very efficient and capable minister, and one who has really taken on transport issues with an enthusiasm and energy that has not always been seen in that area. He is doing a great job. The response to Senator O’Brien’s questions is in the course of preparation. As soon as possible, we will get it to the Senate.

Question resolved in the affirmative.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Ansett Tickets

Senator O’BRIEN (Tasmania) (3.31 p.m.)—I move:

That the Senate take note of the answer given by the Assistant Treasurer (Senator Kemp) to a question without notice asked by Senator O’Brien today relating to the goods and services tax paid on tickets for flights on Ansett Airlines.

Isn’t it interesting that this government is trying to portray itself as the champion of the victims of Ansett when in fact all it is doing, as has been proven by the Assistant Treasurer in his answer today, is finding a way that it can get some sort of financial advantage out of what has taken place. There is no other conclusion that could be drawn from the answers today but that there are people who have paid GST on airline tickets which are worthless because of the insolvency of Ansett and that the government is going to keep that money. That is the import of the comments of the Treasurer and that is the import of the answers given by the Assistant Treasurer in question time today.

In question time, I put to the Assistant Treasurer a quote from an AAP wire story as at 10.35 this morning, quoting Mr Costello on the issue about whether people were going to get back their ticket price money, including GST. Mr Costello said:

What if you are an unsecured creditor in a winding-up? Will you get the full face value of the ticket? That is another question, an insolvency question.

But who are the beneficiaries in that circumstance? Has the government got the GST for many prepaid tickets? The answer is yes. Will businesses and banks that have claimed the money, passed it on and had it passed on to the government be able to pay it back? The answer is no, unless the government is going to be forthcoming and volunteer to pay it back. Did we hear that being volunteered by the minister, Senator Kemp, today? No. And what about the example that I put to him
today—an example he had no comment on, significantly. That concerned Mr Kevin Archer from Tasmania, whose family paid $2,535 for now useless tickets. I remind the Senate that, if you had tickets for which you had not commenced travel, Ansett was not providing that travel; it was only getting people home. These were truly worthless tickets and they included some $230-plus in GST. Is the government proposing to pay that back? The answer, quite clearly, from the remarks of the Treasurer and the Assistant Treasurer, is no.

Whilst they wring their hands about the shocking impact on the community of this collapse of Ansett, in which they played a part, the government are content to take an advantage out of the GST payments which have been made on the now worthless tickets. That is not surprising. This government have been saying how terrible this is, but they are prepared to do almost nothing to get Ansett back in the air. They have provided some financial assistance in the form of loans for some regional carriers, because even their position was looking completely untenable to regional Australia. I want to note the comments of Senator Ian Macdonald today when he was answering a question by Senator Harradine about Kendell—that only part of the Kendell operation is going to be resumed and that is the regional operation in South Australia and into the regional ports of Burnie and Devonport. I was not sure if that was also going to include King Island.

Senator Mackay—It is King Island.

Senator O'BRIEN—I am told it included King Island. But it is not going into Launceston or Hobart. There are very significant losses of transport opportunities into those places. There is no such assistance there. Obviously the Canadair jets are not going to resume into those ports, and the government are going to do nothing about it. We now see the situation where airports are financially at risk because of this matter. The tourism industry is at financial risk because of this matter. The Labor Party has come up with a proposal to try to get Ansett back flying. The government are content to see the clock run out and the aircraft resumed. There is no possibility of Ansett getting up and going again, because apparently the government are content to sit there with their arms folded, say it is all terrible but watching it all happen.

Senator CHAPMAN (South Australia) (3.36 p.m.)—The remarks we have heard today from Senator O'Brien are just another variation on the Labor Party's continual theme of attacking the government's tax reform, attacking in particular the introduction of the goods and services tax. The reality is that the Labor Party are going to do nothing about this in relation to the abolition of this tax. They have made that very clear. They attack the new tax system day in, day out in this chamber and elsewhere and yet they do not have the fortitude to put down a policy whereby they say they will abolish it. If they really thought that the GST, either in regard to this particular issue that they are addressing today or in general terms, was as damaging to Australian business and the Australian economy as they falsely claim it is, that is the commitment they would make: a specific policy commitment that they are going to abolish the goods and services tax.

But of course they will not do that, because they know the alternative to the present reformed tax system, which this government showed the leadership and intestinal fortitude to introduce, is to go back to the old, outdated, outworn system that this country suffered for 60 or 70 years—a system that was based on the structure of the Australian economy and the structure of people's consumption patterns of the 1930s, a tax system that was quite inappropriate for the 21st century.

They know that if they are going to abolish the goods and services tax they are going to have to increase income tax to the more punitive levels that applied under their previous government and abolish those $12 billion of income tax cut benefits that this government has given to Australians. They know they are going to have to re-establish the wholesale sales tax as the central plank of an indirect tax structure. The wholesale sales tax again is an inefficient, outdated tax that taxes only the consumption of
services, and therefore not only results in a shortfall in revenue over the longer term, as was demonstrated in the debate leading up to the tax reform process, but is a most unfair tax because it taxes only one segment—and indeed a proportionally declining segment—of consumption. It taxes only goods.

As I said in a similar debate a few days ago, that is particularly regressive, detrimental and unfair to my state of South Australia, which is heavily dependent on manufacturing industry, and car manufacturing in particular. It is the car industry perhaps above all that suffered most under the old, outdated indirect tax system where the wholesale sales tax applied, because of the rate at which that tax applied to motor vehicles. We need only to look at what has happened to the car industry since the introduction of the new tax system to see the benefits of the new structure that this government has had the courage to introduce. The goods and services tax of course applies at a lower level to motor vehicles and to many manufactured goods than did the wholesale sales tax to those same goods, and that has resulted in a dramatic increase in people’s expenditure on those goods, a dramatic increase in consumption of those goods, with the effective result that the car industry in particular is enjoying boom times.

That is not the only industry that is enjoying boom times as a result not only of the fact that this government had the courage to introduce a completely new tax system but also of our general sound management of the Australian economy. The Australian economy is performing better than any other economy in the developed world and maintains, in the face of falling rates of growth in other parts of the world, a very strong rate of economic growth. As I said, that is as a result of the sound management of this government in general, but another important factor in that has been the courage we have had to introduce tax reform. As I said, the present opposition rails against the goods and services tax but offers no alternative because it knows that that tax reform was essential. It knows that there is no alternative to the changes that we have made.

We have heard the opposition talk about roll-back, or roll backwards, as their approach to tax reform and to the indirect tax system but we really do not know what that means. We have had no details of their supposed roll-back spelt out. Does it mean that they are going to remove the tax from certain items to which it currently applies or does it mean they are going to reduce the rate of tax on all items across the board? Whatever it means, it certainly is going to be detrimental to small business in particular, because it will increase the complexity of compliance if you have more items exempt from the tax. (Time expired)

Senator MACKAY (Tasmania) (3.41 p.m.)—I do not think today is necessarily the best day for members of the government to come into the Senate and eulogise the goods and services tax, since it is the very day that we have seen massive redundancies in Coles Myer and an indication that Daimaru is about to withdraw from Australia. As was indicated today in question time, both of these corporate entities are citing the GST as a factor in the downfall.

One of the people we are talking about here in relation to Coles Myer is none other than Mr Stan Wallis, who was a key supporter of and a key contributor to the goods and services tax. You can always tell when the current government is up in the polls, because they start going back and eulogising and pushing policies that those of us who live in rural and regional Australia know are not popular. I notice that Senator Alston—for the first time in a very long time—the other day got a coalition Dorothy Dixer on the sale of Telstra and how terrific that was. You and I both know that the goods and services tax is not popular in rural and regional Australia, that people in rural and regional Australia have suffered unnecessarily and that they do not want the remainder of Telstra sold. I find it quite extraordinary that on this sad day when we have major redundancies being faced in Coles Myer, and an indication that Daimaru is about to pull out of this country, citing the GST as one of the critical factors, members of the coalition come in here in tell us what a terrific thing it is and how brave they were for introducing it. I can tell you
that out there where we are in rural and regional Australia they are not very happy about it at all.

Today is also the day that in the House of Representatives Mr Anderson has confirmed that the deal with Qantas and the administrator on wet leasing Ansett planes has fallen through. He confirmed that today in question time. I understand that a formal announcement will be made at 4 o’clock today. This is one day after the Prime Minister’s exhortation for the administrator of Qantas to get on with it, get these planes wet leased and get the show on the road. Twenty-four hours later, negotiations have fallen through.

Is this as much as the government can do—just say to the administrator, ‘Hurry up’? Twenty-four hours later, that has gone. I also noticed that when the Labor Party made a suggestion that $150 to $200 million be put up, either to be used as an equity injection or as a loan in relation to Ansett, it was completely dismissed by the government. This is the same government that has just given $3 million to Hazelton, which I applaud, in relation to getting the planes up and running there. This is the same minister who characterised Ansett over the weekend as a ‘carcass’. I think that is an absolute insult to every single person who works, or worked, for Ansett, every single person who is seeking their due entitlements and also those in rural and regional Australia who cannot get planes. They have not got time to wait for this government to get on the road and do something in relation to it.

Let us look at our counterparts overseas. The President of the United States, George W. Bush, a Republican—the Republicans are not noted for their views on government intervention or large government; they are the small government party—has allocated $20 billion to American airlines in order to assist them with the crisis they are going through, yet Labor’s suggestion of $150 million to $200 million based on a projected sale of KSA is dismissed as bizarre by the government. I ask the government to look at what its fraternal colleagues in the United States are doing in the face of what is a major crisis. They are acting; this government is doing nothing here.

When Minister Anderson was confronted with this in question time today his response was: ‘We are trying really hard. We are attempting to get things back on the rails.’ But the reality is that the government are doing nothing. Rural and regional Australia is desperate for action to be taken. At the same time, we have major indications from the tourism industry, particularly in Queensland, that things are going very badly and we have requests for money. This is a government that can find $20 billion to backflip in the last six months on everything it did in the last three years, but it cannot find $150 million to $250 million to try to get this crisis over and done with. We have the Minister for Transport and Regional Services simply washing his hands of this and regarding Ansett as a carcass—which is an insult to every Australian, particularly the people who work for Ansett and those who live in rural and regional Australia. For goodness sake, it is only $150 million to $200 million. Why don’t you try to do something.

(Time expired)

Senator EGGLESTON (Western Australia) (3.46 p.m.)—This is the strangest taking note of answers that I have ever experienced in the time that I have been in the Senate. We have had talk about the GST on tickets not being refunded.

The DEPUTY PRESIDENT—That, I would remind you, Senator Eggleston, was what the answer to the question was about.

Senator EGGLESTON—Indeed. We have gone from that to Ansett and regional Australia, support for Ansett, Coles Myer, the GST, the sale of Telstra and regional areas—and on and on it has gone. It is all over the place. It is very strange indeed. It is a bit like ALP policy—a grab bag, like a dog’s breakfast, of all sorts of little issues with no overall plan or consistency. It is just like things scattered on a board. There is nothing clean, simple and straightforward about it. I think this is the lesson to draw from what has been said in the Senate this afternoon: the ALP does not have a clear view about what should be done to manage the issues that face Australia today.

Senator Mackay got up and said, ‘Why doesn’t the government put up $200 million
and save Ansett? That is $200 million for an airline that is something like $3 billion in debt. Who is going to meet the debt, Senator Mackay? Who is going to meet the cost of re-equipping an airline which was so utterly and badly managed? It had no less than nine different kinds of aircraft. Sir Peter Abeles thought the airline was a toy to play with and he would get a few different kinds of aircraft, forgetting about the cost of maintenance and running an airline with such a wide number of different aircraft in its fleet. Paying $200 million is a drop in the bucket and it will not do anything to get Ansett back in the air. Ansett has a lot of problems. One of them, sad to say, is that it was grossly overstaffed. Qantas has a lot fewer staff, and its costs per air mile flown are about 30 per cent lower. That tells a story in itself. Ansett failed because of mismanagement. It failed not just because Air New Zealand took it over and sucked it dry and transferred all the parts and equipment in recent weeks to New Zealand but because the airline itself was mismanaged. A lot of that probably comes back to union demands.

I agree that the failure of Ansett is a national tragedy, but it is quite wrong of Senator Mackay to imply that this government is not concerned about it and, in particular, that this government has not sought to restore services to the regions. In New South Wales, Hazelton are back in the air and from my point of view most importantly we have Skywest back in the air. The interesting thing is that Skywest only needed a guarantee of about $3.5 million to get it back into the air. The Skywest management group running this airline approached the Western Australian ALP government run by Dr Gallop and that government declined to provide the money to get Skywest back in the air. But the federal government provided the guarantee. The federal government, Mr John Anderson and Mr Howard have been responsible for restoring full Skywest services to the eastern goldfields and the south of Western Australia. So you cannot say with any kind of credibility that this government is not seeking to overcome the deficits in the regions caused by the closure of Ansett. On the broader picture, the government is doing its best to find a solution. I believe there are no fewer than five bidders, including airlines like Lufthansa and Singapore, as well as a union group and other groups interested in buying and seeking to restore Ansett.

The general issue of this debate is the GST. The GST has been a great success. It is one of the greatest tax reforms this country has ever seen. Australia, almost alone among the OECD countries, did not have an indirect tax system. We needed to transfer from a direct to an indirect tax system, and John Howard, to his great credit, was brave enough to do it. He introduced a new tax system which brought great benefit to Australia.

Senator Calvert—He showed some leadership; that is what he did.

Senator EGGLESTON—He showed leadership. That is what the ALP leader, Mr Beazley, certainly does not show. He moves backwards and forwards, flip-flops, in a very uncoordinated way. (Time expired)

Senator FORSHAW (New South Wales) (3.51 p.m.)—During question time, as I am sure persons out there who were listening will recall, rather than answer the questions that he was asked—particularly the question from Senator O’Brien on the GST—Senator Kemp invited a debate on the government’s tax system. What we have happening in the chamber right at the moment is a debate on theimpact of the GST, specifically its impact on those persons who paid for tickets with Ansett and who now find not only that they will not get a refund on their ticket but also they will not even get the GST back. We also have the opportunity—as Senator Eggleston and Senator Chapman have taken—to range widely on GST issues. Yet, unfortunately, Minister Kemp is not in the chamber at the moment. He is the person on the government side who continues to want to debate the GST in the chamber but, when the opportunities arise, he runs away. He has done it today; he did it yesterday; and he does it every other day.

Senator Kemp knows that, despite this government’s protestations about how great the GST has been for the economy, the opposite is the truth. We are seeing evidence of that day after day. As has been pointed out,
Stan Wallis, head of Coles-Myer—Australia’s leading company—has announced that there will be massive redundancies in that company. He has put the blame on the GST, saying that it has been a major factor in the turnaround of the company’s business. Coles-Myer is a leading company in this country. It is the largest single employer of people in this country. It is an institution in the history of Australian retailing.

Similarly, Ansett was the great, privately owned Australian airline—the company that, for years and years and years, prime ministers such as Bob Menzies and Harold Holt and John Gorton and Malcolm Fraser and now John Howard always held up as the shining light of private enterprise in this country. Where is Ansett today? It doesn’t exist. Overnight, 17,000 people and their families were put on the economic scrap heap in this country. I cannot recall a financial collapse of that magnitude. And I do not think any other Australian can, unless they can go back to the years of the Depression. One of the two major airline companies in this country has overnight stopped flying and will most likely never fly again—certainly if this government’s inaction continues. Thousands and thousands of jobs have been lost and families have been affected. Businesses right across the country are wondering whether or not they are going to survive. One hundred and five towns and cities in rural and regional Australia can no longer rely upon a domestic air service because Ansett or its subsidiary has folded. Yet what did we see?

Last week people were at the airports or on the phone, desperately trying to find out whether they could get a flight home or whether they could take that holiday that they had paid for after saving up all year and paying for their tickets. Those people have now been told by the Treasurer of this country, ‘You cannot even get the GST back on the tickets that you paid for by cash.’ How insensitive. Words cannot describe how mean and miserable this government is. But, of course, the President of the Liberal Party is on the record as noting some months ago that this government is mean and that it is miserable and that it is tricky. We are seeing once again those same characteristics of this government in operation when it will not even refund the GST on those worthless Ansett airline tickets. (Time expired)

Question resolved in the affirmative.

PETITIONS

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

Australian Broadcasting Corporation: Independence and Funding

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

The petition of the undersigned shows:

1. our strong support for our independent national public broadcaster, the Australian Broadcasting Corporation;
2. our concern at the sustained political and financial pressure that the Howard Government has placed on the Australian Broadcasting Corporation (ABC), including:
   (a) the 1996 and 1997 Budget cuts which reduced funding to the ABC by $66 million per year; and
   (b) its failure to fund the ABC’s transition to digital broadcasting;
3. our concern about recent decisions made by the ABC Board and senior management, including the Managing Director Jonathan Shier, which we believe may undermine the independence and high standards of the ABC including:
   (a) the cut to funding for News and Current Affairs;
   (b) the reduction of the ABC’s in-house production capacity;
   (c) the closure of the ABC TV Science Unit;
   (d) the circumstances in which the decision was made not to renew the contract of Media Watch presenter Mr Paul Barry; and
   (e) consideration of the Bales Report, which recommended the extension of the ABC’s commercial activities in ways that may be inconsistent with the ABC Act and the Charter;

Your petitioners ask that the Senate should:

1. protect the independence of the ABC;
2. ensure that the ABC receives adequate funding;
(3) call upon the Government to rule out its support for the privatisation of any part of the ABC, particularly JJJ, ABC On-line and the ABC Shops; and

(4) call upon the ABC Board and senior management to:
   (a) fully consult with the people of Australia about the future of our ABC;
   (b) address the crisis in confidence felt by both staff and the general community; and
   (c) not approve any commercial activities inconsistent with the ABC Act and Charter.

by Senator Bourne (from 160 citizens)

Australian Broadcasting Corporation: Independence and Funding

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

The petition of the undersigned calls on the Federal Government to support:

i. the independence of the ABC Board;

ii. the Australian Democrats Private Members' Bill which provides for the establishment of a joint Parliamentary Committee to oversee ABC Board appointments so that the Board is constructed as a multi-partisan Board, truly independent from the government of the day;

iii. an immediate increase in funding to the ABC in order that the ABC can make the transition to digital technology without undermining existing programs and services, and that it will be able to do this independently from commercial pressures, including advertising and sponsorship;

iv. news and current affairs programming is made, scheduled and broadcast free from government interference, as required under law; and

v. ABC programs and services which continue to meet the Charter, and which are made and broadcast free from pressures to comply with arbitrary ratings or other measures.

by Senator Bourne (from 16 citizens)

Refugees: Mandatory Detention

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

We the undersigned citizens of Australia draw to the attention of the Senate the dismay we feel at the Federal Government's mandatory detention for months or years of boatpeople seeking asylum in Australia who arrive without proper identifying papers.

We are especially dismayed and alarmed that children are detained in this way and believe long-term detention is a form of child abuse.

Your petitioners therefore request that the Senate require the Federal Government to reconsider their policy on mandatory detention.

by Senator Bourne (from 41 citizens)

Telstra: Privatisation

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

The petition of the undersigned shows our concern that:

(1) the Howard-Anderson Government plans to fully privatise the Australian people's 50.1 percent share of Telstra as stated in the Government's own 2001 Budget papers;

(2) a fully privatised Telstra will focus on profits not people; and

(3) services will suffer under a fully privatised Telstra, particularly in outer metropolitan, rural and regional Australia.

Your petitioners request that the Senate oppose the Howard-Anderson Government's plans to fully privatise Telstra.

by Senator Hogg (from 63 citizens)

Bass Strait: Transport

To the Honourable the President and Members of the Senate in Parliament assembled, the petition of the undersigned respectfully showeth that:

(1) People with disabilities are disadvantaged in crossing Bass Strait by sea; and that

(2) People with disabilities should not be discriminated against in any means of transport.

Your petitioners request that the Senate, in Parliament assembled, call on the Federal Government to ensure that:

(1) The Bass Strait Passenger Vehicle Equalisation Scheme makes provision for people with disabilities to send their vehicles unaccompanied on a Bass Strait ferry and still receive the appropriate rebate;

(2) Tasmanian Government vessels meet national standards for people with disabilities; and

(3) The Tasmanian and Victorian governments provide port facilities which also meet such standards.

And your petitioners as in duty bound will ever pray.
by Senator Newman (from 12 citizens)

Petitions received.

NOTICES

Presentation

Senator Jacinta Collins to move, on the next day of sitting:

That the time for the presentation of the report of the Employment, Workplace Relations, Small Business and Education References Committee on the education of gifted and talented children be extended to 22 October 2001.

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

That the Senate notes the crisis in Australian education as a result of the Howard Government’s funding policies.

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

That, on Wednesday, 26 September 2001:
(a) the hours of meeting shall be 9.30 a.m. to 6.30 p.m. and 7.30 p.m. to adjournment;
(b) the routine of business from 7.30 p.m. shall be government business only; and
(c) the question for the adjournment of the Senate shall be proposed at midnight.

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (3.58 p.m.)—I give notice that, on the next day of sitting, I shall move:

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

Abolition of Compulsory Age Retirement (Statutory Officeholders) Bill 2001
Air Passenger Ticket Levy (Imposition) Bill 2001
Air Passenger Ticket Levy (Collection) Bill 2001
Bankruptcy Legislation Amendment Bill 2001
Bankruptcy (Estate Charges) Amendment Bill 2001
Cybercrime Bill 2001
Customs Tariff Amendment Bill (No. 4) 2001
Defence Legislation Amendment (Application of Criminal Code) Bill 2001

Fuel Legislation Amendment (Grant and Rebate Schemes) Bill 2001
Indigenous Education (Targeted Assistance) Amendment Bill 2001
Intelligence Services Bill 2001
Intelligence Services (Consequential Provisions) Bill 2001
Jurisdiction of the Federal Magistrates Service Legislation Amendment Bill 2001
Motor Vehicle Standards Amendment Bill 2001
Olympic Insignia Protection Amendment Bill 2001
Regional Forest Agreements Bill 2001
Taxation Laws Amendment Bill (No. 5) 2001
Taxation Laws Amendment Bill (No. 6) 2001
Transport and Regional Services Legislation Amendment (Application of Criminal Code) Bill 2001
Workplace Relations Amendment (Minimum Entitlements for Victorian Workers) Bill 2001

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

Leave granted.

The statements read as follows—

ABOLITION OF COMPULSORY AGE RETIREMENT (STATUTORY OFFICEHOLDERS) BILL 2001

Purpose of the Bill

The Abolition of Compulsory Age Retirement (Statutory Officeholders) Bill 2001 seeks to abolish compulsory age retirement limits in a wide range of statutory appointments. It complements the removal of compulsory age retirement limits for Commonwealth public servants. Suitable exceptions are provided for judges, defence force personnel and tenured positions.

Reasons for Introduction and Passage

The Bill makes it clear that it will only apply to future appointments made after it commences. It does not affect the terms of any office holders who are appointed before the commencement of the Bill (see Part 2 of Schedule 1 of the Bill).

The Bill will widen the range of potential appointees and remove archaic and artificial
boundaries between work and retirement. Implementing the Bill earlier rather than later will allow a wider pool of people (ie those who are close to or over the age of 65 years) to be considered for appointments than is currently possible. This will be of immediate and significant benefit to those people who are close to or over the age limit in that it will allow them to be considered for appointment.

Should the Bill not be passed by the Parliament, older potential appointees to any statutory office which will be considered in coming months will be disadvantaged because of the maintenance of age retirement limits. People may be deterred from applying or expressing their interest in a vacant position in the near future because it currently has an age retirement limit. It is desirable that this outmoded limitation on statutory appointments be removed as quickly as possible, so that all future appointments can be made on merit, without being inappropriately and arbitrarily affected by statutory age limits.

(Circulated by authority of the Attorney-General)

— — — — — — —

AIR PASSENGER TICKET LEVY
(IMPOSITION) BILL 2001
AIR PASSENGER TICKET LEVY
(COLLECTION) BILL 2001

Purpose of the Bills

The Bills will introduce a levy to meet the costs associated with the Special Employee Entitlements Scheme for Ansett group employees.

Reasons for Urgency

The Government has undertaken to ensure that former Ansett employees have access to their entitlements.

While the Government will be taking action to force the Air New Zealand group to pay the entitlements, to reduce the uncertainty for Ansett employees about access to their entitlements for wages, annual and long service leave, pay in lieu of notice and redundancy pay to the community standard of 8 weeks, the Government is establishing a Special Employee Entitlements Scheme for Ansett group employees, funded by an air passenger ticket levy.

The passage of the Bill is required by the end of this period of sittings in order to have the Scheme in place to meet the immediate needs of former Ansett employees.

(Circulated by authority of the Minister for Transport and Regional Services)

— — — — — — —

BANKRUPTCY LEGISLATION
AMENDMENT BILL 2001
BANKRUPTCY (ESTATE CHARGES)
AMENDMENT BILL 2001

Purpose of the Bills

The Bills will make a number of significant changes to bankruptcy law. The changes address concerns that the bankruptcy system is biased towards the debtor and that debtors are not encouraged to think seriously about the decision to declare themselves bankrupt. The changes also address unfairness and anomalies, particularly in relation to the operation of the early discharge arrangements and the lack of effective sanctions on unco-operative bankrupts. The changes will streamline the administration of bankruptcies by trustees.

Reasons for Introduction and Passage

The proposed bankruptcy reforms will promote confidence in the integrity of the bankruptcy system. The proposed amendments are the product of more than 2 years of consultation and there is a significant expectation among stakeholders of the reforms being implemented.

The Bills were introduced into the House of Representatives during the 2001 Winter sittings and were expected to be introduced in the Senate within the first two-thirds of the 2001 Spring sittings. However, a change in sitting dates in October has resulted in a cut-off date occurring on 18 September. The Bills will be introduced into the Senate after this cut-off, and the Senate is requested to agree to debate them during the current sittings.

(Circulated by authority of the Attorney-General)

— — — — — — —

CYBERCRIME BILL 2001

Purpose of the Bill

The Bill addresses the significant threat posed by cybercrime activities such as hacking, computer virus propagation, denial of service attacks and website vandalism, and ensures that authorities are able to effectively detect, investigate and prosecute cybercrime.

It is proposed to amend the Criminal Code Act 1995 to introduce new computer offences to replace the existing outdated computer offences, and amend the Crimes Act 1914 and the Customs Act 1901 to enhance the operation of investigation powers relating to electronically stored data. The new computer offences will be based on those in the Model Criminal Code developed in cooperation with the States and Territories through the Standing Committee of Attorneys-
General. The proposed offences will apply to computer crime activities which impair the security, integrity and reliability of computer systems. Criminal investigation powers will be improved to enable the more effective search and seizure of electronically stored data.

Reasons for Introduction and Passage

Cybercrime is growing rapidly. According to recent estimates by the Federal Bureau of Investigation, cybercrime is costing companies worldwide approximately 3 trillion dollars a year. Many Australian companies suffered heavy losses as a result of infection by the “Love Bug” and “Anna Kournikova” viruses and a number of government and commercial websites were vandalised earlier this year. Australian on-line companies and retailers could be the subject of denial of service attacks similar to those that shut down the on-line operations of Amazon.com earlier this year. Such cybercrime activities have the potential to cause enormous economic harm.

Legislation must be enacted at the earliest possible opportunity to ensure that the criminal impairment and misuse of computer technology can be prosecuted and to provide law enforcement authorities with the necessary tools to effectively detect and investigate crime involving computers.

The Cybercrime Bill was introduced in the House of Representatives during the 2001 Winter sittings and was expected to be introduced in the Senate within the first two-thirds of the 2001 Spring sittings. However, a change in sitting dates in October has resulted in a cut-off date occurring on 18 September. The Bill will be introduced in the Senate after this cut-off, and the Senate is requested to agree to debate it during the current sittings.

(Circulated by authority of the Minister for Justice and Customs)

CUSTOMS TARIFF AMENDMENT BILL
(No. 4) 2001

Purpose of the Bill

The Bill amends the Customs Tariff Act 1995 by incorporating changes contained in Tariff Proposals Nos 1, 4 and 5 (2001). It also introduces amendments to concessional items relating to the Policy and Project By-Law Scheme.

Reasons for Introduction and Passage

Alterations contained in Customs Tariff Proposals must be enacted within twelve months of being tabled. Customs Tariff Proposal No. 1 (2001) was tabled on 28 February 2001 and requires Royal Assent by 27 February 2002. It relates to cessation of the ‘Administrative Arrangements to the Year 2000 for the Automotive Industry’ and effectively closes concessional entry provisions under the export facilitation and passenger motor vehicle producer 15 per cent entitlement schemes. These schemes ceased operation on 31 December 2000. Failure to pass the proposed amendments could potentially allow export facilitation scheme credits to be used for concessional entry of automotive items beyond 31 December 2001 with implications for the post-2000 automotive arrangements.

Tariff Proposal No. 4 (2001) relates to SPARTECA TCF, which assists Fiji’s textiles, clothing and footwear industries to adjust to the cessation of the Import Credit Scheme and delivers undertakings made in the context of encouraging Fiji to return to democratic rule and hold elections (now held).

The Bill gives effect to a key provision of the Australia-Russia Space Cooperation Agreement signed on 23 May 2001 (Tariff Proposal No. 5 (2001)). That Agreement is critical to progressing the Asia Pacific Space Centre spaceport on Christmas Island. Any delay in the Bill may compromise the commercial schedule of that project.

The Bill also includes new items 70 and 71, which will provide industry with certainty and the opportunity to comply with significant changes ahead of implementation on 1 July 2002 of the new Policy and Project By-Law Scheme which was announced as part of the 2001-2002 Budget.

The Bill was introduced in the House of Representatives during the 2001 Winter sittings and was expected to be introduced in the Senate within the first two-thirds of the 2001 Spring sittings. However, a change in sitting dates in October has resulted in a cut-off date occurring on 18 September. The Bill will be introduced in the Senate after this cut-off, and the Senate is requested to agree to debate it during the current sittings.

(Circulated by authority of the Minister for Justice and Customs)

DEFENCE LEGISLATION AMENDMENT
(APPLICATION OF CRIMINAL CODE)
BILL 2001

Purpose of the Bill

Offences under the Defence Force Discipline Act 1982 and various pieces of defence legislation are interpreted in the light of common law principles of criminal responsibility (guided by the requirements of military discipline). The Criminal Code Act 1995 codifies the principles of criminal re-
sponsibility and the imposition of criminal liability. The purpose of the proposed amendments is to harmonise defence legislation offences with the criminal responsibility provisions in the Criminal Code.

**Reasons for Urgency**
The provisions of the Criminal Code will automatically apply to offences after 15 December 2001, by which time all consequential or harmonising legislation must be in place.

(Circulated by authority of the Minister for Defence)

EMPLOYMENT, WORKPLACE RELATIONS AND SMALL BUSINESS LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2001

**Purpose of the Bill**
The Bill will adjust offence provisions in legislation in the Employment, Workplace Relations and Small Business portfolio to ensure they operate as intended when the Criminal Code applies to them from 15 December 2001.

**Reasons for Urgency**
When the Criminal Code commences on 15 December 2001, the provisions contained in the Code will govern the interpretation of all Commonwealth offence provisions. It is therefore essential for offence provisions in the Employment, Workplace Relations and Small Business portfolio to be updated by that time, so that they are in line with the Code.

(Circulated by authority of the Minister for Employment, Workplace Relations and Small Business)

FUEL LEGISLATION AMENDMENT (GRANT AND REBATE SCHEMES) BILL 2001

**Purpose of the Bill**
The Bill will extend the sunset clauses of the Diesel and Alternative Fuels Grants Scheme and the Diesel Fuel Rebate Scheme from June 2002 to June 2003.

**Reasons for Urgency**
Passage in Spring sittings ensures changes can apply from 1 July 2002.

(Circulated by authority of the Treasurer)

INDIGENOUS EDUCATION (TARGETED ASSISTANCE) AMENDMENT BILL 2001

**Purpose of the Bill**
The Bill will expand the Indigenous Education (Targeted Assistance) Act 2000 to include the capacity to fund partnerships between communities, industry and education providers and business support for vocational learning for Indigenous secondary school students.

**Reasons for Introduction and Passage**
Passage of the Bill will allow implementation of the consultation and development phase of partnerships in 2001-02.

In addition, the Bill, when enacted, will reflect changes already made to the Fringe Benefits Tax Act 1986.

The Bill was introduced in the House of Representatives during the 2001 Winter sittings and was expected to be introduced in the Senate within the first two-thirds of the 2001 Spring sittings. However, a change in sitting dates in October has resulted in a cut-off date occurring on 18 September. The Bill will be introduced in the Senate after this cut-off, and the Senate is requested to agree to debate it during the current sittings.

(Circulated by authority of the Minister for Education, Training and Youth Affairs)

INTELLIGENCE SERVICES BILL 2001

INTELLIGENCE SERVICES (CONSEQUENTIAL PROVISIONS) BILL 2001

**Purpose of the Bills**
The principal purposes of the Bills is to:
- detail the functions of ASIS and DSD;
- place ASIS on a statutory footing;
- enhance the accountability and oversight mechanisms of ASIS, including through the establishment of a Parliamentary Joint Committee to provide oversight to both ASIS and ASIO;
- provide limited legal immunities for ASIS and DSD in respect of aspects of the proper conduct of their functions; and
- preserve the privacy of Australians.

**Reasons for Urgency**
The Bills were introduced in the House of Representatives during the 2001 Winter sittings and were expected to be introduced in the Senate within the first two-thirds of the 2001 Spring sittings. However, a change in the sitting dates in October has resulted in a cut-off date occurring on 18 September. The Bills will be introduced in the Senate after this cut-off, and the Senate is requested to agree to debate them during the current sittings.
The services provided by ASIS and DSD are vital to the interests of the country. In the conduct of their activities focused outside Australia as directed by the Government, ASIS and DSD may be inhibited by the unintended consequences of Australian laws. The Bills seek to resolve these difficulties by providing limited immunities for both ASIS and DSD in respect of aspects of the proper conduct of their functions. The Bills find the appropriate balance between the ability of ASIS and DSD to satisfy Government requirements and the need for accountability and Parliamentary oversight.

(Circulated by authority of the Minister for Foreign Affairs)

JURISDICTION OF THE FEDERAL MAGISTRATES SERVICE LEGISLATION AMENDMENT BILL 2001

Purpose of the Bill
The Bill will amend certain legislation to confer jurisdiction on the Federal Magistrates Service (FMS) in migration matters. This jurisdiction would be concurrent with the Federal Court’s. This will give the FMS a broader jurisdiction in general federal law matters.

Specifically, the Bill will:
- amend Part 8 of the Migration Act 1958 to include a provision that the FMS has concurrent jurisdiction with the Federal Court in matters under Part 8; and

Reasons for Urgency
Many migration matters are of a routine nature and would be suitable for the FMS. One of the main benefits of giving the FMS jurisdiction would be quicker processing of these routine cases. The FMS aims to resolve all matters in six months.

There is provision in the FMS legislation to allow matters to be transferred to the Federal Court (or Family Court where appropriate). This means that more complex matters filed in the FMS can be transferred to the Federal Court. Similarly, there are provisions for transfer from the Federal Court to the FMS of less complex matters with the FMS’s jurisdiction.

(Circulated by authority of the Attorney-General)

OLYMPIC INSIGNIA PROTECTION AMENDMENT BILL 2001

Purpose of the Bill
To amend the Olympic Insignia Protection Act 1987 (OIP Act) to give the Australian Olympic Committee (AOC) protection for the words ‘Olympic Games’, ‘Olympic’ and ‘Olympiad’ (Olympic words) against unauthorised commercial use for advertising or promotional purposes.

Reasons for Urgency
Introduction and passage in the Spring sittings is required to ensure the protection of the Olympic words comes into effect as soon as possible. The AOC is expected to take on an increased responsibility for developing, funding and maintaining Olympic sport. The AOC is in a unique position to raise significant funds for Australian sport through sponsorship and licensing arrangements due to its ability to raise funds on behalf of all Olympic sports.

(Circulated by authority of the Attorney-General)
For the AOC to deliver its proposed programs it is reliant on the ability to achieve its forecasted potential income projection, specifically by maximising sponsorship opportunities. The AOC is currently re-negotiating contracts with existing sponsors and seeking to attract new sponsors for the next four years with a view to securing its revenue streams for that period. The value of the sponsorship and licensing arrangements it is able to secure will be directly influenced by the level of certainty the AOC can give to prospective sponsors about the exclusive nature of these arrangements. The proposed amendments to the OIP Act will increase this level of certainty by providing greater protection against ambush marketing.

While the restriction on the use of the words for commercial purposes will help to protect the AOC’s plans for financing athlete preparation for the 2002 Salt Lake City Winter Olympic Games and the 2004 Athens Olympic Games, it would not however adversely impact on the ability of elite athletes to generate sponsorship revenue, or impede support organisations from raising extra funds by promoting their Olympians. Athletes, teams and support organisations will be able to use the Olympic words as part of factual historical statements in a commercial sense with third party sponsors. In addition, any other words (eg, ‘Olympian’, ‘gold medallist’, ‘Sydney 2000’) and images will not be protected and their use will be freely available in any context, subject to legal remedies already available to the AOC under the Trade Practices Act or arising out of contractual obligations.

Delays in enacting amendments to the OIP Act would adversely affect the AOC’s ability to maximise the value of sponsorship and licensing contracts. Funding shortfalls will have a direct impact on the degree to which the AOC can fully implement its 2004 Medal Plan, and so compromise the legacy of the Sydney Games and Australia’s high standing in the international sport arena.

(Circulated by authority of the Minister for Industry, Science and Resources)

REGIONAL FOREST AGREEMENTS BILL 2001

Purpose of the Bill
The purpose of the Regional Forest Agreements Bill 2001 is to provide legislative commitment and support for the outcomes of the Regional Forest Agreements and for ongoing action to implement the Forest and Wood Products Action Agenda through the Forest and Wood Products Council.

Reasons for Urgency
Ten Regional Forest Agreements (RFAs) between the Commonwealth and three State Governments have now been concluded since the agreement between governments to implement RFAs in 1995. Some State Governments have challenged aspects of the outcomes of these agreements, introducing uncertainty about continuing Government commitment to the RFAs.

The substance of the Bill has been extensively debated in the Parliament. This Bill honours a commitment to regional communities, industry and some State Governments. It will commit the Commonwealth unequivocally to the outcomes achieved in the RFA process and increase the certainty essential to RFAs being effective. Failure to pass the Bill in this session potentially means there would be a long period of uncertainty about the future of the RFAs.

This could undermine the work of successive Commonwealth and State Governments, since the National Forest Policy Statement of 1992, to improve inter-governmental institutions and decision processes to support comprehensive forward planning of forest use. Passage of the Bill would also underpin ongoing action under the Forest and Wood Products Action Agenda through the Forest and Wood Products Council.

(Circulated by authority of the Minister for Forestry and Conservation)

TAXATION LAWS AMENDMENT BILL
(No. 5) 2001

Purpose of the bill
The bill contains amendments to tax laws to:
- clarify the treatment of religious practitioners under the new tax system;
- change the tax status of constitutionally protected superannuation funds;
- turn off cost base adjustments for certain distributions;
- include a number of new organisations in the tables that provide gift deductibility status;
- ensure that non-profit societies and associations established to develop Australian information and communications technology resources are exempt from income tax and also qualify for a fringe benefits rebate; and
- provide a fringe benefits tax rebate to employers who are a non-profit society or association that has been established to develop Australian aquaculture and fishing resources.
Reasons for Urgency

Introduction of most of these measures into Parliament was delayed by a heavy tax reform legislative program, but in order to provide certainty for taxpayers, they are now being legislated as a matter of urgency.

(Circulated by authority of the Treasurer)

TAXATION LAWS AMENDMENT BILL
(No. 6) 2001

Purpose of the bill

The bill contains amendments to tax laws to:

- provide clear methodology to determine a Gas Transfer Price for applying Petroleum Rent Resource Tax (PRRT) to integrated gas to liquid projects;
- amend the expenditure provisions contained in the PRRT Act so that the reference for the 5 year rule is the date a person has provided all necessary material for a production licence;
- exempt local government business from income tax;
- allow self-managed superannuation funds to retain their residency status when members temporarily go overseas;
- provide shareholders in listed investment companies with access to the CGT discount so they receive comparable tax treatment to investors in managed funds;
- ensure that transactions occurring as a result of either the Commonwealth’s or the States and Territories’ HIH rescue schemes do not incur tax where they would not have incurred tax had they been the result of claims by policyholders against HIH; and
- give effect to the Government’s announced changes to the alienation of personal services income provisions.

Reasons for Urgency

The legislation requires passage so that taxpayers and investors can have certainty regarding their taxation requirements. A number of these measures have benefited from extensive consultation with industry, following their announcement by the Government. The measures in this bill are beneficial to taxpayers.

(Circulated by authority of the Treasurer)

TRANSPORT AND REGIONAL SERVICES LEGISLATION AMENDMENT (APPLICATION OF CRIMINAL CODE) BILL 2001

Purpose of the Bill

The Criminal Code Amendment (Application) Act 2000 will apply the Criminal Code to all offences under Commonwealth law. This will happen from 15 December 2001.

The Code will impact on criminal offence provisions administered by the Transport and Regional Services portfolio. The Bill will ensure that the offence provisions continue to operate as originally intended once the Code applies.

Reasons for Urgency

It is essential that the Transport and Regional Services portfolio bill be introduced and passed in the Spring sittings to ensure that offence provisions continue to operate as intended.

(Circulated by authority of the Minister for Transport and Regional Services)

WORKPLACE RELATIONS AMENDMENT (MINIMUM ENTITLEMENTS FOR VICTORIAN WORKERS) BILL 2001

Purpose of the Bill

The Bill will amend the Workplace Relations Act 1996 to improve the minimum entitlements of Victorian workers not covered by a Federal award or agreement and contract outworkers in the textile, clothing and footwear industry in Victoria.

Reasons for Urgency

Victorian workers not covered by a Federal award or agreement (‘Schedule 1A employees’) are covered by a safety net of five minimum conditions contained in Part XV of and Schedule 1A to the Workplace Relations Act 1996 (the WR Act). There is a widespread perception in Victoria that these minimum conditions are inadequate. There is also a perception that outworkers in the textile, clothing and footwear industry in Victoria are disadvantaged by the current arrangements.

Recently, the Victorian Government unsuccessfully attempted to secure passage of the Fair Employment Bill 2000 (Vic.). If passed, that bill would have partially reintroduced a State system of industrial relations, ostensibly to improve the conditions of Schedule 1A employees and of outworkers.

In this Government’s view, the Victorian bill went much further than was necessary, and would have led to increases in the cost of employment in Victoria. On some estimates, the passage of the bill would have led to substantial job losses.
Victoria is Australia’s second largest State, with a major manufacturing and service industry focus. Job losses in Victoria arising from ill considered State based re-regulation would have a negative economic and social impact.

The Government wants to move quickly to implement arrangements which improve, in a cost-effective way, the safety net of conditions under which Schedule 1A employees and TCF contract outworkers work, thus removing the need for the Victorian Government to pursue its own more costly agenda.

(Circulated by authority of the Minister for Employment, Workplace Relations and Small Business)

(Quorum formed)

Senator CALVERT (Tasmania) (4.00 p.m.)—On behalf of Senator Coonan and the Standing Committee on Regulations and Ordinances, I give notice that, 15 sitting days after today, I shall move that the Quarantine Service Fees Determinations 2001 (No.1 of 2001), made under section 86E of the Quarantine Act 1908, be disallowed. I seek leave to incorporate in Hansard a short summary of the committee’s concerns with this instrument.

Leave granted.

The summary read as follows—

Quarantine Service Fees Determinations 2001 (No.1 of 2001), made under section 86E of the Quarantine Act 1908

The Determination increases the fee rates for the Import Clearance and Seaports Programs and introduces a new Customs Compile fee for importers of High Volume Low Value air cargo consignments.

Determination 7, headed Late Payment Fees, specifies a penalty fee at the rate of 20% per annum for late payment of a prescribed fee after the due date for payment. Section 86E(2C) of the Quarantine Act 1908 provides that:

A late payment fee may be either or both of the following:

(a) a fee of a stated amount;

(b) a fee of a stated amount in respect of each day after the payment day and before the day on which the basic fee is paid.

The Committee has sought an assurance that a penalty fee which is specified to be a rate per annum is permitted by section 86E(2C) of the Act. The Committee has also sought advice on whether the imposition of a late payment fee is subject to review.

COMMITTEES
Rural and Regional Affairs and Transport Legislation Committee
Extension of Time

Motion (by Senator Calvert, at the request of Senator Crane)—by leave—proposed:

That the time for the presentation of the report of the committee on the provisions of the Regional Forest Agreements Bill 2001 be extended to 26 September 2001.

Senator BROWN (Tasmania) (4.02 p.m.)—I do agree to that motion. However, I would point out that this bill is being put with undue haste through the parliament. The committee that is dealing with the regional forest agreements—and the enormous consequences for Australia’s native forests and wildlife—has not had adequate time to consider the representations I have received from a wide range of the community who are entitled to have a say. In fact, there are many angry Australians out there who believe that this bill is being railroaded through the Senate and that the committee, which met last night, has not travelled to the places where it really matters so that, although the logging community gets the opportunity to have maximum input, the community is affected by this destructive loss of native forest under the regional forest agreement of Mr Howard, backed by Mr Beazley, without any representations. I object to that process.

This bill has been sitting on the shelf for three years. It ought to have been brought up long before this so that the community could be involved. Once again, we are seeing the forms of democracy thrown out of the window because a big lobby group—the woodchipping organisations—wants to get this legislation through. And I will tell you why: because there is a compensation clause in there concerning the future protection of forests in our nation which are currently targeted by the woodchip industry. The industry is cutting down and destroying Tasmania’s forests at the greatest rate in history, for the smallest price in history, for the fewest jobs in history, despite Mr Howard’s promise that a thousand jobs would be created. Almost
that many jobs have been destroyed, even though the industry is cutting faster since 1997, when Mr Howard signed the death warrant on these forests. Here we have, in the dying days of this parliament, this railroad by Labor and Liberal of this destructive process through the parliament. I object.

Senator Crane—It has been going on for 2½ years.

The DEPUTY PRESIDENT—Order, Senator Crane!

Senator BROWN—it is not doing Senator Crane much good to interject from the back bench. He can move his own motion or speak on this—and I invite him to—to defend the indefensible. I am not going to agree to that process without standing up for the community that I represent on this major issue. The process is tawdry, truncated and undemocratic and it flies in the face of the 70 to 80 per cent of Tasmanians and Australians who do not want to see this massive forest destruction, in the interests of a few friends in the major parties who, no doubt, are lining up right now to sign cheques for the election campaign. That is where we are at with this process. Pretty unseemly, isn’t it? It is pretty nasty. That is what the Senate is being asked to rubber stamp here and I have to point out what a nasty and undemocratic process it is. Those involved should be ashamed of themselves.

Senator BARTLETT (Queensland) (4.05 p.m.)—On behalf of the Democrats, I put on the record that, whilst not opposing this motion which is being moved because the committee is recognising the absurdity of the initial timetable that was put upon them by others in this Senate—not the Democrats or the Greens—in relation to this bill, it is clearly a—

Senator Forshaw—You didn’t even bother to turn up last night.

The DEPUTY PRESIDENT—Order, Senator Forshaw!

Senator BARTLETT—I was in here listening to the debate on the seven migration bills that you have railroaded through as well. I cannot do it all. Senator Brown was in there. I knew he would do a good job—at least, I presume he was in there. If you had not railroaded the migration bills through and made us sit until midnight, I would have been able to go to the hearing.

Whilst not opposing the motion, it is important to emphasise that the Democrats do believe that it is with undue haste that this bill is being put through. We would be interested in exploring ways, over the next couple of days, to ensure that it does not come on for a final decision this week. I believe that it does require further consideration by the community. This motion relates to the ambiguity of the specifics of the government’s proposed program for the rest of the week, which makes it difficult to get a sense of how many bills we are going to be dealing with and what the different aspects and timetables are. That is something we can debate further in relation to other motions that will be coming up later.

Question resolved in the affirmative.

COMMITTEES
Rural and Regional Affairs and Transport Legislation Committee

Report
Motion (by Senator Crane)—by leave—agreed to:
That business of the Senate order of the day No. 2, relating to the presentation of the report of the committee on the provisions of the Motor Vehicle Standards Amendment Bill 2001, be postponed to a later hour of the day.

NOTICES
Postponement
Items of business were postponed as follows:

General business notice of motion no. 717 standing in the name of Senator Lees for today, relating to the introduction of the Australian Bill of Rights Bill 2000, postponed till 27 September 2001.

General business notice of motion no. 1044 standing in the name of Senator Allison for today, relating to energy efficiency and low pollution standards for new power stations, postponed till 26 September 2001.

Motion (by Senator Ludwig, at the request of Senator Chris Evans)—by leave—agreed to:
That business of the Senate notice of motion No. 1 standing in the name of Senator Evans for today, relating to the disallowance of the Health Insurance (Diagnostic Imaging Services Table) Amendment Regulations 2001 (No. 4), be postponed till the next day of sitting.

**BUSINESS**

Hours of Meeting and Routine of Business

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (4.08 p.m.)—I seek leave to have government business notice of motion No. 1, relating to the hours of meeting and routine of business for today, taken as formal.

Leave not granted.

**AUSTRALIAN MUSLIM COMMUNITY**

Motion (by Senator Bolkus) agreed to:

That the Senate

(a) recognising that:
   (i) Australia has an international reputation as a successful multicultural society,
   (ii) freedom and respect for diversity, particularly religious diversity, has underpinned that success,
   (iii) Australia has had a peaceful transition from a time where one religious group dominated religious culture to the current situation where religious legitimacy is shared by all religious groups, and
   (iv) such success has been based on religious settlement involving highly diverse religious groups;

(b) further recognising that the framework provided by Australia’s civic values of tolerance, equality, our ‘fair go’ culture, and freedom of speech and religion, together with the structures of constitutional parliamentary democracy and the rule of law, have worked together to enable this transition;

(c) noting that:
   (i) Muslims are the largest non-Christian religious group in Australia, with migrants from Turkey, Lebanon, and other Middle East and Asian cultures,
   (ii) at least 35 per cent of Australian Muslims were born in Australia,
   (iii) Muslim migrants have been part of Australian society for more than a century, with the first mosques built in Adelaide, Coolgardie, Maree, Broken Hill and Perth by the end of the nineteenth century;

(d) appreciating that Islam is a peaceful religion and that in more than 100 years of immigration Australia has never experienced acts of terrorism arising from our migrant Muslim communities, but that Australia has benefited enormously from the successful immigration of such communities;

(e) noting also the commitment expressed by Muslims and Australian Arabs in the press on the weekend of 22 and 23 September 2001 to condemning terrorism;

(f) is concerned at the current unhealthy level of physical and verbal attacks on these communities, especially their mosques, schools, women and children; and

(g) calls on the Australian community, at all levels, to give Australia’s migrant Muslim community the respect we give to all other religious groups.

**PARLIAMENTARY ZONE**

Approval of Works

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (4.08 p.m.)—I seek leave to have government business notice of motion No. 2, relating to approval of works within the parliamentary zone, taken as formal.

Leave not granted.

**EDUCATION**

Motion (by Senator Brown) put:

That the Senate—

(a) recognises that failure to invest in public education is undermining Australia’s capacity to meet its economic and social needs into this century and calls upon the next government to increase public education spending to meet the Organisation for Economic Co-operation and Development average by 2004;

(b) recommends that this additional funding be distributed between all sectors of education including universities, TAFE, adult learning and schools;

(c) is deeply concerned that the distribution of schools funds under the States Grants
Primary and Secondary Education Assistance Act 2000 is unfair, unjust and damaging, as evidenced by:

(i) the continued decline in public education’s share of the total Commonwealth schools budget, and

(ii) the excessive and extravagant increases in annual per capita Commonwealth funding of many of the wealthiest private schools; and

d) calls for the next government, as a matter of urgency, to repeal this Act and replace it with legislation that:

(i) ensures that public education’s share of Commonwealth schools funding is restored to at least 50 per cent by 2004 and to 70 per cent by 2007 by measures including increasing public education expenditure, curtailing the growth in total funding of private schools and decreasing the funding of the wealthier private schools, and

(ii) ensures that the distribution and quantity of federal funding of private schools neither exacerbates socio-economic inequality nor endangers the local, regional or national viability of the nation’s government school systems as the dominant provider of primary and secondary education.

The Senate divided. [4.14 p.m.]

(The Deputy President—Senator S.M. West)

Ayes…………  10

Noes…………  39

Majority………  29

AYES

Allison, L.F.
Bourne, V.W. *
Cherry, J.C.
Lees, M.H.
Ridgeway, A.D.

NOES

Hutchins, S.P.
Lightfoot, P.R.
Lundy, K.A.
McGauran, J.J.
McLucas, J.E.
Patterson, K.C.
Ray, R.F.
Sherry, N.J.
Tchen, T.
Troeth, J.M.

* denotes teller

Question so resolved in the negative.

COMMITTEES

Legal and Constitutional References Committee

Extension of Time

Motion (by Senator McKiernan) agreed to:

That the time for the presentation of the report of the Legal and Constitutional References Committee on the Human Rights (Mandatory Sentencing for Property Offences) Bill 2000 be extended to the last sitting day in March 2002.

Rural and Regional Affairs and Transport References Committee

Meeting

Senator RIDGEWAY (New South Wales—Deputy Leader of the Australian Democrats) (4.17 p.m.)—I ask that general business notice of motion No. 1050, authorising a committee to hold a public meeting during the sitting of the Senate today be taken as formal.

Leave not granted.

Suspension of Standing Orders

Senator RIDGEWAY (New South Wales—Deputy Leader of the Australian Democrats) (4.18 p.m.)—Pursuant to contingent notice standing in the name of the leader of the Australian Democrats, Senator Stott Despoja, I move:

That so much of the standing orders be suspended as would prevent Senator Stott Despoja 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. 1050.

Senator CRANE (Western Australia) (4.18 p.m.)—Madam Deputy President, I ask a question of procedure because I have been
asked by the opposition whip to postpone any debate on this until such time as the whips’ meeting was complete. We agreed to allow that to happen on this side—I do not know what the situation is over there. Can this debate be postponed until then because I want to make a short statement?

The DEPUTY PRESIDENT—Technically, it cannot, because we are now into debating the suspension of standing orders. That is the question before the chair.

Senator BROWN (Tasmania) (4.19 p.m.)—I support Senator Ridgeway on this motion. The matter is obviously urgent, there is no doubt about that. There are three sitting days of parliament left. Senator Ridgeway’s motion is that the Rural and Regional Affairs and Transport References committee, which is looking into Ansett Australia, be authorised to hold a public meeting during the Senate sitting on 25 September—that is tonight—to take evidence in that very important matter. Here we have the government saying no. I do not see why the government should be taking that point of view. I would imagine that there is important evidence to be gotten. We have just had the government get extra time on the committee looking into the regional forest agreements. I suppose this is the government starting to be obstructive to the crossbench—on a matter that they do not want to see pursued. That is not what we are about in this Senate; we are about investigating, where we can, important matters to do with the country. Who could doubt that the current Ansett collapse is not important? We should be having the committee as Senator Ridgeway requests.

Senator CRANE (Western Australia) (4.21 p.m.)—by leave—There is a very simple reason why we have decided to oppose holding the hearing tonight. I preface my remarks by saying that last week, for the first time in the 12 years I have sat on this committee, government members were hijacked, because we did not get the motion to refer this to the committee. This morning at our hearing, we were hijacked again: we were not informed prior to the meeting this morning that the opposition or the Democrats wished to hear this tonight. Nonetheless, at that time, we set out to have a hearing tonight. We agreed between us on a number of witnesses that would be useful to have before us. One of them was the administrator; the others were the Department of Transport and Regional Services, CASA and Treasury. When the secretariat contacted the administrator, we received a letter back. It reads:

As you know, Mark Korda and I were appointed Voluntary Administrators of the Ansett Group by Court order on 17 September 2001.

The object of Part 5.3A of the Corporations Act, pursuant to which we were appointed, is to maximise the chances of the Ansett Group remaining in business (see Section 5.435A). The voluntary Administrators are also required to investigate the Ansett Group’s business property and financial affairs (see Section 438A).

Further, the letter states:

Mark and I believe that a public inquiry into the collapse of Ansett, at this particular time, may severely prejudice our negotiations with key stakeholders and thereby lessen the likelihood of the Ansett group business continuing in existence. The likely negative press about Ansett may also impact adversely on our marketing of the Ansett re-float.

Senator Ridgeway has a copy of the letter, as do the opposition members of the committee; I handed it to them. I seek leave to table the letter.

Leave granted.

Senator CRANE—As far as the Ansett collapse is concerned, we on this side of the chamber are not frightened about having an inquiry; in fact, we would welcome an inquiry at the appropriate time. We do not believe that now is the appropriate time, having received that letter. I got it just at the end of question time, and I immediately informed Senator Ridgeway and the other members of the committee and gave them copies of it. We are seeing, once again, an action supported by the Democrats and the Labor Party which could prejudice the best outcome from the unfortunate events that have befallen Ansett. We on this side of the chamber have been working very hard to get planes back in the sky, and surely that should be the objective of everybody in this chamber. From what is going on, it appears to me that the opposition, the Democrats and Senator Brown are more interested in technical po-
political point-scoring than in doing what they should do. We should be doing everything we can to assist the administrator in his work and what has to be done. We have already seen Skywest—

Senator Schacht—John Anderson has been no help at all.

Senator CRANE—John Anderson has done a fantastic job; Skywest returned to the skies just the other day. Once again, following on from what happened with the Margaret J, we see those on the other side of the chamber endeavouring to interfere with the process. I appeal to them to reconsider their position as to the hearing tonight. We would have to put it off only for a couple of days; it is not going to stop any information coming out in the public arena from anywhere—Treasury, CASA or whoever it might be. We do not even know that it is appropriate for the administrator to be involved in a Senate inquiry of this nature at this time. Having made those comments, I inform the Senate that we intend to vote against this motion. Obviously, if it is carried, we will be there tonight.

Senator ROBERT RAY (Victoria) (4.26 p.m.)—These issues are a little complex on the run, especially as those who would normally deal with them are quite properly at another meeting determining other procedures in the chamber. On behalf of the Labor Party, I indicate that we will support the suspension, we will support the motion, but we will put a rider on it. As we understand it, and as has been communicated indirectly to us, the administrator has expressed the view that tonight’s hearing may hinder the administrator’s activities, which is something we would not want to be responsible for, and nor would Senator Ridgeway, I assume. But if we carry the suspension and if we carry the motion it still allows the committee to discuss these issues and determine whether it wants to proceed tonight. It seems to me that the committee should get together in a show of good spirit and try to assess whether it should proceed in light of the letter from the administrator. I think it is up to the administrator, by the way—

Senator Hogg—They can have an in camera hearing.

Senator ROBERT RAY—Yes, they could. I think it is up to the administrator to communicate very directly with the committee, and in the next couple of hours that should be able to be set up. I think that is the most sensible way of proceeding.

Senator FORSHAW (New South Wales) (4.27 p.m.)—I indicate firstly that, as Senator Ray has just stated, it would be appropriate for the committee to meet. It is important to put on the record just what happened at the meeting this morning. The proposal was for the committee to meet this evening to take evidence from the Department of Transport and Regional Services and CASA. I am conscious that I should not go into private discussions amongst members of the committee, but I want to put on the record that we have now been provided with a copy of a letter which was sent by the administrator to Minister Anderson. It was not our intention to call the administrator before this committee, certainly not tonight.

Senator Crane—That’s wrong.

Senator FORSHAW—It is not; it might have been your intention to do that at some stage, Senator Crane, but it was not the intention of the opposition or the Democrats to either approach the administrator or call the administrator to give evidence tonight. What has happened is that somebody from the committee or the government has contacted the administrator and brought this to his attention, and we now have this letter in front of us. You can talk about ‘hijacking’ all you like, Senator Crane—and I do not think it is an appropriate term—but I regard this little tactic as one which is clearly designed to try to prevent the committee from sitting at all.

It is appropriate for this committee, I would suggest, to pursue these issues. These issues are out there in the public arena. They are on the front pages of every newspaper every day. There are lots of stories, facts, alleged facts and allegations being put out there every day in the media, both here and in New Zealand. Our committee is now charged with this reference to go through and examine those issues and get the facts as to how the disastrous collapse of this Australian company came about. That is what we are about. I do not necessarily agree with what
the administrator has said in this letter, but I think that is a matter that the committee can discuss when it meets at 6.30 p.m.

Senator RIDGEWAY (New South Wales—Deputy Leader of the Australian Democrats) (4.30 p.m.)—by leave—I thank Senator Ray for his contribution and also Senator Crane. There is some commonsense in what is being said. As all can appreciate, this is a circumstance that has come about perhaps in the fourteenth rather than the eleventh hour. Certainly from my perspective, this is something the committee has been considering for some days and suddenly, as a result of communication protocol through the committee, this is where we end up.

As to what Senator Ray has offered as advice, in terms of the capacity for the committee to meet in confidence in dealing with these issues, I am more than happy to cooperate to ensure that that happens. But, by the same token, given the gravity of the situation and the need for the public to be aware of what brought about the collapse of Ansett, I think there is a need for the committee and for the parliament to scrutinise these issues to make sure that all information is out there.

I note the comments that have been made by the administrator and the potentiality of adverse publicity. Certainly from my perspective, I do not think it could get any worse than the publicity that is currently there. So it seems that there is a need to take stock of the fact that the publicity is already out there, and I doubt whether the committee will contribute any harm to what currently exists, other than seeking out the facts to try to come up with answers to solve what is a tragedy for the Australian airline industry in this country.

Question resolved in the affirmative.

**Procedural Motion**

Motion (by Senator Ridgeway, at the request of Senator Stott Despoja) agreed to:

That the Rural and Regional Affairs and Transport References Committee be authorised to hold a public meeting during the sitting of the Senate on 25 September 2001, from 6.30 pm, to take evidence for the committee’s inquiry into Ansett Australia.

**FORESTS: VICTORIA**

Senator ALLISON (Victoria) (4.33 p.m.)—I ask that general business notice of motion No. 1053, standing in my name for today and relating to logging in Victoria’s native forests, be taken as a formal motion.

Leave granted.

Senator ALLISON—I move:

That the Senate—

(a) notes that:

(i) a record 1.09 million tonnes of timber from Victoria’s native forests last financial year is to be woodchipped,

(ii) this compares with just 650 000 tonnes of timber for sawlogs,

(iii) woodchip volumes from Victorian native forests have more than doubled since 1997 when the first Victorian Regional Forest Agreement was signed, and

(iv) woodchip volumes from East Gippsland forests rose from 155 918 tonnes in the 1998-99 financial year to 399 201 tonnes in the 2000-01 financial year; and

(b) urges the Victorian State Government to phase-out logging in native forests by buying out forestry agreements and, in the interim, substantially increase the proportion of native forest timber that is value-added at sawmills.

The DEPUTY PRESIDENT—The question is that the motion be agreed to.

The Senate divided. [4.37 p.m.]

(The Deputy President—Senator S.M. West)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>Noes</th>
<th>Majority</th>
</tr>
</thead>
<tbody>
<tr>
<td>10</td>
<td>33</td>
<td>23</td>
</tr>
</tbody>
</table>

**AYES**

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

Bourne, V.W. * Brown, B.J.

Cherry, J.C. Greig, B.

Lees, M.H. Murray, A.J.M.

Ridgeway, A.D. Stott Despoja, N.
Senator McGAURAN (Victoria) (4.40 p.m.)—On behalf of Senator Calvert and on behalf of the Parliamentary Standing Committee on Public Works, I present the following reports: No. 11 of 2001—New Freight and Passenger Facilities at Rumah Baru on West Island, Cocos (Keeling) Islands; No. 12 of 2001—Redevelopment of Residential Areas at Royal Military College, Duntroon, and No. 13 of 2001—Defence Intelligence Training Centre at Canungra, Queensland.

Freight and passenger facilities at Rumah Baru

The first report I have tabled relates to the construction of new freight and passenger facilities at Rumah Baru on West Island, Cocos (Keeling) Islands.

Problems

Historically, freight handling and passenger transfer on the Cocos (Keeling) Islands have been characterised by many logistical and environmental problems.

While West Island-bound containers are more numerous than those for Home Island, the direct transfer of containers to West Island is not possible due to the lack of suitable freight facilities. In addition, containers need to be partially unloaded on Home Island to reduce container loads. This is because there is insufficient capacity on the barge to transport containers one at a time across the lagoon to West Island.

The existing passenger jetty is located at the north-eastern end of West Island and is in a very exposed position. This results in unsafe passenger transfers during high wind and heavy swell conditions.

Preferred solution

The preferred solution proposed by the Department of Transport and Regional Services is to construct an offshore island at Rumah Baru on the eastern side of West Island, which would be connected to the shore by an access bridge. The island would be linked to deeper water in the lagoon by a dredged channel of approximately 400 metres in length.

Benefits

The works in this proposal will allow freight containers to be towed directly from a supply ship to the offshore island at West Island without the need for containers to be reduced in weight. The proposal will also improve:
- the safety;
- efficiency; and
- reliability of freight and passenger facilities.
During its inspections, the Committee was able to observe, at first hand, the hazardous nature of freight and passenger handling operations and procedures.

Recommendation

The Committee has formed the view that there is an urgent need for the provision of new freight and passenger facilities on the Cocos (Keeling) Islands. Accordingly, the Committee has recommended that the works proceed as a single stage project at a cost of $16 million.

Royal Military College, Duntroon, ACT

The second report I have tabled today relates to the development of residential areas at the Royal Military College, Duntroon.

The Defence Housing Authority (or DHA as it is more commonly known) is proposing to construct 100 on-base residences at Royal Military College for married accompanied Defence staff.

Committee caution

I note that the Committee views DHA’s proposals for on-base accommodation for Defence personnel with some caution, even though dwellings are more cost-effective because they are constructed on Defence land.

The Committee’s cautionary view comes from its experience with similar projects. An example is dwellings built at RAAF Base Tindal near Katherine (in the Northern Territory) in the early 1980s. They became surplus to Defence’s requirements because improved technology resulted in a decrease in staff numbers.

Added to this, the Committee continues to have doubts about the numbers of Defence personnel and their families who wish to live on-base. To this end the Committee has recommended that surveys of the views of personnel and their families be undertaken together with the future viability of the Base in question.

However, in the specific case of the Royal Military College, Duntroon, the Committee took into account its long history and role as a recognised unique training centre for Australian Army officers as well as military officers from other countries.

Energy management

I turn now to the question of energy management. In keeping with Government policy, the Committee expects that Commonwealth departments and agencies should lead the way in effecting change in how energy is managed in the community.

The Committee has therefore recommended that Commonwealth departments and agencies provide detailed comparative cost analyses between the various forms of energy, including solar energy, with any works proposals presented to the Public Works Committee.

Greenhouse emissions

Related to this is the minimisation of greenhouse emissions. In this area the Committee is increasingly interested to assess Commonwealth departments and agencies in terms of their commitment to the aims of the Australian Greenhouse Office.

The Committee has therefore recommended that Commonwealth departments and agencies ensure that consultations take place with the Australian Greenhouse Office about the most appropriate and effective methods of minimising energy for proposed public works.

National Estate issues

A number of heritage buildings are located within the Royal Military College Duntroon area and are entered on the Register of the National Estate. Any new buildings constructed in the heritage area should be sympathetic to their surround.

Heritage issues

The Committee has recommended that close consultation be maintained with the Australian Heritage Commission, particularly in relation to final design drawings.

The Committee has also recommended the establishment of a monitoring process during trenching or excavation of all sub-surface works and that this be monitored by an archaeologist.

Recommendation

Despite these various recommendations, the Committee supports the proposed works and has recommended the redevelopment proceed at the cost of $23 million.

Defence Intelligence Centre, Canungra, QLD

The third report I have tabled today relates to the redevelopment of facilities for the Defence Intelligence Training Centre at Canungra, Queensland.

History

Following a review of defence intelligence matters, the separate Defence intelligence training organisations were amalgamated in 1994 to form the Defence Intelligence Training Wing. In 1997 this organisation was amalgamated with the School of Military Intelligence to form the Defence Intelligence Training Centre.

Main factors

In recommending that this work proceed at an estimated cost of $17.745 million, the Committee
has based its decision on three main factors. They are:

1. First, the recognition in the White Paper on Defence 2000 that the implementation of Australia’s strategic policy requires the development of an intelligence capability through the enhancement of analytical and assessment expertise in military and strategic intelligence;

2. Secondly, the inadequacies of the existing facilities of the Defence Intelligence Training Centre in terms of:
   • size;
   • security; and
   • occupational health and safety issues; and

3. Thirdly, the Strategic Plan for the Defence Estate has confirmed that Canungra should be retained a significant Defence training base.

Heritage issues
The Committee has recommended that Defence consult with the Australian Heritage Commission to ensure the protection of sites of both cultural and ecological significance.

Australian Greenhouse Office
The Committee has also recommended that Defence consult with the Australian Greenhouse Office in relation to the application of the Commonwealth’s energy policy to Defence capital works projects.

Local environment issues
Finally, the Committee has recommended that, as a matter of urgency, Defence establish an environmental advisory committee for the Canungra Close Training Area to provide a forum at which local environmental issues can be discussed.

This is an importance recommendation and I hasten to add that the Committee was impressed by evidence from community groups regarding the importance of the area to the local community.

I commend to the Senate each of the reports that I have tabled.

Question resolved in the affirmative.

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

Messages received from the House of Representatives agreeing to the amendments made by the Senate to the following bills:

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

Safety, Rehabilitation and Compensation and Other Legislation Amendment Bill 2000

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

   National Crime Authority Legislation Amendment Bill 2001

ASSENT TO LAWS

Messages from His Excellency the Governor-General were reported informing the Senate that he had assented to the following laws:

   Financial Sector (Collection of Data) Bill 2001
   Migration Legislation Amendment (Immigration Detainees) Bill (No. 2) 2001
   Corporations (Compensation Arrangements Levies) Bill 2001
   Corporations (Fees) Amendment Bill 2001
   Corporations (National Guarantee Fund Levies) Amendment Bill 2001
   Finance and Administration Legislation Amendment (Application of Criminal Code) Bill 2001
   States Grants (Primary and Secondary Education Assistance) Amendment Bill 2001
   Health and Aged Care Legislation Amendment (Application of Criminal Code) Bill 2001
   Reconciliation and Aboriginal and Torres Strait Islander Affairs Legislation Amendment (Application of Criminal Code) Bill 2001
   Wool International Amendment Bill 2001
   Family Law Legislation Amendment (Superannuation) (Consequential Provisions) Bill 2001
   Agriculture, Fisheries and Forestry Legislation Amendment (Application of Criminal Code) Bill 2001
   Innovation and Education Legislation Amendment Bill (No. 2) 2001
   Treasury Legislation Amendment (Application of Criminal Code) Bill (No. 3) 2001
   Environmental Legislation Amendment Bill 2001
   General Insurance Reform Bill 2001

COMMITTEES

Environment, Communications, Information Technology and the Arts
References Committee

Report

Senator ALLISON (Victoria) (4.42 p.m.)—I present the report of the Environ-
On 27 June this year, the Senate referred the following matter to the Environment, Communications, Information Technology and the Arts References Committee for inquiry and report by 25 September 2001:

The development and implementation of options for methods of appointment to the board of the Australian Broadcasting Corporation (ABC) that would enhance public confidence in the independence and representativeness of the ABC as the national broadcaster.

The committee advertised the inquiry in national newspapers on 7 and 8 July 2001, on the committee's home page on the Internet and by letters to organisations and individuals with an interest in the inquiry. The committee received 720 written submissions. The committee also held a public hearing in Parliament House on Monday, 20 August. Three conclusions emerged from the inquiry. First, since the inception of the ABC the party in government has appointed people to the board who are sympathetic to the views of the governing party—although this is not to say that appointees to the board have been either incompetent or ineffective in serving the interests of the ABC or the public. Second, it is abundantly clear from the large number of submissions that there is a strong public perception that the board is not independent. Third, it is vital to the credibility of the ABC as the national public broadcaster that both the board and the corporation be independent in fact and perception. The ABC is a key element in effective democracy in Australia and in its role of independent commentator every effort must be made to strengthen its independence.

In the light of these conclusions, the report recommends introducing a system characterised by the principles of transparency and merit. To give effect to these principles, the chair’s report recommends a model of board appointments along the following lines:

1. An ad-hoc Independent Selection Committee ... be brought together for the purposes of selecting a member ... and recommend a short list ... for the Minister to consider.
2. Selection criteria ... be drafted by the Merit Protection Commissioner.
3. The Merit Protection Commissioner be an ex-officio member of the Committee, to provide expertise and advice to the Committee in its deliberations.
4. The ABC Board vacancy be advertised in the national press and via ABC services ... inviting applications from interested persons.
5. Those wishing to be considered for appointment to the ABC Board must provide a written application addressing the selection criteria, and a statement disclosing political affiliation. Candidates shall be made aware that their applications will be made public.

7. The Minister retains the responsibility for appointments to the ABC Board and is not obliged to choose any of the candidates recommended by the Committee. However, the Minister must not select a candidate who has not first been scrutinised by the Committee.

The chair’s report also makes several recommendations designed to enhance the transparency and responsiveness of the ABC board, as follows:

1. ... the Board shall elect a Chair and Deputy Chair.
2. the ABC Board shall hold a public Annual General Meeting ...
3. The ABC Board should appoint a member to be a formal liaison officer to the National Advisory Council.
4. The ABC National Advisory Council shall meet four times per year, at times to coincide with the meetings of the ABC Board.
5. The ABC Board shall publish information about their activities and decisions, including summaries of minutes to Board meetings.
I note that the government and ALP reports disagree with those recommendations, but I draw the attention of these parties to the widespread unease which gave rise to so many submissions and suggest that the problems which led to this inquiry will not go away. I urge whoever is in government after the next election to seriously revisit this matter. I seek leave to incorporate the speaking notes of my colleague Senator Vicky Bourne. I understand there is agreement with the whips to do this.

Leave granted.

_The document read as follows—_

This Senate inquiry commenced as an indirect result of my private senator’s bill on appointments to the ABC Board.

Since I introduced that Bill in March 1999, the issue of ABC Board appointments has been placed firmly on the political agenda.

At the many, many rallies, forums and other discussion groups I have attended in the last year in particular, I have noticed the increased degree of concern that Board appointments are not based on merit. The issue of the ABC Board is now mentioned as often as funding.

ABC audiences, the very people who attended these meetings, are very concerned about the way in which the Board is appointed. This is because they have a very strong feeling that the Board has not acted in the best interests of the ABC.

This perception goes further. ABC audiences are also extremely concerned that the ABC Board is too close to government – both by ideology and by personal acquaintance.

Whether this perception is real or otherwise – it is very strong. So strong in fact, that over 700 people wrote to the Committee to express their concern about the Board. They also expressed a very strong desire that a parliamentary committee should have the responsibility for making those appointments – or at least providing the minister with advice on whom to appoint, even if the Minister retains the final approval.

As we would all be aware, the issue of Board appointments was raised by the Senate in its inquiry into the management and operations of the ABC in 1994, 1995. That inquiry arose because of allegations at the time that the ABC was improperly using backdoor sponsorship as a way of boosting program budgets at a time of quite difficult financial constraints.

At that time, the Senate inquiry had, as one of its terms of reference, “the controversy surrounding appointments to the Board of the ABC including concerns that individual merit and potential contribution to the policy direction, public standing and the political independence of the ABC are no longer the sole criteria for such appointments”.

The Senate Select Committee then recommended that “before the appointment of a person to the Board, the proposed nominee should be required to appear before a joint parliamentary to enable the parliament to scrutinise the person’s credentials. The committee would not have a power of veto, but would be able to comment on the suitability of a nominee prior to appointment”.

It is worth recalling that the Coalition chaired that Senate Select Committee and so presumably, upheld the views of the Committee. We found that the ABC should retain the original public broadcasting ideals which bind the Corporation under the Charter. I echo these sentiments and reaffirm the Democrats commitment to public sector broadcasting.

We also found that the basic structure of the ABC was sound and the need for a quality national broadcaster more important than ever before. In reading the submission to this inquiry, I know that the majority of Australian audiences think the same way. They simply want the Government and the Opposition to share their concerns, and indicate their support for public sector broadcasting, and to the ABC in particular.

I can also recall the then government’s position on this, which remains unchanged from what the ALP is stating today: that we cannot have a committee questioning applicants, because questioning candidates will lead to the creation of a star chamber. Evidently the ALP does not believe that conducting an interview process is about transparency and accountability.

I cannot think why anyone would think a parliamentary committee would lead to a star chamber. Evidently the ALP does not believe that conducting an interview process is about transparency and accountability.

I suspect that the opposition just needs to think about this issue a little harder, and are not using this as an excuse to stifle reform.

Under the model recommended in this report, the proposed committee will only be able to question applicants on their application and questions must relate directly to the selection criteria. The usual rules for parliamentary committee confidentiality would apply, so people’s privacy would be upheld and respected.

In the last decade, of course, the ABC’s budget has been dramatically reduced. But audience expectations have increased and the ABC now
delivers more services than ever before. While we acknowledge that program production is down, I am sure the ABC is doing everything it can to rectify the problem.

The government recently provided an additional small increase to the ABC’s budget but it is a minute amount of the funding it requires to make the necessary adjustments to digital television broadcasting, to commission new innovative high quality programs and to continue to produce these programs in-house.

The two issues are related. People are upset because they think the Board should have done more to protect the ABC from budget cuts and from incessant restructuring, from staff cuts and from program reductions. Over 700 people were prompted to write to the Senate because they are so upset. They assert, rightly, that the Board should be held responsible for the ABC. This is at Section 8 of the ABC Act. It is the Board who is empowered, and required, to make decisions in the interests of the Corporation, with particular reference to the Charter.

Acting properly, the interests of audiences are upheld, and ultimately, the ABC is responsible to its audiences. The ABC is required to broadcast programs that reflect our sense of national identity, reflect our cultural inheritance and multicultural nature. They are to be of interest to specialist audiences and to broader audiences. Programs are required to be of high quality, to inform, educate and entertain. Importantly, too programs should advocate on behalf of those who are not able to speak for themselves.

In recent weeks I immediately think of the way in which refugees and asylum seekers are portrayed in our media. To counterbalance the exploitative messages of some parts of our media, or even some parts of government, the ABC should be the place where we can find a measured debate, where the refugees find a public advocate.

This is the proper role of public broadcasting, and a proper role for the ABC in particular.

Just as an aside to this, may I send a congratulatory note to the executive producer and staff of the Public Record, an ABC online service. This service is a new ABC service – developed to provide Australian audiences with access to our important public institutions, including parliament. It was a tremendous service during the recent coverage of the World Trade Centre disaster. The very nature of this service should, and does typify the ABC.

The Democrats believe that only an independent ABC Board can deliver exceptional services and programs to Australian audiences.

Just as the definition of independence needs careful consideration so does the establishment of an independent method to screen applicants.

The Committee reviewed the many submissions which discussed the term and meaning of independence. Many took the view that being a member of a political party was enough to exclude them from holding a position on the ABC Board.

The Democrats do not agree with this position. Rather, we agree that people with knowledge of the political process would make reasonable applicants, given the kinds of issues the Board would need to deliberate over on occasion.

We are also firmly of the view that more appropriate measures to select applicants for the ABC Board would mean that overtly political applicants need not ultimately be appointed to the Board. This should be the case if the selection process involved members from all sides of politics, screening applications under an agreed selection criteria, itself to be developed by the Merit Protection Commissioner, or similar person.

Obviously, the issue of appointments to the ABC Board is broader than just the ABC.

My colleague Senator Andrew Murray has spoken at length about this process, and I am sure that the government and opposition are getting tired of voting against his amendments. I do really find this very strange, because the opposition spokesperson for communications has made some very positive statements about needing an independent process for Board appointments.

The Democrats think the process recommended in the Committee report establishes a good way to proceed and captures the recommendations made by witnesses.

No government, no matter how good its intentions, can deflect the public perception of such appointments as being rewards for party hacks or others who have assisted the Government to gain office. Further, this perception can damage the reputation of these bodies. They are viewed by the public as being controlled by people who lack independence and merit. Positions should not be awarded on the basis of political patronage, but solely on the basis of merit.

This committee report has this issue of perception and process at its very centre.

The Democrats are concerned to ensure that wherever appointments are made to public authorities - whether they be institutions established under law, independent statutory authorities or quasi-government agencies - the process
by which these appointments are made is transparent, accountable, open and honest. Our electors need to have faith in these processes.

The Democrats have consistently tabled amendments designed to require ministers to appoint on merit, and they have consistently been rejected by both Labor and the Coalition. We have based our amendments on the recommendations of the 1995 Nolan Committee in the United Kingdom, which reviewed the processes for making public appointments and set out key principles to guide and inform the making of such appointments. In Senator Murray’s Charter of Political Honesty Bill, the Democrats do not commit the Commissioner to any one approach. We simply draw attention to the excellent work of the Nolan Committee in the hope that it will be taken into account in developing an appropriate code for Australia.

I was particularly pleased that this issue was raised by several witnesses during the course of the inquiry, indicating that there is a great deal of public concern about this issue, and a desire for real and lasting reform in this most important area.

I will spend the remainder of my time speaking to the proposed model. It will be noted that the recommended model is for the establishment of a joint committee, with members drawn from both houses of parliament, to oversee the advertising, the application and the selection processes for potential ABC Board members.

The model also requires that applicants disclose any political affiliation in order for a transparent application process. We are firmly of the view that applicants with political affiliations would still make good members and should not be arbitrarily excluded from the process. One of the most important criteria for selection is that applicants must demonstrate a commitment to the role and functions of public sector broadcasting.

With the committee selecting applicants drawn from all parliamentary parties, political bias on the Board need not occur.

In closing I’d like to thank the secretariat for their work on this inquiry. Handling over 700 submissions cannot be an easy task, but as usual the secretariat undertook their task well. I would also like to thank the more than 700 dedicated ABC audience members who took the time to advise senators of the depth of their feelings about the ABC and what successive governments have done to undermine the ABC. As always, the strength of the committee report is based on the strength of submissions.

I look forward to passing the senate resolution which establishes the parliamentary committee to oversee the next appointment to the ABC Board – no matter who the minister may be who brings that matter to the Senate.

Senator BROWN (Tasmania) (4.47 p.m.)—I concur with Senator Allison’s remarks and want to highlight the huge public interest there is in the Australian Broadcasting Corporation and the enormous public concern there is for its welfare. I am not going to take long here at all, but I do not go along with the asseveration by the opposition, let alone by the government, that everything will be all right if you give the ABC extra money. It is undoubted that that is required. It needs to provide its services to Australia as the best producer of information for Australians about the news of the day, current affairs, Australian culture and, indeed, the identity of this nation. The Australian Broadcasting Corporation not only does a brilliant job but is the only organisation in the field that can do that job. Commercial broadcasting outlets simply cannot because of the very nature of their corporate enterprise.

That said, it is a pity that the big parties have once again determined to do nothing much at all here. The Labor Party, in particular, which is critical of the chair’s report, has not come up with any strong alternative. Labor members simply say, ‘If you give enough money to the ABC, it does not matter much who is on there, they will do the right thing.’ It is very important that the ABC board be seen to be at arm’s length from politics—that it not just provide a balance of Labor and Liberal politics but be at full arm’s length from politics. That is why this committee investigation and the more than 700 submissions that have come from the public, along with the heartfelt content of those submissions, are very important. We have got to break the lassitude of the big parties that say: ‘The ABC is okay. Kick it when you are in government; support it and complain about the way in which it is treated when you are in opposition.’

I support the recommendations of Senator Allison that the ultimate responsibility for appointments should reside with the minis-
— that was a common finding from people’s submissions—that there should be advertising for board positions before a committee is set up to select members for those positions so that the widest cross-section of Australians can know that board positions are available and that expertise required on the board can be sought in any particular application for a vacant membership on board.

However, I want to put it strongly that the British model, which involves an officer from the Commissioner of Public Appointments, used to appoint BBC board members is the best. That is at arm’s length from politics and it is up and working. It is not just for the BBC but for a whole range of national boards serving the national interest in Britain. If they can do it there, we can do it here. So I think we should have had a response in this report to that British model—a more thoroughgoing look at it and a better appreciation of it so that we could be recommending it to the parliament as the model we should be using not only for the ABC board but also for other boards being appointed to serve in the national interest.

On behalf of the Greens, I have also recommended in my additional comments to this report that the chair of the board be elected by the board. That is pretty common-sense. It does mean that you get cohesion on the board and it does mean in the main that you will find that it will be somebody with experience on the board that gets elected from time to time to chair it—very important if you are going to have cohesion and therefore get the best results for the ABC out of its board.

I have made a recommendation that came from the staff. You, Mr Acting Deputy President Chapman will know that there have been upheavals in the ABC since the Howard government came to office such as we have not seen before. We have seen them before, but I think this is unprecedented. The recommendation that there should be two, rather than one, staff of the ABC elected on a preferential Hare-Clark voting system by the staff of the ABC is a very strong one. I think that would add to the strength of the board of the ABC and would also improve enormously those fractured relationships which have arisen since the appointment of Mr Shier to his position and the consequent changes—rapid changes, very often without consultation—that have occurred within the staff and the hierarchy of the ABC.

I have also recommended on behalf of the Greens that the guidelines or criteria for selection of board members be drawn up in consultation with the board. It is much better if there is a consultation process there when a committee meets to select board members so that you can get exactly the qualities needed in a board member that is to be appointed to fill a vacancy—for example, expertise in technology, expertise in broadcasting itself, expertise in whatever area it may be that the board has become short on.

Finally, the failure of the current board to offer any submission or advice to this inquiry is unacceptable. It was more than remiss that the board itself failed to present a submission to this inquiry into the future of the board. One does not have to have a great deal of knowledge about how boards are working to say that that itself points to a shortcoming in the board—a defensiveness at best but more likely a political statement from the board saying that it is not going to cooperate with a Senate committee, it is not going to be positive about it, it is not going to feed into it, it does not believe in this sort of public process and it is going to pull up the drawbridge. That is not a positive attitude coming from the current board—or at least the majority of the current board—of the ABC. It is very remiss and a slight on the Senate that the board of the ABC failed to put in a submission and failed to make any points which could help the committee in coming to their findings.

There is a general failure here from the big parties and from the board to be constructive in coming up with a way forward which is going to give the public the confidence in the ABC that it so freely is willing to give, that it wants to give but under current circumstances feels that it does not have, simply because the ABC has not been run as well as it should be. The ABC has been put under extreme political pressure. It has not been funded properly. Appearances are very
important in this. There has been an appearance of great instability and dissatisfaction not only within the ABC but within the public that subscribes to it, that upholds it and that holds it in enormous kudos as an important part of the fabric of this nation.

Senator ROBERT RAY (Victoria) (4.56 p.m.)—One of the difficulties with appointments is trying to distinguish a different process for the ABC board and every other part of government. That is where the larger political parties part ways with the minors.

Senator Brown—The ABC is not a part of government.

Senator ROBERT RAY—It should not be. Senator Brown interpolates that the ABC is not part of government. A lot of things are not part of government, but that is part of the tradition of executive government. But I do acknowledge the problems that exist in the ABC, the ABC board and the ABC management, all of which over the last 10 to 20 years can be attributed to inadequate appointments to the ABC board over that time. The current board is weighted heavily in a political way.

I said when Mr Michael Kroger was appointed to the ABC board that I welcomed his appointment. I did so because I think having one partisan political heavy on the board is no problem, because that person is often the one designated to go off and talk to government on behalf of the ABC board. So having one like that is fine. It is when you put a whole range of other toadies on the board that there is no drive in the ABC. They then go out and pick a sleeper as ABC manager—and what happens? We have seen what happens: the ratings are going through the floor. No-one is saying that the ABC should just be ratings driven, but it is one indicator, and it is an indicator that they themselves have adopted.

But what do we get? They get the opportunity, for instance—and I am sure that Mr Acting Deputy President will agree with me on this—to telecast the cricket from England for a couple of hours a night—and what do we see? We see the 55th re-run of Fawlty Towers instead. When you look at ABC Radio’s football coverage on Friday and Saturday nights during the cricket season you see their overall ratings got the big boost. All of the cricket fans had to listen to the radio, so both their football and their cricket ratings rocketed up. ABC TV missed those sorts of opportunities.

This is a welcome report. It is one that we will not adopt holus-bolus, but it is one that we should at least give some serious consideration to, because there is something rotten at the ABC. It is failing, and it is failing to deliver big-time. You have got to sheet home responsibility, and the responsibility for the failure lies with the board and with the management. I do not know how you can restructure an organisation and pay out so much in redundancy and then at the other end have even more people there being paid even more money. What has happened? The average ratings of ABC TV apparently have gone from 18 per cent to 12 per cent. You despair some nights when you turn on the ABC to try to find a program worth watching, yet it does fill a tremendous niche in this country. I am sure we will need to discuss this matter further, so if there are no other contributors I will seek leave to continue my remarks later.

Leave granted; debate adjourned.

BUSINESS

Hours of Meeting and Routine of Business

Senator HILL (South Australia—Leader of the Government in the Senate) (5.00 p.m.)—I move:

That, on Tuesday, 25 September 2001:

(a) the hours of meeting shall be 2 p.m. to 6.30 p.m. and 7.30 p.m. to adjournment;

(b) the routine of business from 7.30 p.m. shall be government business only; and

(c) the question for the adjournment of the Senate shall be proposed at midnight.

The purpose of this motion is to invite the Senate to sit tonight until midnight to progress the government’s program. We appreciate the cooperation we have received from the Senate to date, particularly in sitting last night, but in view of the weight of the program, and particularly the difficulties with transport at the moment, we would like to make as much progress in the earlier stages of the week as is possible. Therefore, we
would like the Senate to sit until midnight to further progress the migration package.

Senator BARTLETT (Queensland) (5.00 p.m.)—I will not speak for long on this, but I think it appropriate to have a brief debate to at least highlight again the steps of the process that we are going through, particularly in relation to pushing seven different migration bills through this place. That is predominantly what this motion is about—to make us sit until midnight tonight to again try to ensure that the migration bills, three of which were introduced only six days ago, are passed through this chamber.

I have a number of times expressed the Democrats’ concern in relation to that process. I will not repeat that, but it is worth noting the lengths the government is willing to go to. There are about 50 bills listed on the Notice Paper that the government theoretically wants to get passed in what will be the final week of sittings before the election, with no particular indication of exactly what we are dealing with. I understand there has been a meeting of leaders and whips which may have honed that somewhat, with a few potentially pleasing developments about what we may or may not proceed with in the final couple of days.

But that does not negate the fact that there are some very significant matters in the migration bills. In a sense, it is positive that we are getting extra time tonight, because it does provide extra time for us to at least start some sort of examination of the detail of that legislation. I anticipate there will be some likelihood of debate on the legislation being guillotined at some stage, which no doubt I will protest profusely about at the time, though in a measured way. Nonetheless we think it appropriate to highlight what is happening here and indicate our opposition to it.

Senator ROBERT RAY (Victoria) (5.03 p.m.)—Just briefly, I am replacing Senator Carr because I had to sit here for an hour waiting for this to come on, and why waste a two-minute speech? The opposition will support the motion. It does give an extra four hours and 10 minutes, if you calculate it the right way, for the committee stage tonight. I think that is absolutely essential. The Labor Party has always taken the view, and the minor parties know it, that we would support these bills to fruition in this week. People know that. Therefore in relation to the arguments about how much time you have to debate it or expose us, do whatever you like. We are in the business of maximising that as much as possible.

Senator Bartlett mentioned a possible guillotine. Who knows? The one thing we can say to the minors, as always, is that we never gag guillotines. You always get a chance to have your say. But you have to learn the procedures if you want to maximise that, and I am staying mum on that particular subject.

We have had this debate quite a few times this week. The argument has been constantly put from this side that we need some form, some understanding of where we are going. I was not a participant in the meeting that occurred earlier this afternoon, but it seems to me there is a bit of turkey on everyone’s plate, which is the right way to approach motions when there is such pressure on the legislative program as there currently is. I hope that we can maximise the amount of legislation passed and omit one or two bills that both the Labor Party and the Democrats and Greens—maybe not conjointly but independently—find obnoxious. The government also, though, will obviously have some priority bills. The opposition will cooperate with this as much as possible, I think it is true to say.

I repeat that we have always said we will pass these migration bills. If it requires a guillotine in the end to do so, we will not gag it but we will support that guillotine, as I understand it, maximising the amount of time that opponents of these bills will have. I add that we will never support a guillotine that takes away the right to move amendments and have those amendments voted on as this chamber has done on other occasions. We had a showdown on that a few years ago. Tactically, we won that argument. I do not think we will ever have to go through it again. I hope not.

That is putting it as honestly as we can. There are some wins for the minors; there are some losses. I suggest that we carry this
motion and get on with the debate on the committee stage of the bills.

Senator BROWN (Tasmania) (5.05 p.m.)—I do not support the motion, but I am not going to hold it up either. I do not support the motion because we have taken part in a sham here, which is the government's wish to push a huge list of bills, including the seven migration bills, through the Senate this week so it can get off and have an election called later in October. We know that the parliamentary sittings have been changed to facilitate that, but there has been no debate about it here. There has been no government explanation about it. We simply know that the Senate recess coming up is three weeks, not two weeks, to allow that to happen.

The Senate is owed an explanation by the executive: we are not run by the executive here; we are in control of our own destiny. This is the house of the people in many ways. It is at least the backstop to the House of Representatives, where there is a majority government that effectively makes decisions in the Prime Minister's suite about when parliament will or will not sit. That may be, but I expect a mature government to come in and say, 'We have decided that the parliament will not be sitting in the next week scheduled, in October, because we are going to take the nation to an election.' Then we will all know where we stand.

We have a debate here because the government says we have to get these bills through in the interests of the nation. That is what we should be putting first. That is not the case, though. There is this sort of shadow boxing or deceit about having to get these through this week when we have four or five weeks of sittings scheduled to come.

Let us be clear about it. This is being done to facilitate the government's election agenda. I am not against that if there is an election occurring and the Prime Minister can tell the nation what the date is, instead of keeping it in his office while manipulating the sittings of parliament. I do not think that is good form. I will be interested to see what comes up on the schedule. There are mightily important pieces of legislation there. I referred earlier to the regional forest agreement. I would like to see that axed. I am not very good with an axe but, if the government were to take to that piece of legislation with the sort of chainsaw it is taking to the tallest forests in the Southern Hemisphere at the moment, then it might be getting a bit more support. It is good to see Senator Hill here because, as Minister for the Environment and Heritage, he has not stood in the way of those chainsaws. He probably has the wit and wisdom on this occasion to see that the regional forest agreement is bad news this week—very bad news indeed. Certainly, my constituency will not have a bar of that being put through this place on the run.

I would like to know now from the leader of the government, Senator Hill—who is in the chair—which pieces of legislation are on the agenda and which pieces are not. I would like to see that one taken off for a proper debate a little further down the line. As far as the migration bills are concerned, I am not here to delay them either. We have a number of amendments. I have spoken strongly in the second reading debate. I will do so also on those amendments but I recognise that fate has caught up with immigration law in this country. The government, the opposition and One Nation have the numbers in here to put through that range of policies. The Democrats and I have taken a different point of view. It is indeed pointless to have that run for days, at the present juncture. Let us debate it maturely, let us be matter of fact about it, let us be expeditious, if you like, but let us not overlook the gravity of the changes to law, including international law, involved in those pieces of legislation.

Question resolved in the affirmative.

PARLIAMENTARY ZONE

Approval of Works

Motion (by Senator Hill, at the request of Senator Tambling) proposed:

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 content of slivers for Reconciliation Place in the Parliamentary Zone.

Senator RIDGEWAY (New South Wales—Deputy Leader of the Australian Democrats) (5.10 p.m.)—I want to speak on
the matter very briefly. I want to put on the record that, whilst I note that this is about the tabling of statements and related documents in relation to works already approved within the parliamentary zone for Reconciliation Place, I have examined the statements and the process that has been gone through and the progress to date, and I want to strongly stress my concerns about the way in which the government has supposedly undertaken consultation, not just with indigenous people but right across the board. The proposal has had credible and highly respected people involved at various points, including Dr Evelyn Scott and Mr Ian Spicer, and Ms Matilda House and Agnes Shea, who are both Ngunnawal people and both elders. They were all asked about their views of the concept in relation to the works that have been approved, particularly about the proposal to put in place five slivers at Reconciliation Place, as the first part of a project going over a longer period of time.

In turning to the slivers themselves, I find it extraordinary that the outcomes do not seem to bear out the variety of views that have been expressed by Australians on the matter of reconciliation. I do not want to be antagonistic to the project because I think that it does enjoy support amongst people, but the theme of one of the five slivers is the theme of separation; it is not about removal or about the stolen generations. Beyond the steering committee, there is a faint mention of the role of Reconciliation Australia and the small reference group, but given that this is a project of national importance, it seems to me that questions need to be asked about who else has been consulted, over what period of time, how the consultation was undertaken, whether it was broad, how the themes were arrived at and why there is an apparent rush to complete the themes in the project when it is apparent that very few people have been asked about their views in relation to this project.

Given last year's acrimonious debate on reconciliation and the stolen generations, and as a result of a range of matters, including a committee that I participated in, the government in this case seems to have resorted to writing its own form of history. Why is it that history is rationalised and minimised to reflect a very singular view, in order to distort the facts of the history of removal? Appropriate consultation should be undertaken and I would encourage the government that there is still time to be able to do that, to talk to more people who have not been spoken about, to make sure that whatever the end project reflects, it is something human that reflects the story of all of the peoples and reflects the stories of the members of the stolen generations.

But it seems to me, given the Prime Minister's commitment to practical reconciliation, that Reconciliation Place itself was essentially meant to be a unifying symbol of the nation and an opportunity for the nation to celebrate reconciliation itself. But I wonder how goodwill can be shown in this case if consultation has been sparse, to say the least. I encourage the government to take that issue on board because it has certainly been the subject of talk, that there has not been enough consultation and people have not been asked their views about this. Whilst this may be worth while and will perhaps cost in the millions, the appropriate work needs to be put in to make sure that the end outcome is one that reflects the views of all people. If it is appropriate I will seek leave to continue my remarks later.

The ACTING DEPUTY PRESIDENT (Senator McKierman)—Prior to calling you, Senator Brown, I will take advice from Senator Ridgeway. Is it your intention, Senator Ridgeway, to keep the matter in continuation or can it be resolved now, which is the question before the Senate?

Senator RIDGEWAY—The intention is to keep the matter ongoing rather than being resolved now.

The ACTING DEPUTY PRESIDENT—Thank you.

Senator BROWN (Tasmania) (5.15 p.m.)—I too will be very brief. I am concerned about two things. Firstly, the lack of consultation to which Senator Ridgeway has drawn our attention. I have also had news that in the establishment of the earthworks for Reconciliation Place—for those who do not know, it is between Old Parliament
House and the lake; so, if you look from the front door of this place or from Old Parliament House down to the lake, it is being established right next to the lake—there was a protest by Aboriginal people there and one of the protesters was run over in the course of what was a pretty nasty incident. I think it would be good for the government at this juncture to be reporting on that. It would be very worth while for the government to be giving us a report on what led to that event and on how that could come to be.

Secondly, I am not able to give good comment on the aesthetics or the symbolism of Reconciliation Place, but it should be just that—what the name says. Senator Ridgeway has pointed out that there has been insufficient consultation. That must be altered. I want to finish with a comment I made a couple of months ago when this matter was first brought to the attention of the Senate. I have never known of the establishment of a memorial or a commemoration or a celebration of an event in history by a government when that event has not yet occurred. We have not got reconciliation in this country. Putting in Reconciliation Place, which is a piece of symbolism by the government, should be very secondary to the achievement of reconciliation itself, and there the government has done very poorly.

Senator Patterson—I seek leave to adjourn the debate to a later hour this day.

The ACTING DEPUTY PRESIDENT—The question is that that motion moved by Senator Patterson be agreed to.

Senator RIDGEWAY (New South Wales—Deputy Leader of the Australian Democrats) (5.18 p.m.)—I just wanted to clarify so that the matter can be resolved. I understand that I may have used the incorrect terminology. I was seeking to adjourn the matter, not necessarily to prevent the motion from being dealt with.

The ACTING DEPUTY PRESIDENT—You might have noticed that there was a bit of activity up this side of the chamber. That is what we were seeking to do. The matter has now been adjourned, and Senator Patterson will move a motion so that the matter may be debated at a later hour this day.

Debate (on motion by Senator Patterson) adjourned.

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

MIGRATION AMENDMENT (EXCISION FROM MIGRATION ZONE) BILL 2001

MIGRATION AMENDMENT (EXCISION FROM MIGRATION ZONE) (CONSEQUENTIAL PROVISIONS) BILL 2001

BORDER PROTECTION (VALIDATION AND ENFORCEMENT POWERS) BILL 2001

MIGRATION LEGISLATION AMENDMENT BILL (No. 6) 2001

MIGRATION LEGISLATION AMENDMENT BILL (No. 5) 2001

MIGRATION LEGISLATION AMENDMENT BILL (No. 1) 2001

MIGRATION LEGISLATION AMENDMENT (JUDICIAL REVIEW) BILL 1998 [2001]

Second Reading

Debate resumed.

Senator HARRIS (Queensland) (5.19 p.m.)—I rise to speak on the Migration Amendment (Excision from Migration Zone) Bill 2001 and six other related bills. These bills are about protecting Australia’s shores from being entered illegally. A clear message must be sent to countries from which illegal boat people leave that Australia is no longer an easy target and that unauthorised arrival on Australian shores is not a quick passport to a permanent visa. Australia must take a firm stand. We must not have people arriving in this country without the relevant visas and documentation. I believe it is necessary to have excised specific offshore places such as Christmas Island, the territories of Ashmore, Cartier and Cocos Island and the relevant Australian sea and resource installations. This has to happen as quickly as possible, and to that extent Pauline Hanson’s One Nation supports the legislation.
Coming ashore at these places should not automatically ensure illegal entrants the right to queue jump ahead of those people who have waited their turn and who have entered through the correct channels. By excising these territories, Australia puts in place a migration zone which does not in any way, shape or form impact on the rights of those Australian citizens or residents in the areas to be excised for the purposes of migration. This zone effectively puts a stop to illegal boat people applying for a visa while they remain within the migration zone. An illegal entrant into the migration zone who does not hold a valid visa is an unlawful citizen.

It is necessary to take a very firm stand with regard to the people smugglers to deter them from accepting people as cargo and putting people’s lives at risk in unseaworthy vessels. These vessels generally do not have clearance to leave their ports to come legally to Australia. They are also generally devoid of the necessary safety items. The Australian government must continue to work with the Indonesian government to disrupt the people smugglers.

The money collected by the people smugglers is a huge injection into the black economy of Indonesia and, while the Indonesian government may want to curtail it, the people facilitating this smuggling obviously have no intention to comply. We must deal severely with those who knowingly break Australian laws by bringing in illegal boat people. People who commit this offence deserve a lengthy sentence of imprisonment—at least 10 years for the first and only offence. Ten years must mean exactly that—10 years of imprisonment. These people smugglers must not be given a second chance; they must not be given the chance to re-offend.

The Australian Defence Force or a Commonwealth officer must be given the power to search certain ships or aircraft suspected of carrying illegal entrants. These people may be searched without a warrant, without undue force or being subjected to indignity. An officer of the same sex as the person being searched must carry out a search. Weapons or objects capable of inflicting bodily injury that are identified during these searches must be taken into possession and confiscated. The Australian Defence Force must have the power to turn the boat people back to the port of departure, whether they are within or outside Australia’s territorial boarders.

The Australian Defence Force must be able to, with discretion—as opposed to a mandatory duty—detain a person who is seeking to enter an excised offshore place. They must have the power to remove or place illegal entrants on ships or aircraft and, if necessary, restrain those persons with such force as is considered reasonable providing that human rights standards are met. The Commonwealth must have the power to protect the borders of Australia by ejecting persons if an officer or a member of the Australian Defence Force or a person authorised by the minister reasonably suspects that a person is seeking to enter an excised offshore place and is an unlawful illegal entrant.

This group of seven migration bills is unprecedented in that these bills give the executive government absolute, unfettered powers. They also, to some degree, create a legal fiction about our borders. Our territorial waters are clearly defined; they are as specified by legislation or regulation. Previously, the protection of Australia’s territorial waters has been achieved by Australia enforcing its sovereignty over these territorial waters, and that right of the Australian government must continue. As an example, we need only look at the area between America and Cuba, where the American government continues to enforce its sovereignty over its territorial waters in those areas. Professor Amien Rais of the Australian National University, a leading Muslim and chairman of Indonesia’s People’s Consultative Assembly, is referred to in an article in the Canberra Times of Thursday 20 September entitled ‘Refugee policy could lead to friction with Indonesia’. That article states:

One of Indonesia’s most powerful politicians, Amien Rais, told a Canberra audience yesterday that Australia’s policy of detaining boat people could eventually become a source of friction within Indonesia.

Professor Rais, a leading Muslim and chairman of Indonesia’s People’s Consultative Assem-
bly, told a meeting at the Australian National University that Australia should have a more humanitarian approach to asylum-seekers arriving on its shores.

Describing the recent terrorist attacks in New York and Washington as stupid, he said if the US had hard evidence that Osama bin Laden and his followers were responsible, they should be executed.

The important section of the article that I would like to highlight reads:

People should understand that not all Muslims are fanatical supporters of terrorism.

The situation regarding illegal boat people will not be resolved unless Australia as a nation addresses the root of the problem. This involves exacting swift and forceful removal of the Taliban, who exist only as a name and not as a religious order. Their vile torture and deprivation of their own people clearly portrays that they have no resemblance to a religious order. Murder by the Taliban has no place in the holy book. The Taliban’s intention is to get a temporal power and influence through hate, fear and intimidation, not through the words of God. The world’s nations need to be absolutely ruthless in extracting retribution against these zealots. Another root cause of this situation is the fertile soil of our failed global economics. This gives rise to unrest in these suppressed countries, subject to domination by the World Bank or the IMF.

We only have to look at East Timor to see some of the problems that are arising in that region. The East Timorese have been told in no uncertain terms that, in order to qualify for assistance from the IMF for the reconstruction of devastated East Timor, they must capitulate and buy rice from Vietnam. They are not permitted to grow it themselves. In this most extraordinary situation, the obvious questions were asked of the International Monetary Fund by the East Timorese: what if no boats arrive from Vietnam with rice? How will we feed our people? Can we purchase rice from Australia? The answer to that one was very quick—’No; the IMF will provide it from South-East Asia.’ So we see clear manipulation of the supply of produce between these countries and the weapon, to ensure compliance with those demands, is the withholding of IMF funding for non-compliance.

Australia should not be using its armed forces to transport illegal boat people. I clarify that by saying that there are more economic ways to move people. Our Navy has a far more important function and that is protection of our borders. It is paramount that the illegal boat people be removed from the Manoora immediately and the Manoora returned to active duty in Western Australian waters.

Australia’s singling out of these recent arrivals has inherent dangers. That is, that these ad hoc bills introduce a further centralisation of power to the executive government with no right of redress for a subsequent government other than to repeal or amend the bills at a later date. It is paramount for Australia’s long term environmental, economic and fiscal survival that the unrelenting flow of illegal boat people be stemmed due to the drain on Australia’s financial ability to assess their refugee status, and to provide housing, food, clothing, medication and welfare for those people. The answer lies in addressing the root causes within countries such as Afghanistan, Iraq, Iran, Pakistan and elsewhere. These sorely oppressed people deserve the empathy of the developed nations. We would be derelict in our Christian duty if we fail to support these people and continually criticise rather than providing practical solutions. We are meddling in an area involving complex religious and economic issues—that Australians have no comprehension of—where the political players have aspirations. Meddling in such an area is fraught with danger.

Senator LEES (South Australia (5.33 p.m.)—I rise to speak on this package of migration legislation. I find these bills draconian. Obviously, it is very much a poll-driven package that undermines fundamental human rights. They are unnecessary bills and are excessive. They will cause many vulnerable people, who are desperate, more misery and heartache. The ALP is to be condemned for their approach to these bills. Originally, they were vehemently opposed to several of them. We see them flapping around looking for a
few votes at the coming federal election. They have decided to line up with the government in the hope that they will actually get some votes at the expense of refugees.

Their lack of commitment and lack of backbone will probably cost them votes. I say this for two reasons: firstly, because as Australians become more aware of the issues, more aware of what these bills are about, I think they will be appalled at what the ALP have done. I believe the ALP cannot hold to a specific opinion or a decision. Given a slight breeze, they waft around and eventually settle with what is a popular option.

Senator Bolkus—Whose bills are they? Where do they come from? No wonder you are on the back bench.

The ACTING DEPUTY PRESIDENT (Senator McKiernan)—Order!

Senator LEES—As the Australian deliberation process has found, once people have more information and had a chance to discuss the issues, to listen to opinions, their understanding and their opinion changes. After that weekend at Old Parliament House discussing reconciliation, we saw the number of participants who considered reconciliation as being one of the most important issues virtually double. It went from 31 per cent before the weekend began to 63 per cent on the Sunday afternoon. I believe that over time, once more of these issues are understood and we have more details as to what the government and the opposition are doing here relating to asylum seekers and refugees, more and more Australians will be horrified by what their parliament has done.

At the moment the polls are showing that treating refugees harshly is popular, but I think the significant and growing minority the Democrats represent here today will continue to grow. We stand for what is humane treatment of the peoples of the world, particularly those suffering oppression. We stand for what is in line with international treaties, what is required under our constitution concerning the separation of powers specifically for the right to appeal to courts. Speedy passage of appeals through the courts is to be commended but not permitting people the opportunity to have their day in court is certainly not.

Many of the churches support our stand. A statement from the Uniting Church dated 24 September states:

The Synod of the Uniting Church of Victoria meeting today in Victoria unanimously voted to express its deep concern at both the Federal government’s and the Australian Labor Party’s treatment of and the attitude towards asylum seekers. It goes on to talk about, in a recommendation debated without dissent, the church expressing its concern at the haste with which the legislation has been introduced. The Reverend David Pargeter, social justice director of the Uniting Church of Victoria, said in his moving of the recommendations that he ‘was finding it difficult to find any sophisticated arguments to understand the way asylum seekers were being treated in this debate’. He said:

When our main political parties are not prepared to lose an election over 600 refugees, well, I think they have lost their integrity.

We are all appalled at the terrorist acts in the United States on 11 September. Indeed, that date will be etched into the world’s calendar. I believe it will be a day, for generations, on which people will stop and remember those who lost their lives. And, yes, we must now work at an international level to stop terrorism but this legislation is not about stopping terrorism: it is simply an attack on refugees and asylum seekers. It is about demonising them. Yes, we did have about 4,000 people arrive by boat seeking asylum last year but around the country we have about 50,000 people illegally overstaying their visas. Many of them are probably working illegally yet our government seems to have no interest in vilifying them.

This legislation is supposed to send a message that these refugees are not welcome and that therefore—as the government theory goes—people in Afghanistan or Iraq will be deterred or persuaded not to come. The situation for many in those countries is absolutely desperate. They are not sitting at home in their lounge rooms with their feet up watching the coverage on TV of boat people found off Christmas Island being forcibly sent off to Nauru after quite a few days sit-
ting in the sun on the deck of a Norwegian boat. The ABC’s Four Corners program about life under the Taliban in Afghanistan, which aired two weeks ago, should be shown again and again. It should be compulsory viewing for anyone who argues that people fleeing the Taliban—especially women—are not genuine refugees.

Life in Afghanistan, particularly for women and children, is appalling. Indeed, it is so appalling it is difficult to describe when one only has words. Three-quarters of all children in Afghanistan have lost an adult relative in the four years of Taliban rule. Women are forbidden to work—in fact, they are not even supposed to leave their homes without a male relative. They have no access to education; they have no access to medical treatment because they are only permitted to see female doctors and the female doctors are prohibited from practising medicine—prohibited from working.

No-one who was seen this program will ever forget the faces of one woman’s children. Unable to work, the woman was forced to beg for mouldy bread that was being sold as animal food. The mother scraped off the mould, then ground the bread until it resembled sawdust and fed it to her seven children. Then there was the footage of the football field, a gift from the international community to the people of Afghanistan. It has been turned into a public execution area. Women were led, blindfolded, into the stadium, as hundreds of people looked on, and forced to kneel on the dusty ground and were then shot in the head. There were dead men hanging from the goal posts.

A representative from Doctors Without Borders on Friday evening’s PM program described the situation in Afghanistan after three years of drought. She said:

... a large number of people are dependent either on food aid, or on money which relatives send to them from outside of Afghanistan in order for them to buy food because there’s no cultivation or agriculture going on at the moment, of course, because of the drought.

She continued:

If the NGO’s are not there to support the hospitals and clinics, there’s only the private health system which exists, which in itself is not really a system—it’s just a few rogue doctors or pretend doctors who sell drugs in the bazaar, in the marketplace.

She said:

They’re very vulnerable people physically, nutritionally. There’s no ability to respond to an epidemic, for example if there was an outbreak of cholera or any other epidemic, there’s no-one able to respond.

When asked by a journalist if there is a danger of a mass humanitarian crisis, she replied:

Well I think there already was. That’s the message I’d like people to understand. There already is a humanitarian crisis in Afghanistan ...

For a rich industrialised country like Australia to be wasting so much time, so much money and so much energy to have the legal right to reject a boatload of desperate individuals from Afghanistan seems absurd to me, and it certainly seems absurd to my Democrats colleagues in the Senate as well.

To answer some of the critics—such as the previous speaker—who say that they should all just go and queue, there is no queue in Afghanistan or indeed in most of these countries—in Iraq and Iran, for example.

There was no queue in Vietnam, either, after the war ended there. At that time, and we are now going back to the early eighties, there was some opposition about Asian refugees—Vietnamese boat people—coming here. But they were welcomed by the government. They were offered support and there were no detention centres. My family—we were living in Mount Gambier at the time—was among those families who supported Vietnamese families. They came and lived with us, and we helped them to adjust to their new country and to the Australian way of life. The Vietnamese boat people took enormous risks—just as the Afghan, Iraqi and Iranian refugees and others are taking similar huge risks today. The estimate is that as many as 50 per cent of the Vietnamese boat people perished on their way to freedom and a better life. Many Vietnamese paid to get on a boat and/or they paid pirates at sea for safe passage. Most of them arrived here with only the clothes that they stood up in. I stress here that this is not how committed terrorists, bent on destruction and chaos,
would come. They would be, or perhaps already are, amongst those who have overstayed or who, in the future, are planning to overstay, tourist or student visas.

Most of those Vietnamese boat people are now Australians. They have settled here, they are valued members of our community and their children are now young adults who, looking at the results, have done extremely well at school. Many went on to university and are now our young professionals. The vast majority of refugees from Iraq, Iran and Afghanistan have been found to be genuine. They are not falsifying papers. They are not telling stories; they are not lying. They are genuine refugees fleeing torture and trauma. They will be staying here.

I ask this place: what sort of introduction is it to their new country to be here under the circumstances that we are forcing upon them—being locked up, being sent to camps ringed by barbed wire and then being bussed to capital cities if they qualify as refugees, with no support and only the charities to rely on, often at all sorts of odd hours of the night? For children in particular this is extremely traumatic. The physical and mental health of refugees, as you read the reports, is frequently very poor as a result of trauma in their country of origin, frequently exasperated by the hardship of their journey and put under further stress in Australia thanks to their treatment, particularly in detention centres. Often as they are released, because they do not qualify for Medicare—they do not qualify for much support at all—the services that they desperately need are simply not available.

The antirefugee phenomenon is not new in Australia; it has been building up over about the last 15 years. It has been well documented by C. Graydon in an article entitled *A Decade of Dismay: Good Bye to Refugee Protection*, to which I want to refer. If we go back to 1986, it was a Labor government which amended the Citizenship Act to remove citizenship rights to children born in Australia to asylum seeking parents. It was a Labor government in 1992 which introduced mandatory detention. In 1994 Labor removed the right to appeal a refugee decision on a range of grounds. It was Labor in 1995 which imposed a processing freeze on East Timorese refugee applications. The effect of this is that we have still got, about 10 years later, some East Timorese asylum seekers in limbo. So perhaps the stand of Labor today is not quite that much out of character, and I certainly will not be holding my breath waiting for them to change any of these draconian provisions should they happen to win government at the coming federal election.

I would like to go through some other steps that have been taken to show people like Senator Harris that so much has already been done to protect our borders. We have an enormous range of provisions already that makes it extremely difficult for people to even get here, particularly for people to be accepted as genuine. The article says:

1st July 1996 Minister announces a global ‘quota’ system for on and offshore refugee and special humanitarian programs, nominally allocating 2,000 places to onshore refugees and 10,000 to entrance under the offshore Refugee and Special Humanitarian Programs.

Basically, it now became a competition between refugees from various parts of the world to see who could actually get up the list.

20th August 1996 Introduction of a range of processing measures at primary level including: requirement that all claims, evidence and other information be lodged at time of applications; rejection without further inquiries if claims not lodged immediately; no general requirement/expectation of interview; ‘strict’ adherence to letter of codified ‘natural justice’; adverse information rarely made available to applicant ...

20th August 1996 Withdrawal of Asylum Seekers Assistance (financial support administered by the Australian Red Cross) after rejection at primary stage. Severe restrictions on payment of asylum seekers assistance to those in exceptional financial hardship before the requisite six month ‘waiting period’ for eligibility has elapsed.

21st March 1997 Minister attacks independence of Refugee Review Tribunal by introducing measures, which include “clearer articulation of my (the minister’s) expectations and directions to Tribunal members”.

1st July 1997 Withdrawal of permission to work (and therefore access to Medicare) to anyone who does not apply for refugee status within 45 days of arrival in Australia.
1st July 1997 Introduction of $1,000 post application ‘fee’ for unsuccessful applicants to the Refugee Review Tribunal.

1st July 1997 Announcement that holders of temporary pieces for those from Sri Lanka and former Yugoslavia would not be further extended despite absence of proof of improvement of conditions ...

………

Sept 1997 Immigration detention centres (Port Hedland, Villawood-Sydney, Maribyrnong-Melbourne, Perth) privatised and contracts awarded to ... a subsidiary of Wackenhut Corrections Corporation.

1st May 1998 Tightening of character requirements legislation, reversing the onus of proof so that visa applicants are required to show they are of good character. Legislation, unprecedented throughout the Commonwealth, requirement that any character cases heard by the Administrative Appeals Tribunal must be decided within a 45 day period or the applicant automatically loses.

And so it goes on:

8th May 1998 Government tables Human Rights and Equal Opportunity Commission report ... in Parliament on the same day as the Federal budget is handed down. The report found that conditions in Villawood and Perth detention centres breached Article 7 of the ICCPR which prohibits torture or cruel, inhuman or degrading treatment or punishment.

1st July 1998 Removal of eligibility for Legal Aid for all asylum seekers, except in cases before the Federal or High Court and then, only in very narrow circumstances.

As we move through we see:
... Removal of eligibility for bridging visa ...

………

1999 Legislation to overcome the Federal Court’s decision that the Human Rights and Equal Opportunity Commission have the power to send a sealed letter to an immigration detainee ...

Basically, what all this means is, yes, people have rights, but they no longer have any way in which they can know what their rights are.

30th April 1999 ‘Safe Haven’ legislation passed by Senate denying holders of safe haven visas— and they were mainly Kosovars and people from Timor— the right to seek asylum ...

………

26th May 1999 Decision by United Nations Committee Against Torture against Australia that a Somali asylum seeker refused refugee status may face torture and that his proposed return would constitute refoulement and hence a breach of Australia’s international obligations under the Convention Against Torture.

It goes on and on. There are another eight on the list here of various actions that the government has taken during 1999 and 2000 to further restrict the rights and opportunities of people who are seeking asylum here. Perhaps the one that really does need mentioning, as I am running out of time, is:

16th Dec 1999 ... the Border Control Amendment Act ... prevents some asylum seekers from even applying for refugee status (those having spent 7 days in another country, are deemed to have a right of return to that country) ... Other amendments fundamentally change the definition of a refugee requiring asylum ...

Early Feb 2000 Reports of asylum seekers held at the remote Curtin Air Base detention centre, protesting— violently and vehemently against the conditions that they were facing in that detention centre.

Those who would like a full read of this quite lengthy litany of how both Labor and Liberal governments have taken away the rights of asylum seekers can find further details in the report A Decade of Dismay: Good Bye to Refugee Protection. As I said, we already have a process that is very tough on refugees. We are not swamped in Australia; we do not take too many refugees. Indeed, in 2001 we will have the usual amount of about 12,000. Pakistan has about one million Afghan refugees already; it is now letting tens of thousands more across the border with the help of the Red Cross. Iran hosts over a million Afghani refugees. As you move through Africa, you see that countries have hundreds of thousands of refugees. In Tanzania, I think that there is one refugee for every 76 Tanzanians. In Britain, there is one refugee for every 530 Brits. But in Australia we have only one refugee for every 1,583 Australians. I say: enough is enough; this simply is not fair. Surely we should be doing to others as we would have them do to us. I think that as a parliament we will stand in history quite
rightly condemned for the legislation we are passing today.

Senator CHERRY (Queensland) (5.53 p.m.)—Firstly, I seek leave to incorporate Senator Ridgeway’s speech on the Migration Amendment (Excision from Migration Zone) Bill 2001 and related bills, as he is unable to deliver it at the moment.

The ACTING DEPUTY PRESIDENT (Senator McKiernan)—Has the speech been circulated?

Senator Ludwig—Senator Ridgeway has provided us with an outline of the speech. For our part, we have read it and we agree to it being incorporated.

Senator Ellison—The position is the same for the government.

Leave granted.

The speech read as follows—

Thank you, Madam President,
I also rise tonight to speak against all of the seven bills before the Senate.

As so many speakers from the Australian Democrats before me have said, I consider this to be a shameful moment in Australia’s history, where fundamental principles that I thought all Australians held dear are being thoughtlessly and needlessly cast aside by the two old parties.

Tonight we are dealing in one hit with seven pieces of legislation that are not being subjected to proper parliamentary scrutiny, despite the gravity of their purposes, not to mention their international ramifications.

Tonight’s debate—if I can call it that—is a prime example of how politicians can manipulate and indeed abuse the legislative process to achieve a pre-determined outcome.

It does nothing to counter the growing cynicism that many Australians have towards their parliament. Rather, I am concerned that tonight’s proceedings will only go to reinforce the cynicism and disregard that many Australians feel towards one of our foremost democratic institutions.

The need for full parliamentary scrutiny

The parliamentary committee process is a more appropriate vehicle for assessing these Bills than the floor of the Senate.

The Senate Legal and Constitutional References Committee has received submissions and commenced hearings on the Migration Legislation Amendment Bill (No.6) 2001—which will restrict the definition of persecution for refugees under Australian law—with further hearings planned for October.

I agree with the comments of the Human Rights and Equal Opportunity Commission President, Mrs Alice Tay, that “any legislation that proposes to weaken legal rights of vulnerable people must be open to full debate and consideration. It is crucial that these Bills receive proper scrutiny regarding their impact on human rights.”

But it seems that neither the Government or the ALP have enough regard for the views of one of our most respected national agencies which is charged with upholding human rights, equity and social justice in this country.

Both parties have decided to totally ignore the recommendation of the President of HREOC to suspend debate on these 7 bills to allow the Senate Committee to expose the legislation to full public and parliamentary scrutiny.

The need to observe Australia’s human rights obligations

I also share the concerns expressed yesterday by the President of HREOC that the restrictive refugee definition proposed in the legislation before us will endanger people genuinely at risk of persecution.

Like the President of HREOC, I too call on members of both parties to have regard to the potential human rights implications of the Bills.

As Mrs Tay pointed out:

“Australia has a core legal obligation under several international human rights instruments not to forcibly return individuals to countries where they face persecution or serious harm.

“Australia also has a specific obligation to protect refugee children. Some of those who arrive in Australia seeking protection are refugee children, who are protected from torture and other cruel, inhuman and degrading treatment because of Australia’s commitments under the Convention on the Rights of the Child. Children’s lives, health and safety may be at risk if they are not protected by Australia.

“We have international obligations to refugees, but we also have a more fundamental obligation, as a fair and decent country to protect people who are at risk of persecution. We must not reduce our commitment to protecting the lives and safety of people who are genuinely escaping persecution from oppressive regimes.”

But both parties have allowed themselves to be totally intimidated by perceived public opinion.
They consider it more politically expedient to bend to the perceived power of public opinion polls, when only last week the leaders of both parties were on national radio down-playing the reliability of polls to reflect the true sentiments of the broader community, or to gauge what people would actually do when they entered a polling booth on election day.

Why are the same polls suddenly such an accurate measure of people’s views on how we should handle the migration policy in this country?

Are Australians being asked in these polls whether they support any of the following:

- The undermining of the Rule of Law so that the powers of the Executive prevail over those of the Parliament in certain migration matters. Are we dealing with lawlessness by being lawless ourselves?
- The removal of the right of asylum seekers to initiate legal proceedings in Australia when they allege there has been a breach of their human rights.
- The overturning of basic human rights, such as the right of asylum seekers, to ‘have the right to liberty and security of the person’, and whilst in detention, ‘to be treated with humanity and with respect for the inherent dignity of the human person’, as required by the International Covenant on Civil and Political Rights.
- The introduction of mandatory sentencing into Federal legislation.
- Or the denial of asylum seekers who arrive on Christmas Island or any of the proposed ‘excised zones’ to ever apply for refugee status.

I think if the Government and the ALP were to be honest with Australians and expose these bills to full public scrutiny, the public would be horrified by what some of their elected representatives are seeking to do.

Past PMs are providing Leadership and Statesmanship

Personally, I think that some of the previous leaders of these two parties are showing themselves to be the true upholders of the principles of liberal democracy and common humanity.

Recent statements by Mr Malcolm Fraser and Mr Gough Whitlam have shown them to be the Statesmen and leaders that their current counterparts seem incapable of being.

As Mr Malcolm Fraser wrote in the SMH last Tuesday,

The tragedy in the United States must not be allowed to blur the inhumanity of our official attitude to boat people, themselves fleeing oppression and terror. Australians are being led in the wrong direction about asylum seekers.

Of all the Afghan or Iraqi asylum seekers who have come to Australia, more than 80% have been accepted as genuine refugees. So why has the group been demonised so thoroughly and arbitrarily? Is it merely to send a message overseas? No democratic government can act harshly enough against such people to deter them from fleeing desperation, devastation and terror.

When governments pursue policies that negatively impact on the weak and defenceless, those policies become instruments of tyranny. To proclaim that we live in a global world for trade, finance and the ownership of Australian land and assets, but that for some people we must set aside our compassion, involves its own contradiction and obscenity.

Mr Fraser went on to point out that past Australian Governments have, from time to time, not formulated national migration policy on the basis of perceived public opinions.

As other speakers have reminded us tonight, Australia didn’t vote in the 1940s when then immigration minister Arthur Calwell, introduced a major migration program in Australia with the ACTU’s support.

We didn’t ask the country on whether they wanted several thousand Italians or Greeks, or nearly 20,000 Vietnamese asylum seekers after the Vietnam War.

But in Mr Fraser’s opinion, if governments had asked, public opinion probably would have been strongly opposed to any increase in migration.

Governments of the day acted contrary to community sentiment because they were convinced that there was a moral and ethical obligation to come to the aid of refugees and immigrants.

In Mr Fraser’s words, “refugees and immigrants came; it was accepted. … In all these instances, governments provided a lead and Australians accepted that lead. We are a better country as a consequence.”

I also want to make reference to a letter that Eva Cox recently submitted to the Sydney Morning Herald.

In that letter, she referred to an Australian Gallop poll in 1947, which showed that a substantial majority of the population opposed resettlement of Jewish refugees, even after Auschwitz.

Eva Cox writes,
“I arrived in (Australia) in 1948, as did thousands of others because the Government had the courage to do the right thing despite public opinion.

Polls on migration issues like ‘Asian’ immigration have always shown high levels of intolerance and racism, but, fortunately for Australia, governments have not followed populist sentiment.

May both political parties remember their responsibility for the common good by behaving ethically and not legally and let the people land.”

Unfortunately we cannot rely on the ALP in opposition to even make a semblance of protest against the most draconian legislation I think any Australian Parliament has ever been expected to consider.

Maybe the ALP needs to seek the counsel of their former Leader, Mr Gough Whitlam, who also recently tried to steer his old party back on course on migration policy.

Mr Whitlam wrote in the Age on 6 September that the Border Protection Bill would be “the most demeaning legislation since Arthur Calwell’s wartime Refugees Removal Act and Bob Menzies’ Communist Party Dissolution Act”—harsh criticism indeed.

Yet tonight we have a Labor Party that considers this package of seven migration bills so innocuous that none of them need to be fully debated and scrutinised in accordance with regular Senate procedure.

In the same letter in the Age, Mr Whitlam put on the public record the principles of the ALP relating to refugees and asylum seekers, which were agreed to at the 2000 ALP National Conference.

I’d like to remind the ALP of those principles, and perhaps the ALP will be able to enlighten the Chamber as to how it reconciles its position on these 7 bills with its own policy.

As Mr Whitlam recounted:

“Labor will ensure that Australia’s international obligations towards asylum seekers and refugees are met, and Labor will positively promote the rights of refugees and asylum seekers.

“Refugees, including those who arrive as asylum seekers, and persons admitted under humanitarian programs, some of whom have suffered torture and trauma before arriving in Australia, will receive appropriate support, including counselling for trauma.”

I wonder what Mr Whitlam would be thinking tonight when he looks at the cowardly and callous position that his party has taken towards refugees and asylum seekers—the ease with which it has over-ruled its own policies, in preference for what it appears the most politically expedient option in the lead up to a federal election.

I would imagine that he is profoundly disappointed, perhaps even ashamed.

Ashamed that Australia has so thoroughly undermined our decades of hard work and leadership in the field of international human rights protection and advocacy.

International damage to Australia’s reputation

As someone who attended the World Conference Against Racism earlier this month in Durban, South Africa, I can assure Senators that serious damage has been done to Australia’s international reputation already—before these Bills before us tonight were even drawn up.

Condemnation of Australia’s perceived inhumanity towards the 460 people aboard the Tampa leapt to the top of the pre-conference agenda and prompted what I regard as scathing criticism from the High Commissioner for Human Rights, Mrs Mary Robinson.

She had the following to say to the international media in attendance at the conference:

“It’s very worrying that a country with a fine tradition like (Australia) would be unable to reach out to people who are suffering like that.

“Australia has a very fine tradition of being concerned with the problems of boat people in that region, and I hope that the Australian people will be able to put pressure on the Australian Government.”

Refugee policies in other countries

So let’s look at how the rest of the world deals with refugees and asylum seekers.

The United States, for example, has to deal with a long, uncontrollable border with Mexico. There are more than 3 million Mexicans in the US without official papers. President Bush believes that they should be accepted and allowed to work.

By contrast, the few thousands who have sought refuge in Australia, or the 12,000 places that we allocate to refugees, appear small.

They are certainly not figures that in international terms—or relative to our national population of less than 20 million—that could be described as “overwhelming” or the equivalent of a “deluge”, as some media commentators have tried to suggest.

The need for a comprehensive, long-term Government response

The Australian Democrats believe that the responsible course of action for the Australian
Government to the current influx of refugees and asylum seekers is to put in place a comprehensive, long-term strategy that is consistent with our international human rights obligations.

The problem of refugees is the major humanitarian problem of our time. We need an international solution, which is co-ordinated and consistent with accepted international laws and standards.

Some of the principles which the Australian Democrats believe need to be incorporated into an international response include:

- We should implement a non-discriminatory immigration policy which gives priority to refugees and family reunion.
- Australia needs to work with the UN High Commissioner for Refugees (UNHCR), the UN more generally, and especially with other countries prepared to receive significant numbers of asylum seekers to establish a more uniform international system.
- The need for the UNHCR to uniformly undertake the assessment of refugee status, and to provide a just appeal system.
- We should ensure sufficient places are made available in recipient countries so that genuine refugees are not kept in camps for many years without hope.
- We should cease demonising boat people, and instead tell Australians the truth of their backgrounds.
- As recommended by HREOC in report on the detention of unauthorised arrivals in 1992, Australia’s policy of mandatory detention should be abolished on the grounds that it is both an unreasonable and a disproportionate response to unauthorised arrivals in Australia. The Democrats have been long-standing advocates of the need to consider alternatives to detention whilst applications for refugee status are being assessed—it works in other countries like Sweden—and we believe it could work in Australia.
- We should encourage compassion, rather than anger and hostility.
- We should work co-operatively with the international community to tackle the primary causes that leave people no opportunity but to flee their homes for Australia and elsewhere. These include the despotic regime of the Taliban, and the extreme adverse impact of sanctions on the poor in Iraq.
- And finally, these policies should be accompanied by stringent internationally co-ordinated strategies to eliminate the people smuggling trade.

In closing
I want to refer to some of the comments made by Mr Thabo Mbeki, the President of South Africa, in his welcome address a couple of weeks ago to the opening of the NGO Forum at the World Conference Against Racism in Durban.

Everywhere and without exception, race and gender continue to define the actual living spaces that billions of human beings occupy. They dictate the boundaries that frustrate the translation into reality of the noble concepts that people are born equal.

We should not allow ourselves to be diverted by those who are opposed to [the sustained upliftment of those who continue to suffer from racism].

Everything must be done to address the gross racial imbalances that stare us in the face everyday. The first step towards the realisation of this objective is a firm commitment by governments and all of us that we will do everything necessary to work towards this outcome.

These words sum up the motivations of the Australian Democrats tonight, because we believe that many Australians want to see their political representatives take up the fight against racism in this country—whether it be racism against Indigenous Australians, migrants or asylum seekers.

Thank You.

Senator CHERRY—I rise today to speak in the cognate debate on the Migration Amendment (Excision from Migration Zone) Bill 2001 and related bills, and in doing so I speak from the perspective of the rights of children. At present, more than 200 children are detained in detention centres around Australia, and recent arrivals mean that there are greater numbers again of children whose wellbeing is subject to the bills we are considering today. By contrast, the children of people who enter Australia on a valid visa—whether it be travel or business—and then claim protection are not usually detained. These children live with their parents in the community while their claims are processed.

Malcolm Fraser recently described the detention centre for asylum seekers near Woomera in South Australia as a ‘hellhole’. It must not be forgotten that, in committing those who seek shelter from persecution to detention in these hellholes, we are also committing their children to the same fate. A hellhole is no way for a civilised nation to
treat children who, along with their parents, are fleeing political persecution and, in Mr Fraser’s words, ‘absolute tyranny’. Apart from the lack of compassion, there is little evidence that the approach is reducing the numbers seeking refuge in Australia, and there is absolute evidence that the welfare of children is being compromised.

Australia’s image as a caring and humane society—consistently the theme in speeches for the Centenary of Federation celebrations earlier this year—is being tested internationally by the extraordinary international concern about the mental, physical and even dental health of the children of asylum seekers and detainees in the Australian detention centre system. The risks of the ‘one size fits all’ policy of detention are especially palpable when it comes to the detention of children. Australia has an obligation to ensure the protection of the special needs of children under the UN Convention on the Rights of the Child, or CROC. The United Nations Convention on the Rights of the Child, ratified by Australia, requires in article 37(c) that a child in detention must be treated ‘in a manner which takes into account the needs of a person of his or her age’. There is observational material which shows that the children in Australia’s detention centres are developing very aggressive tendencies because they are not socialised properly and that they are developing other symptoms of trauma, such as bed-wetting. The high levels of distress in the parents increasingly diminish their ability to support children during this process. The manner of detention most certainly does not take into account their social or psychological needs. They see themselves and their parents detained indefinitely, confined, stripped and searched, physically and verbally abused, and denied access to families, lawyers and organisations which could help them. Simply, these children are not getting the special help they need. Where counselling is offered to Australian children traumatised by media reports of world events, confinement is considered appropriate treatment for children traumatised by real life exposure to such events.

The Human Rights and Equal Opportunity Commission report *Those who’ve come across the seas: detention of unauthorised arrivals*, which was tabled in this parliament on 12 May 1998, deals with the policy of the mandatory detention of most unauthorised arrivals and the conditions of detention for those detained, including children. The report said that the conditions of detention are inadequate and in violation of human rights when children and other vulnerable people are detained for prolonged periods. The report went on to say that article 37(b) of the United Nations Convention on the Rights of the Child states that the arrest, detention or imprisonment of a child shall be used only as a measure of last resort and for the shortest appropriate period of time. Children and other vulnerable people should be detained only in exceptional circumstances. The best interests of the individual child should be the paramount consideration. The Convention on the Rights of the Child also imposes a positive obligation on state parties with regard to both child asylum seekers and refugee children. These children have a right, as per article 22, ‘to receive appropriate protection and humanitarian assistance in the enjoyment of [their] human rights’. The International Covenant on Economic, Social and Cultural Rights and the refugee convention largely define what is appropriate assistance.

Australia has therefore undertaken an obligation—pursuant to the ICESCR, CROC and the refugee convention and protocol—to protect asylum seekers while their status is being determined and to respect their human rights during that process when they are within Australian territory. Changing the definition of Australian territory does not diminish our international responsibility to children.

A further treaty ratified by Australia, and directly within HREOC’s jurisdiction in the case of asylum seeker children, is the International Covenant on Economic, Social and Cultural Rights. Essentially, the key provisions of the ICESCR and the particular protections for children in the Convention on the Rights of the Child are that non-citizens, particularly unauthorised arrivals, are entitled to the benefit of human rights protection and must be assessed. The Convention on the Rights of the Child similarly protects chil-
No child shall be deprived of his or her liberty unlawfully or arbitrarily.

It is no answer to say that bridging visas are available for young children by the order of the Minister for Immigration and Multicultural Affairs. The minister has no discretion to grant a bridging visa to release the child’s parents. A child released from detention would therefore be denied the protection and assistance of his or her parents. This may lead to a breach of article 9.1 of CROC. This explains why only two children out of a possible total of 581 have been released on bridging visas since 1 September 1994.

Australia’s own history makes us aware of the social consequences of removing children from their parents. Children have a right to live with and enjoy the protection and assistance of their parents. The preamble to the UN Convention on the Rights of the Child acknowledges that ‘the child, for the full and harmonious development of his or her personality, should grow up in a family environment’. Article 9.1 obliges ‘States Parties to ensure that children are not separated from their parents against their will, except when it is necessary in the best interests of the child. These provisions clearly apply to children and their families seeking asylum and deprived of their liberty under the Migration Act and the legislation before us.

The convention recognises the rights of children seeking refugee status to education (article 28), recreation (article 31), medical and dental care (article 24) and, in the case of children suffering from torture or trauma, special measures to assist them (article 39). Under current practice, vulnerable groups such as children are detained for lengthy periods. In some cases individuals detained under the Migration Act provisions have been held for periods that vary from less than one month to as many as five years. This is arbitrary detention and cannot be justified on any grounds under these conventions. In summary, the facilities and conditions in detention centres constitute a breach of a number of international treaties on human rights and requirements under our own HREOC Act.

Prior to 1997, detention centres in Sweden faced a similar crisis to Australia’s present dilemma. Media attention focused on harsh conditions, the number of suicide attempts and hunger strikes by asylum seekers in detention and, in particular, the inappropriateness of detaining children in such centres. Since 1997, all asylum seekers who arrive in Sweden without documentation have been detained only until their identification has been investigated and verified, which usually lasts from about two weeks to two months and not for the entire duration of the determination process. No child is held in detention for more than three days—and in special circumstances six days. Families who arrive without documentation are moved into group homes.

The Australian Democrats call on the government to immediately consider alternative models, such as those in Sweden, and hopes that this is one step closer towards ending the unnecessarily punitive policy of mandatory detention of certain asylum seekers in Australia which merely victimises the victims. The Democrats believe that children should not be exposed to conditions as hard as those at Woomera or in other detention centres. This does not mean they should be separated from their parents; rather that the clear message is that better community based accommodation should be provided for them and other asylum seekers who do not present security or criminal threats. Given the serious allegations relating to sexual abuse and the handling of such claims by Aurralasian Correctional Management, which runs Woomera, the recent call by Malcolm Fraser for a full, impartial and open inquiry is more likely to find the truth than the narrow departmental inquiry which was ordered by the minister, Mr Ruddock. It is imperative that we find a reasonable and safe solution to the treatment of asylum seekers who arrive on our shores. In this heated debate, cool heads must prevail, particularly when dealing with young children.

The other matter I want to briefly address is the entire issue of the government pursuing the Victorian Council for Civil Liberties and their associated lawyers for legal costs arising out of the appeal in respect of the MV
I now move the second reading amendment which is being circulated in the chamber:

At the end of the motion, add:

“but the Senate calls on the government to refrain from pursuing legal costs from the applicants or their lawyers involved in the Federal Court actions relating to the people rescued by the MV Tampa”.

It is simply extraordinary that a government would go after such people, volunteer lawyers, who out of the goodness of their own heart are donating their time to ensure that Australia’s obligations under international law, the Magna Carta, habeas corpus and all the rest of the various provisions which underpin our common law are met. That such people should actually become the target of a government action for costs is simply extraordinary. Only earlier this year the Attorney-General was actually encouraging lawyers to provide more pro bono legal action and ensuring that lawyers were available so that those who could not be represented were in fact represented.

Only last week in the Sydney Morning Herald, David Marr actually outlined in some detail the extraordinary efforts to which the government went to ensure that the asylum seekers on MV Tampa were denied access to Australian lawyers, because the minute that one of those asylum seekers actually got access to an Australian lawyer they could actually give the instruction that they sought refuge in Australia and then they would have standing. Because of that enormous legal edifice that was put in place to deny them access to Australian lawyers, the Victorian Council for Civil Liberties were forced to put their own people on the line to ensure that these issues came before the courts in Australia and that at least the issue of detention, as opposed to the legality of all the other actions of the government, was addressed by our courts.

It is extraordinary and absolutely appalling that this government, having actually encouraged lawyers to go pro bono and having put out statements time and time again encouraging volunteering by professionals and a whole range of other people, should now seek to pursue such people for the government’s costs. It reminds me in many respects of the Canadian government going after the Anglican Church in Canada for the legal costs of defending actions in respect of first nation people in Canada who had reached agreement with the Anglican Church but were actually being pursued by the government for costs.

I really hope that this Senate passes the amendment I have moved to the second reading motion to ensure that the government is put on clear notice that this Senate does not support the pursuit of government actions for costs against pro bono lawyers. We have to make a statement that we believe that volunteer action, whether they be by lawyers, doctors or anybody else, should be encouraged as government policy. That was government policy right up until the minute that the government decided to start using its latest bullyboy tactics against the Victorian Council for Civil Liberties to ensure that the whole issue of lawyers actually trying to defend human rights is prevented in Australia. I commend the amendment to the Senate and I urge the Senate to reject these bills.
the support of the ALP. If it does not, I would urge them to at least support this second reading amendment, to send a strong message from the Senate that it believes this is completely unacceptable. It is an issue that has probably been lost amongst all the smoke and mirrors, fabrications and distortions from the government in relation to the whole issue of boat people, but it is an important issue in itself. Senator McGauran said to Senator Cherry by way of interjection that the claim was ‘vexatious’. It would be the first vexatious case I have ever heard of which they actually won in the Federal Court—which they did. It would be the first vexatious claim where one judge on the full bench, the Chief Justice of the Federal Court, agreed with it. That is hardly vexatious. Indeed, Justice French, who was one of the judges that upheld the government’s position on the full Federal Court decision, said: The council and solicitors acting in the interests of the rescuees—that is, the asylum seekers on the Tampa—in this case have evidently done so pro bono. They have acted according to the highest of ideals of the law. They have sought to give voice to those who are per force voiceless.

We have heard from Senator Cherry how great were the lengths the government went to to keep those people voiceless. I return to the quote:

... and on their behalf, these solicitors sought to hold the executive accountable for the lawfulness of its actions. In so doing, even if ultimately unsuccessful in the litigation, they have served the rule of law and the whole community.

That is something that the government dismissed as vexatious. Even a judge who did not support the case put by the Civil Liberties Council was unstinting in praising the role the council performed in giving a voice to the voiceless and holding the executive to account. That is something that goes to the heart of what we have been debating about all these bills and particularly the border protection bill. The government seeks to prevent itself from being held to account by the legal system. It wants to be above the law. Philip Ruddock wants to be Judge Dredd: it is now 2001AD; he wants to be Judge Dredd; he is the law and nothing else matters. That is the situation that the government is trying to put itself in.

The people who undertook this action have served the rule of law and so have served the whole community. It is typical of this government that it seeks not only to pursue costs against the applicants but also to vilify people who have sought to ensure that the government is held to account. Of course, to ensure that it can escape that scrutiny of law the government has brought forth the border protection bill to retrospectively legalise what it has done—thus pre-empting a High Court appeal.

Senator McGauran was saying before, ‘Well, the government won.’ It did—only just, by two to one. If you add the first judge, Justice North, it was two-all. It is probably bad form to bet on a High Court outcome but I would have given a reasonable bet that the High Court would have upheld the original case by the applicants on some fairly fundamental principles. Maybe they would, maybe they would not—we will never know, because the government has basically put itself outside the law by retrospectively legalising what it did. To pass a bill retrospectively legalising something you have done that is potentially unlawful is dodgy enough in itself. To then pursue people who undertook court action in relation to those potentially unlawful actions—which you have only managed to make lawful because you have passed your own piece of legislation—is absolutely disgraceful. It shows the absolutely shonky nature of what the government is up to here.

I emphasise that the government is hypocritical also because it has said a number of times that it seeks to promote pro bono work and it seeks to encourage it. It is a valuable community service, and indeed it fills the massive gap in our legal aid system in Australia. For those that do not know, pro bono publico means ‘for the public good’. People acting for the public good should be able to do so without fear of reprisal. The Attorney-General himself has said:

The fact is that lawyers from around the country do about 1.7 million hours of pro bono work every year. This is a massive contribution to the
The government has a great way of acknowledging it! Lawyers are doing pro bono work for people who are being gagged and detained, potentially illegally—we will never know—by the government and a great way of ‘encouraging and applauding’ them is to go after them for costs, potentially putting the applicants out of business. Wonderful stuff! I quote from the Attorney-General again:

I have tried to act as a catalyst on pro bono issues. And I intend to stay closely involved in the discussion over the report and its findings.

Indeed, in this year’s Federal Budget $1 million was allocated to support the outcomes of the ... report ... a solid indication that I—that is, the Attorney-General—and the government, remain firmly committed to pro bono initiatives.

We are trying to encourage pro bono—we certainly don’t want it to be faced with a situation where it is declining.

This one action will make it decline. People will be far more disinclined to undertake pro bono work, particularly in the area of immigration and refugee law—and we all know how much this department and this minister hate losing in the courts and they go after every single case. Plenty of the court costs that the taxpayer has to pay are because the government will not accept court decisions and keeps appealing and appealing them. It cannot stand to lose. The suffering it puts asylum seekers and migrants through in those circumstances is disgraceful in itself. But now the minister is going a step further. Not content to simply attack the refugees, asylum seekers and migrants rights, he is now attacking the opportunities for people to uphold those rights, to act for free in the public good to uphold those rights. He is going after those people as well. Those are the depths that this government’s approach has reached. That is the level of thuggery that we are now faced with. The government has indicated that it will be seeking an order for costs against the applicants—the applicants being, as I understand it, the Victorian Council for Civil Liberties.

There are some significant considerations which apply here. This is public interest litigation, as the full bench of the Federal Court recognised so strongly. Australia’s constitutional arrangements are such that it is the rule of law which protects individuals from an unjust or unlawful exercise of power by the executive government. This fundamental protection must not be hampered by the inability of persons to access the courts because of a lack of resources. It is this consideration which underlies the government’s obligations concerning legal aid and the legal profession’s obligations concerning pro bono service. Lawyers get a lot of flak, some of it deservedly, but the last area in which we should be attacking them is when they undertake pro bono—public interest—work.

For those in the community inclined to support the government’s approach in this sort of area, just think what it might be like some time when you need someone to help you out—when you are being given a raw deal by the government, by the bureaucracy or by big business—and there is some solicitor who might be thinking of providing you with pro bono work in a key public interest case and then think back to what the government are doing. It is the refugees today; it could be you tomorrow. That is the reason it is so important that we defend principles such as these so strongly. That is the reason we have to emphasise so strongly why what is being done is so dangerous, not just in regard to all of these bills but, outside of these bills, in regard to this government’s ruthless pursuit of people who are trying to act in the public interest and to hold the government to account—people who are actually trying to shine a spotlight on the government to show them up for what they are doing and to show them up for potentially acting illegally. It is yet another stifling of dissent, let alone a stifling of any opportunity to use our principles and our processes of government and law as we should.

In any legal proceedings the government is expected to conduct itself as a model litigant. It is highly questionable, in deciding whether to pursue costs against the applicants in these cases, whether the government is conducting itself as a model litigant. Given
the government’s actions in this whole area, it is pretty obvious that one could not expect this government to act in any way like a model citizen or a model litigant—or any model of a positive nature at all.

The case that we are talking about relates back to the Border Protection Bill, which retrospectively legalises the issues relating to the Commonwealth’s conduct, including potentially unlawful detention, which is a fundamental ancient legal right; a breach of Australia’s international obligations; the deliberate contriving of situations where asylum seekers would be denied the ordinary protection of Australian law and refused access to procedures which this parliament has established; the denial of any access to or communication with the asylum seekers, including the outright refusal of a request by solicitors from the Council for Civil Liberties for access to the asylum seekers in order to seek instructions; and the use of military personnel to enforce potentially illegal detention.

The issues at stake were complex, and none of those issues had been the subject of an authoritative determination by the High Court. It would have been very much in the public interest to have had that determination made by the High Court so that those principles of law could have been determined. They will now be swept away by the atrocity border protection legislation, which will be passed sometime tonight or tomorrow. As things now stand, Liberty Victoria—that is, the Victorian Council for Civil Liberties—and, I believe, Mr Vadarlis are at risk of having an order for costs made against them for the Federal Court proceedings. Commonwealth representatives have given instructions that they will seek an order that all costs be paid.

The rule of law depends on access to the courts—never more so than when the rights of an unpopular and powerless minority are at stake. This is another one of those principles that goes back to some of those classic quotes. We have got to stand up for those people that might be being persecuted. We might be okay at the moment, but, if we do not stand up and protect people that are being persecuted now, there will be no-one left to protect us when people come after us. That is a crucial principle and one that the Democrats believe very strongly in. We are extremely disappointed in the border protection bill that is likely to be passed, but we believe this particular principle—which is one more flow-on effect, out of many, of this government’s approach that is undermining so many fundamental things and that needs to be condemned and condemned absolutely—really needs to be emphasised.

In conclusion, I would draw senators’ attention to a couple of excellent articles, one from yesterday and another from today, in the Canberra Times. The article yesterday was by Justice Michael Kirby and gave the history of a previous attempt to significantly undermine basic human rights back in the 1950s and the contrast then. This was in regard to banning people’s rights to be members of the Communist Party and be involved in communist activities. That action was initially fairly popular at the time—it fed the public’s fears and anxieties. It was only because there was strong and principled political opposition to the fundamental undermining of that principle that community opinion was turned around over time and the referendum on it was lost.

An even more interesting and relevant article in today’s Canberra Times concerning this amendment and these bills was that by Ian Matthews about the Magna Carta. We often think of the Magna Carta as some sort of quaint old thing that is vaguely linked to Robin Hood or something like that, but it is actually a fundamental underpinning of a lot of our system of common law. The article points out that the Prime Minister will be paying homage to the Magna Carta this week with the ceremony tomorrow unveiling a sculpture in a landscape park on the Senate side of Old Parliament House to be known as the Magna Carta monument, celebrating the role that the Magna Carta played and the ancient rights that it outlined.

Obviously, as the article said, the Magna Carta does not stand up perfectly 800 years down the track, particularly in its discrimination against women and its racist nature. But some of the rights there included, among many other things, that accusations had to be
tested at a fair hearing, that imprisonment could only follow lawful judgment—that is a joke; we already did away with that many years ago with mandatory detention, but we are going even further with these bills: imprisonment not without lawful judgment but without even any charge is what we are up to—and that to no-one would we deny or delay right or justice. Yet these bills are seeking to deny people access to justice and this amendment concerns the government’s intent to deny people access to justice through pro bono legal work, through public interest litigation.

It is a particular disgrace—although no surprise at all, given the government’s fundamental undermining of the rule of law in so many ways with this package of legislation—and the capping disgrace that the government are seeking to pursue costs in relation to this particular court action. This will not only undermine and dissuade people from undertaking pro bono work in the future but obviously particularly affect people who are thinking of providing legal assistance to asylum seekers, who of course are amongst the most voiceless people on the globe. This is yet one more area where condemnation should be given to this government. I do urge the Senate to at least support this second reading amendment.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (6.23 p.m.)—Many things have been said about this package of migration bills but, firstly, let me turn to the second reading amendment which was moved by Senator Cherry. In particular, I refer to the remarks of Senator Bartlett. I say at the outset that the court has a discretion to make orders as to costs in any matter which is litigated before it. That is a discretion which resides with the courts, and quite rightly so. When the court looks at a particular case and assesses whether or not to award costs, it does so looking at a variety of aspects of the case, one of which can be the conduct of the litigants involved. It is usually open to a successful party to be able to recover its costs from the other party. But I stress: it is for the court to determine that.

The government has taken the view that in this case it is appropriate to make an application for costs and it rejects totally that this is in any way an act of thuggery and rejects entirely the pejorative terms which have been used in criticising the government’s course of action in this regard. This is something which the government is entitled to claim in this instance. When people go to the courts and use up the time and cause cost to the courts and to the community as a consequence, it is only fair that there be open to the courts the discretion to award costs if the court thinks fit. That is precisely what is open to the court in this instance.

In this particular instance, we are not dealing with an applicant who is impoverished, an individual who has no funds; we are dealing here with an applicant which is a body. It is, in particular, the Victorian Civil Liberties Council. The Prime Minister, when asked, stated that we are not dealing with any impoverished individual. The lawyers were appearing for a public advocacy group, the Victorian Civil Liberties Council. In fact, the lawyers concerned, albeit they believed they had a strong case and were acting in the public interest, did not have as clients instructing them, that is, the people who were the subject of the application. The lawyers here were representing a public advocacy group. When they go to court and they may make an application of that sort they have to expect that if they are unsuccessful there could well be an application against them for costs. That has been part of our legal system for a very long time, and quite appropriately so. To say that the government is in any way churlish in this application or that this is an act of thuggery is totally out of order and the government rejects that. For those reasons, the government vehemently opposes this second reading amendment.

There has been some criticism about dealing with this package of bills together and as to why we are dealing with them now. I would put to the Senate that if we did not deal with these issues now we would be doing a disservice to the Australian people, who regard these as priority issues of great concern which need addressing in the national parliament. Of course, dealing with these bills together has its advantages. There are issues which are related, albeit that they
are dealt with in different bills. It gives the legislature the opportunity to comment on this package of bills as a whole and to look at the connection between the various issues covered in these bills.

We have a package of seven bills. The first three relate to what we broadly describe as border protection. Upon the introduction of these bills, the Leader of the Opposition described the Border Protection (Validation and Enforcement Powers) Bill 2001 and the package of bills associated with it in these terms:

... a series of good reforms to the Migration Act that strengthen our borders, and therefore we support it, as we support the other bills because they strengthen the regime and they do so in a reasonably humanitarian way.

That is precisely what the government has been saying. The government has been trying for some time to reach a point of certainty in relation to these issues and also to deal with them in the national interest. When you look at the Leader of the Opposition’s, Mr Beazley’s, comments and compare them with some of the comments of the senators from the opposition who commented on this legislation, you could forgive yourselves for wondering if they are in fact arguing from the same point of view. We have a number of comments from opposition senators which indeed said something quite different.

Senator Sherry spoke in support of the package of bills, saying, ‘I believe it is necessary’. But he then went on to describe the measures as a ‘political exercise’ and to accuse the government of trying to deflect the community from the true issues. You have to ask yourself: where was the logic in relation to Senator Sherry’s comment? He is saying, ‘It is necessary’, but then he criticises the government for being opportunistic and says that this is all a political exercise. In fact, Senator Schacht said that the government had amended this bill as a result of suggestions from the opposition. One would think he would then say that the bill makes sense and is good law, but he then went on to say, ‘It will not work in a number of ways.’

What we have here is a division in the ranks of the opposition in relation to the question of this legislation. It is interesting to see that Senators McKiernan and Cooney also made some points in relation to the legislation. In fact, Senator Schacht went further on radio 5AN when he said:

When we get back into government we will review any number of areas and make adjustments accordingly.

What exactly are the opposition on about here? Are they going to change the legislation if they ever get the opportunity—and let us hope they do not? They are saying that this is a good piece of legislation now that we have taken on board their suggestions but on the other hand saying it is not. There is total inconsistency in what they say.

Let us have a look at the legislation. In relation to the border protection bills, the first three that are listed on the Notice Paper, the opposition say that they could not support the previous bill and they can only support the legislation now because of the amendments. That is totally untrue. The Border Protection (Validation and Enforce-
ment Powers) Bill 2001 was developed by the government to address broader issues that developed as further boats, such as the Aceng, entered Australia’s waters illegally. The government’s focus is, as always, centred on fixing the problem it has been confronted with by the insidious people smuggling trade that we have seen to the north-west of this country.

In relation to the Tampa, we proposed legislation which not only was Tampa specific but also dealt with surrounding circumstances. The opposition said they could not support that—that they could support it only if it related to the Tampa only. That was short-sighted, and we have seen how short-sighted it was with the effluxion of time and the events that have occurred since. What we have done is produce a package of legislation that deals with the protection of the integrity of this country’s border and sovereignty. This is in the nation’s interest, and the opposition had no choice other than to come on board and support it. You can see the support that the legislation enjoys in the community, and rightly so.

The three bills that I have mentioned include enhanced border protection powers and new visa arrangements for refugees who have left their country of first asylum before seeking entry to Australia. Let me say that the government is fully committed to meeting Australia’s international obligations at sea and on the land, and we have a proud history in relation to this. Australia has a right, however, to decide who can come to this country, who can cross our borders and under what conditions they can do so. Control of a country’s border is an idea that goes back to ancient times and is something which is quite rightly in the province of any sovereign nation.

When we look at recent media reports, we see there are at least another 5,000 people currently waiting for arrangements to be finalised with people smugglers for travel to Australia by boat. The steps that the government has taken in relation to this legislation are to discourage those people smugglers, people who deal with a human cargo without any regard to the life or welfare of their cargo. We have looked at penalties in relation to people smuggling. Previously, there was a two-year maximum, which we increased to 10 years if it involved fewer than five people, and 20 years if it was five or more. Those penalties were quite rightly brought in by this government in recognition of the seriousness of people smuggling. When we looked at the implementation of that direction from the legislature, we saw that the average sentence was about two years—in real terms, somewhere between six and 12 months. The government thought that was totally inadequate. What we have done is seek to address that by imposing penalties which will have truth in sentencing and will act as a deterrent to anyone who might consider bringing people to Australia’s shores illegally.

We are tackling the Mr Bigs, and we have the Australian Federal Police and officials of the Department of Immigration and Multicultural Affairs and the Department of Foreign Affairs and Trade working in the region for upstream disturbance. We have had some success with that. We are working at that end of the market. But you also have to deal with the crew who bring people to Australia. The crew act callously, and I reject outright that these crew are lower order and do not deserve the attention that we are giving them. These are the crew who do not care that they are on vessels that are unseaworthy, that there are people’s lives at risk, particularly those of women and children. They do it for money. They should face the full force of the law if they are found guilty.

The other bills that I have mentioned relate to judicial review. In particular, I refer to the fourth and fifth bills in the list on the Notice Paper. The first deals with the judicial review of migration decisions. It gives legislative effect to the government’s long-standing policy commitment to restrict access to judicial review in migration matters in all but exceptional circumstances. The commitment was made in light of the extensive merits review rights in migration legislation and concerns about the growing cost and incidence of migration litigation and the associated delays in the removal of non-citizens with no right to remain in Australia. Access to neither the Federal Court nor the
The High Court’s original jurisdiction is prevented, but the available grounds of judicial review are reduced. It is important to remember that that access is not denied.

The fifth bill, the class action bill, provides that people with no lawful authority to remain in Australia will be unable to misuse class actions to prolong their stay and frustrate removal action. In the last six years, there has been an increase in the use of class actions and in the number of people involved in these actions. Since October 1997, 20 class actions, involving thousands of people, have been commenced. In the past five months alone, over 1,400 people have been added to one of those proceedings. These class actions are allowing more and more people to obtain bridging visas and remain in Australia until the courts have determined the matter. A pattern has also developed of people moving from one class action to another in order to further prolong their stay in Australia. Class actions are unnecessary to resolve or determine the lawfulness of migration laws and processes. These issues can be tested adequately in individual applications and the outcomes are applicable generally. The government will also be moving amendments to the class action bill in the committee stage and we will deal with those in due course.

The sixth bill on the Notice Paper deals with the refugee convention. This restores the application of the refugee convention to its proper interpretation and promotes the integrity of Australia’s protection visa application and decision making processes. Under the refugee convention, a refugee is a person who has a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion. The convention does not define key elements of the test. Over recent years, Australian courts have expanded the definition of a refugee. As a consequence, protection has been provided in cases lying well beyond the bounds originally intended by the refugee convention. These generous interpretations of the convention encourage people who are not genuine refugees to test their claims in Australia.

This potential for abuse of Australia’s refugee protection arrangements is exacerbated by the continuing influx into Australia of unauthorised arrivals. In addition, people-smuggling operations often give highly detailed information and coaching to unauthorised arrivals in order to maximise their chances of successfully gaining a protection visa. It is crucial that we have the power to test protection claims effectively, given the increasingly sophisticated attempts at nationality, identity and claims fraud. A strong message needs to be sent to people smugglers and others wishing to exploit our protection arrangements that Australia is not a soft touch.

The seventh and last bill on the list deals with passenger information. This deals with the ability of Immigration offices to obtain passenger information once amendments to the Privacy Act come into force in December. It will allow private sector organisations such as airlines, travel agents and shipping companies to continue to provide information to the Department of Immigration and Multicultural Affairs concerning people’s travel. A similar situation exists in relation to Customs and is often referred to as ‘forward clearance’. The department needs to receive this information to ensure speedy immigration clearance. Without it, there may be significant delays at air and sea immigration points. This makes sense and the government welcomes the support from the opposition in relation to this bill, which really does reflect what exists in relation to Customs at present. It is only fitting that these provisions should extend to the Department of Immigration and Multicultural Affairs.

I have briefly covered here the areas touched on by these bills before the Senate. These bills are timely, much-needed and in the interests of Australia. This has been recognised not only across the community but also by the vast number of people who have bothered to look at this issue and the problem that Australia faces. There are a number of amendments which we will be dealing with in the committee stage and I understand there are other amendments which will be put forward by others. I will reserve my comments until the point in time when they
are raised. Suffice to say, this package is an essential one for Australia’s migration laws and one which I commend to the Senate.

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

The Senate divided. [7.46 p.m.]
(The President—Senator the Hon. Margaret Reid)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>9</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noes</td>
<td>41</td>
</tr>
<tr>
<td>Majority</td>
<td>32</td>
</tr>
</tbody>
</table>

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

NOES
Abetz, E.      Bishop, T.M.
Boswell, R.L.D. Brandis, G.H.
Buckland, G.   Campbell, G.
Carr, K.J.     Cook, P.F.S.
Cooman, H.L.   Crane, A.W.
Crossin, P.M.  Denman, K.J.
Ellison, C.M.  Evans, C.V.
Forshaw, M.G.  Gibbs, B.
Gibson, B.F.   Harris, L.
Herron, J.J.   Hogg, J.J.
Hutchins, S.P. Kemp, C.R.
Lightfoot, P.R. Ludwig, J.W. *
Macdonald, J.A.L. Mackay, S.M.
Mason, B.J.    McGauran, J.J.J.
McKiernan, J.P. McLucas, J.E.
Murphy, S.M.   O’Brien, K.W.K.
Payne, M.A.    Ray, R.F.
Reid, M.E.     Schacht, C.C.
Tambling, G.E. Tchen, T.
Troeth, J.M.   Watson, J.O.W.
West, S.M.     * denotes teller

Question so resolved in the negative.

Senator BARTLETT (Queensland) (7.49 p.m.)—Madam President, I ask that the Senate divide this question as we are debating seven bills cognately and then voting on them. Whilst our position is consistent on all of them, there have been reports of a number of individual senators who have expressed concerns privately and publicly about the various bills. I think it is important to ensure that they have the opportunity to express their views clearly on each of these bills. I request that the vote for each of the seven bills be taken separately.

The PRESIDENT—Senator Bartlett, are you planning to vote differently on any of the bills?

Senator BARTLETT—No, I am not.

The PRESIDENT—Your request is denied.

Question put:
That the bills be now read a second time.
The Senate divided. [7.54 p.m.]
(The President—Senator the Hon. Margaret Reid)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>42</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noes</td>
<td>10</td>
</tr>
<tr>
<td>Majority</td>
<td>32</td>
</tr>
</tbody>
</table>

AYES
Bishop, T.M.  Boswell, R.L.D.
Brandis, G.H. Buckland, G.
Calvert, P.H.  Campbell, G.
Carr, K.J.    Collins, J.M.A.
Cook, P.F.S.  Crane, A.W.
Crossin, P.M.  Denman, K.J.
Ellison, C.M.  Evans, C.V.
Ferris, J.M.   Forshaw, M.G.
Gibbs, B.     Gibson, B.F.
Harradine, B. Herron, J.J.
Hogg, J.J.     Hutchins, S.P.
Kemp, C.R.    Lightfoot, P.R.
Ludwig, J.W.  Macdonald, J.A.L.
Mackay, S.M.  Mason, B.J.
McKiernan, J.P. McLucas, J.P.
McLucas, J.E.  Murphy, S.M.
O’Brien, K.W.K. Payne, M.A.
Ray, R.F.     Reid, M.E.
Schacht, C.C.  Tambling, G.E.
Tchen, T.     Troeth, J.M.
Watson, J.O.W. West, S.M.

NOES
Abetz, E.     Bartlett, A.J.J.
Bourne, V.W.  * Brown, B.J.
Cherry, J.C.  Greig, B.
Harradine, B. Murray, A.J.M.
Ridgeway, A.D. Stott Despoja, N.

* denotes teller

Question so resolved in the affirmative.
Bills read a second time.

In Committee

MIGRATION AMENDMENT (EXCISION FROM MIGRATION ZONE) BILL 2001

The bill.

The CHAIRMAN—The question is that the bill stand as printed.

Senator BROWN (Tasmania) (7.58 p.m.)—I oppose the bill standing as printed. We are talking about seven bills here, not one.

The CHAIRMAN—The committee is considering only the Migration Amendment (Excision from Migration Zone) Bill 2001 at this stage. It is the No. 1 bill on the list. The Senate has agreed to take this bill as a whole. The question is that the bill stand as printed. Do you wish to speak to that?

Senator BROWN—Yes. I wish to oppose the Migration Amendment (Excision from Migration Zone) Bill 2001, and I wish to likewise oppose every other bill that is on this list, Madam Chair. I hope that you understand that. From that point, let me say this: we have seven bills here that this committee is going to consider, not one, and they are going to be considered together, not singly.

The CHAIRMAN—They are being considered seriatim.

Senator BROWN—Whatever you might say about it, Madam Chair—and I accept your very gracious assistance in this matter—we are dealing with seven bills here tonight. We have just had in the Senate the President refuse a request by Senator Bartlett from the Democrats to have them voted on separately. So let us have no nonsense about whether we are dealing with one or seven—it is seven. It may be seriatim or it may be antiseriatim, but there are seven bills together because we have a comprehensive program here to not only wind back the rights of people seeking asylum in this great country of ours but also wind back the rights of Australians who have the good heart to want to assist them in that.

If you look at what the Refugee and Immigration Legal Centre has to say about the matter, you see it puts its finger pretty well on it. In a representation to this chamber in dealing with this matter it pointed out that this is the 50th anniversary of the refugee convention, but the federal government is sending a strong signal that it intends to down grade its international commitment to refugees. The centre says:

If every signatory to the refugee convention decided to impose additional requirements on asylum seekers or to divert direct responsibility for protection according to its own domestic agenda, the convention would become unworkable. Such an approach would be inconsistent with the protective instinct of the refugee convention and would have the effect of retarding the UNHCR’s objective of encouraging a consistent and humanitarian approach to the refugee crisis particularly amongst the wealthier nations.

What is happening at the moment in the countries surrounding Afghanistan which are expecting the imminent US-led invasion of Afghanistan—

Senator McGauran—Which you are against.

Senator BROWN—The fences are going up. I am not against people anywhere, Senator. I am for a humanitarian approach on this earth which is going to see people on the earth living together in the future and surviving an age of technological firepower which we cannot survive if we are to be divided on any religious, political or other tenet.

Senator McGauran—That is meant to be your answer to the World Trade Centre?

The CHAIRMAN—Order, Senator McGauran!

Senator BROWN—We have got a very ill-mannered National Party senator on the other side who has an opportunity to contribute in a while. I am saying that there are fences going up in the countries surrounding Afghanistan to lock in more than one million refugees who are trying to escape not only the Taliban but also the imminent bombing from the US-led invasion which is aimed at getting at the terrorists who are within those borders. One cannot but feel enormous anguish—even as the senator opposite smiles—at the plight of those million people, the men, women and children, who are in horrific circumstances tonight with winter
coming on and a fence up against them moving into what they think might be a zone of safety.

But here in Australia, one of the wealthy countries that we have just heard referred to, a fence of a different sort is going up: an invisible fence. It is nevertheless a nasty fence and it is being erected for domestic political purposes in the run-up to the coming election by the government of the Hon. John Howard. It is being erected to stop people like those fleeing the Taliban in Afghanistan from having their hour in the sun, from seeking refuge in a wonderful country like ours. The welcome mat has been withdrawn, the door has been slammed shut and, as far as Prime Minister Howard is concerned, it is for greater nations than he sees Australia to be—like Nauru, New Zealand and Kiribati—to take the responsibility for these refugees.

Had Prime Minister Howard not followed the selfish instinct to create the asylum seeker issue in the run-up to the election and had he not acted on the impulse of Pauline Hanson and turned the boat around, refusing the *Tampa*, which he had asked to go to the rescue of the asylum seekers on their sinking boat, and sending it out of Australian waters, and had they been brought ashore and treated decently, the matter would now be well-nigh resolved; all of them would be in the process of being dealt with under existing laws which have been assembled for decades. Those who were cheats would be well on their way to being sent home. They will be sent home from Nauru, New Zealand or Kiribati but they would have been sent home from Christmas Island without the $100 million expense and what is turning into the farce of the *Manoora*, the troop carrier, which has got a quotient of refugees aboard refusing to move. Nauru is saying, ‘We will not allow force to be used,’ and the Prime Minister has been caught totally wrong-footed because he wanted to make a military operation in the run-up to the election out of the misfortune of the asylum seekers.

Of course, he will now be regretting that decision to some degree. We have heard the despicable words from one of his party members about what should be done with those poor souls aboard the *Manoora* who do not want to go to the high camp in Nauru but want to come to Australia. That is a crime as far as the Prime Minister and the Minister for Immigration and Multicultural Affairs are concerned. It is not a crime, of course, if you have a quarter of a million dollars in your pocket; it does not matter where you come from then. You can get into this country straight off. But, if you happen to be somebody who has done everything possible, gone through the family network, sold whatever remnant property there is, to scrape together a few thousand dollars to get to Australia where the sun still shines, you are classified as a criminal or, by implication, something worse.

These pieces of legislation come from the right-wing thinking of One Nation. Pauline Hanson occupied the territory first, even to the point of the idea of excising Christmas Island from Australian territory for the purposes of immigration legislation. But now we have Prime Minister Howard occupying her base. And the extraordinary thing is that the Leader of the Opposition, Mr Beazley, has gone to join him. The Labor Party—which is, we understand, the humanitarian alternative to the coalition—is lock, stock and barrel with John Howard in slamming the door shut on these unfortunate people because there is an election coming.

Just a week ago we were hearing from Mr Beazley that 130 to 160 boats have sailed into Australian waters in the five years since Mr Howard came to office and that the Prime Minister has done nothing like the turning away of the *Tampa* in response to them. The difference was that the good captain of the *Tampa*, at the request of Prime Minister Howard’s minions, picked up this particular lot of people—who would otherwise have drowned in the Indian Ocean—and the Prime Minister saw his opportunity. He held a cabinet meeting that morning and said, ‘We will not let these people into this country.’ And he took Pauline Hanson territory up lock, stock and barrel when he did that. But the extraordinary thing is that the Labor Party has gone to join him, even so far as to now have turned 180 degrees tonight on a couple of pieces of legislation which it had fought lock, stock and barrel in the past be-
cause they are wrong. The Law Council of Australia has said—and I am quoting president Anne Trimmer here:

Fundamentally, these Bills substantially cut the rights of asylum seekers to have access to our legal system to establish a claim as a refugee. Australia voluntarily accepted this obligation when it ratified the Refugee Convention and made it part of our law. Any person within the territory of Australia, whether an unauthorised arrival or not, must have a right of access to the courts, in particular to have decisions of government officials which affect their rights reviewed by the courts.

Some of the Bills relate to matters which are already covered by Bills that have previously been introduced and not passed, and are rightly languishing because they could not command support. These include the Bill to block judicial review, and the Bill to block 'class actions' by asylum seekers.

She goes on to comment and then ask: Labor has previously strongly opposed these initiatives. Why is there now bipartisan support for such draconian measures?

Why indeed. I will be interested to hear from the opposition spokesperson as to why this change has suddenly occurred—why just a week ago we had the Labor Party pointing out that there had been no such action, against people arriving by boat here in the last few years but suddenly now, with the Prime Minister in full flight, they have decided to fly with him.

These are draconian pieces of legislation; they are not well thought out. But they are being rammed through this parliament because there is an election in the offing. It is a pretty low motive because it is cutting across the rights of people in pretty desperate circumstances. It is also impugning the reputation of this great country of ours in the community of nations. The Tampa affair did us badly right around the world. I was speaking to people at Hobart airport just the other evening who had arrived from islands off Scotland where, with 30 Norwegians in the same tourist facility, they had watched on television Minister Ruddock's handling of the Tampa affair. It ruined their holiday—at least that part of it—having to try to explain what makes that man tick, what makes this government tick and why this reversal of Australia’s proud reputation around the world has occurred.

What a change from 12 months ago when the Prime Minister was lauding the international congratulations for the Sydney Olympics, which did us a tremendous power of good—whatever else one might think about the Olympics—in terms of international reputation for Sydney, for New South Wales and for our country. What a turnaround now. Make no mistake: the Tampa affair and these bills are doing Australia tremendous injury as far as its reputation is concerned and, therefore, as far as our economy is concerned further down the line in the eyes of the rest of the world. It is dastardly legislation. However, we have to face the reality that the Greens, the Democrats and Senator Harradine are on one side of this parliament when these votes come up and the Labor Party, One Nation and the government are on the other. I think that might be an historic division, on something as important as this, running through the Senate.

All I will say in finishing this, Madam Chairman—and I do not know whether or not you would agree with this—is that there needs to be a stronger opposition in this place. My fervent hope is that there will be more Greens—and I would not mind to see some more Democrats and Senator Harradine—here after the election so that we have the numbers on occasions like this to do the decent thing not only for Australia but for the poor people who are going to be caught up in having their rights trammelled by this injudicious move in the chamber tonight.

Senator BARTLETT (Queensland) (8.13 p.m.)—We are dealing with the seven bills separately.

The CHAIRMAN—That is correct.

Senator BARTLETT—As I understand it, there are different amendments to each of them.

The CHAIRMAN—Yes.

Senator BARTLETT—I will speak briefly to this specific bill and possibly move my amendment at the end, if that is okay—just to progress things along.
The CHAIRMAN—Thank you.

Senator Bartlett—The bill we are dealing with, the Migration Amendment (Excision from Migration Zone) Bill 2001, as the name suggests, excises certain Australian territories from the migration zone for purposes relating to unauthorised arrivals. The ones that have been specified to date are the Cocos (Keeling) Islands, Christmas Island and Ashmore and Cartier Islands. It provides the mechanism for other islands in the future, including—under some readings of it—Tasmania, to be also excised from the migration zone. And it sets in place a fundamental principle that it is okay to decide that bits of Australia are not Australia any more if we happen to be worried that unauthorised arrivals are going to turn up there.

Who knows where this sort of thing could end up? Who knows whether we will keep shrinking in, further and further away from the coasts—whether you will have to reach the top of Uluru before you can get protection? Maybe we could have a lucky moving migration zone from one week to the next, or somewhere completely inaccessible, like halfway up the fire escape on the Centrepoint Tower in Sydney, just to make it really difficult. That is the sort of thing that we are trying to do here—make it as difficult as possible for people to seek asylum, for people to seek protection and for people to access the protection that we have obligations to provide.

In conjunction with other things in the bill and other bills, it is in effect providing a different regime of protection, assessment and consequent rights if you happen to seek protection in one spot under Australian control as opposed to another spot. In effect, it is another partial way and—when you add it to all the other mechanisms in the other bills—a comprehensive way of attempting to close our borders. I would suggest that to close our borders to people is a fundamental contradiction of our obligations under the refugee convention. Other bills do that more fully, and I will expand on that principle when we get to other bills.

Given the limited debate we had at the second reading stage—having to deal with seven bills at once—I want to put on the record comments from some other people who have criticised this particular bill and related bills. The Victorian executive of the Migration Institute of Australia is concerned that the legislation will endanger people genuinely at risk of persecution. It also notes the comments made by the Human Rights and Equal Opportunity Commission. The institute says:

We strongly believe that excluding parts of Australian territory from the full operation of Australian law is contrary to the spirit of the refugee convention. It should be noted that the decision in the Tampa case and the support of Justice North’s decision, as well as the Chief Justice in the full Federal Court, shows that legislation currently before parliament must be considered carefully.

Obviously, we are not able to be doing that, but we are doing our best in the truncated process we have available to us. The Migration Institute suggests:

Allowing the minister to determine in the public interest whether or not a person from the excision zone is able to make a valid application for protection is contrary to the principle of determination of a refugee.

This bill provides that an unauthorised entrant, an offshore entry person—creating another new piece of bureaucratese to add to all the other curious terms in the Migration Act—will be unable to apply for a visa—any visa, I might add, not just a protection visa—within Australia unless at the minister’s discretion.

This is the first amongst many examples of basically saying, ‘If there are any public interest principles, if there are any human rights problems, the minister will fix them up. We can trust him to do it.’ We cannot force him to do it, we cannot compel him to do it and we cannot follow any judicial process because he has not done it properly or because there was a clear human rights breach and he has not exercised his discretion. He will have absolute power. Mr Ruddock is Judge Dredd again: ‘I am the law.’ He will have total power. It is those sorts of absurd, unfortunately already extreme, non-compellable and non-reviewable powers and discretions that are already riddled through the Migration Act. We are adding a stack more, and that is the first of them in this particular bill.
Flowing on—and we will get to this when we get to the consequential provisions bill—are the negative consequences that will occur to people because they arrive in the exclusion zone. Changing the definition of the migration zone—as I said in my speech in the second reading debate—is purely a device to allow the government and the department to achieve their long-term objective of exempting their processes from proper review. Movement of people via smuggling networks is a complex problem demanding long-term solutions rather than short-term knee-jerk solutions. This is one amongst many measures suggesting this will be a deterrence.

Those who keep suggesting that all this hardline, hard-nosed stuff we have been having to swallow for years is somehow a deterrent could perhaps explain to us how the deterrence is working. The restrictions to court appeals have led to more court costs and more people in the courts. The detention centres have not stopped people coming. The restrictions on people being able to reunite with their families have just meant women and children are coming along with the males. The numbers are still going up. Where is this deterrence working? Why are we going further down a track that has clearly been shown not to work? The setting up of categories of second-class and third-class refugees is another pathetic example of meanness which will not deter; it will simply make life more difficult for people who have already suffered. It will create a bigger burden for the taxpayer. The amendment I have circulated applies to all the bills. I move:

(1) Page 2 (after line 13), after clause 4, insert:

5 Expiration of Act

This Act ceases to be in force on 1 July 2002.

This is an amendment to introduce a sunset clause so that the bill will cease to operate from 1 July. The purpose of that is basically to try and hold the ALP true to their words. We have seen a number of statements and reports in the press about the Labor Party’s change of position in relation to these bills and their decision to fall in line with the government. A number of times that has been accompanied by statements like, ‘We’re not totally happy with all this stuff, but we’ll wait until we get into government and then we’ll fix it up. Trust us on that. You think this government is bad; we’ll be much better. You think you don’t like us; the government’s worse. Let us cope with this one. We’ll pass it and, when we get into government, then we’re least worst. We’ll fix it up, don’t you worry about that.’

I would like to have a little bit more guarantee than that, so I am moving a sunset clause to provide that legislative certainty that, if Labor are in government, they will be compelled to restructure and review that. Their suggestion is, ‘They’re the government, so we’ve got to let the government policy go through. We don’t want to be obstructionist, except when it is the electoral matters bill, perhaps. When we get into government, we’ll have control and we’ll do it.’ I do not like that argument at all, but I will accept that argument. If you are going to say, ‘These bills are bad, they don’t work, they’re bad policy and bad law, but they are the government’s bills,’ then fine. Let us make sure that, if Labor get into government, they can fix that up. We would like to assist Labor in being able to do that by putting forward this amendment. I hope they are able to accept it in the spirit in which it is offered.

The bill was the subject of consideration by the Scrutiny of Bills Committee. Given that we have not had the opportunity for the usual process to be followed and for the concerns raised by the committee to be responded to by the minister, I ask the minister in the chamber, Minister Ellison, to address those concerns, specifically in relation to the retrospective operation of the legislation. If we pass the legislation—as it looks like we will—then rights that exist now, as I speak, will be wiped out back to 8 September. The people that have been hanging around Ashmore Reef for God knows how long will also retrospectively lose what rights they had. Those rights existed when they arrived, and we are going to take them away and backdate that action to 8 September. Someone had the temerity to turn up in Cocos (Keeling) Islands—we had forgotten about that bit of Australia—and the action is backdated there to 17 September. Retrospectivity is
always a dangerous principle. It obviously removes rights; it will have a negative impact on people. The minister should respond and give a justification for that as it trespasses unduly on personal rights and liberties.

The committee also raised concerns about the ‘Henry VIII clause’, which provides extensive opportunities for the government to, by regulation, further expand its power without coming back to the primary act—a common trick of government to give itself more power than it is obtaining at this point in time. The committee also commented on the minister getting an unfettered discretion to determine whether an application for a visa by an offshore entry person is a valid application. The committee would like to hear some justification for why the minister should have unfettered discretion and how it would help parliament perform its role of ensuring the protection of those important legal rights.

As I said yesterday, in a lot of ways hearing this debate is like being struck by deja vu, particularly in relation to this chamber over recent years. The Migration Amendment (Excision from Migration Zone) Bill 2001 is an enforcement in a literal sense of the Fortress Australia attitude. Many of the statements that have been made—including some of the speeches we heard from senators during the second reading stage, some of the statements from ministers and obviously some of the statements in the community and on talkback radio—would not have been out of place 100 years ago. I have been reading through the Hansard from 100 years ago in relation to the Immigration Restriction Bill, the bill that introduced the White Australia Policy which I mentioned last night. I am not specifically saying that the Migration Amendment (Excision from Migration Zone) Bill 2001 is promoting White Australia. The bill does not specify details in that respect, but the comparisons between the bills are nonetheless quite marked—for example, in the rhetoric that was used to justify excluding people who are unwanted, whom we do not want here. We have the right to decide who can come and who should not, based on whether or not they are desirable, whether or not they might be criminals, whether or not they have done things the right way. It is fascinating to read the arguments put forward 100 years ago today—a special centenary—in the House of Representatives on 25 September 1901. Mr Henry Willis, who was the member for Robertson, said:

It is our plain duty to prevent any further influx of these aliens into our midst.

They used to talk for a long time in those days; they did not have time limits, obviously. They were very long speeches. Mr Edwards, the member for South Sydney, said:

We are afraid that our civilisation will be permanently injured by contact with a large number of persons of races belonging to a different civilisation.

To my mind, it was not a question of colour at all—as with the current legislation—but was a question of difference in civilisation. There are very interesting echoes with a lot of the comments around the place about how we cannot let in people with a different way of life. They might be terrorists, they might be criminals. They are people who have paid their way, they are people who have done the wrong thing; they will be a bad influence on our life. It shows how the same thread of attitude has run through the Australian psyche for the past 100 years. Today, 100 years on from the Immigration Restriction Bill, we are still hearing the same justifications. This government has ruthlessly played on that same strange aspect and distorted component of the Australian psyche. It is a real shame that we have not had the sort of political leadership we need to try to ensure that that sort of ignorance is challenged directly.

But it is worth while noting, and it is pleasing to see, that even at that time there were people speaking out against this approach. I quote the member for Parkes at the time, Mr Bruce Smith. I am sure that even in those days people in the Senate spoke better, but it is not the centenary of the debate in the Senate so I had to stick to the House of Representatives. Mr Smith spoke about being put to the test on this core issue. He said:

We are being put to the test, and we should remember this when we speak of the open door, of the equality of men, and of our Christian princi-
and when at the moment we are sending forth our people to preach those Christian principles to others, yet propose to turn around and shut out many of those whom we are seeking to convert to those principles. Relying on Christian principles, he was opposing the hypocrisy and the immorality of the approach that was being put forward. He suggested that it might not be a bad idea for us to link back to some of those principles when we are considering legislation.

The Migration Amendment (Excision from Migration Zone) Bill 2001 is a curious bill. It sets some dangerous precedents, but when it links in with some of the others they become a particularly dangerous and obnoxious grouping of bills. I will expand on some of the more obnoxious features when we get to some of the other bills at a later stage. The amendment I have moved regarding the sunset clause is aimed at assisting the ALP to keep their word, which they have given to the community and others, that they will fix these issues up if they get into government.

Senator HARRADINE (Tasmania) (8.28 p.m.)—I support the amendment for the reasons advanced by the mover. I want to indicate to the chamber it is not my intention tonight to make a type of second reading speech. You would not permit me to do so anyhow as we are in the committee stage of the legislation, much as I would like to. Last night we heard some extremely good contributions to the second reading stage of this debate. However, what I would like to do, through you, Mr Temporary Chairman, is ask the minister a couple of questions. In respect of the power that this legislation would give to the minister, the explanatory memorandum refers to:

• any other external Territory that is prescribed by the Migration Regulations 1994 ("the Migration Regulations") for the purposes of paragraph (d) of the definition of "excised offshore place";
• any island that forms part of a State or Territory and is prescribed for the purpose of paragraph (e) of the definition of "excised offshore place";

I ask the minister: is that intended to give to the minister the power to determine in effect a differential approach to asylum seekers on the basis not of the individual merits of the claims of those asylum seekers but on where in fact they land in Australia? I also ask the minister: how many unauthorised persons—that is, persons who are found to be unauthorised arrivals—enter Australia through the airport system? Would you please give to the committee the number, for the last year or for the last period for which you have figures, of those unauthorised arrivals into Australia by air through the various airports?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.31 p.m.)—We will take that last question on notice and see if we can give Senator Harradine those details. There were a couple of questions posed by both Senator Bartlett and Senator Harradine. I will deal firstly with Senator Bartlett’s question in relation to the Alert Digest. That related to the date of the excision provisions, and why that was so. The bill is designed to fulfil the commitment the Prime Minister made on 8 September 2001 to excise certain places from the migration zone with effect from 2 p.m. on that day. The places affected by this commitment are principally Christmas, Ashmore and Cartier islands. The government also decided that the Cocos (Keeling) Islands should be excised from the migration zone with effect from noon on 17 September 2001, as announced by the Minister for Immigration and Multicultural Affairs.

The choice of these times and dates is clearly a matter for the government. They relate to the dates and times on which the statements were made. I think that disposes of the question in relation to the Alert Digest, which posed those questions in relation to the commencement of these provisions. The government does not accept that these are retrospective. The government would say that it is commonplace to have legislation where an announcement is made and then the legislation which is subsequently passed takes effect from the date of that announcement, so long as it is within the six-month period of the announcement vis-à-vis the passing of the legislation.

Senator Harradine asked me a question on the power of the minister. I think Senator
Harradine was referring to item 1 and proposed subsection 5(1):

**excised offshore place** means any of the following:

(d) any other external Territory that is prescribed by the regulations for the purposes of this paragraph;

That is of course subject to disallowance, and it gives the minister the power to determine what an ‘excised offshore place’ is by making a regulation. But that still has the scrutiny of the disallowance. It is disallowable, as those in the chamber know, by this chamber, and the government believes that that is a sufficient check on the power of the minister. I now have a figure on those illegal entrants by air. For the year 2000-01 the figure was 1,508.

Senator McKIERNAN (Western Australia) (8.34 p.m.)—I might say, in rising to address a question to the minister, that I do not intend to rise on each and every occasion through the course of this committee process or rise on each and every clause, although I intend to try to stay with the committee proceedings and at appropriate moments I will be seeking to perhaps address questions on particular clauses or on the effect of particular amendments that are sought to be moved. I am going to resist the temptation and the invitation from the previous speakers, namely, Senator Brown and Senator Bartlett, to get in and respond to some of the earlier comments. But I did omit something when I was talking about the numbers of those said to be coming into the country unlawfully over a period of years. I recall mentioning that, with the second wave of boat people between November 1989 and March 1996—during the life of the Labor government—we saw some 1,900 people arrive in this country unlawfully. Since that period of time some 11,500 people have come in. It was put to me—and it was mentioned later in the debate last evening—that even now we are having a trickle of people coming into this country unlawfully. I do not believe that the arrival of 11,500 people in a period of 5½ years can in any way be described as a ‘trickle’.

Last month some 1,700 people sought to arrive unlawfully in this country and I do not think that can be described by anybody—including those constituents of mine who wrote to me—as a ‘trickle’. Of those 1,700 people some 1,200 did land and the other 400 were later taken on board the *Tampa* that did attempt to land in this country unlawfully. The question I want to ask the minister is pertinent not only to this bill but to the other bills. The financial impact statement in the explanatory memorandum states—and I think it is worthwhile quoting in full:

> These amendments, together with those in the other two Bills, introduce measures to discourage people smuggling to Australia. While there is a range of costs associated with discouraging or preventing potential unauthorised arrivals, the successful reduction in the numbers of unlawful entrants into Australia would significantly reduce detention and processing costs.

You can search the material that the minister has provided, both here and in the other place—and I include in that the material that provided the figures in response to Senator Harradine’s question on the boat and air arrivals by month, and the background paper on unauthorised arrival strategy, which was also tabled in this place and was dated 6 September 2001—but it does not go into the details of the expenditure or the financial impacts of this piece or, indeed, the other pieces of legislation. I would not expect dollar amounts, as we would expect during the budgetary processes, but there must be some more estimates of what the costs to the taxpayers are going to be from this bill and from the next bills. We will be pursuing these matters during the committee hearings. It might short-circuit things if, at this early stage of the process, the minister were in a position to inform the committee of some more of the de-
tails of the financial impact statements of this and possibly even the other bills.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.39 p.m.)—As Senator McKiernan said his question relates to this bill and to others, and we will take that question on notice insofar as it relates to this bill and others. I might add that the cost of keeping someone in detention is in the vicinity of $105 a day, but there are further aspects to the cost which are mentioned in the financial impact statement. I will take that question on notice.

Senator SCHACHT (South Australia) (8.40 p.m.)—I start my remarks by responding to some remarks that the minister made in summing up the second reading debate, where he had the good grace to mention me by name and then attempted to distort what I said on radio station 5AN today and what I said last night. I am not surprised that this government is into distortion endlessly—it is the only way that it sees for having electoral success.

Senator Hutchins—They are mean and tricky.

Senator SCHACHT—Mean, tricky, sleazy, morally bankrupt: you name it, Senator, and they are it. What I want to point out to the minister is that you are absolutely dead right when I said last night that this government is into distortion endlessly—it is the only way that it sees for having electoral success.

But we are dealing with seven bills in total. I was talking about the package. You tried to imply that, because I said on 5AN in Adelaide today that we were going to amend the package, we were going to review it when we got into government. Let me tell you something—and this is not astonishing, this is not rocket science, even for you—I have been in this parliament since 1987 and every year we have dealt with migration amendment bills, as new circumstances arise, irrespective of who has been in government. I have no doubt that, irrespective of what you or anyone else may claim as a victory, sometime next year, whoever wins the election, we will be back in this place dealing with further amendments to the Migration Act.

So it is not unusual or unreasonable for me to say, ‘When we see this package that we will inherit if we win the election that there are difficulties with it and it is not working.’ Why is it not working? It is because more people are coming. You are not providing any deterrent. Despite all of these extra measures, they are still coming in increased numbers. Senator Harradine made a good point with his question about the 1,500 arriving by aeroplane. I think that was the figure.

Senator Harradine—It was 1,508.

Senator SCHACHT—1,508. We do not see the Prime Minister screaming about getting down to the barrier at Sydney airport, Melbourne airport or Adelaide airport to drag those people off. They are arriving seeking refugee status. They are not as sexy—to use that term—as a rotten boat sailing out of Indonesia across the Indian Ocean towards one of the islands. That does not suit the political propaganda of the Prime Minister. But it is still a problem. I have always found it interesting that the Prime Minister and his lackeys in the government talk about 1,000 or 2,000—and the number is going up because of this government’s bankrupt policies—but no-one talks about the 50,000 who come into Australia and illegally overstay their visa.

Senator Lightfoot—They come legally.

Senator SCHACHT—They come legally and they do not leave and therefore they are illegal immigrants in this country. They break the law. Who is the biggest number of those, Senator Lightfoot? The old Albion. They come from Great Britain. The biggest number in pure volume of people who overstay their visas come from Great Britain.

Senator Lightfoot—So what?
Senator SCHACHT—Yes, of course you would say that, Senator Lightfoot. Of course you would say, ‘So what?’ Because they are white and from Great Britain, you want them. Because they are white and from Great Britain, you say, ‘So what?’ But if they are black or brown and from Asia, you say, ‘Get out.’

The TEMPORARY CHAIRMAN
(Senator Watson)—Address the chair, please.

Senator SCHACHT—That is the difference. Senator Lightfoot made the Freudian slip from where he stands. I tell you what: if unfortunately, because of the circumstances in Zimbabwe with the way the white farmers are being treated—and I do not agree at all with the way they are being treated; I think that what the Mugabe government is doing is a disgrace—those farmers fled that country in some sort of boat and came to Australia, Senator Lightfoot would be at Cottesloe beach welcoming them with a banner because they are white and they are farmers and they are from Zimbabwe. But, if they were black farmers from Zimbabwe, he would be standing at the shore saying, ‘Get out, we don’t want you.’ That is how far this government has taken the debate on migration—into the depths of racism.

Senator Ellison—No, it isn’t.

Senator SCHACHT—That is where you have taken it. I have to say, Minister, I am not ashamed to stand up here and say, ‘We’re not going to fall for the three-card trick of the wedge politics of this Prime Minister, who has diminished this country in every sense of the word.’ That is why we are supporting it—to get it off the agenda and to concentrate on the issues on which we can win the election. I accept the fact that, with wedge politics, we cannot win the election. But we are not going to fall for the trick of your strategy so you can win and then think of something else after the election. So, yes, I was honest on radio in South Australia today when I said (1) the package will not work, (2) the package is not working now and (3) it is costing us an arm and a leg. An amount of $150 million has already been spent and it has gone up to $21 million a week. In another three weeks this government will have spent over $200 million on 400 refugees from the Tampa.

Senator Lightfoot—It’s the first time you’ve ever worried about money. You’ve never worried about money before.

Senator SCHACHT—Senator Lightfoot, I love you! You cannot help yourself. There are only two things you are interested in: money and race. That is the political philosophy of Senator Lightfoot: money and race. In two words, you have Senator Lightfoot’s philosophy. I hope you keep interjecting about race and money, because it just proves how bankrupt this government and the members of the Liberal Party are—when you have Senator Lightfoot’s type of interjection. We have had 400-odd on the Tampa. In three weeks it will have cost over $200 million. That is getting close to half a million dollars a head that we have spent in trying to keep them out. We had to bribe Nauru with $30 million. We could have asked Nauru whether, under the AusAID program, it would like $30 million for an aid development program. Under this government, for such a program, Nauru would have been lucky to get $100,000; it would have been lucky to get $3,000—not $30 million. You have bribed them over the line. You are going to do the same to Kiribati. You are going to give every poor country in the South Pacific a bundle of money to have a camp. In the end, after they go through the process, guess where the 400 are going to be? Most of them will come back to Australia. So we will have spent $200 million, and three-quarters of the 400-plus will end up in Australia, because they will almost certainly be approved under the determination.

Minister, would it not have been cheaper to send the Queen Elizabeth II up to Indonesia, put them all on board and, at $2,000 or $5,000 a ticket, give them free trips around the world and then land them in Australia? If it is half a million dollars or even one-quarter of a million dollars or even $300,000 per head, why do you not just go up there and give the 450 that amount of money in cash? They then would have got in under business migration. That is the ludicrous nature of where your policy is going.
As I say, we are not bashful about excision. We are not going to fight you on this issue and have the race driven outcome that the Prime Minister wants. It is a race driven outcome. Let us be blunt about this Prime Minister. In the 1950s—he loves to go back to the 1950s—John Howard would have loved—

Senator Lightfoot—You’re railing against it but you’re going to support it.

Senator SCHACHT—We made that quite clear. We do not want to get caught on this. We are putting it through. I have to say to Senator Ellison and Senator Lightfoot that some of us have a broader principle about getting into government. We do not believe—and I am one of them—that the Senate ought to be automatically rejecting everything the government puts up. I have sat here in government when you people have stood up and said, ‘We do not like this bill and we do not like this part of the budget, but we are going to put it through.’ Senator Ellison, I have even heard your mentor, ex-Senator Crichton-Browne, who helped put you in this parliament—

Senator Ellison—He did not.

Senator SCHACHT—He certainly did. You just doublecrossed him later on or he doublecrossed you—I am not sure which. But Senator Crichton-Browne used to say, ‘We should let the Labor government put through legislation we do not like and let them be hung by their own legislation and then we will promise to reform it when we get into government.’ I do not know whether he was correct in the Liberal Party philosophy, but he was your mentor. He put you in here, you doublecrossed him and now you are brawling with him. This package will not stop the boat people from coming.

The TEMPORARY CHAIRMAN—Could you moderate your language just a little, please.

Senator SCHACHT—In what way?

The TEMPORARY CHAIRMAN—Continue, Senator Schacht, but moderate your language.

Senator SCHACHT—What is wrong with my language?

The TEMPORARY CHAIRMAN—It is not unparliamentary, but it is bordering on being so.

Senator SCHACHT—On a point of order, Mr Temporary Chairman: either my language is unparliamentary or it is not.

The TEMPORARY CHAIRMAN—‘Doublecross’ is one word that I took exception to.

Senator SCHACHT—I see. If that is unparliamentary I will withdraw it.

The TEMPORARY CHAIRMAN—I did not ask you to withdraw; I just said to watch your language.

Senator SCHACHT—I see.

Senator Ellison—Get back to the bill.

Senator SCHACHT—There will be several hours tonight when I will be more than happy during the committee stage to ask particular questions. In the second reading stage—I am quite happy about it—you quite rightly put the boot into me and I am now putting it back. I want to respond to it. I want to raise a couple of questions about the state of the clause on the description of the excision. Page 3 of the bill lists all the areas that are going to be excised. When it gets down to (d) and (e), but (e) in particular, it refers to ‘any island that forms part of a State or Territory and is proscribed for the purposes of this paragraph’. Does that mean, Minister, that if you thought a boat or an illegal airplane was going to land on Bathurst Island, which is part of the Northern Territory, that island could be excised under the regulations? Is that correct?

Senator Ellison—Yes.

Senator SCHACHT—That means that Flinders Island in Bass Strait could be excised?

Senator Ellison—Yes.

Senator SCHACHT—Norfolk Island could be excised?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.52 p.m.)—I think the position there is different to the previous two examples you put to me, because Norfolk Island is not covered by the Migration Act.
Senator SCHACHT (South Australia) (8.53 p.m.)—Can we get a list then, if there are some islands, like Norfolk Island, that are not covered by the Migration Act? I understand that Lord Howe Island is part of New South Wales and Norfolk Island is not. I want to find out. Can we get a list?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.53 p.m.)—Yes, there is no problem with that. I think we can get one shortly. It is good to see that Senator Schacht has returned to the bill at last.

Senator SCHACHT (South Australia) (8.53 p.m.)—Does this also mean that Rottnest Island in Western Australia could be excised?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.54 p.m.)—The answer, as it was for the first two examples, is yes. It is part of the Migration Act.

Senator Schacht—Kangaroo Island?

Senator ELLISON—Kangaroo Island would be in the same category.

Senator SCHACHT (South Australia) (8.54 p.m.)—Does Garden Island in Sydney Harbour get excised?

Senator Lightfoot—How stupid.

Senator SCHACHT—Senator Lightfoot says, ‘How stupid.’ Garden Island in Sydney Harbour is an island. Can it be excised?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.54 p.m.)—It is not external, Senator Schacht. You know well the geography of Sydney Harbour, and that is not an external place.

Senator Schacht—It is not external to what? It is an island.

Senator ELLISON—It is not external to the mainland, and I think that that covers your point.

Senator SCHACHT (South Australia) (8.54 p.m.)—You say it is not external to the mainland because it has now been attached by urban development, there is a causeway. Does that mean that the island cannot be excised? I am just trying to work out where someone could work out to land their boat.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.55 p.m.)—We will have a look at that point. You raise an esoteric point; albeit, we will have a look at it.

Senator BROWN (Tasmania) (8.55 p.m.)—Mr Temporary Chairman—

Senator Schacht—I haven’t finished.

The TEMPORARY CHAIRMAN (Senator Watson)—It does not matter. We are resetting the clock, so it is Senator Brown’s turn.

Senator BROWN—I am sorry, Senator Schacht.

Senator Schacht—I just wanted to run a few islands past him, that’s all.

Senator BROWN—So do I, because I am an islander.

Senator Stott Despoja—We are all islanders. We live on an island.

Senator BROWN—Exactly. Firstly, let me suggest—and this will help the government—that we take the five amendments dealing with sunset clauses all together. That is if Senator Bartlett is happy with that, notwithstanding that they have split the legislation.

Senator Bartlett—I do not think we can.

Senator BROWN—Okay. I was just trying to be helpful, as ever.

The TEMPORARY CHAIRMAN—Order! The amendments are in relation to different bills.

Senator BROWN—Yes, but we are dealing with them all together seriatim. The last chair said so.

The TEMPORARY CHAIRMAN—We are dealing with them separately.

Senator BROWN—Seriatim.

The TEMPORARY CHAIRMAN—Yes.

Senator Bartlett—One after the other.

Senator BROWN—I will leave it with you. I am just trying to be helpful.

Senator Schacht—You’ll be excised if you don’t watch out.

Senator BROWN—That would be the unkindest cut of all. I want to know from
Senator Ellison whether Tasmania is an island.

The TEMPORARY CHAIRMAN—It would require a Constitutional amendment, I have been advised, Senator Brown.

Senator BROWN—No, it would not, Chair. My question is simple: is Tasmania an island?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (8.57 p.m.)—In relation to Tasmania, the bill talks about ‘offshore place’, and says, ‘any island that forms part of a State’. Of course, Tasmania is a state. If you look at 5(1)(e), ‘excised offshore place’ means ‘any island that forms part of a state’. ‘Part of a State’ would imply that an island offshore from a state is different. You mentioned Rottnest Island and Kangaroo Island. But you mentioned the state itself, and it would not come within that definition.

Senator Brown—It would.

Senator ELLISON—It would not.

Senator BROWN (Tasmania) (8.57 p.m.)—It would. That is the problem, you see. If you are sitting on Bruny Island or King Island and looking at this piece of legislation, you recognise that mainland Tasmania is part of the state—so is King Island, so is Flinders Island, so is Bruny Island, Maria Island and so on. Mainland Tasmania is an island which makes up part of the state of Tasmania, which has quite a list of other islands which give you the completion of the whole state. This legislation says that ‘any island that forms part of a State or Territory’ can be cut out. That includes mainland Tasmania.

I have not got to Senator Stott Despoja’s observation that mainland Australia is an island. If you are looking at it from Hobart, mainland Australia is an island, and I am not sure that it is the most important island in the confederation. We Tasmanians tend to look at it as the ‘North Island’. In fact, if you come to Tasmania you will hear mainland Australia referred to quite frequently as the ‘North Island’, because it is only part of the country. I am not going to take up that argument; I am here busy defending Tasmania. That is why there is an amendment coming up removing this anti-Tasmanian clause from the legislation. If that does not succeed, I will be moving another amendment. You have really got me going here.

Senator Schacht interjecting—

Senator BROWN—Exactly. What happens if they next come in with some sort of electoral bill that does the same as the migration legislation we have got here and starts excising bits of Australia according to that?

Senator Stott Despoja—Or a racial discrimination bill.

Senator BROWN—Anything at all. It is absurd. This is a very silly clause, a very silly piece of legislation done on the run. It needs to be changed. The Minister for Immigration and Multicultural Affairs, Mr Ruddock, lamely said on radio the other day that if we came up with Tasmania for regulation in the future the regulation could be knocked out by either house of parliament. But—as I think I heard Senator Schacht, in quite unruly fashion, interject earlier with comment, very helpfully—the fact is that a regulation can be brought in. For example, under current circumstances we are not going to be sitting after Friday. You can bring in a regulation on Saturday and it will be sitting there until whenever parliament next meets. And then, if a house of parliament wants to change that regulation, it takes some time. The government will get its way for months on end if we allow this to stand. I hope that the Labor Party will defend the Labor state of Tasmania and the other islands that Senator Schacht has mentioned by supporting the amendment that I will be putting shortly, after we have dealt with the very good amendment that Senator Bartlett has moved.

Senator COONEY (Victoria) (9.01 p.m.)—I want to ask the minister a question on the ability to excise a part of a state. As I said before, King Island is the land of my birth so I have some affection for the place.

Senator Brown—It’s all quality, King Island—all quality.

Senator COONEY—Thank you.

Senator Schacht—You didn’t knock off the mutton-birds, did you?
Senator COONEY—I could tell you a few stories about the mutton-birds, but I will not do it now. What I wanted to ask the minister was this: if we did pass a regulation pursuant to the provisions of 5(1)(e), would the government have any concerns about section 123 of the Constitution? Section 123 says:
The Parliament of the Commonwealth may, with the consent of the Parliament of a State, and the approval of the majority of the electors of the State voting upon the question, increase, diminish, or otherwise alter the limits of the State, upon such terms and conditions as may be agreed upon, and may, with the like consent, make provision respecting the effect and operation of any increase or diminution or alteration of territory in relation to any State affected.
You might say that we are not really altering the limits of the state, because King Island is still attached to Tasmania. Nevertheless, you are taking from that island a quality that it had previous to the regulation, the quality that it was a part of Australia upon which a claim for refugee status could be made, and, if established, the convention would carry on. It could be argued that section 123 is related not simply to territory but also to the quality of the jurisdiction that operates there. It seems to me that the provision here ignores section 123 of the Constitution, for the reasons I have just given.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.03 p.m.)—I have the answer to a previous question here. External territories to which the Migration Act does not apply are Norfolk Island, Heard and McDonald islands and the Australian Antarctic Territory. I think that is your list, Senator Schacht. I will check and see if there is anything in addition to that, but my preliminary advice is that that is the list you were seeking.

Senator COONEY raised a question about the situation where it could be said that excising part of a state might be discriminating against that state as opposed to another state. That is a contention which has been raised previously. Obviously, this power would not be exercised without consultation with a state. Of course, this power would have to be exercised within the parameters of the Constitution. In addition to what I have said here, I will take on notice some aspects of Senator Cooney’s question. Someone from the Attorney-General’s Department will be attending shortly, and they will be able to provide a fuller answer to Senator Cooney’s query.

Senator STOTT DESPOJA (South Australia—Leader of the Australian Democrats) (9.05 p.m.)—I thank the minister for providing that list of islands and take the interjection of my colleague Senator Andrew Bartlett, particularly in relation to the Antarctic Territory. He said, ‘There goes that plan.’ I am curious. I believe the government have said that they would not consider—I am paraphrasing—excising a particular territory or island without consultation. I would like to ask the minister what consultation took place with Christmas Island before the drafting of the legislation and its introduction into the chamber.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.05 p.m.)—That is a territory, not a state. My remarks were confined to states. Christmas Island does not form part of a state. In relation to what has been done on Christmas Island, the Minister for Immigration and Multicultural Affairs, Mr Ruddock, and the Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald, have been up there talking to people about what they want done. I believe that those consultations have gone very well.

Senator STOTT DESPOJA (South Australia—Leader of the Australian Democrats) (9.06 p.m.)—I wish to address the bill before us, particularly the amendment that has been moved on behalf of the ALP, both by Senator Schacht and by Senator Cooney. We think they have put forward very good arguments for not supporting the bill before us—indeed, the package of seven bills before us. But I am wondering whether the Labor Party would put on record their rationale for not supporting Senator Bartlett’s proposal of a sunset clause, if in fact they are opposing that sunset clause. We have indicated that we
will be moving a number of amendments to the legislation before us—that is, the seven bills. We will be moving amendments to a number of the bills in relation to a sunset clause. We believe that that is necessary because of the manner in which this legislation has been brought before the chamber. It has been rushed, it has lacked any genuine consultation and it has been driven by political opportunism.

So we are proposing that the parliament reconsider this legislation—hopefully through the proper processes—after the election, in the hope that reason will prevail. Obviously, we would like to see this legislation and this debate deferred, we would like to see proper community consultation and we would like the committee process pursued as it is designed to be. In the meantime, as Senator Bartlett outlined in his comments, we are giving the opposition an opportunity to attach a sunset clause to this legislation so that they can come back—as they are claiming they will do in good faith if they are elected—and reconsider and potentially change their views on the bill before us.

I would like to put on record a number of quotes from the Labor Party that suggest they would be amenable to such an amendment. Kim Beazley was quoted on page 32 of the 

*Sydney Morning Herald* last Saturday. He said:

We are an alternative government, not a pressure group, and how often should you save people from the consequences of voting for the Liberals? Indeed you should when the legislation is inhumane, lacks compassion, is unworkable, flies in the face of international treaties and conventions and threatens to override domestic law. But if that is not good enough, perhaps the Labor Party would consider again putting a sunset clause to this particular bill and a number of other bills that we are moving the sunset clause to.

I have another quote, from the opposition’s immigration spokesperson, Mr Con Sciacca. He has denied that the Labor Party has caved in in its support for this legislation. Those people who are listening to the broadcast tonight would be surprised to hear that the Labor Party has changed its position on this legislation, given some of the rhetorical flourish and some of the very good arguments advanced by people like Senator Schacht against the legislation.

Senator Schacht, you say that you cannot fight an election on wedge politics, that you have recognised the so-called political reality, that you cannot fight against it. Don’t you think that there are people out there who are craving for the opposition to actually act like an opposition and that they actually might respect you and your leader if you did suggest that this legislation is bad and it should be opposed, as opposed to just acquiescing in the face of this government’s implementation of One Nation politics? I find it stunning that you just accede to this so-called wedge politics dynamic when I have to admit that in the past the Democrats have thought the Labor Party were the masters of wedge politics and triangulation and the third way or whatever you want to call it.

I return to the quote from Mr Sciacca, which suggested to us that the Labor Party might be amenable to the amendment that is before us. He said that the party would implement its own plan if it won office. He said:

There is no point in us being seen as obstructionist. These are issues we will look at, but at the moment we do not run the immigration program. Presuming that they might run the immigration program in a matter of months, surely the Labor Party should take advantage of the amendment before them. There is one unnamed but senior frontbencher quoted on page 8 of the *Australian Financial Review* today, who says:

People had got to the point where we were cheesed off with being wedged. We will fix it when we are in government.

This gives the Labor Party an opportunity to reconsider their views on this particular bill and the legislation generally once they get into office. We are not just moving a sunset clause to this particular bill but to a number of the bills before us. I would like to refer to the Refugee and Immigration Legal Centre’s concerns in relation to the proposal to excise Australian territory. I think it is important that their very considered and well-founded views be put on record. They state that they are:
... opposed to the creation of excised offshore places within Australian territory. Such exemption of selective territory is akin to shrinking Australia’s borders in order to prevent asylum seekers from engaging protection obligations to which Australia is a signatory under the refugees convention.

Again, as I pointed out in my speech in the second reading debate on the package of bills before us, aspects of this legislation, of this policy, fly in the face of our international obligations and indeed convention. I quote again from the RILC:

In this regard, it is a fundamental principle of international law that every state is entitled to exclusive jurisdiction over its territory and persons within its territory and that with the authority or jurisdiction goes responsibility. Further, it is an accepted principle that a state should not seek to create a selective definition of territory in order to avoid its protection obligations to those asylum seekers who arrive within its territory. It is also accepted principle under international law that a state has responsibility for a person within a territory controlled by it, including the obligation of the state to ensure and protect the human rights of everyone within its territory or jurisdiction. Australia is also a party to conventions which guarantee these rights. Relevant conventions include the International Covenant on Civil and Political Rights, and the Convention on the Rights of the Child. The RILC believes that the proposed legislation effectively seeks to avoid direct responsibility by Australia for the protection of asylum seekers within its territory by excluding these people from directly accessing Australia’s refugee determination processes. Notwithstanding such attempts, Australia remains bound by its international human rights obligations under instruments such as the refugees convention, the ICCPR and the CROC with respect to its treatment of asylum seekers within its territories.

The Democrats have indicated that this is one of a number of amendments we will be moving. We will move amendments in order to soften the harsh and arbitrary nature of the legislation before us. We have indicated in our speeches on the second reading and in the committee stage that we oppose a number of measures, including the undermining of the rule of law by making administrative decisions and actions by officers of the state immune from review by the courts. I know that we are going to tackle that shortly. We oppose an approach whereby genuine refugees fleeing persecution can be expelled from Australia with no guarantee of safety. We oppose an approach which unnecessarily breaks up families. We oppose an approach which authorises the arbitrary detention of innocent people without recourse to the courts. We oppose attempts to so tighten that definition of a refugee that people genuinely fleeing persecution will be returned to their country of origin to face that persecution.

That is why we are moving these amendments. That is why we are keen to hear from the government. At least we know the government’s position, although we have a number of unanswered questions about constitutionality and about the bills. My colleagues and those from other parties have put on record some of their questions about the legislation. But we are particularly keen to hear from the opposition in light of not only some of the second reading speeches we have heard but also those to come in the committee stage process tonight. We are wondering how they will justify voting for legislation that they have indicated is flawed and, in some cases, have admitted lacks compassion and is inhumane.

I certainly endorse many of the comments made by Senator Schacht. If I had had an opportunity to finish my second reading contribution yesterday, I would have gone on to quote some of the astute observations Senator Schacht made about the costs of this process to Australian taxpayers. I am sure I will get an opportunity to put that on record at a later stage. Senator Schacht—through you, Chair—what kind of an excuse is wedge politics for supporting legislation that is so regressive before us today? We are moving amendments that we believe will address some of the matters that we are most concerned about. We believe that it is in the public interest that someone stands up in this chamber for what is right in this debate. I think history is going to judge incredibly harshly other members of this chamber if the amendments before us are rejected. Having put those quotes on the record from a number of Labor members, a senior frontbencher and one from the opposition leader, Mr Kim Beazley, I ask the Labor Party to explain how they can possibly justify supporting the
I will tackle one other thing, because it has been raised in this most recent committee stage. That is not so much the issue of so-called wedge politics but of the poll support for the government's actions, of which much has been made. I believe, and certainly my colleagues support me in this, that the polls change when people get more information—and that is going to happen. It is worth noting that in 1979 the majority of Australians were in favour of accepting the Vietnamese boat people and only 28 per cent of Australians said, 'Turn the boats back to sea.' In 2001, only 20 per cent are saying accept the boat people and 68 per cent of Australians oppose refugees arriving on our shores and say, 'Put them back to sea.' That is according to the Roy Morgan polls. In 1979, Australians knew about the conditions the boat people were fleeing from, because of the focus of their country during the Vietnam War. I actually think as more information comes to light about Afghanistan and the brutal ruling regime, the Taliban, more Australians are going to feel greater compassion for Afghani asylum seekers and more Australians are going to understand why they are fleeing and why they need to sometimes disguise their identities in order to do so. More of those arriving by boat in Australia over the last—

Senator Lightfoot—How naive of you.

Senator STOTT DESPOJA—To put that interjection on record, Senator Lightfoot accuses me of being naive.

Senator Hutchins—No, you are an opportunist.

Senator STOTT DESPOJA—An opportunist being naive.

The TEMPORARY CHAIRMAN (Senator Watson)—Order! Address the chair, please.

Senator STOTT DESPOJA—Sorry, Chair. I think it is worth referring to some of the comments that have been put on record by the head of the Refugee Council of Australia, Professor William Maley. He has been involved in a number of press statements in recent days and weeks. He is not only chairman of the Refugee Council of Australia and an expert on refugee issues but also a specialist on Afghan. He was able to identify that most of the boat people at Nauru are from one of the most persecuted ethnic groups in the world. He has pointed out the difficulties with government members, in particular, rushing to judgment about the ethnic, racial and religious origin of people who may have been on that boat or more generally people who are seeking asylum in this country. We should be very wary of making the snap judgments that Senator Lightfoot has just interjected with. I think he is perhaps reiterating some of the comments I heard from some of the people on the crossbench of the coalition yesterday. Some of the National Party members were interjecting during question time yesterday that they believe a majority of these people—and I will happily stand corrected by Senator McGauran and others if this is not the case—who were seeking asylum were not necessarily genuine Afghans fleeing the Taliban but were Pakistanis. I do not think anyone in this chamber is qualified to make that kind of face judgment. I think the interjections yesterday and the one I have just heard are extraordinary.

We know from reports and some officials that many of those people have escaped from Iraq and Afghanistan—two of the most brutal and abominable regimes in the world. As Australians get to know more about those regimes and the stories of the asylum seekers, they will have much more compassion in their hearts. Having said that, I do recognise that a majority of Australians want decisive action on this issue. They are looking to their Prime Minister for some statesmanlike action. Who wouldn't? This is an issue that is not going to go away. This is an issue that needs a complex, humanitarian, long-term, manageable and workable response, and that is all the Australian Democrats are calling for. The bills before us today do not enact such a response. They are short-term, stop-gap, political measures designed to fulfil the political needs of this government. I certainly hope and plead that the opposition will not be supporting them. Perhaps one way of giving the opposition an opportunity to re-
consider their position is through supporting the sunset clause amendment before us.

Senator SCHACHT (South Australia) (9.21 p.m.)—Minister, I want to return to the list of the islands you gave us. Can you explain, firstly, why Norfolk Island is not going to be covered by either the legislation or the regulation? I presume Heard Island and McDonald Island are considered too far south to worry about, as is the Antarctic Territory which covers Macquarie Island. I mentioned Garden Island in Sydney Harbour, and you made some reference that it could not be excised because it was part of a state in a harbour.

I want to get that definition correct. There are many islands in Sydney Harbour. The Japanese were able to send a submarine in there in the middle of the Second World War and, unfortunately, sink one of our ships, with some loss of life. As all of our ships are in the Indian Ocean trying to stop people from getting to Ashmore Reef, there is nothing down south now to stop someone from sailing right into the middle of Sydney Harbour onto one of the islands, such as Rodd Island, Fort Denison, Shark Island, Clark Island, Cockatoo Island, and many others. This piece of legislation does not exclude islands that are part of the state, and they are all part of the state of New South Wales, surrounded by water—all within the definition as I read it. That is the first issue: I would like you to try to explain to us how those islands could not be gazetted as being excised if someone tried to land on them. The second issue that I want to raise is one which Senator McKiernan reminded me of. Back in 1997 or 1998 a ship with boat people in it sailed right down the east coast of Australia and I think was apprehended near Kiama. The TEMPORARY CHAIRMAN (Senator Watson)—Senator Schacht, you should be discussing the amendment, not the bill. Senator SCHACHT—Sorry, I am asking questions in the committee stage.

The TEMPORARY CHAIRMAN—In relation to the sunset clause.
Senator SCHACHT—I beg your pardon. Under the standing orders, I think I am entitled to move an amendment or to move at any stage that a section of the bill not be supported. Are you telling me that if, after I hear debate—

The TEMPORARY CHAIRMAN—You can move an amendment to the amendment, but you should be speaking to the amendment at the moment and you are speaking to the bill.

Senator SCHACHT—I am speaking to the clauses in the bill that are before us. I have always understood that, under the standing orders of the Senate, any senator can ask in the committee stage what the clauses in the bill mean. He or she may not have already moved an amendment, because you want to find out what those clauses mean. You have the right, once you find out what a clause means, to then move an amendment or to then try to defeat the clause if you think it is unacceptable. I am trying to find out information. You cannot find out that information in the second reading debate, only in the committee stage.

Senator Cooney—There are seven bills.

Senator SCHACHT—There are seven bills; I am dealing with the first of those bills and I have got the right to ask questions about the content of the bill. Senator Brown did the same. I am just asking questions about how this bill will operate.

The TEMPORARY CHAIRMAN—You are more than welcome when the amendment is disposed of to refer to the bill.

Senator McKiernan—Mr Temporary Chairman, I seek your clarification. When the debate opened at 7.30 p.m., Senator Bartlett spoke to the bill as a whole, and then Senator Bartlett spoke to the bill as a whole for 14 minutes. After 14½ minutes he moved an amendment. Since that time there have been a number of contributions which have ranged over the bill as a whole, including the most recent contribution from the leader of the Democrats, who raised the issue of the amendment that was before you but also spoke on many other matters. At this time a ruling would help us all. If we are going to be confined to the amendment, let that be so; but before we get to that point, if there are general questions which other senators want to address, perhaps it might be fairer to allow that form of debate prior to moving to individual amendments. I seek your guidance as to how we will proceed from here.

The TEMPORARY CHAIRMAN—We will dispose of the amendment and then go back to the bill if that is the wish of the Senate. I remind the Senate that Senator Stott Despoja was speaking to the sunset clause continuously.

Senator SCHACHT—I asked a series of questions of the minister. You may say that I was slightly out of order in the range of the debate, but I still would like to get an answer from the minister about the islands.

The TEMPORARY CHAIRMAN—After this has been disposed of. Minister?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.29 p.m.)—In relation to the first question that Senator Schacht raised, regarding Norfolk Island; that island, as I understand it, has its own regime dealing with migration provisions. It would have to be handled differently if we were to exclude Norfolk Island. A decision has been made that that would require a different action because, as I said, they are not subject to the Migration Act. Norfolk Island has its own provisions in relation to migration and it could not be dealt with here in this fashion. As to whether or not Norfolk Island should be dealt with here, that is a different question and that would require different action. It would mean taking away from Norfolk Island the exercise of that power in relation to migration. That is a wider question. It is not the same as the question that is being exercised here in relation to clause 1.

That is the Norfolk Island situation. We have dealt with the situation of Garden Island in Sydney Harbour. That has a connection to the land and it sits in a different position. Senator Schacht has raised different questions now in relation to other islands in the harbour. We have taken those questions on notice and we will provide him with an answer shortly.
Senator McKIERNAN (Western Australia) (9.31 p.m.)—I ask Senator Bartlett what is so magical about the date of 1 July 2002.

Senator BARTLETT (Queensland) (9.31 p.m.)—I am sure I can consult my astrologer, who would give me something very wise in relation to that! It simply indicates that, given the wisdom and availability of the resources at the Labor Party’s disposal, I am sure that within a six-month period they could figure out a significantly improved legislative regime. I am quite happy to amend it, if you think that a one-year sunset clause or whatever may be more appropriate. I am completely open on that. Obviously when you have a sunset clause you have to pick a date from somewhere.

Senator Schacht—Ross Lightfoot’s birthday is as good a date as any.

Senator BARTLETT—The start of a financial year is one of those dates which are often picked, so it is as good a date as any. If you think there is a better date available I am quite happy, and amenable to amending it.

Senator McKIERNAN (Western Australia) (9.32 p.m.)—It appears as if all of this is being done for the benefit of the Australian Labor Party. What consultations, what dialogue, has the good senator had with the Australian Labor Party in arriving at this date? I know it is an important date. It is not, as I understand it, Senator Lightfoot’s birthday: it is the start of his new life. He will be looking for a new job from 1 July 2002. Indeed, I will be looking for a new job from 1 July 2002. I find it strange that we have the Australian Democrats over there so very eager to assist the Australian Labor Party to arrive at dates when we might make decisions. They are doing all of that without talking to us. Last evening and earlier today a number of Australian Democrats stood up and made comments about consultation and things—and here they are offending against their own principles, because they have not consulted with us.

I am not the spokesperson on behalf of the Australian Labor Party on these particular pieces of legislation—seven bills in total which I addressed at some length last evening. I said during that contribution that there would be measures contained in certain of the bills that I would probably support. Having had in the region of 1,700 people seeking to arrive in this country unlawfully during August, we do have to take measures to address the problem. What we have in this bill are measures that are addressing that problem. I would have liked to have a lot more time to go out and consult with the community on this prior to making decisions. Regrettably, we do not have that luxury, because the government have determined that the parliament will end on Thursday or Friday this week. They have not announced it publicly, but with a nod and a wink all over the place, we all know it. We are not able to go out and consult with the community, so we have to make decisions.

Had I been in my party room on Tuesday last week when this was being discussed, this is one of the measures that I probably would have supported—subject to some questions which I later put to the minister in regard to how the new visa classes will operate. There are questions that I have already put on notice, and I remind the government that it has been some time now since we sought some information on the financial impact of the legislation. I remind the government that that question is still there and we are awaiting the information.

This is one of the bills that I think I might have lent support to. It is a dramatic measure, but I think it is a measure that is needed, because in less than one calendar month we had 1,700 people seeking to gain access to this country unlawfully—to the north-western shores of this land through Christmas Island and Ashmore Reef. That number is almost equal to the number that arrived during Labor’s term in office—from when the first boat arrived in November 1989, the Pender Bay, to when we left office in March 1996. That number is something that needs addressing. It needs to be addressed in a dramatic and considered way. The considered way in which we are dealing with it tonight is not the way the Senate had to discuss this matter some three weeks ago, when we sat until two on the Thursday morning to defeat that very pernicious, ill-conceived Border Protection Bill.
We were right to make the decision then to defeat it. We have suffered for it, if you believe the polls—and many of us who are politicians do believe the polls. We have seen the headlines in today’s newspapers. Despite the advice that we get from those with access to emails, we are aware of the consequences, but we do not resilie from making the tough decisions. That is what oppositions have to do. It would be nice to have the luxury of sitting in the middle and not having to make decisions, or of coming into the chamber with prepared speeches addressing bills and having among the content of the speeches matters which the bills themselves do not address, as some colleagues had last evening. We do not have that luxury. We do have to make decisions. Regrettably, we have had to make some tough decisions.

A sunset provision has now been moved to the first bill that we are talking about. I would be supportive of that. I would not be in support of an arbitrary date of 1 July 2002 when we, in government—the Australian Labor Party in government following the next election—will have to make decisions. I think that following the election it will be the Australian Labor Party, in consultation with the community, who should make the decision on when we will address the bill. If the new minister is Mr Con Sciacca, the member for Bowman, the timing should be his decision—in consultation with his colleagues in the caucus and in the ministry—not the Australian Democrats.

I would have given more credence to the amendment if the Australian Democrats had sought to consult with us. If they were making a very real and measured point, they would have consulted with us. But they did not; they are playing political games. But good on them: that is the name of the game at this stage in the debate. From my point of view—and I cannot speak for Senator Schacht, who has got carriage of this particular piece of legislation in the chamber here tonight; I can only speak on behalf of myself—this is a piece of legislation that, hard as it would have been, I probably would have lent support to had I been in my party room last Tuesday to vote upon it.

Senator BROWN (Tasmania) (9.38 p.m.)—Before going on to comment on what Senator McKiernan has just said, I would like to ask the minister, through you, Chair, what the total number of illegal citizens—those who are not here validly—in Australia is? Can he say whether any of those did not arrive by aeroplane?

I want to take up what Senator McKiernan had to say, particularly because he indicated that there was some luxury in being on the cross bench in an issue like this. Let me say that on the very day that the *Tampa* was turned around following a cabinet decision, I spoke with my staff about that and said, ‘This is politically negative, but it cuts right across Greens principles.’ We agreed we would not stand for it. I went straight out and held a press conference and said, ‘This is wrong; this should not be happening.’ As far as I am concerned, that is what the Labor Party should have done as well. I believe that if the Labor Party had done that on a matter of principle the course of the whole debate would have been changed and we would not be sitting here tonight. The Labor Party would not be captured by the government’s philosophy, let alone this legislation tonight; the Labor Party would not be suffering as it is—internally haemorrhaging because so many members of the great party do not agree with the Howard government’s handling of the *Tampa* crisis, and consequently its bringing in of these pieces of legislation.

It is pretty obvious that there are two key pieces of legislation here to do with class actions and the right of asylum seekers or immigrants to go to the courts which Labor has fought and denied passage through the parliament, with the support of the cross benches in the Senate, for some years now. But there has been a sudden dissembling and it is for the same reason that John Howard refused the *Tampa* entry to this country and brought in these pieces of legislation: it is in the interests of electoral expediency. But unfortunately it does not work that way. The Labor Party should have stuck to its principle and it would have been in a much stronger position tonight. I refer to the 17th Light on the Hill address given by former ALP president Barry Jones in Bathurst very recently, in
which he quoted former Prime Minister John Curtin, who said:

I believe that Labor voters could have no respect for a party, certainly not their own party, if in a time of great national crisis it seeks no alternative but to carry out the policy of its opponents.

It is a pity John Curtin is not being listened to now.

Having said that, I think the Labor Party finds itself in a very difficult position on this matter and will do so consequently as the terrible events about to unfold in Afghanistan and elsewhere unfold. It is not a game; it is much more serious than that. Looking after the interests of the nation is not about shadowing the Prime Minister because he appears to be winning instant popular reaction to sometimes very shallow words indeed: words which are belligerent, sound tough or are divisive—indeed, wedge politics, as Senator Schacht calls it. Oppositions have, in the interest of common decency and in the interest of giving the nation an alternative lead, the opportunity to tackle governments who do that.

I do not know whether it is purely by accident but in Tasmania, where I come from—and Tasmania is a conservative state—the polls are not supporting the Prime Minister as strongly as they do on the mainland; the majority does but it is not as strong. When you get to Greens voters, 80 per cent oppose the Prime Minister in these very matters that we are dealing with tonight. I care to say that it is because of that, in consultation with members of my party, that we have been very much emboldened to take the stand that we have on principle to uphold Australia’s record as a humanitarian nation. I believe that the good governance of the country required that the principles of us dealing fairly with people who come to this country—particularly those who are in extraordinary circumstances or who have escaped extraordinary circumstances—did not require the opposition to fall in line with the government on this. That is going to happen. I will be surprised if there is any opposition support for any motion whatever coming from the Democrats, the Greens or anybody else in here because, as Labor speakers earlier tonight have said, the job is to get this through the place and off the plate.

How can you take such important matters as the way we treat asylum seekers and refugees to this country as being matters to take off the plate when there is an election on? You do not do that any more than you take off the plate the need for this nation to have independent policy when it comes to huge crises like the current one, where we need to hunt down and bring to justice the terrorists responsible for the recent awful events in America. At the same time, let us not abrogate our own right to chart policy separately from the United States—particularly from the hawks in the United States—so that the nation becomes constructive in that global hunt for the terrorists in a way that is going to help see that it does not become a much greater conflagration.

I support the amendment that the Democrats have brought forward. It is a very sensible amendment. I think if we take what Senator Schacht had to say—that is, that after the election Labor will be reviewing the immigration laws—then it is logical that Labor should be supporting this as well.

Senator McKiernan (Western Australia) (9.45 p.m.)—I accept what Senator Brown has had to say that, after the Tampa had been turned around, he went out and held a press conference. I do not know if that is true, but I accept that what he says is accurate. I did not do that. When the Tampa was turned around, I am on the record in this place as saying that I thought it was almost an act of piracy that a vessel could be turned around at sea. As I recall the events, the Tampa was heading to Indonesia after rescuing some people at sea. The captain was forced to turn the vessel around and head for Australia. He had to do that under duress; he did not do that willingly.

I am on the record—I cannot quote the particular speech, because I made a number of contributions that week—as saying that that could probably be deemed an act of piracy. I am not hiding from what I said at the time, and I repeat it now. The ship was turned around under duress, under threat. I do not condone that type of activity. It is because of activities such as that that the com-
community in my electorate in Western Australia are demanding strong actions to protect our borders. These bills may not be the correct bills in every instance. As I said before, we would have liked more time to study these and to consult with the community in greater depth and detail. I would have liked a lot more time to do it, but we do not have that liberty, so we have to live with that. For that reason, we are opposing the sunset amendment that has been moved by Senator Bartlett. When we come to vote on the bills, as our party room has indicated, we will be supporting this particular bill.

Senator BARTLETT (Queensland) (9.47 p.m.)—I will move seven of these sunset clauses, but I will not be speaking to each of them at length each time I move them. I will outline the principle fairly fulsomely now, but I will not do so again in future. Firstly, in relation to the consultations, it is a bit difficult to consult on something when the primary bill only appeared five days before it first came on for debate. It is a bit hard to have extensive consultations with anybody about any issue in such a truncated time frame. The reason we have that truncated time frame is because of the ALP support for it. It was a bit difficult for me to consult widely. Nonetheless, I did circulate early versions of these amendments to the relevant person in the ALP. I did not particularly expect them to support it, but I nonetheless gave them a couple of days notice and emailed them some drafts of those amendments. I think that was the best I could do in the circumstance.

In terms of the broader picture—and it applies to both the amendment and the broader arguments of the bill—the necessity of the concept—and I do not care about the date; you can pick any date—of guaranteeing that these issues will be revisited is in a sense evident again here tonight. I heard the argument Senator Schacht was making. He said the package of bills is not really going to work and it is bad law, but Labor is not going to fall for wedge politics, and be it on the government’s head. I do not think that is a terribly good argument, but it is an argument that was made. I recall that argument being made before, when the government introduced the temporary protection visas, which put significant restrictions on people. That was a very major and harsh measure that was meant to stop the flow and to provide a disincentive.

Senator Schacht—Blame the government. It hasn’t worked.

Senator BARTLETT—Exactly. It has not worked. That was the rationale put forward.

Senator Schacht—I said that at the time.

Senator BARTLETT—You are right, Senator Schacht. You had wisdom not only after the event but also before the event. I am looking at the Hansard from 24 November 1999, and I quote Senator Schacht:

The opposition make it quite clear that we do not believe that this policy will work and that it has many holes and flaws, but it is what the government want to do. Therefore, it is on the government’s head; they have to take full responsibility for this policy with all its flaws, with all its nasty politics ...

I could not agree more. Unfortunately, it is not just on the government’s head, because it is the Senate that allows legislation to pass. It is on the Senate’s head. In that sense, we collectively pass things even when individuals oppose them. The parliament has to take collective responsibility, in the same way as the parliament in 1901 had to take responsibility for the immigration restrictions act. When asked by Senator Harradine why he was supporting the bill, after giving a big long dissertation on why it was a stupid policy that was not going to work, Senator Schacht said:

... the very simple reason is that we want to expose their hypocrisy about the political tactics they are trying on this issue. They are trying a political stunt on this issue.

........

We are not going to fall for that. The government claim they have a mandate to govern for three years. Let them have their regulation and introduce it, but do not come back and say to us, ‘This is not working. We want to do something further.’ They have come back and said this is not working and that they want to do something further, and this is what we are dealing with—a whole raft of legislation saying that
we have to do something further. They are
doing something a hell of a lot further: they
are extending that very area of temporary
protection visas that this bill empowers.

The argument at the time was, ‘We’ll give
you this, but it will be on your head. It won’t
work. Everybody will point to you and say
that it has not worked, and it will be on your
head.’ I do not think the strategy has worked.
The government is saying that we need to be
harsher and harsher. I do not see the commu-
nity or indeed the opposition saying that this
has not worked. The argument at the time
was that this was the government’s regula-
tion, that it would not work, that it was bad
law, that it was on their heads and that they
can justify and explain why they introduced
something that did not work. Of course, La-
bor was also saying that, if they got into
government, they would fix it up. Unfortu-
nately, I think we can be reasonably sure that
when they get into government they are not
going to fix up temporary protection visas. In
their policy they are taking to the next elec-
tion, they will keep the temporary protection
visas. They will provide further improved
access to service, and I agree with that and I
support that. Any move in relation to visa
restrictions is to be supported. That policy
was condemned at the time but allowed to
pass into government. Now it is accepted
down the track by the ALP.

I recognise the bind that people are in so I
am not trying to be personal about this. But
there is a real danger in saying, ‘These bills
will not work because some of them are
worse than others’—the Migration Amend-
ment (Excision from Migration Zone) Bill
2001 is probably less pernicious than some
of the other ones—‘but we will look at them
later, in our own time and under consulta-
tion.’ It is very hard to wind back some
things once they are in place. It is very diffi-
cult to do and we can see that in history, in
the trends of all migration changes. Senator
Lees went through some of them in her
speech in the second reading debate. Very
few of them have been wound back since
they were introduced, and all of them were
justified at the time as being needed to make
the system stronger, more of a deterrent and
a tighter regime, and to ensure greater integ-
rity of the migration system. Measure after
measure followed on top of the other, and a
mechanism has never been put in place to
ensure that we can review them if they are
not working. Sorry, there is one: the thou-
sand dollar review fee does have a sunset
clause which we have been rolling over.

Senator McKiernan—Twice.

Senator BARTLETT—Yes. Other than
that, I do not think there are any others. So,
generally speaking, we have been stuck with
changes even when they have not worked. In
my view—and indeed in Senator Schacht’s
view—the temporary protection visa has not
worked. I am sure you could say that our
amendments are a political stunt—in a sense,
maybe you could say that any amendment is
a political stunt. I do not expect that any of
the amendments we move are going to get
up. You could say, ‘Why move amendments
if they are not going to get up? You are just
trying to make a point or do your own ver-
sion of wedge politics.’ We do it to get some
of those issues on the record and to try to
point out the dangers of what parliament is
doing. I will finish with another quote from
Senator Schacht. It must have been a good
speech, seeing as I am quoting it so widely.
He said:
... this policy has been driven by the Prime Min-
ister and by his spin doctors with their market
research. ... We will let them have their regula-
tion—in this case, their bills—
be it on their heads—and let them explain in the
future why it has not worked. The politics of the
government on this are disgraceful, but the oppo-
sition have said, ‘So be it. If you want to run a
disgraceful political campaign on this issue, we
will let you—
as is happening again—
But we warn you that it will not work. A policy
like this will never work, but that is what you
want. You are the government, so you have your
policy.’

The final sentence, which I think in some
ways undermines the whole speech before it, is:
Unfortunately, however, Australia will suffer.
That speech related to the introduction of
temporary protection visas, and plenty of
people have suffered through them. Those people who have worked with the temporary protection visa holders in the nearly two years since can give quite graphic evidence of how the visa holders have suffered, of how the people that work with them have suffered, and of how, through the strain and stress on them, the agencies that have tried to help them have suffered. The state governments that have thankfully tried to fill the gap have suffered in having to rearrange their delivery of services. A lot of people have suffered. In my view, when there is a fairly strong belief that something is not going to work and that it is going to lead to things getting worse, you cannot just say, ‘Well, that’s the government’s fault. Sorry, people will suffer, but what can you do? Blame the government.’ In some ways, it probably seems like I am attacking the Labor Party exclusively and letting the government off. Whatever sins I might want to lay on the head of the Labor Party, never let it be forgotten that the government certainly bears primary responsibility for what is being put forward tonight and it should be condemned one hundred times more strongly than the ALP. It is the initiator, it is the force behind this legislation and the divisiveness that has gone with it.

I come back to my basic point, which is that we have a responsibility as the Senate and the parliament to not just let the government do what it wants. That is why we have the separation of powers, that is why, theoretically, the executive is separate and independent from the parliament: so the parliament can assess what the government wants to do and decide whether it is bad policy that is not going to work and under which people will suffer—particularly if people will suffer. If it is just a bad policy, it is just going to be a waste of money and a stupid indulgence but it is not going to hurt people, so maybe let it go. But if people are going to suffer—as thousands of people have suffered—then we have to take our responsibility more seriously. That is why this is all so disappointing. I recognise the nature of politics and that that is the way it is, and I will not harp on it any further. I think the sunset clause is a good idea because, inevitably, we have seen that once changes are made they are very hard to reverse.

The temporary protection visa introduced in 1999 is not being reversed; it is being extended—not through the Migration Amendment (Excision from Migration Zone) Bill 2001 but through some of the others. We are extending a policy that has already been shown not to work and has already been shown to cause a lot of suffering, but we can only extend it because it was let through in the first place—that is the point I am trying to make. I think I have made it sufficiently, and I will spare the Senate any further quotes from Senator Schacht. He can give us some more material now; I will quote it back at him in another two years, I imagine.

Senator SCHACHT (South Australia) (9.57 p.m.)—I am touched by Senator Bartlett’s quoting of my speech two years ago. I am delighted to see that the Democrats are reading my speeches and becoming more educated about politics and policy. I do not step back from what I said at that time. My main comment about the temporary protection visa was that it was in no way going to discourage boat people from coming to this country—in fact, it would probably encourage them to come. Once they got a three-year visa and got into the community, they had three years to establish themselves in the community—those three years have still not run out for the first visas issued, as I understand it—even though they were supposed to report back in three years and have a reapplication. I look forward to seeing the government’s reaction if it is still in office when these visas run out. They might say, ‘You’re no longer a refugee; we are going to send you back to Afghanistan or Iran.’ These people will have established families, have got jobs and be contributing to the economy in Australia. Will the government send the Federal Police to their house in some Australian suburb, drag them to Mascot airport and put them on a plane? That will not happen: it was just a device for the government to show that it was trying to do something. I think it encouraged rather than discouraged boat people because they worked out that they would at least get three years in the
country and in that time they would establish themselves. We will wait and see.

It was driven at the time—Senator Bartlett is absolutely correct to quote me—by the Prime Minister’s cynical attitude towards migration as a way of getting electoral support, and the Prime Minister has been utterly consistent on this through the time he has been Prime Minister. He was utterly consistent when he was Leader of the Opposition in the eighties, when he raised the spectre that we were having too many Asian migrants. This Prime Minister has been consistent on raising race as a political issue in our community. He has never deviated—we should not be surprised about it.

As for the consistency of my remarks two years ago, they are exactly the same as what I am saying tonight. We are going to let the government have these seven pieces of legislation. We have already had the hilarity of the minister trying to explain to us which islands can be excised and which cannot—and we know that will not work. So let them have their stupid pieces of legislation. Let them explain how they are going to excise an island in Sydney Harbour because boat people might land there.

We have unfortunate issues from time to time in Fiji where there are communal differences between the Fijian and the Indian communities. Some of those people might have to flee from Fiji, come westwards towards Australia and land on islands in the Great Barrier Reef or they might even land on Norfolk Island. They will be able to land there because you have not excised it, because you say it is too difficult to do in this legislation or is too complex. That just shows you the inconsistency about it.

I am pleased that Senator Bartlett quoted me from two years ago. It shows consistency. A former Western Australian Liberal senator, a leader of the Liberal Party in this Senate, opposed a Labor Party referendum in 1974 to have simultaneous elections but when the Fraser government proposed it in 1977 he supported it. Someone at the time pointed out the difference in attitude taken and suggested it was inconsistent. Senator Withers’ response was: ‘Inconsistency is a sign of a small mind in politics.’ I am very pleased to show that I have been consistent in my remarks; it is not a sign of a small mind of mine on this particular issue.

Before I get to the point of saying something on this particular clause, I want to say something about the Prime Minister’s role. I have said that the Prime Minister has been consistent in how he has raised race issues and how he has gone to the bottom of the drawer and the bottom of the barrel to find issues with which to scare people. I quoted the other night in my remarks an excellent article by Phillip Adams. He talks here about you going to the bottom of the barrel and whether you could have got the 90 per cent vote for the 1967 referendum on giving Aboriginals recognition under our Constitution. I quote him:

But I do remember a conversation I had with Faith Bandler on the 30th anniversary of that event—which, of course, was on John Howard’s watch. Bandler sadly observed that, in 1997, a 90 per cent vote would have collapsed. —

That is that in 1997 a 90 per cent vote would have collapsed. The quote continues:

“In fact, I’m not sure the referendum would be passed at all.”

“Are you saying that we’re more bigoted now than we were then?” I asked. There was a pause. “No, but these days bigotry is better organised.”

Unfortunately, this Prime Minister is the personification of organised bigotry on issues of race in this country, and we will continue to expose that.

Senator Ellison—Mr Temporary Chairman, on a point of order: Senator Schacht should withdraw the statement that the Prime Minister is guilty of bigotry. ‘Bigotry’ is unparliamentary.

Senator SCHACHT—On the point of order, Mr Temporary Chairman, I said that he was the personification of organised bigotry. I did not say he was a bigot. I said he was the personification of organised bigotry. I do not think it is unparliamentary.

The TEMPORARY CHAIRMAN (Senator Hogg)—Senator Schacht, I would advise that you withdraw.

Senator SCHACHT—On your advice, Mr Temporary Chairman, of course I withdraw. Now I turn to the amendment. As
Senator McKiernan has quite carefully explained, there are going to be other sunset clauses. For us a sunset clause is not an issue that overcomes the deficiencies of the bill. We have explained the deficiencies. The government have got to accept those deficiencies, they have to live with them and they have to accept the criticism that will come. It is their bill. We are not going to get them off the hook by saying this is a sunset clause. We are not going to go around and say it is, and people have to understand this.

Too often this government gets away with saying, ‘We’ll do certain things and we will allow the Democrats to modify what we’re doing,’ and then say to the people, ‘Let the Democrats hold the balance of power in the Senate and modify things.’ At the last election, I think what got John Howard re-elected because they offered an escape hatch: people could vote for the Liberals in the lower house and give him a second turn knowing that the Democrats were supposed to knock off most of the GST in the Senate. Most ordinary Australians now regret that and are suffering. It has to be stated from time to time that there is a very good point in saying that the Senate is not a complete house of review and governments that get elected in the lower house and seek the mandate have got to live with the consequences of their policies. And this is an example. Not every time will the Labor Party in opposition—because we are the alternative government—say that we are going to be blackmailed by the minor parties who say, ‘You are immoral because you let through crook legislation.’ We are letting crook legislation through.

Senator Ellison—That is not what your leader says.

Senator SCHACHT—We will let this legislation through because as we go through it here, Minister, we have already discovered that you cannot answer our questions. We have improved areas of the bill in many ways, but we will say to the people of Australia, ‘If you do not like this legislation and if you see that more boat people are coming than ever, it is their legislation; it is not the Labor Party’s legislation. It is what they wanted to stop the boat people.’ And they could not stop them. Two or three times the numbers of boat people have come in since they got elected than when we were in office. So they are the ones who are the failures on the boat people—

Senator McKiernan—Five times the number.

Senator SCHACHT—Five times the number of boat people are coming per annum since you got elected. So I have to say to the Democrats that there is a time when you do say—even in this chamber under the house of review rules—that you do not review everything of the government. Let them take some of their own medicine. We have said that there are many aspects to what we want to do to protect Australia from illegal boat people. We introduced measures when
we were in government that people complained were too tough and there were big debates in the Labor Party and the community. We were, and are, committed to protecting our borders, but we are not doing it in the racially discriminatory way the Prime Minister of this country has done, letting loose the worst demons for party short-term reasons.

The TEMPORARY CHAIRMAN (Senator Hogg)—I just remind the chamber that the question before the chair is that Democrat amendment (1) on sheet 2384 be agreed to.

Senator BARTLETT (Queensland) (10.10 p.m.)—It is definitely not about the GST; it is indeed about a sunset clause on the Migration Amendment (Excision from Migration Zone) Bill 2001. I think that Senator Schacht was speaking to the amendment, but it is probably a speech that I will not be quoting back other than in a ‘The most bizarre speeches I have ever heard’ lecture that I might give down the track when good speakers go bad. I think Senator Schacht was basically chastising me for voting against the GST. Under that argument the Democrats should have just said, ‘Oh well, the coalition won. There are times when the Senate just has to step back and recognise that. Let us just let it through and be it on the government’s head.’

Senator Lees—We may as well all go home.

Senator BARTLETT—We may as well all go home.

Senator Schacht—You gave them a scapegoat and allowed Howard to get elected.

The TEMPORARY CHAIRMAN (Senator Hogg)—Order, Senator Schacht! Senator Bartlett, address your comments to the chair.

Senator BARTLETT—Mr Chair, in following Senator Schacht’s example, we should have not only let through whatever percentage you want to suggest—certainly a lot less than 99 per cent—but let the whole thing through. You are letting the whole thing through untouched—unamended. I have some amendments. They do not make the bill perfect—they make it less harsh—but you are going to say, ‘No, let the whole thing through.’ Your argument is that the Democrats should have let the whole GST through. I am glad to hear your comments because I am sure we will now no longer hear the Democrats get a word of criticism from the Labor Party about allowing the GST to pass—because it is the government’s fault, 100 per cent. All the suggestions and criticisms that we have heard for years about our evil cooperation over that will not be heard anymore from the lips of the ALP under the new Schacht doctrine that it is actually the Senate’s role to let the government introduce appalling legislation and to say to the community, ‘You voted for them; you suffer for it.’ They also provide for the Senate and parliament to be elected to assess the government of the day.

I accept that there may be times when, whilst some in this place are not 100 per cent with any legislation that is put up, we say, ‘It is not great but it will do; we will let it through.’ As we did not on the GST because it was such a fundamental piece of legislation—sufficiently fundamental that some of us could not support it at all—similarly you do not do it on legislation that is going to affect people in such a comprehensive way and then just say, ‘We are bereft of any blame.’ You cannot absolve yourself from the responsibility of how you are going to vote in this place. I have to say that you cannot pass something into law that you know is bad, that you know is not going to work and that you know is going to make people suffer—

Senator Schacht—Well, attack the government for goodness sake, not us!

Senator BARTLETT—and say, ‘It is all their fault.’ Of course it is the government’s fault, but it is your fault too. You are going to be sitting together with them over there. You will be sitting together with them side by side—joint responsibility.

Senator Greig—In the same boat.

Senator BARTLETT—In the same boat. It is not a laughing matter! You have to take responsibility. You cannot absolve yourself from the responsibility of where you sit
when the votes are taken, particularly on key issues. Maybe you can on the wool levy bill that puts a wool levy up by one per cent—without being dismissive of wool growers. But, if you are talking about the fundamental issues involved here, you cannot absolve yourself from responsibility, particularly if you are looking—as you have been reminded, I am sure, by email in the last few days—at your own party’s policy. How can you say: ‘We will walk away from our party’s policy on refugees and we will blame the government. We cannot support our policy. It is the government’s fault; they made us do it.’? Come on! You have to have a better reason than that. You cannot expect to escape condemnation for passing hugely bad law. You have condemned the Democrats and you did it again in relation to the GST because you did not support it and you thought it was bad. Can that be argued backwards and forwards, but you are certainly going to continue to do it, despite what I have just suggested, and I am sure that you will continue to do it through the election campaign. You cannot expect not to be criticised for passing something that you yourself have spent the last two hours pointing out just on this one bill is not going to work and is stupid, apart from anything else. This bill is just stupid; the rest of them are far more evil. You cannot expect to absolve yourself.

In a sense, we are providing you with an escape hatch through a sunset clause. I know that you are not going to take it, so I will not keep pushing the issue. But that provides you with a mechanism for saying, ‘Well, we had to let the government do something, it is a crisis.’ I do not believe it is a crisis, but some argue that it is. We have made a mechanism so that it will not stay in place, the bad law will not be there forever and we can guarantee that it will be reviewed. You are walking away from that as well. That is your choice, but you cannot expect to be absolved from responsibility when you vote in this place, just as I cannot be absolved from that responsibility.

We are getting plenty of comments from people attacking us for the stance we are taking on this. I cannot walk away from the position that we are taking and say, ‘Oh well, the government made us do it.’ or, ‘We’re just doing it for political advantage,’ or, ‘We wanted to outflank the ALP,’ or whatever. We are doing it because of the views we are putting forward, but we have to accept responsibility for taking that position, and I guess we will accept the verdict at the ballot box for that. But we may as well not come here if we are just going to say, ‘This one is too hard, we’ll just blame the government.’ Frankly, that is not good enough. We need at least to take a bit more responsibility for what we do in this place, particularly on major pieces of legislation.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.16 p.m.)—Before the debate goes any further, a number of questions were put to me earlier and I endeavoured to get back to the chamber in relation to them. The first was put to me by Senator Cooney in relation to section 123 of the Constitution. The ramifications of that section relate to the alteration of limits of states. Senator Cooney asked what the implications were of this section as far as the government saw them vis-a-vis the proposals that we are putting in relation to the excision of certain places. Section 123, on the advice that I have received, relates to the alteration of limits of states, not necessarily the completion of a part of that state or an internal aspect of a state. It really does relate to the limit of a state, and this in no way affects that. So, if you were to have an excision of a part of a state, it would not affect the limit of the state as contemplated in section 123 of the Constitution. The government sees no problem on that.

The other question put to me by Senator Schacht related to one of those islands in Sydney Harbour. Sydney Harbour comes
under the migration zone and if you were to excise an island within the harbour that island would be surrounded by the migration zone. The situation would be pointless, because any unauthorised arrival coming into Sydney would have to go through a migration zone to get to that excised part. That would trigger the provisions of the Migration Act. That would be pointless, because the waters of the harbour are in the migration zone. The migration zone is defined in the Migration Act and, as I recall, that goes to the low-water mark.

Senator Schacht — Is it the three-mile zone or the 12-mile zone?

Senator Ellison — I will give you a more correct description of it, and that comes from the act itself. ‘Migration zone’ means the ‘area consisting of the states, the territories, Australian resource installations and Australian sea installations’ and, to avoid doubt, includes land that is ‘part of a state at the mean low water and sea within the limits of both a state or territory and a port’.

Senator Schacht — Port Jackson is a port then?

Senator Ellison — Yes — and I stand to be corrected on that. But Port Jackson, if it is a port, would be within the migration zone. So that would make it pointless to excise one those islands in relation to the Sydney Harbour.

I was also asked about the number of unlawful non-citizens in Australia as at 30 June this year. That figure stands at 60,103—a significant figure indeed. I was previously asked about unauthorised arrivals in Australia by air, and I mentioned 1,508 in the last financial year 2000-01. There was a comment earlier that this was on the rise. In fact, when you look at the previous financial year, the figure was 2,106. So, looking over the last two financial years, the number of unauthorised arrivals by air has decreased.

I think that dispenses with the questions that were put to me. Suffice to say that there remain two points for me to make. One is that the government does not support the amendment proposed by the Democrats. We believe that a sunset clause sends a message that people smugglers need to wait merely six or nine months and then they can commence their illegal activities. What we are about here is a long-term solution that will stop people smugglers and unauthorised arrivals. We do not believe that a sunset clause in any way will remedy the situation. The measures contained in this bill are to stop people smugglers from putting people in unseaworthy boats, as I mentioned earlier, and sending them to the nearest piece of Australian territory.

Throughout its stance on this issue, the government has maintained a very clear position, and that is about protecting the sovereignty of Australia’s borders and the integrity of those borders. We believe that this is good law. The Leader of the Opposition, the member for Brand, Mr Beazley, has said that this ‘constitutes a series of good reforms to the Migration Act that strengthen our borders and therefore we support it’. He went on to say ‘as we support the other bills because they strengthen the regime and they do it in a reasonably humanitarian way’. Senator Schacht needs to remind himself of the words of his own leader, because today he certainly is saying something quite different from what the Leader of the Opposition is saying. I have provided the answers now, and I think that that takes care of those outstanding matters.

Senator McKiernan (Western Australia) (10.22 p.m.) — There is one outstanding matter that I do not think the minister has addressed: the matter of the financial impact of the bill. I wonder if there are any more figures on the finances and the costs of the legislation. What is contained in the explanatory memorandum is pretty light on.

Senator Ellison (Western Australia—Minister for Justice and Customs) (10.23 p.m.) — That issue was raised prior to the amendment being put, and we are still addressing that. I was dealing with all of those matters which had been dealt with in the debate relating to the amendment.

Senator Harradine (Tasmania) (10.23 p.m.) — I acknowledge the point made by the Minister for Justice and Customs. In fact, the figures I have got for unauthorised arrivals by air are 2,106 in 1998-99, 1,737 in 1999-2000 and 1,508 in the last financial
year. I might mention that it was certainly not my intention to draw any racial inference in respect of that figure. I would be interested, however, to be advised as to how many of those unauthorised arrivals will have been granted a visa ultimately. Minister, perhaps you could take that on notice. I reiterate that I did not mean—as I think another senator may have implied—any racial inference at all in asking that question.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.24 p.m.)—I never for one moment understood Senator Harradine to be making any racial point about any aspect of this. I will take that question on notice. I might just point out that the Minister for Immigration and Multicultural Affairs today in the other place stated that the vast majority of refugees in Australia over recent years have come from places like Africa, Asia and the Balkans—not, as Senator Schacht would imply, from western Europe or in fact the United Kingdom.

Senator SCHACHT (South Australia) (10.25 p.m.)—What I said, Minister, was those who come and overstay a visa overwhelmingly come from England. They are the biggest group. It has been told to me in estimates committee by your own officials that those who get a visa but do not leave Australia—therefore, they illegally overstay—

Senator Ellison—You said we had a racial preference. You said it.

Senator SCHACHT—No, I said that you do not go around saying, ‘It’s dreadful that there are 60,000 illegal overstays in this country.’ You do not go beating that up at all. I wanted to point out that the people seeking refugee status are quite a different group of people, and they are the ones you are getting whipped up into hysteria about. There seems to be no concern in the government that there are 60,000 people illegally overstaying in this country, overwhelmingly the biggest single group of which, according to what your estimates committee officers told me, come from Great Britain.

Amendment not agreed to.

Senator BROWN (Tasmania) (10.26 p.m.)—I move:

(1) Schedule 1, item 1, page 3 (lines 13 and 14), omit paragraph (e) of the definition of excised offshore place.

This amendment seeks to remove the offending clause in this bill which allows further islands to be classified as out of the reach of the migration laws. I will not go through that debate again. I will ask the minister, as I did before: is Tasmania an island?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.27 p.m.)—You have got to remember that I think I failed geography once. But, yes, it is an island, as I understand it.

Senator BROWN (Tasmania) (10.27 p.m.)—Therefore, we have got the difficulty that any prescribed island—and Tasmania is one of them; we have just heard that from the minister—that forms part of a state or territory can be removed by regulation. My amendment removes that offending clause. I foreshadow that I will be moving a further amendment if the government and opposition do not accept this amendment.

Senator McKIERNAN (Western Australia) (10.28 p.m.)—Minister, I have got a further question of clarification on this matter about excisions. As I read the bill, I see that clause 1 goes (a), (b), (c), (d) and (e), and (e) is:

... any island that forms part of a State or Territory and is prescribed for the purposes of this paragraph ...

I get from (b) that Ashmore and Cartier Islands are indeed a territory. Just south of the territory of Ashmore and Cartier Islands is the Sandy Island and the Scott Reef. People have landed unlawfully on Scott Reef. I ask: are Scott Reef and Sandy Island and the islands contained there part of Western Australia or are they indeed territories? If indeed they are territories, why are they not included within this excision? I notice that the explanatory memorandum, on page 5 under point 9, says:

Examples of islands that could be prescribed for the purposes of paragraph (e) include the islands on Scott Reef and Rowley Shoals (Western Australia).

I ask, and it is a follow-up to the question that Senator Cooney asked earlier, how they
could be prescribed under the terms of the Constitution. Senator Cooney quoted section 123 of the Constitution. He read it out in detail, and I will not delay the Senate by reading it all out but it refers to ‘the approval of the majority of the electors of the State voting upon the question’, the question being ‘to increase, diminish, or otherwise alter the limits of the State’. I think this legislation would be doing that.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.30 p.m.)—For a start, let me say that Ashmore and Cartier Islands are territories in their own right, so that takes care of those. In relation to the question of Sandy Island, Scott Reef and Rowley Shoals, as I understand it, they form part of Western Australia and are not covered by this legislation but could be in relation to subsection (e).

I have said earlier that section 123 of the Constitution is not applicable here because, if they were to be excised from the operation of the Migration Act, it would not be altering the limits of a state as contemplated by section 123 of the Constitution. It would simply relate to the application of the Migration Act. It would not alter the limits of the state of Western Australia; it would simply relate to how particular areas such as Sandy Island, Rowley Shoals and Scott Reef would be regarded vis-à-vis the Migration Act. In no way would it limit the state of Western Australia or alter the limits of the state of Western Australia in accordance with section 123 of the Constitution.

Senator SCHACHT (South Australia) (10.31 p.m.)—I have covered most of the issues I have about this particular clause about excising areas. Senator Brown, you know the opposition will not be supporting your amendment. The government seems to be getting itself into a fair bit of trouble trying to define some of these things. I think it is hilarious in a way—sadly hilarious—that it has a definition that any island of any state can be excised, including Tasmania or anywhere else. I think the points you raise are relevant. It just shows, in a hilariously sad way, the technical deficiencies of this.

Minister, I have a question that you can take on notice if you cannot respond to it now. After the previous discussion we had about Port Jackson, someone anonymously phoned my office claiming to be a migration lawyer. I do not know whether they were or not. You might have a view about migration lawyers. They said that Port Jackson has not been gazetted as an official port for the purposes of the Migration Act. I would like you to take that on notice. On some of these technical questions that are asked, I do not hold people to ransom about misleading the Senate, but I would ask you to double-check that.

You also mentioned the low-water mark. Does the low-water mark include walls, piers or parts thereof that stick out into the water? If they are included as part of the low-water mark, they are in the zone that is covered by the Migration Act. Is that correct? Someone cannot pull up at a jetty sticking half a kilometre out into the sea, way beyond the low-water mark, and be included in the zone for definitional purposes?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.34 p.m.)—In relation to Port Jackson, I did place a caveat on that when I said that if it is a port it would come within the migration zone definition in section 5 of the act.

Senator Schacht—I think the point the person was making was that it was not gazetted.

Senator ELLISON—We will check that out. In relation to piers or similar structures, I point again to the migration zone definition, which includes piers—

Senator Schacht—What page of the act is that on?

Senator ELLISON—This is section 5 of the Migration Act, page 10 of my copy. Under the definition of ‘migration zone’, subsection (c) says:

... piers, or similar structures, any part of which is connected to such land or to ground under such sea.

That would be part of the migration zone. So the pier or jetty going out, as long as it is connected to the land, would be in the migration zone.

Senator GREIG (Western Australia) (10.35 p.m.)—I am not sure whether this has
been covered, Minister; I apologise if it has been. In the context of your previous answer, I am curious as to the legal situation of, for example, gas platforms and oil rigs. What are their rights and responsibilities? For example, what about asylum seekers attaching a vessel of sorts to an Australian owned rig or platform such as those of Woodside, which operates from Western Australia in the North West Shelf and the Timor Sea? What are the legal parameters there and does that relate to this legislation?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.35 p.m.)—The short answer to Senator Greig’s question is that subsection 1(f) mentions ‘an Australian sea installation’. That would cover the offshore rigs that Senator Greig has mentioned.

Senator MCKIERNAN (Western Australia) (10.36 p.m.)—The question I asked about the financial impact statement was actually asked after the amendment was moved. Senator Bartlett immediately preceded me. I did not speak for more than five minutes, so I would have asked the question at about 8.05 p.m. It is an important question because of events that are currently happening as a result of the legislation that is before us. We are aware that the legislation does have retrospective effect and that individuals have arrived unlawfully at Ashmore Reef and Cocos island and have been—to use these words, and I say this without taking advice on it—‘taken into care’ by the government aboard a Navy vessel. There must be some costs to the legislation.

I am aware of the minister’s earlier comment about the cost per day in detention centres in Australia, but we want to move beyond that because we have a new piece of legislation here and it would be helpful to the committee if there was some indication of the cost to the taxpayer of the new regime that is being put in place. I would hope that some estimates have been done on that. There has been notice of some two hours and there was earlier notice given informally that these types of questions would be asked. I repeat the question on the cost because it is happening as we speak, so there is some information under the belt of the government.

People have arrived since the Prime Minister’s statement on 8 September, I think it was, that the territories of Christmas Island and Ashmore and Cartier Islands were going to be excised, and they have now been taken on board a vessel. There must be some costings of what it costs the Commonwealth to have those people aboard the naval vessel which is somewhere off Christmas Island. It would be helpful if we were able to be given some of that information, even if it is at a later hour tonight. There has been notice given.

Senator HARRIS (Queensland) (10.38 p.m.)—I ask the minister: if an Australian naval vessel, subsequent to the passing of this legislation, was to pick up illegal boat people, either within or without our territorial waters, and those people did not have the appropriate visas or documentation, would the migration zone exclusion be sufficient for those people to be dispersed onto one of the excluded territories, and would Australia still not have an obligation to process them?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.39 p.m.)—Senator Harris has outlined two scenarios. I will deal with the first one first. An Australian naval vessel picks up people in international waters who have no travel documents, as I think Senator Harris put it, and then conveys them to an excised offshore place, in accordance with the terms of this bill. Would Australia be obliged to process them under the Migration Act? The answer is no, but there would be processing of them under the UNHCR and, of course, that is under the United Nations provisions, not under the migration law of this country.

The second scenario was that an Australian naval vessel picks up these people in the same circumstances but in Australian territorial waters and then conveys them to an excised offshore place. What would then happen? I am advised that the provisions would be the same, in that the Migration Act would not be triggered and that they would be processed in accordance with the UNHCR’s guidelines.

Senator HARRIS (Queensland) (10.41 p.m.)—I thank the minister for that answer because that is the actual nuts and bolts, if
you want to use that terminology, of the legislation. If a person enters, whether it is by means of an illegal vessel or, for that matter, if another captain of an international ship answers a distress signal and picks them up we do not want to have the same situation we have gone through with the MV *Tampa*. I thank the minister for the clarification that it is the fact of entering into that exclusion zone without the applicable visas or documentation that excludes them from being able to apply for a visa within Australia.

Senator McKIERNAN (Western Australia) (10.42 p.m.)—To follow on from Senator Harris’s question on the nuts and bolts of the legislation, if they are processed under the UNHCR guidelines, by whom are they processed? That is the question. Who processes them in those circumstances? The other question is the one that I have asked now twice, probably three times, about the financial impact statement. On the last occasion, I asked the question and the minister just sat in his seat. I do not know if there is no answer forthcoming. If an answer is unavailable now and could be given tomorrow, obviously I am prepared to wait on that but I am not prepared to just accept that no answer be given at all. There must be some explanation, there must be some detail as to the financial impact of this piece of legislation. The legislation has been public now for some days. Apart from it being public for some days, it has had a gestation period, so there must be some knowledge within the department, within the government, within the Prime Minister’s office, of the financial cost to it. Apart from that, there are people on board a naval vessel in the Christmas Island region and there must be some indications from that such that some costing is to be given to the committee and the Senate. I am not prepared, although I support this legislation, to allow the minister to sit there and not give some form of response to the question about the financial impact.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.44 p.m.)—This has been laboured by Senator McKiernan. I have said I would take it on notice. In his initial question, Senator McKiernan referred to the other bills that are before the Senate as well. We have seven bills here and of course there are costs which change from day to day because there is an ongoing cost which is being incurred. This is being assessed and I have taken the question on notice. We can do no more than that. We will get back to Senator McKiernan as soon as possible. The processing, in accordance with the guidelines of the UNHCR, would be done by either United Nations officials or Australian officials, as the case may be. It would depend on the circumstances of who was there at the time.

Amendment not agreed to.

Senator BROWN (Tasmania) (10.45 p.m.)—I move:

Schedule 1, item 1, page 3 (line 13), after “Territory”, insert “except Tasmania”.

This amendment would add to subsection 5(1)(e) the words ‘except Tasmania’ after the word ‘Territory’. It riles me that the minister wants to excise Tasmania for any purpose, even in so much as his immigration legislation, or to potentially expose it to that. I know the minister is going to say, ‘That will not happen.’ I have been around long enough to know that when you legislate you do so to cover all circumstances, particularly where there is the potential for ministerial edict when parliament is not sitting. To not do so is to be derelict, to say the worst, or sloppy, to say the best. Legislation should say what it means. If the minister does not mean to include Tasmania, he should accept this amendment because it does not change the rest of the intent of this subclause. I commend very strongly that amendment to the chamber.

I note that we do not have any Labor Tasmanians here. Maybe they are busy securing what they can of Tasmania before it gets a change of status. I put it to my Labor colleagues on this side of the chamber to think very carefully about this. This is an amendment which should go forward and should be exempted from the mantra that we will do anything the government does: we are not going to depart from them at all. This is shoddy legislation and it will be on the government’s head. I do not quite see it that way.

Honourable senators interjecting—
Senator BROWN—I am not just tempting the opposition here; I am appealing to the opposition. I note that there are no coalition senators from Tasmania in the chamber. They can be quite ferocious in defending Tasmania, except when Mr Howard comes up with a piece of legislation like this. This legislation is unfixable but its excesses should be at least plugged. On this occasion, the potential for Tasmania to be treated with the disdain with which this legislation treats it should be removed.

Senator SCHACHT (South Australia) (10.48 p.m.)—Senator Brown, you are moving that amendment to page 3 of the bill, subsection 5(1)(e). What about subsection 5(1)(e) at the top half of the page? You are moving both of them?

Senator Brown—Yes, that is right.

Amendment not agreed to.

Bill agreed to.

MIGRATION AMENDMENT (EXCISION FROM MIGRATION ZONE)(CONSEQUENTIAL PROVISIONS) BILL 2001

The bill.

Senator BARTLETT (Queensland) (10.49 p.m.)—I move:

(1) Page 2 (after line 28), after clause 4, insert:

5 Expiration of Act

This Act ceases to be in force on 1 July 2002.

This amendment is the same amendment to each of the bills. It is a sunset clause, which I have spoken about at length. Given that we will have our debate on this truncated at some stage tomorrow, I will not repeat the arguments. Suffice it to say that the consequential provisions bill that we have now moved on to, which obviously links to the Migration Amendment (Excision from Migration Zone) Bill 2001 that we have just dealt with, in my view, is far more pernicious and far more dangerous. That is why I have a lot more amendments to it. As I get to those amendments, they will enable me to outline some of the significant problems that I and the Democrats have with the bill. At this stage, I will move amendment No. 1. Given we have already had the arguments, I will not repeat them now.
Just to be clear about this power, under the act, 'officer' can mean an enormous number of people. It can mean an officer of the department, an officer for the purposes of the Customs Act, a protective services officer for the purposes of the Australian Protective Services Act, a member of the Australian Federal Police or of the police force of a state or an internal territory or a member of the police force of an external territory, or any other person authorised by the minister by notice published in the Gazette or a member of the Australian Defence Force under subsection 5 of this part. That is my reading of the number of people who can be classed as being an officer. So a fair few people will have this power. In our view that power should be limited in some way by a time limit, and that is the rationale behind these amendments.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.54 p.m.)—The government opposes amendments that would limit the period of detention in an excised offshore place to a maximum of 14 days. The government believe that what you would have here is a more preferred situation in relation to an excised offshore place as compared to the mainland of Australia. The major purpose of the provisions of this bill is to discourage unauthorised arrivals from seeking to enter through the nearest piece of Australian territory. Having a short time limit for detention at these places would encourage unauthorised arrivals as there would be a more beneficial regime in place than on the mainland of Australia, because you would have a 14-day limit in relation to these excised offshore places as opposed to the mainland of Australia. In any event, we believe the period is too short in which to identify unauthorised arrivals and assess their claims or to carry out any security checks. For that reason, and because of the fact that it would differentiate between the regimes for detaining someone in an offshore place as opposed to the mainland, the government is totally opposed to these amendments.

Amendments not be agreed to.

Senator BARTLETT (Queensland) (10.56 p.m.)—by leave—I move:

(1) Schedule 1, item 6, page 4 (after line 23), after subsection (3), insert:

(3A) The Minister must not make a declaration under subsection (3) in respect of a country unless that country:

(a) is a party to:

(i) the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly of the United Nations on 10 December 1989; and

(ii) the International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations on 16 December 1966; and

(iii) the Refugees Convention as amended by the Refugees Protocol; and

(b) has entered into an agreement with Australia to admit the persons concerned.

(2) Schedule 1, item 6, page 4 (after line 23), after subsection (3A), insert:

(3B) The Minister’s power to make or revoke a declaration under subsection (3) includes the power to make or revoke a declaration in respect of specified persons seeking asylum.

(3C) In making a declaration under subsection (3) in respect of specified persons seeking asylum, the Minister must take into account any information provided by those persons that a declared specified country does not or will not, or is unlikely to:

(a) provide access to those persons to effective procedures for assessing their need for protection; or

(b) provide protection to those persons, pending determination of their refugee status; or

(c) provide protection to those persons, pending their voluntary repatriation to their country of origin or resettlement in another country; or

(d) meet relevant human rights standards in providing protection to those persons.

These amendments relate to the power under the bill for offshore entry asylum seekers in the excised territories to be sent to a declared safe country. They can only be sent to that
country that the minister declares to be safe. Such a ministerial direction is not subject to review in the courts. The minister is not required to take into account the fact that a country may be safe for some or most refugees or asylum seekers or protection claimants or whatever, but not all. These amendments provide that the minister may only make a declaration that a third country is safe for the purposes of the act if, firstly, that declared safe country is a signatory to relevant international human rights treaties; and, secondly, the country has entered into an agreement with Australia to admit the persons concerned. The amendments further provide that the minister must take into account any information provided by asylum seekers that indicates that, if taken to the third country, they would not be treated in accordance with appropriate human rights standards.

These amendments seek to put in place at least some safeguards. They represent a move away from the common theme which runs through many of these bills that basically says, ‘The minister has the total power and we cannot have any legal oversight of what he does. If he determines that a country is safe, it is safe and that is all there is to it.’ I do not think that that is an adequate protection. We are putting in place here some adequate protections and we believe that that at least provides some benefit and some oversight and some criteria that must be used.

The government and the minister of the department will always say, ‘We will put in place administrative guidelines that will ensure that nobody will be at risk and it will be safe,’ and all this sort of thing. But that, again, is parliament handing over unrestrained power to a minister. I am not casting aspersions or reflecting on the current minister, who may give all the guarantees in the world that he will use this power properly; however, he cannot bind a future government and a future minister who may misuse this power. That is why we do not give ministers open-ended powers. That is why we put some constraints on them, whether it be legal oversight, right of appeal or some sort of legislative boundaries within which that power must operate beyond just the minister’s personal opinion. The need to move amendments like this highlights the arbitrary nature of the legislation as it currently stands. That is why these amendments are important—to at least somewhat ameliorate that flaw.

Senator SCHACHT (South Australia) (10.59 p.m.)—I wish to clarify provision 198A of the new bill—‘offshore entry of persons may be taken to a declared country’—as compared with existing provision 198—‘removal from Australia by unlawful non-citizen.’ Is what can happen to a person taken from an excised zone different from what can happen to a person taken from Australia? I have not had a chance to look at this in detail. Are the provisions for the treatment of people in those two circumstances the same or is the treatment more draconian when a person is detained in an excised zone when the minister declares that you have to go back to where you came from? You have, I suspect, less rights, but there is more power given to the government to remove you under that new section—applicable to the excise zone—than there is under the existing provision. What is the difference between the two?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.01 p.m.)—I can give to Senator Schacht a part answer and a further aspect to the answer will be given shortly. I understand that the appeal mechanisms are not the same for someone who is in an excised place as opposed to someone who is on the mainland. There is one point of difference. There may well be other points of difference and we will take that on notice and get back to you shortly.

Senator SCHACHT (South Australia) (11.02 p.m.)—Paragraph 3 states:

The Minister may:

(a) declare in writing that a specified country:

(iv) meets relevant human rights standard in providing that protection.

So that means that, if the minister declares that the country meets relevant human rights standards, that person can be returned to that country. Is that correct?
Senator Ellison—Yes.

Senator SCHACHT—Are there going to be regulations or guidelines written for the minister as to how he should make that declaration? Senator Bartlett has raised the issue that countries have signed the appropriate United Nations human rights conventions as a guide. Unfortunately, we know that a number of the countries that have signed those conventions do not meet what we would consider reasonable human rights standards in the practise of human rights in those countries. What are the guidelines for the minister? I am concerned with what would happen if the minister said, ‘We have got 30 people from Burma detained on Ashmore Reef. Burma is okay; it has signed some UN convention’—I don’t think Burma has actually; it may have but it is not carrying it out—‘therefore we can return them to Burma forthwith.’ They will be returned to Burma and they might well end up in a pretty sticky situation, to use the Australian vernacular. What are the guidelines for the minister in declaring which country meets relevant human rights standards?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.04 p.m.)—There will be consultation between the minister and the UNHCR in relation to those countries in question that you have raised. There will be no guidelines, as I understand it.

Senator SCHACHT (South Australia) (11.04 p.m.)—I want to think of a really bad country. Let us use Somalia as an example where there is, by all accounts, a reasonable level of anarchy. The UNHCR may say, ‘Somalia’s human rights situation is terrible. We don’t think anyone should be returned there.’ I presume the minister still has the power to say, ‘Despite what the consultation is with the UNHCR, I am directing that they be sent back because I am going to declare that they do have relevant human rights standards.’ Even though there might be a bit of a blue about that in Australia, does the minister still have the power?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.06 p.m.)—I say at the outset that it is not intended to fool anyone or send them to countries that are not safe or to countries that are not willing to take the people in question. We do send people back to Somalia, and that has been done in consultation with the UNHCR. I know Senator Schacht was trying to look for an example which was applicable. The intention is not to refoule anyone or send them to countries that are not safe or to any countries that will not take the people concerned. The minister would definitely consult with the UNHCR.

Senator SCHACHT (South Australia) (11.07 p.m.)—It is not in the legislation. Can we take as a commitment from the government that under this provision the minister will consult with the UNHCR representative before someone is sent back to a particular country?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.07 p.m.)—Yes. That commitment can be made.

Senator HARRIS (Queensland) (11.07 p.m.)—I seek clarification from the minister. The bill that we are discussing is a bill for an act to make consequential provisions for dealing with unauthorised arrivals in places excised from the migration zone. Minister, if a person arrives and landfalls either on the mainland—and so we are not excluding Tasmania, we will include Tasmania in this question as well—or Tasmania without the appropriate visas or applications, how would this legislation then exclude them from accessing the migration legislation?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.08 p.m.)—The short answer is that this proposed legislation would not exclude those people from the Migration Act. If they landed on the mainland, albeit unlawfully, that would trigger the provisions of the Migration Act.

Amendments not agreed to.

Senator BARTLETT (Queensland) (11.09 p.m.)—I now move to Democrats amendment (3) on sheet 2395, which is actually to oppose schedule 1, item 7. The point that has been made by the last question is interesting because it does highlight that we are actually setting in place a completely separate and discriminatory regime for people, depending on which bit of Australia they
They have a different set of rights, a different set of legal entitlements and a different set of protections. You have to ask, as you always do when you start going down that path: where does it go next? Does it come on to the mainland?

There is nothing, once we have set this precedent of excising certain bits, to prevent bringing in another bill and excising parts of the mainland—or getting the whole mainland out. Why not? Leave nowhere; remove the power altogether. Once it is in place—and I have made this point before with another aspect of these bills—you tend not to wind them back; you tend to push them further and further. When these bills do not work—as they will not—in dealing with the numbers of asylum seekers, then the response will not be, ‘They did not work. We’ll scrap them.’ The response will be, ‘We need to push them further.’ I can see that one of the next steps will be increasing the area excised and increasing the number of people this much more inadequate regime—there is plenty wrong with our current system—will apply to. I think it is an important point to keep in mind.

Moving on to the section that the Democrats are opposing—and I note the Greens have the same suggestion in their amendments—and this is an interesting one. The bit we have just dealt with is the bit that basically says the minister can send anywhere—to any country. All he has to do is declare in writing that it is a specified country in his opinion. You cannot challenge that; that is beyond appeal. Now we move to the good one:

... proceedings against the Commonwealth may not be instituted or continued in any court:

(a) proceedings relating to an offshore entry by an offshore entry person;

(b) proceedings relating to the status of an offshore entry person as an unlawful non-citizen during any part of the ineligibility period;

(c) proceedings relating to the lawfulness of the detention of an offshore entry person during the ineligibility period, being a detention based on the status of the person as an unlawful non-citizen;

(d) proceedings relating to the exercise of powers under section 198A—

That last one is the power we have just given the minister to basically declare somewhere safe and to trust him on that.

All of that, particularly the exercise of the ministerial power and the lawfulness of detention, cannot have any proceedings instituted in relation to it in any court against the Commonwealth. And ‘the Commonwealth’ means any officer of the Commonwealth or any other person acting on the behalf of the Commonwealth. I read out the definition of what an officer is under the act: there are a hell of a lot of people who can be officers of the Commonwealth under this act. All of them will be exempt from proceedings against the Commonwealth in any court. And this section has effect despite anything else in this act or in any other law.

It reminds me quite a lot of that pernicious, appalling and disgraceful Border Protection Bill 2001 that we were thankfully throwing out of this place three weeks ago—although I do wish that the opposition had taken up the six-month sunset clause option at that time, in retrospect!

Senator McKiernan—Did you offer it?

Senator BARTLETT—The Prime Minister offered it. Mr Howard offered it himself. That same parallel component—very brilliantly slammed by many opposition members just a few weeks ago in relation to the Border Protection Bill—putting the minister and officers of the Commonwealth above the law in relation to detention and in relation to where you can send people is in this bill. It is pretty fundamental stuff. It gives very extreme powers. Basically, in the Democrats’ view you do not give people powers like that, except in the most extreme circumstances, without some form of accountability, some form of redress. There is none here. If there is, I would be absolutely thrilled if the minister could point to it.

All we have is the belated recognition—which is only a recognition of reality; it is not a concession—that nothing in the section affects the jurisdiction of the High Court under section 75 the Constitution. If it did, it would be unconstitutional anyway, so it is redundant phrase. It is hardly an improvement in any way on the Border Protection
Bill—the original one—which did not contain that phrase, because if it did impinge on that it would automatically be unconstitutional. This is a very dangerous provision which will affect thousands of people, probably straightaway. It will affect hundreds of them straightaway in terms of not having any protection in law in relation to how they are treated by officers of the Commonwealth. It is in no way a slur on officers of the Commonwealth to say that they should not be given that absolute power. We all know the saying about what absolute power does.

Senator SCHACHT (South Australia)  (11.14 p.m.)—Minister, is there any way that a person from this excised area could take an action through an international court to which we are committed by various treaties—for example, any of the UN treaties? If someone cannot launch it in Australia because they are not in Australia and they are prohibited from Australia, can they go to an international jurisdiction under the United Nations and seek some action at such a hearing? Although they might not get material remedy in damages, they might get at least some publicity that might not be overwhelmingly favourable to Australia.

Senator ELLISON (Western Australia—Minister for Justice and Customs)  (11.16 p.m.)—I understand that there would be an avenue available for an appeal to the United Nations Human Rights Committee, but I do not say for one minute that that would be successful. We say we do comply with the relevant conventions and that Australia is indeed observant of these conventions, especially the refugee convention. But that avenue of appeal to the United Nations Human Rights Committee is certainly available to a person in the situation that you have described.

Senator SCHACHT (South Australia)  (11.16 p.m.)—If the person were successful in that avenue and the government defended the case and lost, would the government accept the decision, which may be a direction that the person be granted residency status in Australia?

Senator ELLISON (Western Australia—Minister for Justice and Customs)  (11.17 p.m.)—That is a hypothetical question as to what the government might or might not do in a given situation. It is not binding on the Australian government, but of course the government would reserve its decision and it would depend on the circumstances.

Senator SCHACHT (South Australia)  (11.17 p.m.)—Can the person who disputes they were in an excised zone take the case to an international court and say they were wrongly apprehended, detained, when they were actually not in an excised migration zone? They may be telling lies or they may be correct. Could someone say that they were wrongly apprehended in the excise zone and take that case to that international tribunal?

Senator ELLISON (Western Australia—Minister for Justice and Customs)  (11.18 p.m.)—My advice is that that would not be possible, because an international tribunal would not concern itself with a domestic law and an interpretation of a provision relating to domestic law. Only international law and conventions would be applicable. That would be the purview of the international tribunal, not domestic interpretation.

Senator SCHACHT (South Australia)  (11.18 p.m.)—I have another question on the same point. You might say there are very few well-meaning lawyers left in the profession, but there are some. I say that because the front bench of the Liberal Party in this Senate is full of lawyers, and they are all members of one union, the best of the best, with the AMA, the most powerful trade union in Australia—the law societies of the various states. Could any well-meaning or altruistically minded lawyer take any case, even if the person was not in the country, to any court in Australia on behalf of the person who provided the material?

Senator ELLISON (Western Australia—Minister for Justice and Customs)  (11.19 p.m.)—It is handy to go back to the clause, because it says:

(1) The following proceedings against the Commonwealth may not be instituted or continued in any court:

(a) proceedings relating to an offshore entry by an offshore entry person ...
Senator Schacht is saying that if you could get—

**Senator Schacht**—No, I am asking; I am not saying. I just want to find out.

**Senator Ellison**—He is saying, ‘If you had a lawyer in Australia, could they conduct this case?’ The question of where the lawyer is makes no difference, because the question is whether the person has locus standi. In relation to clause 494AA(1)(a), ‘proceedings relating to an offshore entry by an offshore entry person’, those proceedings cannot be conducted. So, even if they could get the lawyer, they would not be able to get around (1)(a).

**Senator Brown** (Tasmania) (11.20 p.m.)—Just relating to that sentence, ‘proceedings relating to an offshore entry by an offshore entry person’, what would be the proceedings relating to an offshore entry by a person who was not an offshore entry person?

**Senator Ellison** (Western Australia—Minister for Justice and Customs) (11.21 p.m.)—I had best make it clear, first, as to what Senator Brown is saying. I understand Senator Brown is saying: can a person who is not an offshore entry person make an application in relation to an offshore entry?

**Senator Brown**—No.

**Senator Ellison**—Perhaps Senator Brown could repeat that.

**Senator Brown**—Yes, that will do.

**Senator Ellison**—I do not see where that person would have the connection to the offshore entry. I have just been assisted by one of the officials, who has given me the definition of an offshore entry person:

- offshore entry person means a person who:
  - (a) entered Australia at an excised offshore place after the excision time for that offshore place; and
  - (b) became an unlawful non-citizen because of that entry.

If you were not in that category, why would you be needing to make an application in an offshore entry? As I understand it, you do not have the action at hand because you do not come within that definition. I fail to see the point of the question, with due respect to Senator Brown. Perhaps he could explain it further.

**Senator Brown** (Tasmania) (11.22 p.m.)—I just fail to see the point of using the term ‘offshore entry’ twice in the same sentence.

**Senator Ellison** (Western Australia—Minister for Justice and Customs) (11.22 p.m.)—You have the entry, the act itself, and then the person concerned. The terms ‘offshore entry’ and ‘offshore entry person’ do not militate against each other. You have a clarification because you have a definition of ‘offshore entry person’. The person has to come within that definition, for a start, to be included under that subsection. You also have to have proceedings relating to an offshore entry. I think you have to have it that way, Senator Brown.

**Senator Brown** (Tasmania) (11.23 p.m.)—I think it might have been a little more dense still if we had had ‘offshore proceedings relating to an offshore entry by an offshore entry person who had come from offshore’! That might have really hammered it down! It is just unnecessary language.

Before we come back to the amendments that the Greens and Democrats have moved to prevent people’s legal rights being removed in the way that this legislation aims to do, I would like to ask the minister something on a related matter. Can the minister acquaint the Senate with the provisions under current law or government policy which allow persons of a certain wealth to come into Australia? What are the wealth provisions that guide the immigration authorities in allowing a person to come into Australia? Secondly, what is the government going to do with those offshore entry persons who are now on Nauru or who will be in New Zealand and who are not accepted for immigration to Australia?

**Senator Ellison** (Western Australia—Minister for Justice and Customs) (11.25 p.m.)—In relation to the last part of Senator Brown’s question as to what would happen to people in Nauru or New Zealand who are found to be refugees, I understand that third country settlement would apply there. I will get further details on that. In relation to the
business class visa—I think that was the previous part of Senator Brown’s question—could Senator Brown clarify that?

Senator Brown—Wealth.

Senator ELLISON—The provision is quite complex in relation to wealth. We will take that question on notice and we will get back to you, Senator Brown. We will have it for you shortly.

Senator BROWN (Tasmania) (11.26 p.m.)—I appreciate that. I also want to ask the minister about all the asylum seekers—not just those who get refugee status and therefore come to Australia—who are currently in Nauru, aboard ship or going to New Zealand. What about those who have their refugee status rejected? You indicated that they would go to a third country. Which third country has agreed to take them?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.26 p.m.)—I will clarify what I said: third country settlement would apply to those who are found to have refugee status. For those who are found not to have refugee status, it would then be a question of finding them an alternative country that would accept them. That is a different question because they would not then be refugees. I have received further information regarding third country settlement. I will get further details for Senator Brown shortly, but I understand that the UNHCR would be handling the process at that point in time and it would be a matter for them to handle.

Senator McKIERNAN (Western Australia) (11.27 p.m.)—I want to follow up on a question that Senator Schacht asked earlier in relation to the provisions contained in 494AA and the response by the minister about individuals having access to the United Nations Human Rights Committee. I have an understanding that, to access the UN Human Rights Committee, an individual would have to have exhausted all of the domestic appeal provisions available to them. If I am correct in that statement, wouldn’t it then mean that an individual would have to access subclause (3), which states:

(3) Nothing in this section is intended to affect the jurisdiction of the High Court under section 75 of the Constitution.

Will that subclause be an effective bar to access to the United Nations Human Rights Committee?

While I was researching that question, I had a look—because of what Senator Bartlett had to say about the previous Border Protection Bill, which was defeated—at the previous Border Protection Bill to see whether or not it would have been better than this legislation in maintaining the provisions on the bar on certain legal proceedings contained in the bill. I can assure you, Senator Bartlett, that the individuals would have been no better off in the 40 or so words that were contained in clause (7) of that bill. There were two paragraphs, 40-odd words and no mention at all about the High Court of Australia or section 75 of the Constitution, which again just proves how correct this chamber was in tossing out that legislation some three weeks ago. That matter has been addressed in the new bill before us now. Could the minister respond to that question about access to the UN Human Rights Committee?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.30 p.m.)—As I understand it, in this instance subsection (3) allows access to the High Court under section 75; its original jurisdiction. That, in the normal course of events, would have to be exhausted before going on to the human rights committee. However, the question is that it is not necessarily arbitrary in that way because the government would have to take the point if someone did it in the reverse order—that is, if someone went to the human rights committee first. That would be a question for the government to decide on when or if that arose. But in the normal course of events, yes, you have to exhaust that domestic avenue first and then go to the United Nations Human Rights Committee. But if you did it in reverse order, as I understand it, you are not automatically excluded if you have not gone through the process I have described; it is only if it is raised by someone like the government, who would be a respondent to the application.
Senator BROWN (Tasmania) (11.31 p.m.)—I refer to the Constitution at chapter III and two sections there to begin with, firstly section 75, which is the original jurisdiction of the High Court. It says here:

In all matters—
(i.) Arising under any treaty:
... the High Court shall have original jurisdiction.

I ask the minister: does that stand in relation to such treaties as the International Covenant on Civil and Political Rights and indeed the international covenant on refugees?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.31 p.m.)—It does apply. Can I say, in relation to Senator McKiernan’s previous point, a point that I should have covered, that section 75 of the Constitution was not excluded by the previous Border Protection Bill.

Senator BROWN (Tasmania) (11.32 p.m.)—The minister is wrong in that. The previous Border Protection Bill said that there shall be no access to any court in Australia. That includes the High Court. What he is meaning to say is that, late at night a couple of weeks ago, the Howard government tried to get away with overriding the constitutional provisions which I am referring to here. It is interesting to see that, the government having been nailed on that effort to override the Constitution without the permission of the people, there is now an explicit reference in this piece of legislation that says:

(3) Nothing in this section is intended to affect the jurisdiction of the High Court under section 75 of the Constitution.

So I ask the minister: is that the case when section 75 says:

In all matters—
(iii.) In which the Commonwealth, or a person suing or being sued on behalf of the Commonwealth, is a party:
... the High Court shall have original jurisdiction.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.33 p.m.)—I fail to see the problem that Senator Brown has in relation to this. The original jurisdiction of the High Court was not displaced by the previous Border Protection Bill, nor could it be. That is the point: it was not displaced, and it could not be in any event. So the concern that Senator Brown has is misplaced.

Senator BROWN (Tasmania) (11.33 p.m.)—Let us be clear about it because it is a big concern. The relevant section in this bill of the government’s says that the following proceedings against the Commonwealth ‘may not be instituted or continued in any court: (a) proceedings relating to an offshore entry by an offshore entry person’ and so on. Then it further says:

(3) Nothing in this section is intended to affect the jurisdiction of the High Court under section 75 of the Constitution.

Because this is a very important Hansard record we are laying down here, I ask the minister: is it the case that not only is it not intended but in effect nothing in this new legislation in any way trammels section 75 of the Constitution in that people will have, within the borders of Australia, in all matters where they have a complaint against the Commonwealth—and that means an officer of the Commonwealth—access to the High Court?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.35 p.m.)—I need to finally put this to bed, and that is a place to which we should all be heading soon.

Senator McKiernan—Not together!

The TEMPORARY CHAIRMAN (Senator Calvert)—Order!

Senator ELLISON—You can tell the hour is getting late. This subclause, which is causing Senator Brown so much trouble, was inserted to make it absolutely clear that in no way was it intended to displace section 75 of the Constitution, nor would it. Previously there were concerns raised, in relation to the Border Protection Bill, that the original jurisdiction of the High Court was dispelled or displaced. In view of that concern, which was a misplaced concern, in this particular bill it was thought wise to put it in and state the obvious.

Senator HARRIS (Queensland) (11.35 p.m.)—I would like to draw the chamber’s attention to the first section of the Constitution, which says very clearly:
WHEREAS the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown of the United Kingdom of Great Britain...

Our Constitution is predicated on the basis that we are citizens of that Commonwealth. The rights that are attainable under this Constitution are available to Australian citizens, and that has to have standing, otherwise the situation we are creating here is that, even if an Australian citizen breaks a law, under this Constitution they can still claim standing and the rights of the law that they have broken.

It is a nonsense. You cannot have standing in a court in relation to a matter where you have broken the law that you are claiming to have standing under. These people have clearly entered Australia; they are non-citizens. They are not entitled to the rights that the Constitution gives us as Australian citizens. Therefore, they do not have standing. They have the rights that are attainable to them as a result of Australia's responsibilities to United Nations treaties, but they cannot claim to have a right of standing, because the only people who have that are the people who are named at the front of the Constitution.

Senator BROWN (Tasmania) (11.38 p.m.)—Well, God help our Western Australian citizens because they are not named there. One Nation would presumably exclude them to start off with. These people have clearly entered Australia; they are non-citizens. They are not entitled to the rights that the Constitution gives us as Australian citizens. Therefore, they do not have standing. They have the rights that are attainable to them as a result of Australia's responsibilities to United Nations treaties, but they cannot claim to have a right of standing, because the only people who have that are the people who are named at the front of the Constitution.

Senator McKIERNAN (Western Australia) (11.39 p.m.)—While the minister is taking some advice, I have to comment on that little bit of gobbledegook from Senator Harris. It is obvious that he knows very little of the Constitution, and it is probably to his advantage that Senator Cooney is not in the chamber at the moment because Senator Cooney does in fact know quite a deal about the Constitution. The point has already been made by Senator Brown about Western Australians in the Constitution. That was not mentioned by Senator Harris on the way through. Senator Harris omitted a whole body of people from his contribution. It is not only citizens who have rights and entitlements in this country; there are of course permanent residents in this country or lawful residents who are not citizens of this country.

Of course, he is absolutely wrong as well about those people who arrive unlawfully on our shores, because they have a right to go to the High Court of Australia. Not only do they have a right but also they have exercised that right on a whole number of occasions. That is part of what is dealt with in other legislation that will be before this chamber tomorrow when we consider the Migration Legislation Amendment (Judicial Review) Bill 1998 [2001]. Part of the reason why the judicial review bill is before the chamber is that a whole host of unlawful non-citizens, persons who have arrived illegally on these shores, have accessed the courts—the Federal Court and indeed the High Court of Australia—and there are a number of leading cases which have been quoted and probably will be quoted when the debate on that legislation is held tomorrow.

Of course, the Parliament may make laws conferring rights to proceed against the Commonwealth or a State in respect of matters within the limits of the judicial power.
think it is, which deals with class actions, which again is where a number of unlawful non-citizens have taken action in our courts, including our High Court—by their right to do so, Senator Harris. I hope that tonight has not been a complete waste for you and that you have in fact learned something by sitting here and making that very ill-informed contribution to the debate.

Senator HARRIS (Queensland) (11.42 p.m.)—Starting with Senator Brown’s comment: if he took the time to read section 3 of the Constitution, he would clearly understand—and I will quote—‘if Her Majesty is satisfied that the people of Western Australia have agreed thereto, of Western Australia, shall be included’ in the Federation.

The TEMPORARY CHAIRMAN (Senator Calvert)—The question is that schedule 1, item 7, stand as printed.

Senator BROWN (Tasmania) (11.42 p.m.)—Chair, I hear your question, but my earlier question to Senator Ellison related to section 78 of the Constitution, which says that the parliament may make laws conferring rights to proceed against the Commonwealth. I asked him where in the Constitution it says that this process tonight is legal—that the parliament may take away rights to proceed against the Commonwealth, which is what the particular bill that we are dealing with does.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.43 p.m.)—I think you also have to look at section 76, which talks about the parliament conferring original jurisdiction on the High Court in any matter, and look at how the parliament clothes the court with jurisdiction and how it can define that jurisdiction—and that is also mentioned in section 77. The question of conferring a right to proceed against the Commonwealth can be defined equally. It is not a question of taking something away; it is a question of placing limits on conferring that right to take proceedings. What we are saying here is that we have not offended section 75 of the Constitution—which you cannot. We have said that very clearly. But, insofar as you can go further into other areas, we are saying that we are not conferring rights in relation to other matters, to other avenues of appeal. You are allowed your basic avenue of action in relation to the original jurisdiction of the High Court, but we are simply not conferring rights in relation to other matters. It is a question of nonfeasance as opposed to misfeasance. It is not conferring. It is not a question of taking something away; it is a question of non-conferral.

Senator BROWN (Tasmania) (11.45 p.m.)—That is not so. It is a very clear case of taking away the rights of people. When you look at the legislation, it is aimed not only at doing that but also at doing it on a certain date. The minister earlier in the evening even told us that—that, as of a date in August, people cannot take proceedings under the suite of legislation that has come in here. I put to the government that this legislation is very specifically aimed at reducing the rights that people have in taking court action against the Commonwealth. Maybe this will be tested a little further down the line. But I counsel the government to take the Constitution seriously and not to play with it. That is what is happening here: the government, for political reasons, wants to infringe upon the Constitution and the guarantees that it gives to Australians in the very important matter of being able to take legal action against a Commonwealth officer who has done the wrong thing. There is a very complicated legal history on this very matter, but that is not for me to go into here. I am simply saying that it is obvious to me that here there is a prima facie case that a licence against the Constitution is being taken by the government—and the government should not be doing that.

Mention was made earlier to letters being received from various people in the legal community in the area of human rights saying that this suite of legislation infringes a number of covenants to do with human rights, refugee rights, political rights, civil rights and, indeed, the rights of the child which our nation is party to. If other nations were to do what this government is doing, we would be well on our way to creating a complete change in the way the community of nations works to give harbour and succour
to those people who are desperate and who are fleeing persecution and places of fear—nearly always their homelands, which they do not want to leave. Here we have legislation which says, ‘Well, if you come to Australia, we are going to remove your rights to go to the court if you are dealt with, in your view, wrongly by a Commonwealth official.’ I am saying here that the Constitution indicates, at least inherently, that you may not do what is being done here. It specifically says that this parliament can confer rights on people proceeding against the Commonwealth, but nowhere does it say that you can take away rights—and that is what this legislation is doing.

The TEMPORARY CHAIRMAN (Senator Calvert)—The question is that schedule 1, item 7 stand as printed.

Senator BROWN (Tasmania) (11.48 p.m.)—Is Senator Ellison going to respond to what I have just said, or has the government gone silent because there is no defence to what I am putting?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.48 p.m.)—I think I have explained it. The fact is that it is a question of limiting the conferral that you have given. It is not a question of having to have a head of power where you can take something away. The conferral of rights is somewhat akin to a moving feast and it does change. There are many instances where jurisdictional limits change. For instance—I am open to correction—I had the Federal Magistrates Service taking jurisdiction from the Federal Court. But it has happened in other areas. This is nothing new; it is nothing strange. The conferral of the right to proceed is one that can be made by the Commonwealth, and it can also be tailored or changed by the Commonwealth from time to time. I do not think I can take it any further.

Senator BARTLETT (Queensland) (11.49 p.m.)—Given the time—and we will not get on to the next amendments—I would indicate that the Democrats believe this is a very serious provision. Because we think it is so serious, we would want to divide on it.

Senator Schacht interjecting—

Senator BARTLETT—Yes. You never know, you lot might have all gone home and we might actually win a vote for a change. The issue in the bill is extremely serious. I should point out that the Alert Digest from the Scrutiny of Bills Committee specifically pointed to this and expressed concern about provisions that remove access to the courts. The explanatory memorandum to the bill states that the provision is ‘intended to ensure that court proceedings are not used by an offshore entry person to frustrate the resolution of their immigration status or to obtain desirable migration outcomes’. It is a bit farcical, I think, to say that you just prevent people having access to courts because they might actually get a desirable outcome—and we cannot have that, can we? That is not a particularly good explanation, from my point of view.

But, given that this concern has been raised by the impartial and cross-party Scrutiny of Bills Committee, I think it is appropriate for the minister to specifically respond to that request from the committee: advice from the minister as to how court proceedings have been used by offshore entry persons to frustrate the resolution of their immigration status. I imagine he would say that there have never been ‘offshore entry persons’ before because we are only just creating that particular category of people, but I think it is appropriate for the minister at least to indicate what other areas, what other acts, there are. He was just saying before, in response to Senator Brown, that preventing people having access to the courts is nothing unusual. He could take this on notice if need be, but perhaps he could outline what other acts there are at Commonwealth level that prohibit any sorts of proceedings being taken against a Commonwealth officer, particularly in a matter relating to their being able to detain that person or remove them to another country.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.52 p.m.)—I will take that on notice and tomorrow morning give some examples of what I have said previously. For the record, the government believes that the schedule should stand as printed.
Question put:

That schedule 1, item 7 stand as printed

The committee divided.  [11.56 p.m.]

(The Chairman—Senator S.M. West)

Ayes............  50

Noes............  11

Majority........  39

AYES

Abetz, E.  Bishop, T.M.

Boswell, R.L.D.  Brandis, G.H.

Buckland, G.  Calvert, P.H. *

Campbell, G.  Chapman, H.G.P.

Collins, J.M.A.  Cook, P.F.S.

Coonan, H.L.  Crane, A.W.

Crossin, P.M.  Eggleston, A.

Ellison, C.M.  Evans, C.V.

Ferguson, A.B.  Ferris, J.M.

Forshaw, M.G.  Gibbs, B.

Gibson, B.F.  Harris, L.

Herron, J.J.  Hill, R.M.

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

Kemp, C.R.  Knowles, S.C.

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

Macdonald, I.  Macdonald, J.A.L.

Mackay, S.M.  Mason, B.J.

McGauran, J.J.J.  McKiernan, J.P.

McLucas, J.E.  Murphy, S.M.

O’Brien, K.W.K.  Patterson, K.C.

Payne, M.A.  Ray, R.F.

Reid, M.E.  Schacht, C.C.

Sherry, N.J.  Tchen, T.

Tierney, J.W.  Troeth, J.M.

Watson, J.O.W.  West, S.M.

NOES

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

Bourne, V.W. *  Brown, B.J.

Cherry, J.C.  Greig, B.

Harradine, B.  Lees, M.H.

Murray, A.J.M.  Ridgway, A.D.

Stott Despoja, N.

* denotes teller

Question so resolved in the affirmative.

Progress reported.

ADJOURNMENT

The PRESIDENT—Order! It being Midnight, I propose the question:

That the Senate do now adjourn.
those days, carried with it the deputy premiership and the position of Treasurer. He continued that distinguished line of Liberal Treasurers—notably, Sir Thomas Hiley and Sir Gordon Chalk—who acted, in effect, as the chief executives of the Queensland government during the coalition years, and were responsible, far more than anyone else, for the economic development and growing prosperity the state enjoyed during the 1960s and 1970s.

It was Bill Knox’s misfortune that his period as deputy premier coincided with some of the excesses of Sir Joh Bjelke-Petersen—made arrogant and reckless by his stunning victory in the 1974 election on a tide of anti-Whitlam sentiment. It is an unglamorous role in politics to be the person who prevents bad things happening—who stands in the way of wrong decisions—by stubborn, unyielding resistance. And it is a thankless role as well when that resistance is made in the face of a popular demagogue, when the victories are anonymous, and when the achievements are essentially negative. But it can be a necessary role, and in Queensland in the late 1970s it was an important one. We have Bill Knox and his Liberal colleagues to thank for putting the brakes on Bjelke-Petersen at a dangerous time—how dangerous we were not to know until a decade later, when the Fitzgerald inquiry revealed all, and the Liberals, whom Bjelke-Petersen spurned at the time as do-gooders and trendies, were revealed to have been men and women of integrity and courage.

Knox was deposed in a party room coup in 1978, but remained in cabinet as Minister for Health. After the end of the coalition government in 1983, he never occupied ministerial office again. But it was, paradoxically, at that very time that his full stature as a man was made plain for all to see. The Liberals paid the price for standing up to Bjelke-Petersen—still an enormously popular figure—by losing all but eight of their 22 seats at the 1983 election. Then, with the defection of the Liberal Party’s two most infamous rats, Lane and Austin, their numbers were reduced to six, and the National Party, for the first and no doubt the last time, formed a government in its own right. Bjelke-Petersen, who recognised Knox’s great talent as a minister, offered him the opportunity to return to the positions of Treasurer and Deputy Premier, if he would betray the Liberal Party. It was commonly believed at the time that Bjelke-Petersen had also offered him the succession to the premiership, if he would betray his party. Of course, he did not. He settled, instead, for the thankless and in many ways humiliating task of leading a rump of five other members of parliament on the cross-benches.

But the most important thing to note about Knox is that, when the temptation was offered to him by Bjelke-Petersen, it just never crossed anyone’s mind that he would succumb to it. The key to understanding Bill Knox was to understand that he was a man of pure, stubborn, granite integrity. He could have had every political prize he had sought. He could have returned to the high offices from which his own party had sacked him. He could probably have been Premier. But he did not, because he was just not made like that. No matter how much his own party may have hurt him, no matter how much he may have despaired of some of the decisions of its organisational wing at the time, the idea that Bill Knox would ever be disloyal to the Liberal Party was simply unthinkable. Over the next three years, he held the party together through its greatest test. They were difficult and thankless years, but he was there when the party needed him most, and nobody but he could have done it.

That is my tribute to the late Sir William Knox, who I knew well when I was a young man, and from whom I gleaned much wisdom. He won, and he lost, many of the most glittering prizes politics has to offer, but it is not for the prizes we remember him. We remember him, in a sense, for the opposite reason—for his willingness to forgo the prizes, to take the hard road, because for him there were more important things in public life: loyalty, integrity, honour.

When Sir William Knox died last weekend, he died with many accomplishments and many high offices to his name. But none of his accomplishments was greater than this: he died as a man who, in 32 years of active, significant public life, left parliament
with a reputation which was as stainless and pure as the day he was first elected.

**Workers Compensation**

Senator BUCKLAND (South Australia) (12.08 a.m.)—I want to make a few comments tonight on a report that was recently released by the College of Occupational Medicine. It is a report that looks at compensation schemes and raises doubts about their impact on the health of people. Workers compensation was taking up the majority of my time prior to coming into this place and it is something that I have found difficulties with for a number of years. Workers compensation is fine if you look at the fact that a person will be compensated for an injury that they receive. What we are not thoroughly investigating is the consequence of the original injury or accident that the person suffers. We are not looking at the psychosocial factors that impact on a worker who has been injured and who has been put off work and is forced, under the various acts that operate throughout the country, to go through a work hardening or reintroduction to work program.

There are a number of problems that I see in the system. With an election coming up, it is reasonable for us to think that, whichever party wins government, they will have to bite the bullet at some point in time and try to bring together the state and the federal workers compensation acts so that there is some consistency in the way they operate. At some point in time too, regulators will have to look at what we are really doing for injured workers.

As I recall, in South Australia when the Workers Compensation and Rehabilitation Act came into being, there was this great desire to cut out the solicitors and the lawyers from the system, to make it more cost friendly to the injured worker and to industry. But if you ask industry today in that state—and I believe it is the same throughout the country—you will find that in fact the legal fees for workers compensation have dramatically increased, as have the costs for the injured worker. There is a feeding frenzy now by solicitors. I have many close friends and confidants in that fraternity but I think they are making unnecessary money by prolonging the period of time that a worker may be off work. I say once again, as I have at other times in this place: God bless the union movement—because the union movement quite often takes out the cost to the individual workers when they are fighting their workers compensation claims.

But industry itself is putting millions of dollars a year into the cost of legal fees. One has to ask: why is that so? It is not hard to determine. A worker gets injured with a broken arm and they are off work and the solicitor says to them: ‘I think you have got to take your doctor’s advice. You cannot go back to work yet on light duties or whatever because it is too early. Come back and see me in a few weeks time.’ During that time, of course, the bill ticks over.

The doctors are a bigger problem for us, and one that the Royal Australasian College of Physicians addresses through their report. They see this terrible problem we have with the medical profession at the moment, in that general practitioners—who are the key doctors in workers compensation cases, the ones that the individuals rely on, the family doctors—do not have the training to properly deal with workers compensation related matters. If they give advice to the worker—which is generally good—that they can fix the problem, we find that, through the legal system, through the compensation practice, through the WorkCover providers to assist workers get back to work, it becomes so complicated that the worker is no longer suffering from the original injury but rather they have mental problems associated with it. They have stress or anxiety and that prolongs the time before the worker gets back to work and adds to the cost to industry. It certainly has been the reason for many family breakdowns that I am aware of. Sadly, I have had to work through many of those with various people.

We have got to address the real problem of workers compensation rather than just say that the system has been put in place and it is all right in Western Australia, it is not so good in South Australia and it is okay in New South Wales or Queensland or wherever, or that the Commonwealth act is even better. We need consistency. We need money
put into the system for doctors who can actually treat patients who have been hurt at work rather than just saying, ‘You have got a medical problem.’

We all know a broken arm is a broken arm and you cannot use it. I am not a medico, so I cannot explain how, but I know that you can mend a broken arm. The difficulty is that you cannot mend the mind that goes with that, the social problems and the impact that has on society. You cannot mend the cost to a human being in marriage breakdown, mental breakdown or their fear of returning to work because of the prolonged time—

Senator McGauran interjecting—

Senator BUCKLAND—Senator McGauran, you may laugh about the fear of returning to work, but it is a very real problem that needs to be addressed.

Senator McGauran—I know a rorter when I see one.

Senator BUCKLAND—And certainly people like yourself would not have the courage to do it. It is a problem that needs to be addressed. People returning to work after they have been off work for a long time can receive very poor comments from fellow workers, like those from Senator McGauran: ‘You can see a rorter; you can see a bludger.’ It is not that way at all. There is real trauma suffered by the injured worker and there is a real need for governments of all persuasions, both federal and state, to address this real problem in society today. It is costing industry and it is costing human beings in suffering and marriage breakdowns, which I think is an abominable situation to be in.

I encourage Senator McGauran to read the report of the Royal Australasian College of Physicians. If you contact me some time tomorrow I will make a copy of it and get it to you. It is worth reading because these doctors have sat down, studied the problems and have come up with some very good solutions that need just a little assistance and some money. We cannot expect a general practitioner with the pressure they operate under today to be able to treat all injuries from the workplace. Once it is seen that the worker is off for a little time, then the insurance companies who are carrying the workers compensation load bring in their specialists. Those specialists like to challenge the general practitioner or the injured worker’s specialist who has operated on them to repair the injury.

Then of course the solicitors—many of whom are very good and I would always be happy to recommend people to see, but there are some very poor ones as well—say, ‘We need to get in our specialists.’ So we have a challenge, and an injury that in the past could have taken four or five months to complete so as to get a worker back to work can take anything up to five and six years. The fear of going back to work is very real, not because of laziness, not because they cannot do the job, but because of the persecution they have suffered unjustly from the systems currently in place in Australia. It will take good government. Whatever party wins government at the forthcoming election has to address this problem to bring some uniformity to the Australian workers compensation system.

(Time expired)

Wednesday, 26 September 2001

Australia Deliberates—Reconciliation: Where To From Here?

Senator RIDGEWAY (New South Wales—Deputy Leader of the Australian Democrats) (12.19 a.m.)—I had hoped to speak on this matter on another evening but I realise that in this week three of the four nights are up until midnight, and on the last one either most people will be disappearing or lining up on the adjournment speakers list. I will not keep the Senate too long on the issue I wish to speak about. It is essentially to talk about a document and to bring to the Senate’s attention a document that I believe will play an important part in the social history of our nation, particularly in relation to the way we continue to deal with the challenge of achieving and promoting reconciliation. Some may be aware of the report Australia Deliberates—Reconciliation: Where to from here. It is the culmination of an unprecedented series of deliberations on reconciliation conducted by the organisation Issues Deliberation Australia. Senators may recall that Australia’s first deliberative poll was conducted by this same organisation in
1999 at the time of the referendum on the republic.

I am sure that many of my colleagues in both houses of parliament would recall the weekend deliberations on reconciliation that took place here in Canberra at Old Parliament House earlier this year. The process itself was essentially about seeing a group of 350 Australians come together, taken from a national random sample, to deliberate on the issue of reconciliation. That is what has generated the final report. In addition to that, some senators may also be aware that the end result was the production of the film *Without prejudice* not so long after the deliberation itself. It followed the process of the series of deliberations in communities across the entire country, and the film was last week shown here in Parliament House. It is also expected to be screened by SBS in the coming months. I recommend all senators who are still awake may want to avail themselves of the opportunity watching it when it does arrive on the SBS television screens.

Much of the final report is about trying to move from the typical models of poll sampling that seeks to gauge people’s views or interests or opinions on particular issues in an uninformed manner by asking people what their views are. What a deliberative poll seeks to do is to give people information to provide them with some means by which to make an informed decision and, as a result, hopefully shift opinion in such a way that people understand why they have a particular view and why they ought to support or not support some issue that is put forward. I would recommend the final report as something that senators and members ought to appraise themselves of.

I was approached by Issues Deliberation Australia to speak on the report. I am happy to do so not only as a result of that approach but also having been involved in the deliberation process itself. To me, the weekend was not only unique and informative but also identified some important issues about how we form opinions on issues such as reconciliation and the related issues, such as an apology or treaty between indigenous and non-indigenous Australians. Therefore, in that sense, I am happy to speak on the matter and to emphasise the importance for all political parties to be made aware of the types of issues that are discussed in this process. I think it gives us a chance to appreciate the way in which participants’ opinions change once they are made aware of different information and once they meet indigenous people directly, and on that basis ask different questions or modify or change their views completely.

The project combined qualitative and quantitative methodologies to investigate the knowledge and attitudes that indigenous and non-indigenous Australians held about reconciliation. It was extensively researched between November 2000 and June 2001. Essentially, it was designed to facilitate the voice of indigenous and non-indigenous Australians about how reconciliation ought to be progressed. Not only was it a great experience for me; it is one that is well worth investing in, perhaps in the context of how the government might want to consider dealing with issues for the future.

For the people who came together, this weekend was a learning process about issues, with opportunities to question experts and advocates and community leaders on a variety of aspects of reconciliation and the different views that were being expressed. Most of all, the group had an opportunity to debate their views with their peers, ultimately leading to more informed opinions and discussion about the whole process leading to various issues in relation to reconciliation.

I particularly highlight that the symbolic gestures of reconciliation were universally perceived by Aboriginal and Torres Strait Islanders to be the foundation of lasting reconciliation, with 90 per cent of respondents in agreement that indigenous Australians believe that crucial to the reconciliation process is formal acknowledgment of their true place in Australia’s history and Australia’s future, acknowledgment of being unfairly treated in the past, an apology and compensation.

Prior to the deliberations, coalition and ALP supporters were starkly different. Comprehensive deliberation tended to negate that political divide, with opinions converging on the key aspects of reconciliation. The change
in opinion that was recorded by the majority of participants in the deliberation was particularly stark on a number of key issues. One example was on the question of an apology, where the percentage of those in favour of an apology being given increased from 46 per cent to 68 per cent. On the question of native title, the figure also grew quite dramatically, increasing from 78 per cent in favour to 91 per cent. That is quite an astonishing figure in terms of providing information and bringing about that type of result. On other issues, such as the question of a treaty or a series of agreements, the figure only increased from 46 per cent to 63 per cent—a figure that perhaps reflects the fact that most Australians are still somewhat unsure and uncomfortable about what a treaty or a series of agreements might result in.

To conclude, in terms of what I regard as the government focus for the future and the take-out message from this final report, support for education as a key priority rose significantly, from 42 per cent to 59 per cent, while the figure for health, unemployment and housing dropped by an average of 10 per cent—not being regarded as a high priority. It is quite interesting to look at those figures. It tells us something about the way people view things if they are given the opportunity to do so.

I encourage all members and senators from all political parties to read the final report. I have said on many occasions that the achievement of real and lasting reconciliation is an ongoing process and I do not believe that we ought to leave it behind just because the Council for Reconciliation has now completed its term. I regard the report and the process as yet another important step on the reconciliation path. I believe that, in many respects, it has identified an important way of being able to deal with many outstanding issues, including taking the time to educate ourselves about each other’s opinions and perspectives on issues relating to not only reconciliation but also the place that indigenous cultures play in our past, present and future.

**Senate adjourned at 12.28 a.m.**

**Wednesday**

**DOCUMENTS**

**Tabling**

The following government documents were tabled:

- **Aboriginals Benefit Account**—Report for 2000-01.
- **Australian Radiation Protection and Nuclear Safety Agency**—Quarterly report for the period 1 April to 30 June 2001, together with a revised code of practice for the safe transport of radioactive material.
- **Commonwealth Grants Commission**—Indigenous funding 2001—
  - Volume I—Reports.
  - Volume II—Supporting material.
  - Volume III—Consultants’ reports.
- **National Rail Corporation Limited (National Rail)**—Report for 2000-01.
- **Public Lending Right Committee**—Report for 2000-01.

**Tabling**

The following documents were tabled by the Clerk:

- **Commonwealth Authorities and Companies Act**—Notice pursuant to paragraph 45(1)(a)—Participation in formation of Australian Strategic Policy Institute Ltd (ASPI).
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Civil Aviation Safety Authority: Audit
(Question No. 3601)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 June 2001:

(1) Does Civil Aviation Order (CAO) 20.11 require that an operator’s chief pilot is subjected to a check of his or her proficiency in relation to an emergency; if so, who is authorised to undertake such a check.

(2) Since January 1999 on how many occasions have audits undertaken by the Darwin office checked compliance with CAO 20.11 in relation to emergency procedures checks of chief pilots.

(3) (a) On how many occasions have audits identified breaches of the provisions of CAO 20.11; and b) on each occasion, what action was taken as a result of the breach.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

CASA have advised the following:

(1) Yes. CASA or a person appointed by the training and checking organisation and approved by CASA is authorised to undertake such checks. An approved party external to the operator commonly conducts Chief Pilot proficiency checks.

(2) Ten audits have been conducted by the Darwin Office during which compliance with CAO 20.11 was checked.

(3) (a) CASA believes it is inappropriate to provide this level of operational detail regarding operators at a specific Area Office. In addition, CASA holds the view that disclosure of information on the outcomes of an audit process could prejudice an operator’s commercial interests and could also prejudice CASA’s ability to obtain information from other operators during the course of normal investigations where compulsory extraction powers are not used. b) All issues arising from the audits have been addressed.

Transport and Regional Services Portfolio: Missing Computer Equipment
(Question No. 3722)

Senator Faulkner asked the Minister representing the Minister for Transport and Regional 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 Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

**Departmental Response**

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>(a)</td>
<td>Nil lost</td>
</tr>
<tr>
<td>1</td>
<td>(b)</td>
<td>One LitePro projector removed from Ridges Lakeside Hotel by unknown person while in the Hotel’s custody</td>
</tr>
<tr>
<td>1</td>
<td>(c)</td>
<td>Approximately $6000</td>
</tr>
<tr>
<td>1</td>
<td>(d)</td>
<td>Approximately $6000 for same model</td>
</tr>
<tr>
<td>1</td>
<td>(e)</td>
<td>Replaced</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>Yes it was reported</td>
</tr>
<tr>
<td>2</td>
<td>(a)</td>
<td>We were told it was to be investigated</td>
</tr>
<tr>
<td>2</td>
<td>(b)</td>
<td>Not concluded</td>
</tr>
<tr>
<td>2</td>
<td>(c)</td>
<td>Internal legal advice has been sought re the responsibility of the venue</td>
</tr>
<tr>
<td>2</td>
<td>(d)</td>
<td>Not concluded</td>
</tr>
<tr>
<td>3</td>
<td></td>
<td>Nil</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>4</td>
<td>(a)</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>(b)</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td></td>
<td>N/A</td>
</tr>
<tr>
<td>5</td>
<td>(a)</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>(b)</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td></td>
<td>None</td>
</tr>
</tbody>
</table>

**Australian Maritime Safety Authority (AMSA) Response**

No desktop computers or any other item of computer hardware other than laptop computers, have been lost or stolen from AMSA during the 2000-2001 financial year.

**Civil Aviation Safety Authority (CASA) Response**

There have been no desktop computers or any other item of computer hardware, other than laptop computers, lost or stolen form the possession of any officer of the Civil Aviation Safety Authority during the 2000-01 financial year.

**National Capital Authority (NCA)**

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>(a)</td>
<td>0</td>
</tr>
<tr>
<td>1</td>
<td>(b)</td>
<td>1 x Dell Optiplex Personal Computer $1708</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 x Dell 15” Monitor $400</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 x Iomega ZIP drive $400</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1 x modem $262</td>
</tr>
<tr>
<td>1</td>
<td>(c)</td>
<td>$2,770</td>
</tr>
<tr>
<td>1</td>
<td>(d)</td>
<td>PC = $1708, Monitor = $400, Zip Drive = $400, modem = $262</td>
</tr>
<tr>
<td>1</td>
<td>(e)</td>
<td>all replaced from existing stock</td>
</tr>
<tr>
<td>2</td>
<td></td>
<td>yes incident reported</td>
</tr>
<tr>
<td>2</td>
<td>(a)</td>
<td>one</td>
</tr>
<tr>
<td>2</td>
<td>(b)</td>
<td>none</td>
</tr>
<tr>
<td>2</td>
<td>(c)</td>
<td>no further action</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
<td>---</td>
<td>---</td>
</tr>
<tr>
<td><strong>3</strong></td>
<td>one</td>
<td></td>
</tr>
<tr>
<td><strong>4 (a)</strong></td>
<td>none</td>
<td></td>
</tr>
<tr>
<td><strong>4 (b)</strong></td>
<td>n/a</td>
<td></td>
</tr>
<tr>
<td><strong>5 (a)</strong></td>
<td>none</td>
<td></td>
</tr>
<tr>
<td><strong>5 (b)</strong></td>
<td>none</td>
<td></td>
</tr>
<tr>
<td><strong>6</strong></td>
<td>Theft was from temporary premises - additional security was provided - agency no longer uses the premises</td>
<td></td>
</tr>
</tbody>
</table>

**Airservices Australia Response**

<table>
<thead>
<tr>
<th></th>
<th>Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1 (a)</strong></td>
<td>NIL</td>
</tr>
<tr>
<td><strong>1 (b)</strong></td>
<td>1 stolen from office during office relocation</td>
</tr>
<tr>
<td><strong>1 (c)</strong></td>
<td>$1007.00</td>
</tr>
<tr>
<td><strong>1 (d)</strong></td>
<td>$3995.00</td>
</tr>
<tr>
<td><strong>1 (e)</strong></td>
<td>Replaced</td>
</tr>
<tr>
<td><strong>2</strong></td>
<td>Yes – reported theft</td>
</tr>
<tr>
<td><strong>2 (a)</strong></td>
<td>NIL</td>
</tr>
<tr>
<td><strong>2 (b)</strong></td>
<td>NIL</td>
</tr>
<tr>
<td><strong>2 (c)</strong></td>
<td>NIL</td>
</tr>
<tr>
<td><strong>2 (d)</strong></td>
<td>Open AFP case</td>
</tr>
<tr>
<td><strong>3</strong></td>
<td>No agency documents stored on the computer hard disk</td>
</tr>
<tr>
<td><strong>4</strong></td>
<td></td>
</tr>
<tr>
<td><strong>4 (a)</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>4 (b)</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>5</strong></td>
<td></td>
</tr>
<tr>
<td><strong>5 (a)</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>5 (b)</strong></td>
<td>N/A</td>
</tr>
<tr>
<td><strong>6</strong></td>
<td>No disciplinary action taken, as no individual or group could be held accountable for the theft. Policies and procedures are in place under the Fraud Control Plan and Security Manual. Staff awareness program is in place.</td>
</tr>
</tbody>
</table>

**Exceptional Circumstances Program: Western Australian Farmers**

(Question No. 3785)

**Senator O’Brien** asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 31 July 2001:

1. Since January 1998, on how many occasions has the Federal Government received an application for assistance through the Exceptional Circumstances Program to farmers in Western Australia.
2. On each occasion, when and by whom was the application made.
3. (a) On each occasion, when was the application referred to the Rural Adjustment Scheme Advisory Council (RASAC) or the National Rural Advisory Council (NRAC); and (b) when did RASAC or NRAC report to the Minister.
4. (a) How many visits did members of RASAC or NRAC make to the affected region in relation to each of the above applications; and (b) when did each trip take place.
5. Where RASAC or NRAC recommended against a region being granted exceptional circumstances assistance, what was the basis on which the recommendation was made.
(6) Where RASAC or NRAC recommended that a region be granted exceptional circumstances assistance, what was the basis on which the recommendation was made.

(7) With reference to the above recommendations from either RASAC or NRAC: (a) when did the Minister make a decision in relation to the application; (b) did the Minister accept or reject the recommendation; (c) when was that decision communicated to the affected farmers; (d) how was that decision communicated to the affected farmers; and (e) when was that decision made public.

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

(1) Since January 1998, the Federal Government has received 5 Exceptional Circumstances (EC) applications for Western Australian farmers, including a wider application for all of Australia by the pig meat industry.


(3) The Pork Council of Australia - (a) 29 April 1998; and (b) 5 June 1998.
   First Western Australian Government application (14 November 1998) - (a) 23 November 1998; and (b) 24 February 1999.
   Second Western Australian Government application (22 November 2000) - (a) 6 December 2000; and (b) 31 January 2001.
   Third Western Australian Government application (19 March 2001) - (a) 30 March 2001; and (b) 30 April 2001.
   Fourth Western Australian Government application (21 June 2001) - (a) 11 July 2001; and (b) 2 August 2001.

(4) The Pork Council of Australia - (a) No visit was made to Western Australia; and (b) Not applicable.
   First Western Australian Government application (14 November 1998) – (a) one; and (b) 19–21 November 1998.
   Second Western Australian Government application (22 November 2000) - (a) One; and (b) 4-6 December 2000.
   Third Western Australian Government application (19 March 2001) – (a) No visit occurred and (b) Not applicable.
   Fourth Western Australian Government application (21 June 2001) – (a) No visit occurred and (b) Not applicable.

(5) The Pork Council of Australia - EC not recommended as RASAC considered that the downturn in prices was a market adjustment resulting mainly from an oversupply in the domestic pig market.
   First Western Australian Government application (14 November 1998) - EC not recommended on the basis that RASAC considered that frost is not an exceptional event at that time of year in the application region. RASAC also considered that it was management decisions that ultimately made the difference in the effect of the frost on yield, eg time of planting and therefore flowering times of crops.
   Second Western Australian Government application (22 November 2000) - Not applicable.
   Third Western Australian Government application (19 March 2001) - EC not recommended on the basis that NRAC found that the only rare event impacting on the extended area is the low rainfall conditions in the 2000 season. Therefore, the impact of the rare event has not impacted on production for a prolonged period, as required under the EC guidelines.
   Fourth Western Australian Government application (21 June 2001) - EC not recommended for the area south of Jerramungup (Zone A) and South-Eastern Ravensthorpe (Zone B) on the basis that NRAC found that when the impact of the 2001 seasonal conditions is factored in, a case for a rare and severe event, with a severe and prolonged impact on production and income had not been made. Evidence before NRAC, at the time, suggested that farm businesses in these zones have the potential to improve their financial situation as a result of predicted average 2001 season yields.
(6) The Pork Council of Australia - Not applicable.
First Western Australian Government application (14 November 1998) – Not applicable.
Second Western Australian Government application (22 November 2000) - EC recommended on the basis that NRAC found that a rare drought in 2000 was affecting the region and this event combined with the previous adverse weather conditions, such as frost in 1999, has led to the worst downturn in farm cash incomes for more than 20 years.
Third Western Australian Government application (19 March 2001) - Not applicable.
Fourth Western Australian Government application (21 June 2001) - EC recommended for an area around Hyden/Kondinin (Zone C) and districts near Kukerin/Nyabing (Zone D) on the basis that NRAC found that when the impact of the 2001 seasonal conditions is factored in, a case for a rare and severe event, with a severe and prolonged impact on production and income had been made.

(7) The Pork Council of Australia (a) 10 June 1998; (b) Accepted recommendation; (c) 10 June 1998; (d) Media release; and (e) 10 June 1998.
First Western Australian Government application (14 November 1998) - (a) 31 March 1999; (b) Accepted recommendation; (c) 31 March 1999; (d) Media release; and (e) 31 March 1999.
Second Western Australian Government application dated 22 November 2000 - a) 31 January 2001; (b) Accepted recommendation; (c) 2 February 2001; (d) Media release; and (e) 2 February 2001.
Third Western Australian Government application (19 March 2001) - (a) 16 May 2001; (b) Accepted recommendation; (c) 16 May 2001; (d) Media release; and (e) 16 May 2001.
Fourth Western Australian Government application (21 June 2001) - (a) 3 August 2001; (b) Accepted recommendation; (c) 3 August 2001; (d) Media release; and (e) 3 August 2001.

Exceptional Circumstances Program: Queensland Farmers
(Question No. 3786)
Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 31 July 2001:

1. Since January 1998, on how many occasions has the Federal Government received an application for assistance through the Exceptional Circumstances Program to farmers in Queensland.
2. On each occasion, when and by whom was the application made.
3. (a) On each occasion, when was the application referred to the Rural Adjustment Scheme Advisory Council (RASAC) or the National Rural Advisory Council (NRAC); and (b) when did RASAC or NRAC report to the Minister.
4. (a) How many visits did members of RASAC or NRAC make to the affected region in relation to each of the above applications; and (b) when did each trip take place.
5. Where RASAC or NRAC recommended against a region being granted exceptional circumstances assistance, what was the basis on which the recommendation was made.
6. Where RASAC or NRAC recommended that a region be granted exceptional circumstances assistance, what was the basis on which the recommendation was made.
7. With reference to the above recommendations from either RASAC or NRAC: (a) when did the Minister make a decision in relation to the application; (b) did the Minister accept or reject the recommendation; (c) when was that decision communicated to the affected farmers; (d) how was that decision communicated to the affected farmers; and (e) when was that decision made public.

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

1. Since January 1998, the Federal Government has received 4 Exceptional Circumstances (EC) applications for Queensland farmers.
2. The Queensland EC applications are:
   - 23 April 1998 - the former Pork Council of Australia requested consideration for EC assistance for the Australian Pork Industry;
   - 22 December 1998 - The Queensland Government applied for EC assistance for Southern and Central Queensland Grain Growers;
• 17 May 1999 - The Queensland Government applied for EC assistance for Far North Queensland Cane Growers; and
• 22 March 2001 - The Queensland Government applied for EC assistance for primary producers of South East Queensland – Eastern Darling Downs.

(3) The pork industry EC application (a) was referred to RASAC on 29 April 1998 and (b) RASAC reported to the Minister on 5 June 1998.

The Southern and Central Queensland Grain Growers EC application (a) was referred to RASAC on 9 February 1999 and (b) RASAC provided an interim report to the Minister on 31 March 1999. (RASAC was concerned that the application was made, not only before the impact of the event on the full cropping year was able to be determined, but also before the outcome of the affected winter crops were known).

The Far North Queensland Cane Growers EC application (a) was referred to RASAC on 12 July 1999 and (b) RASAC reported to the Minister on 18 August 1999.

The South East Queensland – Eastern Darling Downs EC application (a) was referred to RASAC on 2 April 2001 and (b) NRAC reported to the Minister on 6 July 2001.

(4) RASAC did not visit affected regions in Queensland for the pork industry EC application.

RASAC visited the affected region once on 25-26 February 1999 for the Southern and Central Queensland Grain Growers EC application.

RASAC did not visit the affected region for the Far North Queensland Cane Growers EC application.

NRAC visited the affected region once on 23-24 April 2001 for the South East Queensland – Eastern Darling Downs EC application.

(5) The pork industry EC application was not recommended as RASAC considered that the downturn in prices was a market adjustment resulting mainly from an oversupply in the domestic pig market.

The Southern and Central Queensland Grain Growers EC application lapsed in March 2000. RASAC provided an Interim Report and additional information was requested from the Queensland Government and AgForce up to December 1999. RASAC’s requests appear to have been ignored.

The Far North Queensland Cane Growers EC application was not recommended as RASAC found that the cause of the income downturn experienced by producers was due mostly to falls in commodity prices and declining cane sugar content. Producers had also already received support through the Natural Disaster Relief Arrangements.

The South East Queensland – Eastern Darling Downs EC application was not recommended as the NRAC (Report) considered that the event had not yet had a severe and prolonged decline in production and income. However, NRAC noted that the dry conditions had persisted into the winter planting period of 2001. Additional information on the impact of the event on the 2001 winter crop plantings was requested to allow a reassessment of the application.

(6) The pork industry EC application – not applicable.

The Southern and Central Queensland Grain Growers EC application – not applicable.

The Far North Queensland Cane Growers EC application – not applicable.

The South East Queensland – Eastern Darling Downs EC application was recommended as NRAC (Supplementary Report) found that the 2000 rainfall deficit, February 2000 to July 2001 would meet the rare criterion of a 1 in 20 to 25 year event. NRAC found that with the inclusion of additional information on the winter 2001 planting season that the rainfall deficit had severely impacting production and farm cash income over a prolonged period.

(7) The pork industry EC application (a) 10 June 1998; (b) Accepted recommendation; (c) 10 June 1998; (d) Media release; and (e) 10 June 1998.

The Southern and Central Queensland Grain Growers EC application - not applicable as the application lapsed.

The Far North Queensland Cane Growers EC application (a) 15 December 1999; (b) Accepted recommendation; (c) 15 December 1999; (d) Media release; and (e) 15 December 1999.
The South East Queensland – Eastern Darling Downs EC application (Report) (a) 24 July 2001; (b) Accepted recommendation; (c) 24 July 2001; (d) Media Release; and (e) 24 July 2001.

The South East Queensland – Eastern Darling Downs EC application (Supplementary Report) (a) 22 August 2001; (b) Accepted recommendation; (c) 22 August 2001; (d) Media Release; and (e) 22 August 2001.

Overseas Aid Gift Deduction Scheme: Tax Deductibility
(Question No. 3850)

Senator Bourne asked the Minister representing the Minister for Foreign Affairs, upon notice, on 27 August 2001:

(1) What are the guidelines used by the department to determine the tax deductibility status for non-government organisations delivering programs and services funded by Australia’s overseas aid program.

(2) Does the department differentiate in its funding priorities between relief programs and those programs providing longer-term outcomes, such as development programs.

(3) Does the department recognise the importance of non-government organisations providing higher education, or tertiary education services as opposed to basic education in these funding priorities.

(4) Can the following information be provided: the number of higher education programs currently funded under the AusAID program, including their details, such as country location, service provider, etc.

(5) (a) Can details be provided of any higher or tertiary education projects which have been proposed or for which non-government organisations have applied for funding in the 2001-02 financial year; and

(b) are any of these proposals joint funding arrangements with other governments, or non-government organisations located in other countries.

Senator Hill—The Minister for Foreign Affairs has provided the following answers to the honourable senator’s questions:

(1) Tax Deductibility under the Overseas Aid Gift Deduction Scheme is a two-step process. To be eligible for approval by the Minister for Foreign Affairs as an eligible organisation, the organisation must demonstrate that it meets the following criteria:

- Its activities are focused on development and/or relief and it has a record of providing aid in a professionally competent manner;
- It is a corporate entity;
- It is a community-based organisation accountable to its membership;
- It is voluntary, not-for-profit and non-government;
- It is clearly identifiable as Australian;
- Its support of overseas activities is on a partnership basis with indigenous organisations; and
- Its overseas partners are effective in conducting their activities.

Once an organisation is accepted as an approved organisation by the Minister for Foreign Affairs, the organisation needs to satisfy the Treasurer that it has established a public fund exclusively for the relief of persons in declared developing countries.

To be funded by AusAID, non-government organisations (NGOs) do not need tax deductible status. However, to be eligible for AusAID funding organisations must meet particular standards against the following accreditation criteria.

- Agency Identity and structure;
- Development philosophies and management practices;
- Approaches to partnership and development collaboration;
- Linkages with the Australian community;
- Financial systems and risk management; and, in some cases
- Family planning and reproductive health.

Further details regarding the accreditation criteria have been provided to Senator Bourne separately.
(2) Yes. The objective of the Australian aid program is to advance Australia’s national interest by assisting developing countries to reduce poverty and achieve sustainable development. The Government supports NGOs in aspects of their work that match this objective through a number of mechanisms. The AusAID-NGO Cooperation Program (ANCP) and Country specific NGO Programs primarily fund activities that demonstrate a development approach and which contain strategies to ensure that their development outcomes will be sustainable by the end of the activity.

Support is not provided for activities that can be described as welfare. (Welfare is defined as care and maintenance, other than in refugee and emergency situations, that aims to maintain people in a particular condition on a longer-term basis with no clear exit strategy.)

AusAID’s emergency program provides a mechanism whereby NGOs are able to apply for relief funding in response to specific crisis situations. (Relief means the provision of basic support to people in emergency situations. Relief measures are usually temporary, and are directed at providing life-sustaining assistance or short-term recovery assistance aimed at putting people ‘back on their feet’.)

(3) Yes. AusAID recognises and supports the work of Australian NGOs in the Education sector. The top three priorities in education under Australia’s aid program are basic education, vocational and technical education, and higher education. Funds are most often provided to accredited NGOs for education activities classified as basic education, secondary education, non-formal education (including adult literacy), technical and vocational training, and advanced technical and managerial training e.g. training of nurses and informal and in-service training of teachers. The fact that more funding assistance is provided for basic education than for higher education reflects the nature of the funding requests received from accredited NGOs.

While higher education proposals are not generally received from NGOs for ANCP funding, except for teacher training, AusAID would assess any such proposal on its merits against the ANCP selection criteria, although core funding for an educational institution would not be eligible.

Higher education is also the focus of stage three (commences 2003-2004) of the Virtual Colombo Plan. The goal of the Virtual Colombo Plan is to use the opportunities presented by information and communication technologies to improve education and access to knowledge in developing countries. This will include the provision of 200 distance-learning scholarships annually for the next five years, supported by the development of distance learning centres in selected developing countries.

(4) The following list details four currently funded NGO activities which have higher education as a sector code.

- PNG – Australian College of Health Service Executives $18,250 – PNG Institute of health executives;
- Bhutan – UNICEF Committee of Australia $36,250 – Education and the rights of the Child;
- Indonesia – UNICEF Committee of Australia $53,938 – Education and the rights of the Child; and

(5) (a) At this time AusAID has not received proposals from NGOs for assistance in the higher education sector in 2001-2002 under ANCP. Some additional proposals are due on 1 October 2001.

(b) Not applicable.

Arms Traffic Regulations: Australian Exemption

(Question No. 3854)

Senator Bourne asked the Minister representing the Minister for Foreign Affairs, upon notice, on 24 August 2001:

With reference to paragraph 18 of the Ausmin Communique 2001, which reads, ‘In the spirit of further enhancing defence cooperation, both sides emphasised their respective commitments to a binding bilateral export control agreement that would furnish Australia with an exemption from most United States munitions licensing requirements of the International Traffic in Arms Regulations’:
(1) Why is Australia seeking an exemption from the requirements of the International Traffic in Arms Regulations.

(2) If Australia is seeking an exemption from most United States munitions licensing requirements of the International Traffic in Arms Regulations, then why would Australia not be seeking a blanket exemption.

(3) What are the requirements to which Australia is seeking an exemption, and what are those requirements to which Australia will remain bound.

(4) From what source does Australia receive its ammunition.

(5) Is the Government of the view that Australia is in receipt of too much ammunition, and is it therefore seeking the exemption on these grounds.

(6) Is Australia intending to on-sell ammunitions materiel.

**Senator Hill**—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) The possibility of an exemption for Australia and the United Kingdom from some aspects of the US International Traffic in Arms Regulations (ITAR) was one of 17 measures of the Defense Trade Security Initiative (DTSI) announced by then US Secretary of State, Madeline Albright, in May 2000. As stated in the US State Department media release, the DTSI “improves the efficiency and competition in defense markets, while maintaining the necessary export controls to safeguard mutual security”. Canada is the only country currently with such an exemption. An exemption for Australia would reduce the time it takes to import a range of ITAR controlled goods from the United States, benefit Australian defence industry and improve our military interoperability with the United States.

(2) Australia has no need for a blanket exemption from ITAR. The US International Traffic in Arms Regulations is a comprehensive export control regime. It controls a variety of defence equipment and services which Australia does not require and which the United States would not provide in view of both its international obligations and its domestic policies, such as nuclear weapons design and test equipment and ballistic missile systems.

(3) An ITAR exemption would allow US companies to export a range of ITAR controlled equipment to Australian companies without first obtaining an export permit from the US State Department. For those ITAR controlled goods not covered by the ITAR exemption, a US export permit would still be required and would be obtained through the existing process in the United States. Current Australian export controls would continue to apply to goods being re-exported from Australian.

(4) The Australian Defence Force does not purchase ammunition from a single source. It is purchased from a range of suppliers, both in Australia and overseas, subject to operational requirements, price, and suitability of the supplier and product.

(5) No. The Government is not of the view that Australia is in receipt of too much ammunition and it is not seeking an ITAR exemption on these grounds.

(6) The agreement the Government is negotiating with the United States would not change existing arrangements for the export of defence goods overseas. All current Australian export controls would continue to apply to defence goods being exported from Australia.

**Radioactive Oily Waste**

(Question No. 3862)

**Senator Allison** asked the Minister for Industry, Science and Resources, upon notice, on 28 August 2001:

With reference to the Minister’s answer to Senator Allison’s question without notice on 23 August 2001 (Senate Hansard, page 26241):

(1) What is the level of radioactivity of the oily waste currently being produced at the Esso oil rig off Gippsland.

(2) How often are measurements required to be taken of the radioactivity in the waste being produced.

(3) Can records of these measurements be produced.

(4) What level of radioactivity is permitted in granite used in kitchen bench-tops.
(5) Is it the case that the level of radioactivity of this oily waste increases as the oil wells mature.

(6) What are the radioactivity limits for disposal of radioactive oily waste in landfill disposal.

(7) What is the level of radioactivity above which re-injection would be required in the United States (US) and the United Kingdom (UK).

(8) Does the Australian Government require re-injection at the US and/or UK level; if not, why not.

(9) Is it the case that radioactive oily waste, which has a higher level of radioactivity than that permitted at Dutson Downs, is being stored at Barry’s Beach in Gippsland.

(10) What is the level of radioactivity of this waste.

(11) What are the storage requirements for this waste at Barry’s Beach.

(12) Is Barry’s Beach also licensed by the Environment Protection Authority as a prescribed waste facility.

(13) What protection is required to be used by workers at the Esso oil rig against exposure to radioactivity when cleaning scale off pipe-work.

(14) Can a copy be provided of the hazard identification, assessment and management documentation prepared by Esso as required by petroleum safety legislation for offshore exploration and production.

(15) Can the results of measuring conducted on the radioactive scale at Western Australian offshore rigs be provided.

(16) What protection is required to be used by workers at Western Australian offshore rigs against exposure to radioactivity when cleaning scale off pipe-work.

(17) Will the Australian Radiation Protection and Nuclear Safety Agency codes of practice and safety guide be mandated for oil and gas operations.

(18) What are the requirements for taking measurements of the radioactivity levels at the Dutson Downs resource recovery facility: (a) at the new solidification plant; (b) at the burial site; and (c) after it is buried.

(19) How is the exposure of workers at the Dutson Downs facility measured.

(20) Does this extend to radiation protection measures for all workers involved.

(21) What radiation protective measures are in place for workers who routinely scour Australia’s gas pipelines.

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

Many of the matters raised by the honourable senator are not the responsibility of the Commonwealth or of my Portfolio. However, in the interests of removing any unnecessary fears that the honourable senator’s questions may raise in the community of Gippsland and amongst petroleum industry workers and their families, the following responses have been prepared. In preparing a response, it has been necessary to consult a large number of experts both in government and industry who in response to the questions indicate that:

(1) All natural substances are radioactive to some extent. Legislatively, The Health Act 1958 and The Health (Radiation Safety) Regulations 1994 define and control all matters relating to radiation safety in Victoria. Radioactivity of itself is not a prescribed waste. However, if any materials pose a potential environmental threat, they would be subject to prescribed waste controls through the Victorian Environment Protection Authority (EPA). The levels of allowable radioactivity are subject to the jurisdiction of the Victorian Department of Human Services (DHS) under the The Health (Radiation Safety) Regulations 1994. In 1999, Esso Australia Pty Ltd (Esso), in cooperation with the DHS, the EPA, and Australian Radiation Protection and Nuclear Safety Agency (ARPANSA) conducted comprehensive assessments of risk from naturally occurring radioactive materials. The Victorian Radiation Advisory Committee (RAC) concluded that the activities of Esso do not present a radiological hazard to workers, the general public, or the environment. The highest assessed dose to the public was less than 0.01 milliSievert per annum, which is within The Health (Radiation Safety) Regulations 1994 and permitted the approval for disposal at Dutson Downs.

Notwithstanding the above, listed below are the ranges of readings measured and the mean (what is the typical reading) provided for each waste category on a 226Ra basis:
Waste water: Not detectable to 4 Bq/l with a mean around 1.5 Bq/l
Sand and slurry: Not detectable to 7 Bq/g (higher readings recorded, but unable to determine accuracy) with a mean around 0.5 Bq/g
General cleaning waste: Not detectable to 2 Bq/g with a mean around 0.08 Bq/g.

(2) Esso Australia Pty Ltd advises that since it commenced monitoring and sampling for radioactivity in mid-1997, it has taken approximately 10,000 measurements. All substances that come into contact with reservoir fluids are screened for radioactivity. As for periodicity of measurements, enough are required to enable regulator confidence in the six-monthly reports, which include calculated estimates of exposures. Numbers of tests are dependent upon statistical requirements with respect to the degree of confidence desired to be demonstrated.

(3) Records are maintained of measurements of naturally occurring radioactive material. While this information is not available to the public, the Victorian EPA and DHS are satisfied of the quality of record keeping and have examined the records.

(4) There are no restrictions on use of granite in kitchen bench-tops. Granite used in the home leads to a negligible annual dose exposure of less than 0.01 milliSieverts.

(5) No. In Gippsland no evidence has been found to indicate that the radiological concentration of the fluid increases with field maturity.

(6) The allowable levels of radioactivity are determined by the potential doses to the public. When the potential exposures to the public are less than 0.01 milliSieverts, the waste disposal procedures pose no threat to public health and are free to proceed.

(7) There is no defined radiological limit for disposal by re-injection (assuming a suitable reservoir is available). The primary determinant again is the dose to the public. The American Petroleum Institute (API), in their publication “Management and Disposal Alternatives for NORM Wastes in Oil Production and Gas Plant Equipment, 1990” have a guideline limit 100,000 picocuries per gram (this equates to 3,700 Bq/g) for down hole re-injection.

(8) There is no defined radiological limit for disposal by re-injection overseas for comparison. However, Australian governments have required re-injection of naturally occurring radioactive materials if a suitable reservoir is available and the potential dose to the public justifies such action. Other disposal methods can also be employed when justified in differing circumstances.

(9) No. The oily waste at Barry Beach has been approved by the Victorian Department of Human Services for disposal at Dutson Downs, since the assessed dose to the public for disposal of this material was less than 0.01 milliSievert per annum.

(10) The storage vessel at Barry Beach has been sampled to contain 0.1-1.3 Bq/g of 226Ra.

(11) The storage requirements are consistent with oily waste storage. That is storage in a secure container that is bunded to protect against accidental spillage and signage to ensure people are aware of its contents.

(12) Yes. Barry Beach has a schedule 4 licence.

(13) The level of protection required to be used by workers is adjusted in accordance with any potential risks identified. There is a requirement in the safety regulations for offshore petroleum exploration and production to be conducted in a manner that ensures all risks are reduced to as low as reasonably practicable. It is Esso’s policy that all personnel in the field wear safety boots, non-synthetic overalls, gloves, safety glasses (with side shields) and a hard hat. In addition to this, when working with potentially naturally occurring radioactive material contaminated equipment, personnel are also required to wear a filter type respirator to minimise dust inhalation.

(14) No. These are not public documents. However, “The Annual Report of the Radiation Advisory Committee, Victoria, for the year ending September 2000” provides a detailed description of a risk assessment report prepared by ARPAŃSA of the operations of Esso. A risk analysis and management plan focusing on Esso operations in Gippsland has also been published by E. Akarsu, D.J. Hamilton and D.C. Tyler, “NORM in the oil and gas industry - Exposure assessment and management plan”, APPEA Journal 2001, pp737-747.
No. I have already supplied you with the advice provided to me that this material usually has a very low level of radiation, less than that of a sportsman's or diver's fluorescent wristwatch. I am further informed that such routine measurements would not be supplied to the safety or environmental regulators in Western Australia unless an operator found a reportable incident.

The level of protection required to be used by workers is adjusted in accordance with any potential risks identified. There is a requirement in the safety regulations for offshore petroleum exploration and production to be conducted in a manner that ensures all risks are reduced to as low as reasonably practicable. Under the general duty of care requirements under occupational health and safety provisions for employees, all employers are required to equip workers with personal protective equipment including safety boots, overalls, gloves, safety glasses with side shields and a hard hat. Additionally, under the safety case regime a job specific hazard identification and risk management process (job safety analysis) is required to be conducted for each work activity. If this reveals that there is hazard from radioactive scale, workers would be required to use additional specialised personal protective equipment (eg, filter-type respirator) to control that risk.

ARPANSA is currently working with states and territories to revise its code of practice and safety guide “Radiation Protection and Radioactive Waste Management in Mining and Mineral Processing 2002”. The document deals with the mining and processing of ores for the production of uranium and thorium, but may also be applied to other mining and mineral processing operations, such as those in oil and gas operations. The Commonwealth is looking with the petroleum safety and environment regulatory authorities in the States and Northern Territory to formalise a guideline. The Australian petroleum industry is also looking at an industry guideline or code of practice.

Post-closure monitoring of the prescribed waste landfill site at which the waste has been disposed must be implemented, with radiation measurements being made at 6 monthly intervals and the results submitted in writing to the Manager of the Radiation Safety Unit in the Victorian Department of Human Services within three weeks of analysis. These measurements are considered adequate. The solidification plant has not been completed.

The exposure of workers at Dutson Downs has been estimated by ARPANSA using risk-assessment models.

The risk-assessment exercise covered all people likely to be exposed to radiation from the NORM waste.

Workers on Australia’s onshore pipeline networks are subject to the same occupational safety and health regulation applied to other workers in each jurisdiction. Rather than workers scouring the interior surface of large gauge gas pipelines, they are cleaned mechanically by inserting a piece of equipment referred to as a ‘pig’ that is run along the inside of the pipe. Workers supervising such an activity would be required to wear an appropriate level of protection, such as that indicated in the responses to questions (13) and (16), to minimise all risks to as low as reasonably practicable.
CONTENTS

TUESDAY, 25 SEPTEMBER

Questions Without Notice—
Goods and Services Tax: Compliance Costs .............................................. 27763
Distinguished Visitors..................................................................................... 27764
Questions Without Notice—
   Education: Government Policy ............................................................... 27764
   Coles Myer and Daimaru: Job Losses .................................................... 27765
   Australian Labor Party: Centenary House .............................................. 27766
   Australian Taxation Office: Refunds ....................................................... 27767
   Community Organisations: Public Liability Insurance ........................... 27768
   Australian Taxation Office: Job Cuts ...................................................... 27770
   Afghanistan: Australian Commitment .................................................... 27771
   Goods and Services Tax: Ansett Tickets ................................................ 27772
   Economy: Innovation and Knowledge .................................................... 27773
   Australian Defence Force: Surveillance Operation .................................... 27775
Answers to Questions Without Notice—
   Ansett Australia ....................................................................................... 27775
Answers to Questions On Notice—
   Questions Nos 3682-3689 ....................................................................... 27775
Answers to Questions Without Notice—
   Goods and Services Tax: Ansett Tickets ................................................ 27781
Petitions—
   Australian Broadcasting Corporation: Independence and Funding ...... 27786
   Australian Broadcasting Corporation: Independence and Funding ...... 27787
   Refugees: Mandatory Detention ............................................................. 27787
   Telstra: Privatisation .............................................................................. 27787
   Bass Strait: Transport ............................................................................ 27787
Notices—
   Presentation ............................................................................................ 27788
Committees—
   Rural and Regional Affairs and Transport Legislation Committee—
   Extension of Time .................................................................................. 27795
Committees—
   Rural and Regional Affairs and Transport Legislation Committee—
   Report ..................................................................................................... 27796
Notices—
   Postponement ......................................................................................... 27796
Business—
   Hours of Meeting and Routine of Business ......................................... 27797
Australian Muslim Community ............................................................... 27797
Parliamentary Zone—
   Approval of Works ................................................................................ 27797
Education .................................................................................................... 27797
Committees—
   Legal and Constitutional References Committee—Extension of Time. . 27798
   Rural and Regional Affairs and Transport References Committee—
   Meeting .................................................................................................. 27798
   Suspension of Standing Orders ............................................................... 27798
   Procedural Motion .................................................................................. 27801
   Motion .................................................................................................... 27801
   Forests: Victoria ..................................................................................... 27801
CONTENTS—continued

Committees—
  Public Works Committee—Reports ............................................................ 27802
Bills Returned from the House of Representatives ........................................... 27804
Assent To Laws ............................................................................................... 27804
Committees—
  Environment, Communications, Information Technology and the Arts
  References Committee—Report ....................................................................... 27804
Business—
  Hours of Meeting and Routine of Business .................................................. 27810
Parliamentary zone—
  Approval of Works ........................................................................................ 27812
Migration Amendment (Excision from Migration Zone) Bill 2001,
Migration Amendment (Excision from Migration Zone) (Consequential
Provisions) Bill 2001,
Border Protection (Validation and Enforcement Powers) Bill 2001,
Migration Legislation Amendment Bill (No. 6) 2001,
Migration Legislation Amendment Bill (No. 5) 2001,
Migration Legislation Amendment Bill (No. 1) 2001, and
Migration Legislation Amendment (Judicial Review) Bill 1998 [2001]—
  Second Reading ............................................................................................. 27814
  In Committee .................................................................................................. 27836
Adjournment—
  Knox, Sir William ......................................................................................... 27882
  Workers Compensation ................................................................................... 27884
  Australia Deliberates—Reconciliation: Where To From Here? ...................... 27885
Documents—
  Tabling ............................................................................................................ 27887
Questions on Notice—
  Civil Aviation Safety Authority: Audit—(Question No. 3601) ..................... 27888
  Transport and Regional Services Portfolio: Missing Computer Equipment—
    (Question No. 3722) ...................................................................................... 27888
  Exceptional Circumstances Program: Western Australian Farmers—
    (Question No. 3785) ..................................................................................... 27890
  Exceptional Circumstances Program: Queensland Farmers—
    (Question No. 3786) ..................................................................................... 27892
  Overseas Aid Gift Deduction Scheme: Tax Deductibility—
    (Question No. 3850) ..................................................................................... 27894
  Arms Traffic Regulations: Australian Exemption—(Question No. 3854) .. 27895
  Radioactive Oily Waste—(Question No. 3862) .............................................. 27896