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—2002

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>12, 13, 14</td>
</tr>
<tr>
<td>March</td>
<td>11, 12, 13, 14, 19, 20, 21</td>
</tr>
<tr>
<td>May</td>
<td>14, 15, 16</td>
</tr>
<tr>
<td>June</td>
<td>17, 18, 19, 20, 24, 25, 26, 27</td>
</tr>
<tr>
<td>August</td>
<td>19, 20, 21, 22, 26, 27, 28, 29</td>
</tr>
<tr>
<td>September</td>
<td>16, 17, 18, 19, 23, 24, 25, 26</td>
</tr>
<tr>
<td>October</td>
<td>14, 15, 16, 17, 21, 22, 23, 24</td>
</tr>
<tr>
<td>November</td>
<td>11, 12, 13, 14, 18, 19, 20, 21</td>
</tr>
<tr>
<td>December</td>
<td>2, 3, 4, 5, 9, 10, 11, 12</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
SENATE CONTENTS

THURSDAY, 14 FEBRUARY

Questions Without Notice: Additional Answers ................................................................. 257
Defence Signals Directorate ............................................................................................. 257
Petitions ......................................................................................................................... 257
Migration Legislation ...................................................................................................... 257
Notices ............................................................................................................................. 257
Presentation ..................................................................................................................... 257
Business .......................................................................................................................... 259
Rearrangement ............................................................................................................... 259
Notices ............................................................................................................................. 259
Postponement ................................................................................................................ 259
Committees ..................................................................................................................... 259
Legal and Constitutional Legislation Committee .......................................................... 259
Reference ....................................................................................................................... 259
Scott, Mr Douglas Bruce ............................................................................................... 259
New South Wales: Bushfires ........................................................................................ 260
Opening of Parliament: Indigenous Protocols ............................................................ 260
Delegation Reports ......................................................................................................... 260
Parliamentary Delegation to the 106th Inter-Parliamentary Union Conference ............................................................................................................................... 260
Committees ..................................................................................................................... 264
Rural and Regional Affairs and Transport References Committee ................................ 264
Reference ....................................................................................................................... 264
Budget ............................................................................................................................. 276
Proposed Additional Expenditure .................................................................................. 276
Consideration by Legislation Committees ..................................................................... 276
Portfolio Additional Estimates Statements ...................................................................... 276
Business .......................................................................................................................... 276
Rearrangement ............................................................................................................... 276
Regional Forest Agreements Bill 2002 ........................................................................ 276
Second Reading ............................................................................................................. 276
Governor-General’s Speech ........................................................................................... 291
Financial Services Reform (Consequential Provisions) Bill 2002 ................................ 304
First Reading ................................................................................................................ 304
Second Reading ............................................................................................................ 304
Questions Without Notice ............................................................................................. 304
Immigration: ‘Children Overboard’ Affair .................................................................... 304
Economy: Government Policy ....................................................................................... 305
Immigration: ‘Children Overboard’ Affair .................................................................... 306
Workplace Relations: Reforms ..................................................................................... 307
Immigration: ‘Children Overboard’ Affair .................................................................... 308
Immigration: ‘Children Overboard’ Affair .................................................................... 309
Immigration: ‘Children Overboard’ Affair .................................................................... 310
Immigration: ‘Children Overboard’ Affair .................................................................... 311
Immigration: ‘Children Overboard’ Affair .................................................................... 312
Taxation: Reform .......................................................................................................... 312
Immigration: ‘Children Overboard’ Affair .................................................................... 313
Immigration: Children ................................................................................................... 314
Ministerial Staff: Defence Force Relations ..................................................................... 315
Forest Industry: Management Standards ....................................................................... 316
# Senate Contents — Continued

Privilege ............................................................................................................ 317
Absence of President .......................................................................................... 319
Questions Without Notice: Take Note of Answers ........................................... 320
  Immigration: ‘Children Overboard’ Affair .......................................................... 320
Condolences .......................................................................................................... 324
  Higgins, Mr Arthur Herbert .............................................................................. 324
Matters of Public Importance ............................................................................... 325
  Immigration: ‘Children Overboard’ Affair .......................................................... 325
Business .............................................................................................................. 334
  Rearrangement ................................................................................................... 334
Committees ......................................................................................................... 334
  Joint Committees ............................................................................................... 334
  Establishment ..................................................................................................... 334
Membership ......................................................................................................... 343
Council of the National Library of Australia ..................................................... 345
Committees ......................................................................................................... 345
  Community Affairs Legislation Committee ....................................................... 345
  Report ................................................................................................................... 345
  Community Affairs References Committee ....................................................... 345
  Report ................................................................................................................... 345
  Environment, Communications, Information Technology and the 
  Arts References Committee ................................................................................ 345
  Report ................................................................................................................... 345
Documents .......................................................................................................... 346
  Auditor-General’s Reports ................................................................................. 346
  Reports Nos 31 and 32 of 2001-02 .................................................................... 346
Insurance: Public Liability .................................................................................. 346
Documents .......................................................................................................... 363
  Australian Law Reform Commission ................................................................. 363
  Aged Care Act 1997 .......................................................................................... 363
  Wet Tropics Management Authority ................................................................. 365
  Aged Care Standards and Accreditation Agency ................................................. 366
  Department of Immigration and Multicultural Affairs ...................................... 367
  Australian Electoral Commission ....................................................................... 369
  Refugee Review Tribunal .................................................................................... 370
  Department of Employment, Workplace Relations and Small Business .......... 371
  Consideration .................................................................................................... 373
Committees ......................................................................................................... 376
  Membership ....................................................................................................... 376
  Foreign Affairs, Defence and Trade References Committee ............................ 376
    Report ............................................................................................................... 376
  Superannuation and Financial Services Committee ......................................... 380
    Report ............................................................................................................... 380
  Economics References Committee ..................................................................... 382
    Report ............................................................................................................... 382
    Consideration .................................................................................................. 382
Documents .......................................................................................................... 383
  Auditor-General’s Reports ................................................................................. 383
    Report No. 16 of 2001-02 ............................................................................... 383
  Consideration .................................................................................................... 384
SENATE CONTENTS—continued

Adjournment.................................................................................................................. 385
New South Wales: Bushfires ....................................................................................... 385
Booker Prize: Peter Carey .......................................................................................... 386
National Service Day ................................................................................................. 388
60th Anniversary of the Fall of Singapore .................................................................. 388
National Service Medal .............................................................................................. 389
Reith, Mr Peter .......................................................................................................... 389
Tabling .......................................................................................................................... 391
Thursday, 14 February 2002

The PRESIDENT (Senator the Hon. Margaret Reid) took the chair at 9.30 a.m. and read prayers.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Defence Signals Directorate

Senator HILL (South Australia—Minister for Defence) (9.31 a.m.)—Madam President, I seek leave to make a statement clarifying an answer I gave in question time yesterday.

Leave granted.

Senator HILL—I wish to clarify an answer I gave in question time yesterday in response to a question from Senator Faulkner. In my answer I stated: ‘And DSD, I am assured, with one small exception, operated within those rules.’

This accurately represented the advice given to me by the DSD and reflected a similar comment I made in a public statement on Tuesday, 12 February. Last night I was informed by the director of the DSD that the one breach I had been advised of was a breach in a line of reporting relating to the border protection issue. The director has advised me that the Inspector-General of Intelligence and Security first informed the DSD of his concerns with this line of reporting on a Monday. This concern related to a specific DSD report from the previous Thursday. The director has advised me that upon receipt of this advice the DSD acted immediately to discontinue this line of reporting. In the interim, however, between the first report on the Thursday and the Inspector-General’s advice on the Monday, a further three reports had been issued by the DSD.

The director advises me that he believes that this issue will be considered as a single breach by the Inspector-General. While this may be technically correct, I believe that it is important, given the openness and transparency already shown by the government on this issue, to clarify the record. I am advised by the director that the statements I have made in relation to the Maritime Union of Australia and the International Transport Federation stand correct. Any reference to this issue by the Prime Minister or the Minister for Foreign Affairs, Mr Downer, was of course based on the original advice provided by the Director of the Defence Signals Directorate. The four reports covered by this breach will be made available this morning to the Leader of the Opposition, Mr Crean, and also to the Leader of the Opposition in the Senate, Senator Faulkner, in the form of a confidential briefing.

PETITIONS

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

Migration Legislation

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

The petition of the undersigned draws the attention of the Senate to our concerns about the Migration Amendment (Excision from Migration Zone) (Consequential Provisions) Bill 2001. We are concerned that the second schedule of this Bill, which provides for a new Australian visa regime with a hierarchy of rights, will create a permanent group of second class ‘citizens’ in this country. Under this Bill those refugees who reach Australia via transit countries will only be eligible to be granted successive temporary protection visas for life - denying them the rights and supports enjoyed by other refugees. We believe that this is at odds with our obligations under international conventions on human and refugee rights.

We believe that all asylum seekers who have been granted refugee status should enjoy equal rights - whether they arrived in Australia via transit countries or through United Nations High Commission for Refugees processing.

Your petitioners therefore request the Senate to repeal the Migration Amendment (Excision from Migration Zone) (Consequential Provisions) Bill 2001 Schedule Two.

by Senator Brown (from 1,441 citizens)

Petition received.

NOTICES

Presentation

Senator Stott Despoja to move, contingent on the President presenting a report of the Auditor-General on any day or notifying the Senate that such a report had been presented under standing order 166:

That so much of the standing orders be suspended as would prevent the senator moving a
motion to take note of the report and any senator speaking to it for not more than 10 minutes, with the total time for the debate not to exceed 60 minutes.

Senator Stott Despoja to move, contingent on the Senate on any day concluding its consideration of any item of business and prior to the Senate proceeding to the consideration of another item of business:

That so much of the standing orders be suspended as would prevent the senator moving a motion relating to the conduct of the business of the Senate or to provide for the consideration of any other matter.

Senator Stott Despoja to move, contingent on the Senate proceeding to the consideration of government documents:

That so much of the standing orders relating to the consideration of government documents be suspended as would prevent the senator moving a motion relating to the order in which the documents are called on by the President.

Senator Stott Despoja to move, contingent on a minister moving a motion that a bill be considered an urgent bill:

That so much of standing order 142 be suspended as would prevent debate taking place on the motion.

Senator Stott Despoja to move, contingent on a minister moving a motion to specify time to be allotted to the consideration of a bill, or any stage of a bill:

That so much of standing order 142 be suspended as would prevent the motion being debated without limitation of time and each senator speaking for the time allotted by standing orders.

Senator Stott Despoja to move, contingent on the chair declaring that the time allotted for the consideration of a bill, or any stage of a bill, has expired:

That so much of standing order 142 be suspended as would prevent further consideration of the bill, or the stage of the bill, without limitation of time or for a specified period.

Senator Stott Despoja to move, contingent on the moving of a motion to debate a matter of urgency under standing order 75:

That so much of the standing orders be suspended as would prevent the senator moving an amendment to the motion.

Senator Stott Despoja to move, contingent on the President proceeding to the placing of business on any day:

That so much of the standing orders be suspended as would prevent the senator moving a motion relating to the order of business on the Notice Paper.

Senator Stott Despoja to move, contingent on any senator being refused leave to make a statement to the Senate:

That so much of the standing orders be suspended as would prevent that senator making that statement.

Senator Stott Despoja to move, contingent on a minister at question time on any day asking that further questions be placed on notice:

That so much of the standing orders be suspended as would prevent the senator moving a motion that, at question time on any day, questions may be put to ministers until 28 questions, including supplementary questions, have been asked and answered.

Senator Stott Despoja to move, contingent on any senator being refused leave to table a document in the Senate:

That so much of the standing orders be suspended as would prevent the senator moving that the document be tabled.

Senator Tierney to move on the next day of sitting:

That the Senate—

(a) notes the serious problem of overcrowding in New South Wales public schools, especially when compared with other states across the country;
(b) acknowledges the shameful results of a New South Wales Teachers Federation survey showing 20 per cent of all classes in each of the first 3 years of primary school being over the Carr Government’s own limit, and 32 per cent of all kindergarten classes exceeding suggested class sizes during 2001;
(c) condemns the Carr Government for putting New South Wales children’s education at risk by increasing class numbers and not reducing them as other states are now doing;
(d) congratulates the Howard Government for increasing funding to New South Wales government schools by 5.2 per
cent in 2001, as opposed to Premier Carr’s paltry 2.6 per cent; and
(e) recognises the low priority given to education by the Carr Government, as evidenced by the fact that the amount spent on education as a percentage of total state budget has dropped from 25.5 per cent to 22 per cent in the 7 years since Labor came to power in New South Wales.

Senator Bourne to move on the next day of sitting:
That the following bill be introduced: A Bill for an Act to provide for parliamentary scrutiny of appointments to the ABC Board and for related purposes. Australian Broadcasting Corporation Amendment Bill 2002.

BUSINESS

Rearrangement

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.34 a.m.)—I move:
That government business order of the day no. 2 (Governor-General’s Opening Speech: Address-in-reply) be considered from 12.45 pm till not later than 2 pm today.

Senator HARRADINE (Tasmania) (9.34 a.m.)—Madam President, as far as I know, I have not been advised of that. Does that mean matters of public interest will not be on today at 12.45 p.m.?

The PRESIDENT—Matters of public interest were debated yesterday; it is in place of government business today.

Question agreed to.

Rearrangement

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.34 a.m.)—I move:
That the order of general business for consideration today be as follows:
(1) general business notice of motion no. 12 standing in the name of Senator Conroy, relating to public liability insurance; and
(2) consideration of government documents.

Question agreed to.

NOTICES

Postponement

Items of business were postponed as follows:

General business notice of motion no. 2 standing in the name of Senator Allison for today, relating to the establishment of a select committee on superannuation, postponed till 11 March 2002.

General business notice of motion no. 4 standing in the name of Senator Bourne for today, relating to the Dalai Lama, postponed till 11 March 2002.

General business notice of motion no. 13 standing in the name of Senator Allison for today, relating to the shortage of teachers to fill vacancies in Victoria, postponed till 11 March 2002.

General business notice of motion no. 14 standing in the name of Senator Harris for today, relating to the establishment of a select committee on the Lindeberg grievance, postponed till 13 March 2002.

General business notice of motion no. 1 standing in the name of the Leader of the Australian Democrats (Senator Stott Despoja) for today, relating to a request to the Inspector-General of Intelligence and Security to investigate certain actions in relation to the MV Tampa, postponed till 11 March 2002.

COMMITTEES

Legal and Constitutional Legislation Committee

Reference

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.36 a.m.)—I move:

Question agreed to.

SCOTT, MR DOUGLAS BRUCE

Senator BROWN (Tasmania) (9.36 a.m.)—I move:
That the Senate—
(a) notes the death in custody of Aboriginal Australian Douglas Bruce Scott in Darwin on 5 July 1985;
(b) expresses its regret and condolences to his widow, Mrs Letty Scott, and their family;
(c) notes that Mrs Scott considers inquiries into her husband’s death to have been flawed and inadequate, and that this matter is currently the subject of litigation; and

(d) calls on the Government to work with Mrs Scott to open a fresh investigation into Mr Scott’s death, through which all the evidence can be considered.

Question agreed to.

NEW SOUTH WALES: BUSHFIRES

Senator HARRIS (Queensland) (9.37 a.m.)—I move:

That the Senate—

(a) notes:

(i) the recent crisis of bushfires throughout New South Wales and the magnificent effort of the Bush Fire Brigade and associated volunteers and their contribution to averting the worst excesses of that crisis, and

(ii) that volunteers from all over Australia, from all walks of life and profession, volunteered their services and risked life and limb in fighting the bushfires; and

(b) requests that the Government strike a National Services Medal in recognition of the service provided by the volunteers, to be known as the Volunteer Fire Fighters Medal, and that the Government present this medal to all volunteers who gave service in fighting the recent bushfires in New South Wales.

Question negatived.

OPENING OF PARLIAMENT: INDIGENOUS PROTOCOLS

Senator RIDGEWAY (New South Wales—Deputy Leader of the Australian Democrats) (9.38 a.m.)—I move:

That the Senate—

(a) notes that:

(i) the House of Representatives Standing Committee on Procedure unanimously recommended in August 2001 in its report, Balancing tradition and progress: Procedures for the opening of Parliament, that:

‘… representatives of the ACT indigenous community be consulted to advise on a suitable indigenous ritual to be included in the opening procedures [of the Australian Parliament’],

(ii) the Council for Aboriginal Reconciliation recommended to the parliament in its final report in December 2000 that ‘All Parliaments, governments and organisations observe protocols and negotiate with local Aboriginal and Torres Strait Islander Elders or representative bodies to include appropriate Indigenous ceremony into official events’, and

(iii) the Government has not implemented these recommendations to incorporate Indigenous protocols into the opening ceremony of the Australian Parliament, which remains virtually unchanged since the first parliament in 1901;

(b) expresses its disappointment that this opportunity to recognise and honour the unique cultures and identity of Indigenous Australians and include First Nation Peoples in this official national ceremony has not been embraced as a positive and affirming gesture of reconciliation between Indigenous and non-Indigenous Australians; and

(c) calls on the Government to consider and respond as soon as practicable to the recommendations of the House of Representatives Standing Committee on Procedure, Balancing tradition and progress: Procedures for the opening of Parliament, which constructively seeks to modernise the parliament and open it up to participation by all Australians.

Question agreed to.

DELEGATION REPORTS

Parliamentary Delegation to the 106th Inter-Parliamentary Union Conference

Senator KNOWLES (Western Australia) (9.38 a.m.)—I present the report of the Australian parliamentary delegation to the 106th Inter-Parliamentary Union Conference held at Ouagadougou, Burkina Faso from 9 September to 14 September 2001. I seek leave to move a motion in relation to the report.

Leave granted.

Senator KNOWLES—I move:

That the Senate take note of the document.
This delegation was a particularly small delegation. It consisted of Senator McKiernan, Senator Gibbs and myself. This was due to the close proximity of a federal election, when our colleagues in the House of Representatives decided that it was probably better to look after their electorates than go to sunny downtown Ouagadougou.

I wish to put on record my great appreciation to Senator McKiernan and Senator Gibbs. It was a small delegation of only three and yet we still participated in every forum possible. Senator Gibbs, who is in the chamber at the moment, participated in the women’s forum and made a very good contribution. Senator McKiernan has long been involved in the IPU, particularly in his role on the human rights committee. We contributed with a very small delegation to all the committees established by the IPU, which include the Committee on the Human Rights of Parliamentarians, the Group of Facilitators for Cyprus and the Committee on Middle East Questions. We were not able to go to a number of those meetings but we participated in the debate in other areas. We also participated in the geopolitical Twelve Plus Group and the Asia-Pacific Group.

At the previous meeting, Australia gave notice and put forward some very compelling arguments for reform of the IPU, and debate on this topic was due to come up at this particular meeting. We were successful in getting this debate brought forward from the final Saturday of the conference to the Tuesday afternoon of that conference. We were there, bright-eyed and bushytailed, long before the allotted starting time. Senator McKiernan was going to take the lead in that debate because of his long involvement over the entire parliament, whereas Senator Gibbs and I had gone to only the last meeting.

We were waiting for this meeting to start when the shocking rumour visited us that a plane had gone into the World Trade Centre. Not long after that, we were told that two planes had gone into the World Trade Centre. The President of the IPU had a daughter who worked in the World Trade Centre. As luck would have it, her daughter was late for work that day. So that whole session was cancelled and the conference itself was abbreviated.

Therefore, we were not able to put forward the arguments for the reform process that we would like to see undertaken by the IPU. It is hoped that we will be able to do that next time. It has been put on the agenda. I wish those who are going to undertake that process well in their deliberations.

If I may speak on behalf of Senator McKiernan and Senator Gibbs, I would also like to place on record our most sincere thanks to the secretary of the delegation, Mr Peter Keele and Mr Phillip Allars from the Department of Foreign Affairs and Trade. Both were outstanding in their support of us and the level and quality of advice was nothing short of magnificent.

Senator GIBBS (Queensland) (9.43 a.m.)—I also would like to speak to the report of the Australian parliamentary delegation to the 106th Inter-Parliamentary Union Conference held at Ouagadougou, Burkina Faso. Our very small delegation was in Ouagadougou for 10 days. Senator Knowles and I also went, at the election before last, on an IPU delegation to Moscow, which was also a very small delegation. I would like to speak about my participation in the conference because I know Senator McKiernan will want to talk more on the workings of the conference. I participated in the Women’s Parliamentary Group. In that group I spoke particularly on the rights of the girl child, poverty, health, street children and child labour. I was a member of the committee that drafted the report Protecting and caring for children, the driving force of future society.

Australia had particularly good motions, and the drafting committee itself lasted a long time—all day, into the night and the next morning—but we got through the resolutions we wanted to. These were resolutions on the girl child with regard to genital mutilation, sexual abuse, pornography and all of the things that affect the girl child. I had quite an argument on increasing educational standards throughout the world for the girl child to the same level as those the boy child enjoys. I had quite a battle with some of our colleagues from other countries because they did not particularly want the girl child singled out for further education. We came to a compromise by saying ‘regardless of gen-
der’, but that was fine—at least we got that particular motion through where countries will have to educate children.

At the women’s conference, I was quite appalled because there was one particular delegate who stood up and said, ‘In our country’—I will not mention which one it was, but you can probably guess—we let girls be educated if they want to be. If they want to go to school, we will educate them.’ But I do not think that this particular country really encourages girls to go to school. So that was quite a victory on my part and we were happy with that resolution. We also had a resolution regarding HIV, which:

Urges States to ensure that particular emphasis is placed on the prevention of HIV infection in children, to provide support and rehabilitation to infected children and their families as well as orphans, preferably within their community...

I put that resolution forward and we had an extensive debate on it. The idea was that these children will receive support and health benefits within their community and not be treated like lepers and sent away somewhere, as we used to do in the old, dark days. We thought that was extremely important. We also talked about children in armed conflict.

I put on record my thanks particularly to the secretariat members who came with us, Mr Peter Keele and Mr Phillip Allars. We had a few problems: Phillip arrived earlier to book us into our hotel, which was like a concrete box—

Senator McKiernan—Lovely flowers!

Senator GIBBS—Beautiful flowers; they were all plastic. Poor Phillip—the airline had lost his luggage. So here we were in stinking hot conditions and the poor man had to make do with the same clothes for three days. On the third day they found his luggage, which was great.

Senator Ian Campbell—Did Jim lend him a tie?

Senator GIBBS—Phillip also sought out the best restaurants in town. There was not a lot to do in Ouagadougou in the spare time that we had. I put on record my admiration for Senator Knowles, who is a remarkable travelling companion. She is a lot of fun. My admiration for her rose because the choice of vegetables was very limited—potatoes were quite safe—and every day we had haricot vertes. For those who do not know what haricot vertes are, they are green beans, and they were very overcooked. By about the third day I was absolutely revolted by haricot vertes. Senator Knowles had to have her greens every day so, much to my disgust and sheer admiration, she backed up at lunch and dinner for these haricot vertes. I could not believe that anyone could be so dedicated to eating their greens every day that they would eat these dreadful haricot vertes.

It was a good delegation. Senator McKiernan is always a good companion and a lot of fun. The five of us got on extremely well, which was a good thing. Of course, it was marred by September 11, which was extremely tragic and put a dampener on the whole situation. I thoroughly enjoyed the conference. Burkino Faso is not a place that anyone would willingly go to, but, being in the Senate, you have the experience of going to places that one would not go to otherwise. It is a tragic country. Life expectancy is 45. There is a lot of poverty. When you woke in the morning and opened the curtains, you saw vultures on the building next door. That was quite a shock—coming from sunny Queensland, I usually see cockatoos and galahs and wish they would keep quiet so that I could sleep longer. Children sleep in the streets. Everywhere we went we were constantly hounded to buy things. This sort of place makes you realise how lucky we are in Australia. Even though we have our problems, we really are grateful that we live in a country such as ours.

Once again, my thanks to Peter Keele and Phillip Allars who, as Senator Knowles said, were absolutely wonderful. They advised us on everything, they were always there and it was constant. Also, my thanks to Senator Knowles and Senator McKiernan, both of them wonderful travelling companions. We had a lot of fun even though September 11 was tragic. We worked very hard, but it was very enjoyable.

Senator MCKIERNAN (Western Australia) (9.52 a.m.)—On the matter of my ties, the collection is being gradually worn down and, if anybody wants a souvenir before I
finish in this job, just come round and see the office. There is no charge for them.

I had the great privilege of being part of the Australian delegation to the Inter-Parliamentary Union Conference in Ouagadougou in Burkina Faso in September last year. In the initial part of my speech, I want to pay tribute to my colleagues on that delegation. As a delegation, we worked exceptionally hard on behalf of the Australian parliament in pressing the issues that are of concern to the parliament of Australia; those matters are contained in the report, and I will come back to them in a little while. All party considerations were put to one side when we were single-mindedly approaching the issues that were confronting us in the matters that were addressed in the drafting committees, during the course of the conference and, indeed, in the IPU council proceedings.

The full work of the delegation is not apparent and never can be in a report such as the one being tabled here today. It does not take into account the amount of lobbying that goes on when you meet people in corridors outside conference rooms, in restaurants, in hotel lobbies or wherever. It does not take account of the work that was done by all members of the delegation, including the advisers and the secretary in the geopolitical group meetings of the Twelve Plus Group and the Asia-Pacific Group. Particularly in the Twelve Plus Group, which is by far and away the most professional of the groups, Australia was well to the fore, with all members of the delegation playing our parts in explaining Australia’s positions on the matters that are of great concern to us. Like my colleagues Senator Knowles and Senator Gibbs, I have to compliment the expertise and professional approach of the delegation secretary, Mr Peter Keele, and also of our adviser from the Department of Foreign Affairs and Trade, Mr Phillip Allars. We could not have asked for better people to be with us to help us pursue the causes that were of concern to Australia. Those matters are, I think, detailed in the body of the report, particularly in chapter 3, which deals with the matters that were before the Inter-Parliamentary Council.

Obviously the greatest issue of concern to us is the reform of the IPU itself. This has been discussed at all the six conferences I have attended as a permanent delegate to the IPU, and we were very concerned about the proposals coming forward from the secretariat and from other individual nation states who are members of the union. On our calculations when we took the argument back to the IPU and to other delegates during the last conference, those proposals would have meant that our contributions to the IPU would have increased exponentially. That was on the figuring that we did. We did give warning to the IPU secretariat that we would be challenging the figures in the arguments being put forward, and we did the right thing by them in giving them advance notice of the calculations that we had done. And we proved to be accurate in our calculations, because the figures that were then brought forward by the IPU secretariat matched what Australia had come up with—and we did not have access to all the information that was before the IPU secretariat. So the IPU are rethinking their reform proposals, but that is not to say that we have not got to be wary. The decision making conference for the reform of the IPU will be held in Marrakech in Morocco next month, and the Australian delegation will again have to ensure that they are active, watching and fully participating in the decision making surrounding the reform of the IPU.

We also recorded one success from our previous arguments before the council. We had grave concerns about the accounting practices that were being undertaken by the council. A previous delegate, Mr Somlyay from Queensland, had challenged them, both on the floor of the conference and, indeed, at the council, and we had put forward an argument that the proper accounting practice for an organisation such as the IPU should be the accrual accounting method. I am very pleased to say, as indeed the report itself records, that the IPU has now adopted that suggestion from Australia and they are now on an accrual accounting practice.

The construction of a new headquarters building for the IPU was something we were not able to stop. Regrettably, decisions had
already been made on that—in some cases not after a full and open decision making process. The construction of the building is going ahead, and we were not able to stop it, but we are watching the figures very carefully. The staffing of the organisation is something that is coming to the fore as well. I am confident that those matters will be pursued by the Australian delegation to the conference next month.

I would recommend that all members of the parliament read the report in total. It does record some very hard work that the Australian parliamentary delegation engaged in in Ouagadougou. As a delegation, we have certainly put some markers down for the future, and that will not only benefit Australia and our interests—and that is what we were looking to when we were there—but will benefit the IPU as an organisation as well. It will strengthen the organisation, and there is great potential for that organisation to do good work.

I just want to make reference to a couple of other matters that I was involved in as a member of the council and as a vice-president of one of the committees of the IPU. One was the development of a handbook on the worst forms of child labour. The committees involved were the Inter-Parliamentary Union’s committee on parliamentary, juridical and human rights questions and the IPU committee to promote respect for international humanitarian law. The handbook on the worst forms of child labour will be launched at the conference in Marrakech. The second handbook which I put a real amount of effort into the development of was a guide to international humanitarian refugee law, entitled Refugee protection. This was a joint publication by the IPU and the office of the United Nations High Commissioner for Refugees, and it was launched in Geneva on the 50th anniversary of the signing of the refugee convention.

Regrettably, because of the elections in Australia, we were not able to arrange a launch in Australia that coincided with that launch. Regrettably also, because of some matters in the UNHCR office in Canberra, that office was not able to do something within Australia. The handbook will be launched again at the IPU conference in Marrakech next month. For the information of all senators, I seek leave to table a copy of the refugee handbook.

Leave granted.

Senator McKIERNAN—I think it will be informative to many. I would hope that people who engage in debates on refugee questions would read books such as this. Additional copies are available—not many because there was a charge for them. I hope that people would read the contents of it. It is not written from a political perspective. It mainly deals with some of the facts surrounding the refugee question. It also records the small number of countries in the world that participate in the resettlement of refugees. I am very proud to say that Australia is one of those countries because there are only very few that do it. Many countries’ representatives at the conference were criticising Australia because of the events surrounding the Tampa. In many instances it was ill-informed criticism. They were not aware of all of the facts surrounding what had occurred. That is regrettable, but that situation can be corrected by people reading more.

I do not want to make any comments about the food, but I will record my pleasure of flying first class on Air Afrique. Because somebody had boarded the plane previous to me, the one wire coat hanger that was available on that flight had already been taken. It is a real experience to fly first class on Air Afrique. I am pleased that I was not flying business class, and I am certainly glad that I was not flying economy class. My luggage did arrive at all destinations so I did not have the trials and tribulations that other members of the delegation and advisers had.

Question agreed to.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Senator BARTLETT (Queensland)

(10.03 a.m.)—I move:

That upon the introduction of the Regional Forest Agreements Bill 2002, the following matters be referred to the Rural and Regional
Affairs and Transport References Committee for
inquiry and report by 21 March 2002:

All aspects of the provisions of the Regional
Forest Agreements Bill 2002, including, but not
restricted to:

(a) whether the legislation contravenes
Australia’s obligations under inter-
national agreements, including the
Convention for the Protection of
Biodiversity, the Framework Convention
on Climate Change, the World Heritage
Convention, the Ramsar Convention and
agreements for the protection of
migratory species;

(b) whether the bill overrides section 42 of
the Environment Protection and
Biodiversity Conservation Act 1999
and the implications of this for the protection
of World Heritage, the protection of
Wetlands of International Importance
and the environmental impacts of taking
actions whose primary purpose does not
relate to forestry;

(c) the compensation obligations to which
the Commonwealth would be exposed if
it took action to prevent forestry or
mining operations or other activities in
Regional Forest Agreement (RFA) areas;

(d) whether it is fair to provide
compensation to an industry whose
activities are already heavily subsidised
and which has no reverse obligation to
compensate the Commonwealth or states
for damage to the environment,
including water quantity and quality,
soils, carbon banks, biodiversity,
heritage and landscape;

(e) the need to ensure that workers
entitlements are protected;

(f) the need to ensure full parliamentary
scrutiny of all RFAs before initial
ratification and before any proposed
renewal;

(g) the current level of monitoring of RFAs;

(h) the current status of review of all RFAs
that have reached the 5-year review
period;

(i) the current level of compliance of all
aspects of RFAs;

(j) the current level of enforcement of
RFAs;

(k) the current levels of government
subsidies to the timber industry; and

(l) any new data relating to species,
habitats, ecosystems, mapping accuracy,
social and economic impacts not
available when the Comprehensive
Regional Assessments were prepared.

This motion seeks to refer the Regional For-
est Agreements Bill 2002 to the Rural and
Regional Affairs Transport Committee for
examination and report by 21 March, which
is, of course, only two sitting weeks or not
much over a month away. It is a very short
time frame. Whilst I think the issues that are
dealt with in the bill and the various issues
that I have outlined in the terms of reference
are very substantial and deserve longer ex-
amination, the reason I have given it a
shorter reporting time frame than would oth-
erwise be appropriate is to clearly demon-
strate that this is not an attempt to try to pre-
vent the bill ever coming on for debate. It is
not an attempt to put it off into the never-
never. It is a very tight time frame. To some
extent, it is some recognition of the argument
put forward by the government and the La-
bor Party that this bill has been around in
various forms for three or four years and,
therefore, there is no need to look at it again.

As I stated the other day, the bill may have
been around for three or four years, but the
issues that the bill affects have changed dra-
matically in that three- or four-year period.
The Senate has not had adequate opportunity
to examine those issues that have developed
in that period. For example, when the bill
first appeared back in 1998, I think it was,
the Environment Protection Biodiversity and
Conservation Act did not even exist. That act
only came into force a little over 18 months
ago. Senator O’Brien made the point the
other day, and will no doubt make it again,
concerning his extreme annoyance with the
process of how the amendments to that bill
went through. He has some credence to that
annoyance. That again highlights the many
ways that this bill will interact with other
things that have developed and occurred
since it first appeared and since it was given
any decent examination by a Senate com-
mittee back in early 1999. The very trun-
cated and rushed hearing, inquiry and report
that occurred just before the election last
year was really so cursory as to be barely
worth giving much substance to.
The aspects that I have outlined that I think particularly need to be examined that have not been properly examined in the light of the current situation include the bill's interaction with our obligations under international agreements. I know this federal government has little regard for international agreements and has quite regularly, happily and deliberately breached any number of them in a range of human rights areas over recent times. Others of us in this chamber believe that we should ensure that we uphold our international obligations that we have signed up to. I would have thought the ALP would be amongst those who support us making sure that we do not pass legislation that contravenes commitments we have given under international obligations.

There is a very significant issue in relation to compensation. The compensation obligations are really at the heart of this bill. These have never been outlined. For a government that preach economic responsibility and sensible economic management, this is another area where they are basically pulling the wool over Australian people's eyes and telling us as many distortions as there have been about the refugee issue. For a government that pretend to be about sensible economic management, there has been no attempt to outline what the potential financial cost and compensation would be to the taxpayer or to the Commonwealth if the Commonwealth took action to prevent forestry or mining operations or other activities in regional forest agreement areas.

Let us not forget that many areas will be affected by this legislation. There is any likelihood of things developing over the course of the next decade that would bring information to light—whether on environmental or other grounds—that would strongly demonstrate a need to reduce or prevent forestry or mining operations. Yet, if that occurs, there will be no way of preventing that from incurring enormous financial cost to the taxpayer. Also, we have to ask whether it is appropriate to provide compensation to an industry whose activities are already heavily subsidised and which has no reverse obligation to compensate the Commonwealth or states for damage done to the environment, including water quantity and quality, soils, carbon banks, biodiversity, heritage and landscape.

In the area of climate change alone, to lock us into the risk of significant compensation for so many years at a time when the effects of climate change are only now really starting to be understood—and there is still so much research to be done about what the ongoing effects will be—is grossly irresponsible. The Senate has done a lot of work, the Senate environment committee in particular, into examining the greenhouse issue. The committee, chaired by my Democrat colleague Senator Lyn Allison, produced a comprehensive report—again, in most aspects, not all, supported by the ALP—outlining the complexity, the extent, the ongoing development and the dynamic nature of the greenhouse climate change issue. Yet this bill seems to try and act like it is in some sort of a vacuum that does not have to acknowledge or interact with that reality. This is particularly crucial when you look at the evidence that has come to light since it was last examined properly by the Senate. It is also particularly relevant given this government's ongoing commitment to—and, indeed, in most respects, the opposition's ongoing commitment to—the national competition policy.

A comprehensive report was brought down last year by Marsden Jacob Associates, consulting economists, in relation to national competition policy principles and the removal of unfair advantages. As a result of the legislation that went through this place—without Democrat support, I might add, but with the support of both the larger parties—there was the requirement that the unfair advantages that various forestry departments enjoyed over the private plantation sector in competing for timber and fibre markets be removed. This comprehensive report done by a reputable firm of economists clearly identifies that state forestry departments are continuing to undercut private plantations by subsidising the logging of native forests with taxpayers' money.

The report states that, in all states of Australia, timber from state-owned, established native forests competes with timber from
plantations, but not on a level playing field. In all states the playing field is tilted against plantations and farm forestry and is in favour of exploitation of nature forests. It further states that the absence of a level playing field makes private investment in farm forestry and plantations less attractive: it distorts the allocation of wood sources within the forest sector, it encourages greater exploitation of the public native forests in each state, it undercuts competing uses of public native forests—that is, non-destructive uses—and it worsens the Australian environment and resource base.

This is a report, I remind the Senate, from a reputable firm of economists looking at the issue from the aspect of competition policy and unfair subsidies. It shows not only that we will be bleeding the taxpayer at federal level with no examination of how much that will be but also that it will be locking in an ongoing system of the taxpayer being bled at state level, paying for incentives for greater destruction of native forests. It is hard to think of a greater absurdity when we are talking more and more about the need to move to a triple bottom-line approach that looks at values not just economic but also social and environmental. This is one of those where it fails on all counts. To prevent the Senate from examining properly the validity of assertions such as those I have just made I think would be very negligent. This is not just a matter of saving trees because of some nice emotional attachment to them—not that there is anything wrong with doing that; this is a comprehensive matter of social and community impact, and of economic impact as well as environmental values.

There has been ongoing reduction in employment since RFAs have come in, despite their supposed aim, and this legislation needs to be examined for the adequacy of whether or not it ensures that workers’ entitlements are protected. It might be fine for the woodchip company to get millions of dollars in compensation, but is there any surety that any workers who might lose their jobs would be able to partake in that compensation? We need to look at the current level of monitoring of RFAs. When the bill first came forward, obviously there was not the scope to be able to look at that. Now that we are in a place and at a time where we are looking at locking in this legislation for a significant period of time, we should not be doing so without being able to inform ourselves of what the current level of monitoring of RFAs is.

We also have to look at the current status of review of all the RFAs that have reached the five-year review period. How adequate is the current process? What is the current level of compliance of all aspects of RFAs? Significant amounts of evidence exist and more is coming forward all the time. This does not concern just environmentalists. The views of environmentalists are more and more being shared across a much broader spectrum. Whether you are in Tasmania, Victoria or New South Wales, the message and the concerns are constant. In terms of the adequacy of compliance, at least from the evidence I have seen, I would say that Tasmania takes the cake in terms of completely and dramatically ignoring a lot of its compliance requirements, and it breaches them on a regular basis. Tasmania has many things to be proud of, but that is certainly not one of them. But there is evidence across the board that there is inadequate compliance with existing RFAs.

Should we as a legislative chamber be considering and contemplating passing legislation that will have dramatic long-term financial and environmental impacts without looking at whether the RFAs that this bill will lock in are actually being followed and what mechanism there is to remedy breaches? Does the bill adequately ensure that there are provisions, punitive or otherwise, to actually enforce the RFAs and remedy breaches if compliance is not adequate? The issue of the level of enforcement of RFAs that currently exists has to be examined. It would be negligent of us not to, and it has not been done adequately. The very fleeting hearing done whilst the Senate was sitting in the final week of last year simply was not adequate enough to examine and explore all those things. It was obviously done in an atmosphere in which a clear attempt was made to steamroll the bill through the chamber amongst the mass of legislation
that always gets jammed up against the Senate in the final sitting week at the end of the year, particularly in the final sitting week before an election. We should not kid ourselves that there has been proper examination of all these issues.

It is no secret what the Democrats views are on this issue and about the legislation as a whole, but I think committee processes are not simply just about reinforcing your own prejudice. They are about getting the evidence out in a public way, on the record, and in a way that can be tested. The committee process provides a chance to have the assertions that people such as Senator Brown and I make about RFAs tested by others, as well as providing us with an opportunity to test the assertions of those who are in favour of RFAs. But that opportunity would be denied the Senate if the government get their wish of just bringing this bill on for debate straightaway. That would be inappropriate. As I said the other day, it is a particularly appalling signal from this government about their priorities.

If you add the events of the last day or so to the government’s wish to have this matter down in the history books as their first legislative act of a new parliament, coupled with their first major report tabling showing widespread deceit across three departments on a crucial issue, the lack of credibility that is now part of the Howard government is going to mark and stain their government for their entire three-year term. Setting that aside, the government’s first legislative achievement of ramming through the Regional Forest Agreements Bill 2002 will hardly be a great start to the environmental credentials that are supposedly part of the commitment and the focus of the government and which were outlined in the Governor-General’s speech the other day. It is a clear example of why the Australian public are so cynical about the political process and of why we need to re-examine the way we operate and ensure that our responsibilities as legislators are actually complied with and fulfilled in a much more comprehensive and responsible way.

The terms of reference I am putting forward also suggest examining any new data relating to species, habitats, ecosystems, mapping accuracy and social and economic impacts which were not available when the comprehensive regional assessments were prepared. Plenty of that information has appeared since that time. Again, the Democrats believe it would be negligent for the Senate not to examine those items of new data before we move on to the passage of this piece of legislation.

I urge the Senate to support what is an important but brief examination into this area. The terms of reference outlined build upon those put forward to the Senate by Senator Brown in September last year—you may notice the similarity of some of the words—particularly in relation to current levels of compliance, enforcement, monitoring and new data. All those things need to be examined if we are going to attempt an informed judgment on these bills—not even to make an informed judgment on these bills but so that there can be some level of confidence in the public that there has been proper examination, that their views have been tested publicly, on the record, in some sort of meaningful way. That is what this motion is about and that is why I urge the Senate to support it.

Senator O’BRIEN (Tasmania) (10.20 a.m.)—The opposition will not be supporting this motion. The Regional Forest Agreements Bill has been before this parliament in two previous forms. We did not have the opportunity to debate it when it was last before the Senate, last year. However, the first version of the bill was the subject of extensive debate in this chamber in 1999. It was in fact passed, but it was passed with amendments which the government chose not to accept. The government then chose not to reintroduce the bill until August 2001. That circumstance made it very difficult for that bill to be dealt with by the Senate, given that the Senate rose quite early last year for the election. However, the first version of the bill was the subject of extensive debate in this chamber in 1999. It was in fact passed, but it was passed with amendments which the government chose not to accept. The government then chose not to reintroduce the bill until August 2001. That circumstance made it very difficult for that bill to be dealt with by the Senate, given that the Senate rose quite early last year for the election. However, there was an opportunity again, with the second reference of the bill to the Senate Regional and Rural Affairs and Transport Legislation Committee, for those with an interest in the legislation to make submissions. Those included not just the opportunity to present an oral submission to
give evidence in person before the Senate committee but also the opportunity to present a written submission and other material. None of the points from (a) to (l) in the motion now before the chamber were not relevant or not known at that time. I suspect Senator Bartlett might say there is some additional data which may have arisen since that time, but the arguments which he would seek to be addressed in a Senate references inquiry were able to be canvassed at the time that this bill was before the Senate legislation committee.

The opposition does not lightly refuse to support reference of legislation to a committee. We have been on the receiving end of refusals by other parties, the Democrats included, when we have requested that bills be referred to committees in circumstances where there have been no previous references on the subject matter of the bill substantially before the Senate. Nevertheless, we would not lightly refuse a request to refer a matter to a committee. On this occasion, there have been two references of this matter to the Senate legislation committee, in 1998-99 and in 2001, and there have been ample opportunities for these matters to be canvassed.

Some of the matters which are sought to be raised in the reference are matters which I fully expect will be canvassed in the five-year reviews which are part of the regional forest agreements process, some of which are taking place at this very moment. The government has clearly indicated that those reviews will be placed before the parliament for its consideration. The issue is whether this reference should proceed. I do not seek to debate the legislation because I believe we will be debating the Regional Forest Agreements Bill 2002 later today and, I would hope, in the next sitting week of the Senate so that we can deal with this matter as expeditiously as possible. I do not propose to canvass the detail of the legislation as such today. What I am at pains to say is that the opposition believes there has been an opportunity for these matters to be canvassed. There will be opportunities in the debate and certainly I expect in the committee stage of the debate on this legislation for these matters to be canvassed. Senator Bartlett said the Democrats would be pursuing amendments. I believe Senator Brown is intending to pursue amendments. From what I have seen in the media, I understand some of those amendments touch upon the points which are sought to be canvassed in this inquiry. Given the proposed time for the conduct of the inquiry, it would have to be a short one. It would have to be conducted in circumstances where there would be a limited time for parties to present submissions. I do not believe we should put the industry or other parties to the time and expense of presenting the same sort of material that we have had before. I am certain that Senator Bartlett and Senator Brown are quite capable of presenting arguments in relation to other matters which may pertain to new information which was not able to be put before the committee.

So the opposition will not be supporting this motion. The opposition has indicated quite clearly that it is anxious for this legislation to proceed. We have indicated we will be moving certain amendments to the legislation and we will be seeking the support of the Senate for those amendments. Having said that, we are not going to be in the business of unreasonably delaying the passage of this legislation. I believe that there is the potential for other motions to arise in relation to a reference, were it to be said that there was other material that people wished to present which had not been presented, and we could be faced with a future argument that perhaps there should be an extension of time for this committee and therefore a further delay in the processing of the legislation—which, one imagines, would engender another debate in this chamber and which would I think be calculated to delay the passage of the legislation. As I said yesterday, it was clear from comments reported to have been made by Senator Bartlett that the Democrats’ view was that this bill should be killed. That is not our view. I suspect Senator Brown would be much happier if the bill did not proceed than if it proceeded with amendments. I am reluctant to canvass those issues now because they go to the issue of the bill. I will simply say in relation to this motion the opposition will be voting against it.
Senator BROWN (Tasmania) (10.28 a.m.)—There we have it: the Labor Party is here to represent the logging industry—it was the only entity that got a mention—and to shut out the public. Let us have no inquiry; let us have no delay; let us get this through. Already, the Labor Party is on the run—with the government—from public scrutiny of what the Regional Forest Agreements Bill 2002 means to Australia’s wild forests, now being destroyed at the greatest rate in history under the regional forest agreements, supported by the two parties against the majority interests and wishes of the Australian people. We are in a position where the great and noble Labor Party is saying: ‘Shut the people out. Let’s not have any inquiry. Let’s not give the people an opportunity.’ Not even the workers got a mention from Senator O’Brien. It was the industry’s interest to get this shoved through without public scrutiny—and, of course, by ‘the industry’ read the woodchip corporations and, in particular when it comes to his and my home state of Tasmania, Gunns Pty Ltd, the biggest destroyer of hardwood forests and wildlife not just in the Southern Hemisphere but on the face of the planet. By the way—and this would be a reasonable matter for scrutiny that I am sure Senator O’Brien and the Labor Party want to shield the big end of town from—Gunns Pty Ltd are making a 35 per cent return on their investment. It costs very little to put in a woodchip mill and the profits are huge, while the public, who owns the forest that they are destroying, is getting less than one per cent return for hundreds of years of growth of those forests in the wild valleys of New South Wales, Victoria, Western Australia and Tasmania. What a low point for the Labor Party to be running from public scrutiny and shutting the public out from this piece of legislation because, as Senator O’Brien says, it is in the interests of the industry—that is, the people making money out of this destruction of Australia’s heritage—not to have this matter publicly scrutinised.

The importance of the inquiry which Senator Bartlett has proposed is highlighted by the form of the legislation itself, not least because the legislation is designed to avoid parliamentary scrutiny of the regional forest agreements. It is very important to understand that this is not a usual situation. Regional forest agreements, which have been signed by Prime Minister Howard with the several states I have mentioned, involve the investment of hundreds of millions of dollars of taxpayers’ money as well as the destruction of forests and the continued shedding of jobs. Prime Minister Howard came to Tasmania to sign the agreement in 1997. I am sure you remember, Mr Acting Deputy President, because there was vigorous opposition from the Tasmanian people and the Prime Minister had to leave the site of his signature through a back paddock. He drove over a wheat field to get away from the feelings of the Australian people at the time, not unlike the Prime Minister when it comes to dealing with the Australian public on any difficult matter. However, he signed the document.

But let me have a look at the Prime Minister’s behaviour when it comes to public scrutiny and his responsibility to scrutinise on behalf of the public before signing that document. I sat over a cup of tea with the Prime Minister in August 1996 and suggested that he come to Tasmania to have a look at the forest before he signed that death warrant known as the regional forest agreement. But he did not, because he did not have the gumption. He did not carry through his responsibility as chief arbiter of the RFA and the signatory on the regional forest agreement in Tasmania to go to the forest to see what in fact it was that he was sacrificing through that signature. What he did not do in Tasmania, he did not do in New South Wales, Victoria and Western Australia. So the Prime Minister who signed the document has not seen the forests. Now we have the want through this legislation for the documents to have legislative backing in this place, and we have not only the Prime Minister’s party but, cap in hand with the Prime Minister’s party, the Labor Party saying, ‘Not only do we not want the forest to be seen by the Prime Minister—or, for that matter, by the opposition—but we do not want the public to let us know how they feel about it.’
Quite erroneously, the Labor spokesman for the forests, Senator O’Brien, who should know better, says that there is nothing new. There has been a short and a long inquiry before and the public were allowed to see the results of those inquiries, but there is nothing new. Mr Acting Deputy President Bartlett, your motion says under paragraph (i) that this inquiry should look at ‘the current level of compliance of all aspects of RFAs’—that is, whether they are being implemented according to the public intent and the words of the agreements themselves and whether the Prime Minister’s signature is being honoured—and, secondly, under paragraph (j), that the inquiry should look at ‘the current level of enforcement of RFAs’—that is, whether the states which are left to enforce the regional forest agreements are actually enforcing the word and the honour of these regional forest agreements which, as far as environmentalists are concerned, is to establish ecologically sustainable logging. The answer is no, they are not—no, no and no.

Since that last inquiry, Senator O’Brien, who has now left the chamber, has been to the Mount Arthur logging site in northern Tasmania where, under the Forest Practices Code, which is the implementation instrument for the regional forest agreement in Tasmania—so this is new evidence—the Tasmanian forest authorities and the woodchip corporation involved logged straight through a permanent stream when there should have been at least 10 metres, if not more, of the forest left on either side of the bank—that is, back from the bank, let alone the width of the rivulet itself which, by the way, drained down into the Launceston water supply. They chainsawed down trees in the middle of that stream into the stream bed itself and, moreover, left the trees there. That is illegal under the regional forest agreement signed by Prime Minister.

Senator O’Brien, who is ducking from an inquiry and will use Labor’s numbers to kybosh this motion, knows that is true. Senator O’Brien knows that the regional forest agreement is being breached not just in that case but widely in Tasmania. Senator O’Brien knows that these logging practices are, in effect, illegal and that they dishonour the Prime Minister’s signature. He compounds that knowledge by now saying that we will not have a public inquiry so that the public can give feedback to this Senate before it makes its decision on this piece of legislation. That is a travesty of democracy. This makes illegitimate the functioning of a parliament which must come from the information, the wishes and the concerns of the people.

But Senator O’Brien and the Labor Party say, ‘We are here to defend the interests of the industry.’ That is the big end of town—the people in their velvet chairs sitting in boardrooms of entities like the Commonwealth Bank who have invested in this industry, who have never been to these forests, who are not acquainted with the wildlife and who do not know that illegal logging is taking place to make them a profit. The best way of keeping that all out of potential public gaze is to refuse an inquiry.

The process is wrong. The Labor Party stands indicted for helping to cover up the way in which the regional forest agreements, as unsatisfactory as they are, are being abused and the way the promise of the regional forest agreements to engage in ecologically sustainable logging is being broken every day that this Senate sits. I have no doubt that, if that is happening on a broad scale in Tasmania, it is happening on a broad scale in Victoria, New South Wales and Western Australia as well. But the Labor Party says, ‘We don’t want to know about that; we don’t want people out there in the electorate to be able to express their concerns.’ It is bad enough that, when 4,000 people protested against this abuse of the Tasmanian forests outside the Labor Party’s national conference last year, neither the then leader nor any other member of the Labor Party presented themselves. Certainly Senator O’Brien, who comes from Tasmania, was nowhere to be seen.

During this debate I will be trying to uncover, as best I can in this place, the government’s knowledge of the failure of the regional forest agreement and the abuse of forest practices. Without an inquiry, without this reference going forward, you, Mr Acting Deputy President, and I—and no doubt
Senator Murphy will have something to say on this matter—and your Democrat colleagues are left in the position of having to take information from the public as best as they can get it to us and then present it to the parliament. But let me tell you what will happen here. If we do not get into the committee stage today, then when we return, the minister, Senator Ian Macdonald, who is not even here for this debate and was not here for the introduction of the legislation, remarkably—the new government spokesperson on the forests who is already absent—will refuse to answer, will go to ground.

I ask the Minister for Forestry and Conservation now—and I will bring this question forward in a month: what is the definition of ‘ecologically sustainable’ logging a la the regional forest agreements and this bill? Can the government acquaint the Senate with it? I tell you, Mr Acting Deputy President, that he will not answer because it is a lie; because the term ‘ecologically sustainable’ used in this manner is a lie. It is in the documentation, it is over the Prime Minister’s signature, it is even in the legislation, but it is a lie. No wonder we have this remarkable travesty of democracy whereby 80 per cent of Australians do not want this destruction of their wild forests and wildlife but more than 90 per cent of the members of this place say, ‘Let the chainsaws go faster.’ This is because the public has been shut out, has not been heard, has been dismissed by the power of the industry, which Senator O’Brien says is his arbiter in deciding that he will give the ‘thumbs down’ to this motion and shut the public out and bring through the interest of the woodchip corporations.

I will be saying a bit more about that and I will be pursuing the government and the opposition about the donations system, which, as far as I can see, can be the only answer to this extraordinary situation where most Australians say, ‘Save our forests. The plantations are there. We do not need to be destroying our forests. All our wood needs can be met from the 2 million-plus hectares of plantations already in the ground,’ but the majorities in this building, on this hill, are saying, ‘Log them faster, destroy them quicker; and lock the public out.’ ‘Let us not have an inquiry,’ says the Labor Party, and the government will agree.

So, Mr Acting Deputy President, you and I, and several other members of this place, are left to prosecute the case that the regional forest agreements have failed. They are a travesty of their central dictum that they are to promote ecologically sustainable logging. They do nothing of the sort. The public is greatly aggrieved by that—both people who live in the areas being ravaged by the chainsaws under the regional forest agreements and those who do not but who nevertheless want the national forests of this country, and its wildlife, protected not just for future generations but for the greater job values and economic values that, these days, come from keeping such wild and wondrous places intact rather than from having them destroyed in a job-shedding job so that those great forests end up on the rubbish dumps of China and Japan, adding to the global warming problem of the planet as they go.

What a way to start this parliament: with Her Majesty’s opposition saying, ‘We refuse the public the right to comment on this legislation, as the first piece of legislation on the agenda, before it is pushed through the Senate, guaranteeing only the woodchip corporations access to taxpayers’ money if any trees are protected in the future.’ The value of the tree as a pile of woodchips is what the woodchip company sees, and through this legislation this is what the government and the Labor Party see for their friends in the industry, at the expense of everybody else. I have no doubt that if that inquiry is rejected it is going to lead to an interesting debate. But if the Labor Party think that they can just push this through and just speak to their friends in the boardrooms of the woodchip corporations and say ‘Look what we did’ without the public—and particularly the Tasmanian public in the run-up to a state election—recognising that they are the real villains in the piece in denying the public both a say and a just and popular outcome as far as the forestry industries are concerned then they will have to think again.

Senator MURPHY (Tasmania) (10.46 a.m.)—I would like to say a few words on the motion proposed by the Australian
Democrats. I know that this regional forest agreements bill has been in the Senate at least three times and has been referred to a committee previously and that people might say, as has been said by some senators, ‘Look, this has been done over that many times we should just get on with the business of debating the bill and determining whether or not we pass it.’ But I seriously question that role. The fact of the matter is that the regional forest agreements were established with a range of objectives and specific purposes. The second reading speech for the Regional Forest Agreements Bill 2002 says in the second paragraph that the bill commits the Commonwealth unequivocally to the outcomes achieved in the 10 RFAs concluded with four state governments between February 1997 and April 2001. It unequivocally commits the Commonwealth to outcomes. That is the issue that must be questioned and that is the issue that the parliament must consider. What outcomes have actually been achieved in respect of the implementation of RFAs currently in existence? Are the outcomes and the objectives in those RFAs being met? Are they in fact being complied with?

Those are the key factors, and I have to say that, barring a few members of this chamber, little is known amongst members of this chamber as to whether or not these things are being complied with. Of course the relevant state authority in the state in which the RFA is in operation are not going to say, ‘We are not meeting the objectives of the RFA; we are not complying with the criteria of the RFA.’ They are not going to tell us that that is the case. No Senate inquiry has taken it upon itself to actually get out there and get its hands dirty and have a really good look at this issue. If there is one reason alone that a Senate inquiry of the nature proposed should proceed, that is it, because people ought to get out there and have a look. That is the only way that this parliament, and indeed this Senate, can really make a decision that is based on a true assessment and based on the facts.

The fact of the matter is that the regional forest agreements—at least the one in my state and I know the ones in Victoria—are not being complied with. We know that, despite all of the so-called best science and best research, they substantially overestimated the resource available to the industry in Victoria. I do not want to lay any particular claim to fame, but I probably know more about the Tasmanian RFA than any other member of this chamber. My colleague Senator Brown has probably spent as much time or more time in the forest than I have, but I have been out there and had a good look.

I would like to read to you, Mr Acting Deputy President, an article in the Mercury newspaper of today’s date. It is headed ‘Log firms take no-waste pledge’. It is rather an interesting article. It says:

Tasmania’s forestry companies have committed to an industry charter—with its first priority to log with minimal waste. The nine-point charter was tabled in Hobart yesterday— which is 13 February—where the key players in the state’s forests signed on.

This is what is said by Dr Hans Drielsma, the General Manager of Forestry Tasmania:

“This is a statement of policy and commitment, but what will underpin that is a quality assurance system,” Dr Drielsma said. He said this system will be developed over the next year as a way to monitor whether the industry was reaching the charter’s objectives.

What about the objectives of the RFA? I thought—indeed, I have got the Tasmanian RFA here—that that was a commitment given in the RFA, that that was how the state’s commercially available forests would be managed from day one. Even prior to the implementation of the RFA, that is how they were supposed to be managed: in accordance with the state forest act and the Forest Practices Code of Tasmania. Yet here we have, on 14 February, a big announcement by these firms and the authority, Forestry Tasmania—the corporation responsible for the management of the public forests in my state—saying they are going to develop this wonderful charter that is somehow going to allow for minimal waste.

If ever there was a reason why we should have an investigation, this alone is it. We all know that people come to this place and that people from within the industry have said to
members of this Senate, ‘We need to get this bill through. We need to get it through for security for workers et cetera.’ Nothing could be further from the truth, frankly. Workers’ security does not hinge on this bill being passed through this Senate or this parliament. Workers’ security hinges on whether or not in the future we have downstream processing in this country, on whether or not we have a hardwood sawmilling industry in this country, on whether or not we develop a plantation industry that will ensure we do have a downstream processing and manufacturing industry in this country. That is what workers’ security hinges on—that and nothing else.

The Commonwealth and the state of Tasmania and other states have signed regional forest agreements. This legislation is only the legislative backing for those agreements. It is important for the parliament, which has a national oversight of the forests of this country, to ensure that the agreements it is has entered into with the states are being complied with. It is an obligation on the senators of this chamber to ensure that that is the case. If we are to pass legislation, if we are to allow agreements between the Commonwealth and the states to continue to operate, and those agreements are supposed to operate in the best interests of the management of the forests of this country—albeit the states have the constitutional right for onground management; but that is not the question—the Commonwealth does have a role to play.

I accept that it is an imperative that the Commonwealth gives a legislative commitment not to use its external affairs powers, or that a government does not come to power to milk some environmental vote for political purposes and use its external affairs powers to impact on the states’ management of their forests once an agreement has been reached. That is an unacceptable position. That has happened in the past, and we should not allow it to happen in the future. Nevertheless, the Commonwealth does have a responsibility to ensure that this country’s forests are managed on a sustainable basis.

This is not a question about whether or not we should lock up more forests. From my point of view, it is a question about ensuring that the commitments given in the RFAs—the regional forest agreements—are being met. Let me tell you, they are not in my state. The sad thing about the regional forest agreement in my state and the legislation that is proposed to be passed through this Senate is that there is no process for even me, as a senator, to make a complaint and have that complaint investigated by the Commonwealth. I have had meetings with people from the Department of Agriculture, Fisheries and Forestry who have been shocked by the video material that I have shown them. I have had meetings with state public servants who have been shocked by the same videos and still photographs I have shown them. Many of them say to me, ‘We wish there was something we could do. We wish we could help you more. But you now how it is, Shayne; you know the circumstances if we put our head up.’ That is true. And that is why this Senate has an even greater obligation to conduct an investigation into these sorts of circumstances.

I support having some legislative underpinning for regional forest agreements—no question. But it is important that when we pass it we are satisfied that what is happening on the ground is as per the regional forest agreement. As I said when I read out that statement from today’s Mercury, I find it amazing that after so many years—and even for Tasmania we had a regional forest agreement signed in, I think, November 1997—we have now come to the realisation that we have to have a charter that is going to minimise waste. We should have been minimising waste. Dr Drielsma says:

‘If we’ve got a log that is valued for a higher end use, we’re now committed—that is a bit of an admission of the fact that you were not committed before—to extracting that value."

‘It won’t go down the chipper—we’re not going to trash valuable timbers.’

That says to me that they were not doing it before. That is true, that is what was happening, and it is happening today. Valuable timbers are being chipped; valuable timbers are being trashed and wasted. I suggest to honourable senators that it is incumbent
upon this Senate to investigate that sort of thing.

Senator McGauran—Have you gone green all of a sudden?

Senator MURPHY—It is not a question about being green. This is about getting the best social and economic outcome for the timber industry in this country. It is about ensuring that, as Dr Drielsma says, if we have got a log that is valued for a higher end use, we are now committed to extracting that use. I say this to Dr Drielsma: I have been committed to that for over 20 years.

Senator McGauran—I never heard you say that when you were in the Labor Party.

Senator MURPHY—I do not know where Dr Drielsma has been, but his commitment seems to have come rather late in the process. His commitment has come in the last five minutes—as of yesterday, it would seem. It has taken Dr Drielsma some time, because he was a former public servant in the New South Wales forestry department and they got rid of him because he could not count.

Senator McGauran interjecting—

Senator MURPHY—The reality is that I have had a commitment to getting the best end use ever since I have been associated with the forest industry, including the time that I worked in it, which is more than I can say for Senator McGauran. I do not know whether you have ever done a day's work in your life.

It is imperative. I do not like to see these things dragged out any longer than necessary, because we do have a responsibility to pass legislation and to ensure that what happens is backed by sound judgment. The circumstances are that this Senate has never had a proper investigation of what is happening on the ground, and I would urge other senators to do likewise. Despite the fact that this has been referred to a Senate committee before, I think it is important enough for us to do that again and to have a really good look at what is happening on the ground.

Question put:
That the motion (Senator Bartlett's) be agreed to.

The Senate divided. [11.06 a.m.]

(The Acting Deputy President—Senator A.J.J. Bartlett)

AYES

NOES

The two things are intertwined, because many native forest areas are being clear-fell harvested for the purpose of establishing plantations, which is an interesting concept because it seems to me that that breaches the RFA. Nevertheless, it happens, and I think there is an obligation on us to go out there and check to see that what is claimed to be happening is actually happening. For that reason, I will be supporting the motion of the Australian Democrats, and I would urge other senators to do likewise. Despite the fact that this has been referred to a Senate committee before, I think it is important enough for us to do that again and to have a really good look at what is happening on the ground.
Senator KEMP (Victoria—Minister for the Arts and Sport) (11.10 a.m.)—I table the following documents:

Issues from the Advance to the Finance Minister as a final charge for the year ended 30 June 2001. Particulars of proposed additional expenditure for the service of the year ending 30 June 2002 [Appropriation Bill (No. 3) 2001-2002].

Particulars of certain proposed additional expenditure in respect of the year ending on 30 June 2002 [Appropriation Bill (No. 4) 2001-2002].

Particulars of proposed additional expenditure in relation to the parliamentary departments in respect of the year ending on 30 June 2002 [Appropriation (Parliamentary Departments) Bill (No. 2) 2001-2002].


Senator KEMP—I seek leave to move a motion to refer the documents to legislation committees.

Leave granted.

Senator KEMP—I move:

That the documents, together with the Final budget outcome 2000-2001 be referred to legislation committees for examination and report.

Question agreed to.

Portfolio Additional Estimates Statements

The ACTING DEPUTY PRESIDENT (Senator Bartlett)—I table the portfolio additional estimates statements for the Department of the Parliamentary Library.

Senator KEMP (Victoria—Minister for the Arts and Sport) (11.12 a.m.)—I table the portfolio additional estimates statements 2001-02 for portfolios and executive departments in accordance with the list circulated in the chamber. Copies are available from the Senate Table Office.

BUSINESS

Rearrangement

Senator KEMP (Victoria—Minister for the Arts and Sport) (11.13 a.m.)—I move:

That government business notice of motion no. 1 standing in the name of the Parliamentary Secretary to the Treasurer (Senator Ian Campbell) for today, relating to the introduction of the Financial Services Reform (Consequential Provisions) Bill 2002, be postponed till a later hour.

Question agreed to.

REGIONAL FOREST AGREEMENTS BILL 2002

Second Reading

Debate resumed from 13 February, on motion by Senator Ian Campbell:

That this bill be now read a second time.

(Quorum formed)

Senator O'BRIEN (Tasmania) (11.14 a.m.)—I rise on behalf of the opposition to speak on the Regional Forest Agreements Bill 2002. The first step in the process of both protecting our forests and giving security to forest industries commenced in 1992 when the Commonwealth and the states signed the National Forest Policy Statement. The statement details the agreed objectives and policies for the future of our native forests. As part of the implementation of the provisions of that statement, governments agreed that forest regions should go through a comprehensive assessment process of all forest values. The objective was the establishment of a comprehensive system of resources in which all matters relating to environment, heritage, economic and social values were properly addressed. The statement was also designed to achieve agreement of forest management practices and the signing of regional forest agreements by the Commonwealth and the relevant state. These regional forest agreements were intended to provide a blueprint for the future management of our forests.

It was a Labor government, together with the states, that developed much of the framework to achieve the objectives provided by the National Forest Policy State-
ment. It has been the responsibility of this government to complete that process by, amongst other things, passing Commonwealth RFA legislation, which was clearly vital as part of that process. I must say that, in the performance of a succession of ministers when putting in place Commonwealth legislation to underpin both the protection of our forests and resource security for our forest industries, forest workers and their families, political games have taken precedence. I am hoping for a change of approach with Senator Ian Macdonald now in charge.

Earlier versions of the Regional Forest Agreements Bill 2002 have been considered in this chamber and in the other place for nearly four years. The first RFA bill was introduced into parliament in mid-1998. The government failed to give that bill priority and it failed to pass through the parliament before the election in October of that year. An identical bill was reintroduced in November 1998 and passed the House of Representatives in early 1999. The Senate referred that bill to a committee but agreed to accelerate the inquiry to meet the government’s legislative program. Despite this, the government failed to progress the bill. Although the bill was introduced into the Senate in February 1999, the substantive debate did not commence until August. The bill finally passed the Senate with amendments in September 1999—clearly without a lengthy delay upon its introduction. But the government rejected the amendments to the bill.

The RFA bill then did not come back into the legislative program until August 2001. Again, the government failed to give the bill priority, and it failed to pass the Senate before the election. The bill we are now considering has three main objectives: firstly, to give effect to certain obligations of the Commonwealth under regional forest agreements; secondly, to give effect to certain aspects of the forest and wood products action agenda and the National Forest Policy Statement; and, thirdly, to provide for the existence of the Forest and Wood Products Council.

In order to provide security to the forest industry, its workers and the regional economies that rely on this industry, the opposition believes that this bill should come into effect as soon as possible. That has been our view for some time, but the government controls the legislative program and has determined that this bill should not be given the priority to which it is entitled. We are prepared to consider any proposal from the government or any other parties to achieve that objective.

In order to expedite the progress of this bill, the opposition plans to move only four amendments. While these amendments will not go to the fundamentals of the bill, it is our view that, if accepted by the Senate, they will improve this important piece of legislation. The amendments provide for legal certainty relating to the Commonwealth’s reserve powers over properties on the World Heritage List. They tighten the potential liability of the Commonwealth to pay compensation for actions that cause actual loss or damage arising from parties being prevented from exercising their legal rights. They provide for the establishment of a comprehensive database to ensure the long-term management of the resources, based on the best possible information. They provide for the establishment of a parliamentary joint committee on regional forest agreements to allow an appropriate level of scrutiny of the RFAs by the federal parliament, without overriding in any way the executive authority of the states. These four propositions will be the subject of amendments which the opposition intends to move when this bill proceeds, as I expect it will, to the committee stage of the Senate’s deliberations.

Last week I attended an extremely successful shadow cabinet meeting in the Victorian city of Traralgon. It was a very successful visit and well organised by the local member, Christian Zahra. Various public functions were held as part of this visit, which were very well supported by a large cross-section of the local community. While I was there, I had the opportunity, along with the shadow environment minister, Kelvin Thomson, to visit Browns Sawmill at Noojee. There I met the operators, Mr Graham Brown Sr and Mr Graham Brown Jr. I also take this opportunity to thank both Shirley
and Julie for their excellent country hospitality at the time of my visit.

This employer is an important employer in this small town in country Victoria. The Browns are hardworking and innovative sawmillers who are clearly focused on value adding. They are maximising the return from the forest by milling a range of timbers, and they are aggressive supporters of the sustainable use of our forest products. The Browns are currently facing a number of problems not of their making, and I plan to address those problems at a later time. I also certainly intend to pursue a number of related issues when the estimates committees meet next week.

The forest industries need innovators like the Browns if we are to turn around our trade deficit in forest products and if we are to protect the jobs of the 83,000 men and women who rely on this industry for their livelihood. Australia imports one-third of the forest products used in this country. If we can reduce that deficit, we will have the ability in the future to grow jobs in regional centres like this one. This industry can only proceed with the correct legislative regime behind it, and the passing of this Regional Forest Agreements Bill 2002 will put that important building block in place. This industry also needs well targeted government support programs to allow it to adjust to its changing environment.

While the opposition support this bill, we are of the view that it can be improved, and this improvement will come from the four amendments that I intend to move in the committee stage. I understand that there are proposals to move certain other amendments to the bill, and the opposition will, of course, give consideration to every amendment proposed to this bill by other senators or, I suppose, possibly by the government. But we are concerned that there may be a view that, by amending the bill, further resource restrictions can be applied to the industry, further areas of forest can be set aside and further frustrations can be placed in the way of the passage of this legislation; we will certainly not be party to amendments which would have the effect of causing the passage of this bill to be frustrated and of creating a further hiatus in progress towards certainty for the forest industry, the workers in that industry and the community that relies upon it.

I must say that in some respects the ever proceeding argument to restrict the forest industry’s access to some of the forests with timber that is eminently suitable for high value adding, be it veneer timber, furniture quality timber products or other solid timber products, will achieve the inevitability of the claim that this industry is only about woodchipping. If after all you restrict this industry to the least productive—and least valuable in terms of sawmilling quality—forest, then that prophecy will be fulfilled by those who might seek to move amendments which would have the effect of taking those forests which are suitable for providing veneer or high quality sawlogs, for example, from the access of the industry. The opposition will not be party to that. This industry ultimately will not simply be about woodchipping, although that is obviously a part of the industry process. I believe and the opposition believes that the process of giving certainty to the industry is about allowing it to invest with some certainty in processes which will maximise the value adding to Australia’s timber resource and which will ensure the viability of high value adding operations within regional Australia, which will ensure that jobs continue to be available to constituents in my state and in other states of Australia who rely on the forest industry for their living. The opposition think that that is a motive which is well deserving of our support.

In relation to the consideration of other amendments, the opposition will, as I say, consider those and consult with the senators who may wish to pursue amendments, but I do lay down the caveat that the opposition will not be party to amendments which would have the effect of further restricting the resource in the way that I describe or of ensuring that the bill does not pass: we are not in the business of frustrating the passage of this legislation. (Quorum formed)

Senator CALVERT (Tasmania) (11.30 a.m.)—Yesterday when the Regional Forest Agreements Bill 2002 was introduced into
parliament, the Minister for Forestry and Conservation, Senator Ian Macdonald, sought to table his second reading speech. In true democratic fashion, Senator Brown refused to give him leave. As a Tasmanian senator it is my pleasure to, this morning, read into Hansard the minister’s second reading speech on the Regional Forest Agreements Bill, which is so important to our state.

Senator Brown—Mr Acting Deputy President, I raise a point of order. I would be quite happy if the minister were to be present, and he is not, and for him to read it out now.

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

Senator Kemp—There is no point of order.

Senator Brown—No, but I have registered the fact that he is not here.

Senator CAL VERT—The Regional Forest Agreements Bill provides legislative support and commitment to 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. The bill commits the Commonwealth unequivocally to the outcomes achieved in the 10 RFAs concluded with four state governments between February 1997 and April 2001. These RFAs were the conclusion of a process which had its roots in a three-year inquiry into Australia’s forest and timber resources conducted by the Resource Assessment Commission from 1989-1992. (Quorum formed) Before I was interrupted by the childish actions of Senator Brown—I would ask my colleagues to remain—

Senator Brown—Mr Acting Deputy President, I raise a point of order. My action was legitimate. The senator may not reflect on or impugn the motives of another senator. I ask you to watch the language he is using. It is perfectly reasonable for me to call a quorum in this place.

The ACTING DEPUTY PRESIDENT—Senator Calvert, perhaps you could moderate your language a bit given the sensitivity of the issue.

Senator CAL VERT—The actions of Senator Brown certainly do test one’s patience from time to time, Mr Acting Deputy President. I ask my colleagues to hang around because we do not want any more interruptions to this rather important debate. As I was saying, the Resource Assessment Commission found an overriding national need for improved intergovernmental institutions and decision making processes that would support comprehensive forward planning for forest use.

The National Forest Policy Statement 1992 set in motion the regional forest agreement process. It provided a nationally agreed policy framework for a long term and lasting resolution of competing forest industry, conservation and community interests and expectations concerning our nation’s forests. The statement committed the Commonwealth and all states to the ecologically sustainable management of forests and a balanced return from all forest uses.

The current 2002 bill has 12 clauses to address the three main objectives of the bill. The first objective is to give effect to certain obligations on the Commonwealth under the RFAs. These obligations involve: (a) ensuring that forestry operations in regions subject to RFAs are excluded from Commonwealth legislation relating to export controls, the environment and heritage (clause 6); (b) binding the Commonwealth to the termination provisions of RFAs (clause 7); and (c) binding the Commonwealth to the compensation provisions of RFAs (clause 8).

In excluding RFA forestry operations from certain Commonwealth legislation, the bill draws a line in the sand for political or bureaucratic goal shifting. The environmental, heritage and economic values of these regions have been comprehensively assessed through the RFA process, and each RFA was signed only after the Commonwealth had satisfied itself that state regimes adequately addressed sustainable forest management, environmental protection and heritage. There is, therefore, no need for further assessment at the Commonwealth level for the 20 years of these agreements. Any forestry operation
inconsistent with the commitments in RFA processes are to be addressed within state processes and reported in the annual RFA reports and five-yearly reviews.

The Commonwealth may terminate an RFA only in accordance with the RFA itself. The bill has the effect that dispute settlement procedures in the RFAs must be observed and the state provided with 90 days notice on any failures to comply with RFA provisions, such as implementation of the reserve system or codes of practice or management systems. Specific termination provisions are set out in the individual RFAs.

In binding the Commonwealth to the compensation provisions in RFAs, the bill provides legislative support to provisions in the RFAs. The RFAs set out the circumstances under which the Commonwealth would be liable to pay compensation and the process by which the amount of compensation is determined. They provide that in the event that the Commonwealth takes action inconsistent with the provisions of the agreement that leads to the prevention, or substantial limitation, of the use of land outside the reserve system or sale or commercial use of products from those areas, then the Commonwealth must pay as compensation an amount equal to the reasonable loss or damage sustained by reason of that action.

The second and third objectives of the bill are to provide legislative commitment and support to the National Forest Policy Statement and the Forest and Wood Products Action Agenda and provide for the continuation of the Forest and Wood Products Council. Clause 11 provides for the Forest and Wood Products Council to be a forum for the minister and industry stakeholders to consult on a range of matters, including the Forest and Wood Products Action Agenda.

The bill also provides for parliamentary oversight of RFAs. It requires publication of information about RFAs (clause 9) and requires the minister to table RFAs, amendments to RFAs, RFA annual reports and RFA five-yearly review reports (clause 10). These clauses, along with the objectives (clause 3), are a practical way of addressing issues raised in the Senate in 1999 when this matter was last debated.

The RFAs and the EPBC Act included some assumptions about future legislation, and some tidying up is now necessary to ensure that they are properly aligned. The bill, through a schedule, amends the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) and provides that the EPBC Act and the RFA bill have identical provisions relating to the application of the EPBC Act on RFA forestry operations.

The current provision in the EPBC Act permits a person to undertake RFA forestry operations without approval but defines RFA forestry operations in terms of a non-existent 1999 act. The schedule to the RFA bill corrects that anomaly by repealing the existing provision and providing that references in the EPBC Act to RFAs and RFA forestry operations are as defined in the current bill.

The effect of the schedule is to ensure that part 3 of the EPBC Act—which requires Commonwealth environmental approval for certain actions—does not apply to RFA forestry operations undertaken in accordance with RFAs. This exemption is limited so that RFA forestry operations in World Heritage or Ramsar areas or that are incidental to another action may be subject to the EPBC Act.

The RFA bill, then, is a fairly simple bill targeted at the specific objectives of underpinning the commitments that the Commonwealth has already entered into in its 10 RFAs with four state governments and in the National Forest Policy Statement 1992 and the Forest and Wood Products Action Agenda 2000.

I urge senators to consider the merits of the bill. Let us leave aside the tired old arguments over the use of native forests. Those arguments have been scientifically resolved over the past decade of research and consultation by parties of goodwill, resulting in a world-class comprehensive, adequate and representative forest reserve system and more certainty for those people and communities that rely on native forests for their livelihoods. Let us accept that the RFAs have set the parameters for the balancing of competing environmental, industry and recreation interests. Let us leave detailed discussion about the management of particular forests and forest resources to where they are
best handled: at the local level through the processes established in the RFAs, including annual reports and the five-yearly reviews of RFAs.

This government undertook at the last election to focus on ongoing monitoring and evaluation of RFAs through annual reports and rigorous five-yearly reviews, and to investigate allegations of breaches of RFAs and address them appropriately. The government intends to fulfil this commitment through processes set out in the RFAs.

The RFAs contain a range of obligations and commitments for both the Commonwealth and state governments. Both governments are held accountable, through annual reports against RFA milestones and five-yearly implementation reviews, for the discharge of these obligations and commitments. In the event that a government breaches its RFA commitments, a party may serve notice on the other specifying matters in dispute and settle the dispute—within seven days in Tasmania; and 14 days in Victoria, Western Australia and New South Wales. So there is a slight difference in those RFAs. In default of a settlement, the RFAs set out mediation procedures.

There are clear state government processes that the Commonwealth has accredited in the RFAs for ecologically sustainable forest management—including legislation, policies, codes and practices. These accredited processes are designed to deal with allegations of breaches of the RFA. In some cases, these state processes have been amended and improved to meet new commitments undertaken by state governments in the RFAs.

If the accredited state processes have not satisfactorily dealt with forestry operations inconsistent with RFAs, then a state may well be in breach of its obligations. This would then be a situation in which the Commonwealth has rights under the RFA to require the state to ensure its processes meet its commitments under the RFA. The minister—who is listening very intently to the speech that I am delivering on his behalf—undertakes to rigorously pursue any such failures of the accredited forest management processes using the dispute settlement procedures under the RFAs. To ensure public confidence in these processes, he proposes to publish the outcomes of any such investigations on the Commonwealth’s RFA web site.

To those senators and members who believe they have real evidence of breaches of RFAs, he asks that you make full use of the accredited state processes in accordance with the RFAs. Where you believe there is evidence of a breakdown in those processes, you should detail those to him fully so he can have them fully and effectively investigated.

I remind the Senate that the Australian Constitution does not provide the Commonwealth with power over forest management. That power is vested in the states. However, we do have certain rights under the RFAs that the minister will use fully.

Having said all that, the minister would indicate that he is not going to waste the taxpayer resources of the relevant state authorities with every unsupported comment or allegation that might be tossed around by those with some agenda that is not relevant to the sustainable management, use and enjoyment of our forest and the conservation of our ecology. But he will pursue documented breaches of RFA commitments, as he has indicated.

What the RFA process has delivered is what the Resource Assessment Commission found to be an overriding national need for back in 1992: improved intergovernmental institutions and decision processes that would support comprehensive forward planning for forest use. Let us use those intergovernmental processes to the full. On behalf of the minister, I commend the bill to the Senate.

Senator BARTLETT (Queensland) (11.47 a.m.)—On behalf of the Australian Democrats, I speak to the Regional Forest Agreements Bill 2002. Earlier today we debated this legislation when I attempted to refer the bill to a Senate committee for more adequate scrutiny. Unfortunately, that attempt failed. In my contribution this morning, I fairly clearly indicated that the Democrats believe there are significant flaws in this legislation and in the operations of the regional forest agreements that the legislation connects with.
It is worth putting a bit of history down in relation to what we are all talking about. People have been talking about regional forest agreements for so long that the actual context of what they are may have sometimes been forgotten or obscured. RFAs have a fairly long genesis in a lot of ways. They sprang from the Earth Summit Conference in Rio in 1992, as a result of Australia’s support for a global statement of principles on forests. Subsequently the Australian government in all states except Tasmania signed on to the national forest policy, which committed to a comprehensive, adequate and representative reserve system for Australia’s forests by 1995. The process was designed and justified on the grounds of it leading to the protection of old growth and native forests.

Before an RFA could be signed, comprehensive regional assessments had to be produced. Unfortunately, they were rushed through, as were many of the RFAs that the states and the Commonwealth have entered into. The so-called comprehensive assessments often were anything but comprehensive. Basic information on soils, for instance, was omitted, high levels of logging were locked in and criticism of the science behind the RFAs came from all quarters. As I have stated repeatedly today and yesterday when talking about this issue, often the government tries to portray this as just a bunch of fringe environmentalists who basically want to stop any tree from being chopped down ever. It is that sort of misrepresentation that this government is quite good at, but it is anything but the truth.

As was made clear in Senator Murphy’s earlier contribution today, these concerns are being raised across the board for a whole range of reasons. The situation started a long time ago with the widespread criticism of the science that was used to underpin the RFAs. Criticism came from a whole range of quarters, including many within the scientific community who expressed grave reservations about the inadequacies of the science that was used. Even in terms of its peer review, if you like, it was clearly already in trouble. Plenty of others have also expressed criticism.

It is pretty clear that the driver behind all this haste is, time after time, the woodchip industry, which is virtually the opposite, the antithesis, of working towards better protection of old growth and native forests. Since the introduction of the RFAs, there has been a huge increase in the export of woodchips, with a record seven million tonnes back in 1999-2000, for example. The first of the RFAs was the East Gippsland RFA and, interestingly it is now just over five years since that one came into force.

I am glad there are more people here to absorb the importance of it. With any luck, my cogent arguments will sway debate and at the end in the vote we may even get a different outcome than people anticipate. I was speaking about the East Gippsland RFA, which was the first RFA to come into force and is now overdue for review. It is a classic example: a fundamental aspect of the RFA process, supposedly a pretty simple one you would think, the five-year review, is overdue already. The Victorian government has made no moves to initiate the review. It is extraordinary that this government would seek to pass legislation in effect retrospectively locking in something that happened five years ago now that we have an ideal opportunity to have a review of whether the process is even working. The Democrats have received information that the review has been shelved by the Bracks government with the support of the Commonwealth. Certainly we will attempt to ask a few questions of the minister during the committee stage as to whether or not this is the case. If it is not the case, we would be interested to hear whether this chamber could get a timetable for that review. Equally important, this bill should not even be considered until this review has occurred. Waiting until this review occurs would give both the government and the ALP time to assess whether the RFAs are working, whether they have been complied with, whether the comprehensive assessments were accurate and whether the codes of practice are being conformed with. Otherwise we are really operating in a vacuum.

In East Gippsland an early review of the RFA found significant failings of the RFAs to meet sustainability standards. That review
has all but been ignored. A review of the RFAs provides an opportunity to revisit that ground and to incorporate findings into a prospective RFA act. One of the ironies of this whole process is that if the processes that were allegedly going to be set up way back in the early 1990s had actually been done properly then quite possibly people such as the Democrats and others—I would not want to verbal them—would be up here praising the RFAs rather than condemning them. *(Quorum formed)* I am pleased that people keep being magnetically drawn to listen to my speech. It is an important issue. In the Democrats’ view, the failure to wait can be read only one way: the ALP and the government are not interested in hearing this story. As Senator Brown has just pointed out to me, Senator Calvert in his contribution earlier said, ‘Well, if there is any evidence that they are not working, then present it and we will have a look.’ But there has been plenty of evidence for a long time and it is growing more and more. It was drawn to the attention of the previous minister many, many times, with no action at all. I am sure others in this debate will go to greater lengths about some of the extreme breaches. Mount Arthur in northern Tasmania, which Senator Brown mentioned before and which I myself have seen as well, is quite extraordinary, absolutely unbelievable. The practices across the north of the state in lots of ways to do with plantation and other things should be highlighted a lot more, particularly in relation to wanton clear-felling, often simply to establish a plantation, and—touching on something Senator Murphy has been talking about—enormous amounts of waste lying around. It is quite obvious. You do not need to be an expert on forestry to ascertain in some of those cases clear, blatant breaches of the code. They were all reported to Forestry Tasmania. Nothing is done. If anything, the situation is getting worse and worse.

Clearly, the industry is getting nervous that compensation provisions are not locked in and that access to publicly owned native forests are not locked in. They are getting more and more nervous because there is more and more coming to light about how damaging currently the process is. The people who should be getting really nervous are those who have invested in the plantation industry. I know Senator Murphy has already touched on that and has a great interest in that area.

This bill is a kick in the teeth to an industry that could become sustainable. As I outlined earlier on, the report by credible economists and commissioned by the Australian Conservation Foundation found quite clearly that RFAs operated in a way that made it much harder for plantations to get established and be invested in and tilted the playing field even more towards continuing logging in native forests. For instance, in the East Gippsland RFA that I mentioned before, woodchipping has increased by 100 per cent over the last two years off native forest timber and by 700 per cent in the adjoining Tambo region. At the same time, sawlogging, quite clearly the real value in any timber industry, has declined in East Gippsland by 20 per cent. Average royalty rates for all logs continue to decline.

I pay tribute to my Victorian colleague Senator Allison, in particular, and to many Democrats on the ground in that region—and to many other people—for the continuing work that they are doing in trying to bring to light the appalling way that that RFA is operating. As I said before, they are working with other people in the community across the board to again demonstrate the falsehood that somehow or other this is just a few tree-huggers who do not want anything ever to be cut down. It is widespread concern from a range of people for a whole range of reasons.

In East Gippsland, again, no-one has examined the economics of the logging industry or revenue forgone from the tourism industry. No-one has examined the economic relationships between plantation timber and its current troubles and the native timber clear-fell industry. This bill does not conform to national competition policy requirements. From the point of view of a government like this one, I would think it should be particularly outraged by that. It does not conform to good natural resource management. It does not protect biodiversity. It does not defuse conflicts, which is another excuse that is often used—that is, if this is locked in, there will
be certainty and that will resolve all the conflict because the legal situation will be resolved. It has actually exacerbated conflicts, because people can see how bad the process is. They are also getting more and more angry about the potential exposure of millions and millions of taxpayers’ dollars to woodchippers. It is poor economic management. It does not solve ecological problems. It is socially destructive. It hands the henhouse back to the fox and allows this government to walk away from its responsibilities in the most brazen fashion. It is, quite frankly, stupid law and its passage is going to occur because of short-sighted political reasons. It is not the way thinking Australians would want the 40th Parliament to begin. It is the same old story, unfortunately, and again sets a particularly bad tone for the direction of political life as we move into the second century of parliament in a federated nation.

We have heard over the last couple of days three different examples of outrageous distortions of fact, bending of the law and misuse of legal powers by the government on issues to do with refugees. That has demonstrated quite clearly that the word of this Prime Minister cannot be trusted. As we have heard in relation to the RFAs, these are documents that also have the Prime Minister’s signature on them. We have discovered in the last couple of days how much value the Prime Minister’s word is on anything. This is a guy who had the gall on the weekend to attack the Democrats leader, Senator Stott Despoja, for not having substance. We have seen in the last few days how much substance Mr Howard has. It has basically shown him to be a hollow man. If he is full of substance, then I probably should not mention what the substance is or I would be called unparliamentary. Clearly, we have seen now what his word is worth, and that shows as well in his complete lack of interest in living up to his word to the RFAs that he has put his signature to. He is not just extracting political capital by misleading the public about refugees. His dishonesty is clearly stretching across not only refugee issues but any expression of concern for the management of the environment.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Senator Bartlett, I think you are reflecting on a member of another house.

Senator Conroy—The truth is no defence in this chamber.

Senator BARTLETT—Does that mean I have to start lying?

The ACTING DEPUTY PRESIDENT—Would you mind withdrawing?

Senator BARTLETT—Yes, I withdraw. A whole range of issues need to be addressed in examining this bill. Given that we have been denied the opportunity to inquire into it by yet another shameless coalition between the Labor Party and the Liberal Party, we will have to do it via this debate.

The Regional Forest Agreements Bill 2002 fails to recognise the significant and growing community opposition to the logging of native forests. It fails to recognise that jobs continue to be lost in the timber industry. Hundreds of jobs have been lost, for example, in Tasmania alone since the RFA was signed. It fails to recognise the move worldwide towards more sustainable timber practices. It fails to address waste, which Senator Murphy touched on very tellingly previously today. It fails to provide necessary federal and community oversight of the issue. It actually locks the community out of even monitoring how things are continuing to operate. It vests powers in the states and in industry groups represented on the Forest and Wood Products Council and removes citizen and Commonwealth rights. It fails to address waste, which Senator Murphy touched on very tellingly previously today. It fails to recognise that the woodchip export industry, which is at the heart of current logging practices, contributes to regional development or to regional decline. Again, another supposed justification for entering into this whole process is to protect and encourage regional development. I am sure my colleague Senator Cherry will expand on this in detail, with his interests in that important area. While compensation is available to woodchippers if the Commonwealth breaches the RFA, there is no similar provision for compensation if the timber industry breaches the RFA.
The RFA comes up with a new definition of ‘annual report’. Proposed section 10(7) requires the tabling of one so-called ‘annual report’ during the five-year operation of the RFA. That is a new definition of ‘annual’—perhaps another example of this government’s propensity for stretching the truth to extraordinary levels. Minimal oversight provisions and minimal accountability seem to be the hallmarks of this legislation, and they are clearly becoming the hallmarks of this government. The clear single message about the new theme for their new term of government is that they are hiding even further away from any accountability and oversight, and they are giving themselves maximum power without any appropriate accountability mechanisms.

This bill is designed, theoretically, to ensure investment security, even though, as I have said, the economic distortions that it reinforces actually discourage investment in plantations, at great potential cost to the taxpayer. It gives far greater rights to the woodchip industry than to other industries. This is another example that, you would think, goes completely against this government’s alleged commitment to fairness across industries and to not favouring one industry over another. Even within the timber industry itself, the woodchip industry is the least productive, the least job producing and the most environmentally destructive component, yet it is the one that gets special treatment.

The bill fails to meet the requirements of national competition policy, particularly the provisions relating to competitive neutrality. It is almost certain to encourage expansion of logging in native forests at the expense of other alternatives. There are certainly significant problems with aspects of the plantation industry that we need to examine in greater detail, but that should not be used as an excuse to go back to further exploitation of native forests.

The Democrats will certainly be voting against this bill at the second reading stage. Senator Brown has a circulated amendment that we will support once it is moved. If it passes the second reading stage, then we will certainly examine other amendments put forward and, potentially, put forward a few of our own when the bill comes back on in March. We will be pursuing a few issues with the minister as well, assuming that he actually turns up for the debate, to try to get some more questions answered, seeing as we have been unable to use the Senate committee process to do that more efficiently and effectively. It is a classic issue that touches across all aspects of policy—environmental, social and economic.

I certainly concur with Senator Murphy’s self-assessment that he knows a hell of a lot about this stuff. I will not pass judgment on who knows more, he or Senator Brown; they both know a lot, obviously. Senator Murphy has extensive experience in this area and has had a commitment to it for many years. Suggestions have been made by some that he has become a convert to the cause of conservation only in the last few months. Senator Murphy is the only individual parliamentarian I can think of who has badgered the Democrats’ party room enough to get us to agree to let him present us with information. We have occasionally had ministers come to talk to us about legislation, but here was an individual member who was so concerned about wastage in the industry and the impact on jobs that he gave us a presentation of videos, still footage and photos. This was two or three years ago. As he said himself, it is a concern that stretches across the environment, the economy, long-term social development, the future of communities and regional development. It covers the lot, and this bill sets us backwards in all of those areas. It is a travesty for all of those reasons, and we oppose it absolutely.

(Quorum formed)

Senator MURPHY (Tasmania) (12.13 p.m.)—I listened with interest to Senator Calvert reading out the speech of the Minister for Forestry and Conservation. On page 6 the minister’s speech says:

To those senators and members who believe they have real evidence of breaches of RFAs, I ask that you make full use of the accredited state processes in accordance with the RFAs. Where you believe there is evidence of a breakdown in those processes, you should detail those to me so I can have them fully and effectively investigated. Further, he says:
Having said all that, I would indicate that I am not going to waste the taxpayer resources of the relevant state authorities with every unsupported comment or allegation that might be tossed around by those with some agenda that is not relevant to the sustainable management, use and enjoyment of our forests and the conservation of our ecology. But I will pursue documented breaches of the RFA commitments, as I have indicated.

I am very pleased that the minister said that, because that is a significant step forward from the last minister, Mr Wilson Tuckey.

I took the opportunity of trying to raise a number of what I believe were breaches of the RFA in Tasmania. In the RFA Forest News, which is the RFA newsletter that is distributed around the country, it says, ‘RFA monitoring: RFA process slips into second gear.’ There is an RFA monitoring unit comprising Mr Michael O’Loughlin, Mr Doug Pittard, Mr Rod Channon and Ms Kathryn Allen. In the newsletter it says:

Mr O’Loughlin said that transparency, accountability and effective communication would be vital in implementing and monitoring RFAs.

“It’s crucial that people know what’s going on and what the RFAs are achieving. It’s also important that people be able to distinguish fact from fiction when it comes to the way we manage our forests.”

Mr O’Loughlin said that, to help this happen, the unit would place a lot of emphasis on communication and consultation.

I thought, ‘That’s good,’ and I rang Michael O’Loughlin. I had a talk to him about the RFA monitoring unit and what it did and said, ‘Have you ever been to Tasmania? Have you ever been out in the field to have a look at what is going on so as to inform yourself as to whether or not the states are complying with their obligations under the regional forest agreements?’ He said, ‘Oh no, we don’t do that.’ I said, ‘How do you actually know what is going on? I would like to allege to you that there have been a number of breaches of the RFA in Tasmania. In fact, I don’t want you to take my word for it; what I want you to do is come out and have a look and make your own judgment.’ He said, ‘Look, I don’t know if we can do that.’ I said, ‘I would appreciate it if you could.’ He said, ‘We’ll probably have to talk to the minister about that.’ I said, ‘Okay, you do that and come back to me.’

Some weeks passed and I did not hear anything. On 19 October 2000 I wrote a letter to Mr O’Loughlin under the heading ‘Sustainable Forest Management’ and said:

I write with reference to our telephone discussion re the above.

You will recall that I expressed my long-held view that Tasmania’s forest management is unsustainable and as such in breach of the ecologically sustainable forest management provisions of the RFA. Consequently, I asked whether the RFA Monitoring Unit had conducted any field visits in Tasmania, to which you responded in the negative.

That being the case, I strongly suggest that yourself and/or the Monitoring Unit should, as a matter of urgency, accompany me on an inspection of the forest operations in the State and, at the conclusion of the visit, advise me whether you consider Tasmania’s forest management to be sustainable and whether it meets the criteria of the ‘Montreal Indicators’.

You indicated that you would seek approval to conduct such a visit and get back to me—I am disappointed that to date I have not received any feedback.

I now request your urgent advice as to whether the RFA Monitoring Unit will conduct a field visit in Tasmania.

On 2 November I received a letter from the then minister for forests, Mr Wilson Tuckey. His letter said:

I refer to your letter of 19 October 2000 to Mr Michael O’Loughlin of my Department, which has been passed to my office.

It is entirely inappropriate for you to attempt to directly contact my officials and badger them in this way. Please follow proper procedures in future and pass any such requests through me.

In relation to your request for the RFA Monitoring Unit to inspect Tasmania’s forestry operations, I have not received any expert advice that the sustainable yield criterion is being breached and until I do I see no reason to conduct a separate inspection.

If you have evidence to the contrary, I would be pleased to see it, I would then decide whether any inspection tour is warranted and who should participate.

In the meantime, I suggest that you direct your efforts to convincing your colleagues to support the RFA Bill ...
As a matter of fact I did have some evidence and I did want to show it to people. More importantly, I actually wanted people to go and see real-life evidence—not necessarily a video I had taken or still photographs I had taken.

I did not let the matter rest there. As recently as late last year I asked the Department of Agriculture, Fisheries and Forestry to come to my office and have a look at some video material, which they did. Mr Rob Rawson, who was one of the leading people in the forestry area, was accompanied by another member of the department, and I showed them a series of video footage and a range of still photographs. Without wanting to misrepresent them, I think they were dismayed at what they saw and they said, ‘Look, something needs to be done about this. We will go and talk to the minister and see if we can have something done about it.’ I have not heard a thing since—not a thing.

I had some discussion with the new minister, Senator Ian Macdonald, on forestry matters, and I very much appreciate his contacting me to do that and also my being able to have a discussion with his adviser on some of these matters. But I say to the minister that the fact remains that there are serious breaches occurring, that Tasmania’s forests are not being managed in accordance with ecologically sustainable forest management practices as set out in the regional forest agreement at point 62 and in attachment 10. I want to refer to some of the reasons why I say that. Attachment 10 says:

Improvements to Tasmania’s forest management system

The State intends to further improve its forest management systems across forest management agencies and land tenures by

1. Implementing the State policy setting new standards for water quality.

I pride myself on the fact that Tasmania is known as the state with the clean green image. At last count we had 39 councils that are advising the residents of those municipalities to boil their water before they drink it. We are failing miserably on the new standards for water quality. The newspaper article I read from earlier indicates that sustainable management practices and the better use of the resource that we take from the forest hit Dr Hans Drielsma fair between the eyes yesterday and that they have to lift their game.

We cannot proceed down this path with the existing forest management practices. We all know that as knowledge improves our ability to make judgments, we should change the practices that we employ to conduct things such as forestry operations. There is no question about that. At this time there is very little knowledge with regard to the effect on water quality and watertables of second rotation plantations. It is of fundamental importance for the future populations of this country and of my own state that we make sure that the forestry activities we conduct are world’s best practice.

Another aspect of that is the ISO14000 standards referred to in the regional forest agreement. Those standards are clearly not being met in Tasmania. The state has an obligation to meet them, and it is not. Unfortunately, the process as it relates to both dispute resolution and investigation of alleged breaches is flawed in the regional forest agreement, let alone in any legislation that might underpin it. So when we get into the Committee of the Whole I intend to move an amendment to ensure that the Commonwealth maintains a responsibility for oversight. If we do not do that, then we, as a national parliament, are abrogating our responsibilities.

I read with interest, as I have on many occasions—in fact, I participated in its development from time to time previously—the ALP platform on forests. The platform—this is the ALP Platform 2000—says:

Future development of the forest and forest products industry must take place on an ecologically and economically sustainable basis, by ensuring the full implementation of the National Forest Policy Statement, the Wood and Paper Industry Strategy, the Regional Forest Agreements process and the Plantation 2020 Vision.

The forest and forest products industry provides a source of employment for regional communities and contributes to economic growth and employment through increasing downstream processing of resource taken from public and private forests.
And it says:

Labor will:

- closely monitor the implementation of Regional Forest Agreement (RFAs) to ensure that agreed milestones and outcomes are achieved and that appropriate security is provided to both the timber industry and the reserve system ...

I do not think many of my Tasmanian Labor colleagues—and, indeed, Senator Brown and, I think, even Senator Harradine—would disagree. Senator Calvert and even you, Mr Acting Deputy President Watson, would agree that there are significant problems associated with the current practices. I can recall raising issues such as log splitting with the forestry corporation when it was the Forestry Commission of Tasmania. It said, ‘No, there is no log splitting going on—none at all. It is not happening. This is just Shayne Murphy running around lighting bushfires, stirring up trouble.’ It was not too long down the track that the Forestry Commission issued an order: there will be no more log splitting in the bush.

Today, anyone who lives out towards where I live at Cressy who watches the log trucks come down off the central plateau and stands at any of the truckstops, where they stop to get a cup of coffee at one or two of the roadhouses or service stations, will see that there is more than enough log splitting going on. There is nothing wrong with splitting a log if it is to get rot and charcoal off the log—that is a practice that has been employed for a long time. But there is something wrong with the splitting of logs that are solid. It should not be done.

I have previously in this chamber outlined a problem that was brought to my attention about the Mawbanna State Forest, in the north-west of the state, where a myrtle forest was being cut down. It has now been replaced with a eucalypt plantation. In a forestry operation of this nature, they cut down and take out the eucalypt and the logs from what they perceive to be all the valuable trees, then they would have the residue windrowed and burnt. When they got the contractor who does the windrowing to come and give a quote for the two coups in the Mawbanna State Forest, the quote was three times the normal cost. So Forestry decided it had to remove some of the residue, and they employed a contractor to clear out some of the residue for use as firewood. They issued a contractor with a firewood permit, which is about $20, and he proceeded to take out some of the leftover wood.

What happened was that he was finding substantial volumes of sawlogs—minor species, that is, category 4 sawlogs, particularly myrtle. He asked me to go and have a look. I will say, because this is now history, that this person, at that time, had actually taken out 32 truckloads of sawlogs. He had cut up other substantial volumes into firewood. I photographed and videoed it all. I have taken the forestry corporation officers out to view this site. Indeed, I wrote to the state minister about this and asked him to ensure that these two sites were not burnt until the very valuable resources, like myrtle and sassafras, were recovered.

I cannot recall the exact number of loads of logs that were taken out in sawlog form—these were high quality sawlogs, some over a metre in diameter—that would have otherwise been burnt. Indeed, a significant number of them were burnt. I was not satisfied with that and, after that, I wrote to the state minister Mr Paul Lennon and asked him if it was possible to allow operators of infilled sawmilling, like Lucas Sawmills, to go out there, because we saw when we had a look at the logs that they were burnt on the outside but still contained significant volumes of solid timber inside. These people were prepared to expend their own money to try and recover this stuff and put it to better end use, as is referred to by Dr Hans Drielsma. He has just found out that we are supposed to manage the forests in a way that delivers the best outcome. Well, it ain’t happening.

We in this parliament have a responsibility to ensure that we do not pass any legislation that does not give the Commonwealth the right to properly inspect and take action, as it is nationally required to do, to make sure this country’s forests are managed on an ecologically sustainable basis. It is something we must do.
As I also said earlier, there is not one job under threat due to the fact that this legislation has not passed this parliament. The biggest threat to jobs in the forest industry in this country is to allow the industry to continue to operate in the vein that it is operating at the moment. That is going to be the biggest threat to jobs in this industry. We have to straighten it up—there is nothing wrong with admitting we have made mistakes—and put the right processes in place. This country could have a very valuable and economically contributing timber industry, with thousands more jobs than it has at the moment.

I have spoken to people who have proposed developments in the Tasmanian timber industry. There is a sawmill at Wynyard right now that could employ 25 people. The big problem is that Forestry will not give them any wood. They say that the wood is not available, yet they burn hundreds of thousands of tonnes of wood that could be milled in a number of sawmills around the state. I took two Forestry Commission officers from the north-west out into the field, and they had to acknowledge that sawlogs were being burnt. It is not good enough. We have an opportunity to take at least one small step towards rectifying that, and I hope we will.

(Quorum formed)

Senator CHERRY (Queensland) (12.34 p.m.)—I want to talk today about the impact of the Regional Forest Agreements Bill 2002 on employment in Australia, on the regions in Australia, and on our economy. It is a real pity and a shame that this bill did not go to a committee, as my colleague Senator Bartlett moved earlier today, because there is a whole range of assessments and assertions about this bill which need to be tested and which should have been tested.

The regulation impact statement, for example, makes the statement that RFAs do not introduce any restrictions to competition. This is an extraordinary statement to find in an official government document—a statement that this bill does not impact on competition or on competition policy when what we are talking about is a massively subsidised logging of native forests industry and the impact that that may have on the viability of other more sustainably farmed forest industries.

The Australian Conservation Foundation released, in April last year, a report by economic consultants Marsden Jacob on the issue of regional forest policy and national competition policy. That is a very important report which I think this parliament should have examined in much more detail through a committee process. That report shows quite clearly that this bill does in fact breach national competition policy. It shows that the underlying practices in state forestry departments—which this bill is supporting, encouraging and turning into resource security—do breach national competition policy. By confirming that security through the regional forest agreements process, we are confirming breach after breach of national competition policy. To be presented with a bill with a regulation impact statement on the front saying that there is no restriction to competition and no impact on competition policy from this legislation, and to be expected to pass that bill without a proper Senate inquiry to look into its current economic impacts, is an extraordinary and ridiculous situation to be in.

I will quote from some aspects of the Marsden Jacob report because they are worth reading to the Senate. The report states:

But with the advent of the National Competition Policy in 1995, State Governments are now required to remove these unfair advantages which their forestry departments have enjoyed over the private plantation sector in competing for timber and fibre markets. This Report clearly identifies that state forestry departments are continuing to under-cut private plantations by subsidising the logging of native forests with taxpayers' money.

The report goes on to say:

National Competition Policy requires that forestry departments:

• recover all of their costs,
• provide a return (i.e. profit) to government,
• be subjected to the same taxes and charges that other businesses face,
• should not abuse monopoly powers
• should not regulate themselves, (ie. they should be independently regulated), and
• should not be given any unfair advantage over the private sector.
The Report clearly identifies that forestry departments in the four major logging States fail to satisfy all of the above criteria, and notes that the public interest arguments are overwhelmingly in favour of a reduction in logging pressure in native forests, and an increase in plantations investment. Yet with this bill we are looking at confirming the regional forest agreements in their entirety, despite the breach of national competition policy and without actually putting pressure on the states to deal with these competition issues. The report goes on to say:

In all States of Australia, timber from State owned established native forests competes with timber from plantations—but not on a level playing field. In all States, the playing field is tilted against plantations and farm forestry in favour of exploitation of native forests.

Marsden Jacob go on:

The lack of competitive neutrality between State forestry activities in established forests and private forestry activities:
• makes private investment in farm forestry and plantations much less attractive;
• distorts the allocation of wood sources within the forest sector;
• encourages greater exploitation of the public native forests in each State;
• undercuts competing uses of public native forests; and
• worsens the Australian environment and resource base.

On those grounds alone, I believe this bill, rather than being rushed through as the first bill of this session, should be subjected to further economic analysis. Let us get away just briefly from the very important environmental debate and talk about the economic analysis. This bill fails on economic grounds, and for that reason alone this Senate should reject it and this parliament should not be seeking to rush it through.

It is worth talking briefly about jobs in the forest industry. Senator Murphy made a very important point when he said that not one job is under threat by this bill not being passed. That is quite true. The loss of jobs in the forest industry in this country over the last decade is much more to do with mechanisation, changing industrial practices, changing processes and changing markets than environmental issues. My colleague Senator John Woodley headed up the Senate Rural and Regional Affairs and Transport Legislation Committee review of this bill in 1999. It is worth having a look at some of the comments Senator Woodley made at that time. He pointed out:

There are complex reasons for the loss of jobs in the timber industry, some of which parallel the loss of jobs in many areas of rural and remote Australia generally. Reasons unrelated to environmental activism—and, it would seem, ones of far greater employment significance—include the following: increasing mechanisation, corporate consolidation and rationalisation of mill operations, and decreasing areas of easy source material. They also include the takeover of pulping and woodchipping as the primary focus in many forest areas. This deters or deleteriously affects downstream or value added investment. Problems arise when plantation industry products, which are a greater employer, are undercut to such an extent by lower employment generating pulp and woodchip products.

The Democrats believe the only way in which long-term job security can be assured is through proper value adding to forest products and basing the industry on sustainable and existing plantations.

And he pointed to the evidence of witnesses, such as Judy Clark and Francis Gray, which showed that the economics of native forest logging are simply not sustainable in the longer term.

If governments are serious about long-term jobs and security, then they need to focus much more on getting the plantation sector right. There are issues with plantations, and we all know of those issues, but we also need to be focusing on that part of the equation rather than trying to lock up and encourage continuing subsidised exploitation of native forests, which economically is not sustainable in the longer term. The big employment generators are to be found in further processing of plantation sawn timber and wood panels into products like furniture, joinery, roof trusses and the like. By ensuring that the plantation industry prospers, timber harvests will improve and that in turn will create more jobs. That is the future of forestry in this country. This bill is regressive and backward looking. It does not stand up on economic or environmental grounds. It is
unfortunate, but apparently true, that the plantation industry is at a crossroads where there will be losses of potential downstream jobs as a result of the RFA process. Prices of native forest logs are now so low that there are starting to be stockpiles of sawlogs and export of unprocessed plantation sawlogs as well.

It is worth pointing just very briefly to the meeting held in Orbost in Victoria last week, where logging contractors signed up with local environmental activists and talked about the need for reform of forestry practices. The Age of 5 February 2002 states:

Orbost logging contractor Ron Milliken blamed the crisis on the failure of East Gippsland’s 20-year Commonwealth-state regional forest agreement, signed in 1997, and misleading advice from the Department of Natural Resources and Environment. He said the community had been divided for years, with many smaller groups trying to achieve positive outcomes in isolation from each other. A forum bring all people together in a ‘cooperative and respectful manner’ had long been needed.

The article goes on to say:

Another contractor, Frank Brunt, said greens and loggers had been fighting for 25 years and it was time they began working together.

He said what was left of the local industry after the expected 40 to 50 per cent cut in timber volumes needed to be made viable with jobs-intensive, value-adding venture for low-grade timber, rather than just exporting it for woodchipping. Alternative industries such as tourism should then be developed.

This could include ideas like the wilderness walk of 300 kilometres proposed for the East Gippsland forests. A similar venture in New Zealand actually attracts 90,000 visitors a year. Industries such as tourism are the future for East Gippsland rather than logging of native forests.

These issues need to be addressed. In East Gippsland we had logging contractors saying, ‘The RFA is actually hurting us.’ We have the community getting together saying, ‘We want better solutions. We recognise the industry is not sustainable and it is getting worse.’

Debate interrupted.

GOVERNOR-GENERAL’S SPEECH

Debate resumed from 13 February, on motion by Senator Gibson:

That the following address-in-reply be agreed to:

To His Excellency the Governor-General

MAY IT PLEASE YOUR EXCELLENCY—

We, the Senate of the Commonwealth of Australia in Parliament assembled, desire to express our loyalty to our Most Gracious Sovereign and to thank Your Excellency for the speech which you have been pleased to address to Parliament.

upon which Senator Stott Despoja had moved by way of amendment:

That the following words be added to the address-in-reply:

“, but the Senate is of the opinion that:

(a) the Government must move towards a more humane and workable approach to asylum seekers; and

(b) Woomera detention centre should be closed”.

Senator COONEY (Victoria) (12.45 p.m.)—On Tuesday, the Governor-General said—he said other things as well—about the government:

It will continue to believe that Australian society is fundamentally built upon principles of fairness and decency and the premise that opportunity should be available equally to all, regardless of background, gender, race or religion.

At the conclusion of his speech he said:

Honourable Senators and Members, in the pursuit of success in all areas of national endeavour, the government will maintain its characteristic pragmatism, drive and determination.

Pragmatism can be a mixed bag: you can be pragmatic and get to a bad result; you can be pragmatic and get to a good result. You can get to a good result being pragmatic if you approach things on a moral ground, on the sorts of principles that the Governor-General spoke about at the commencement of his speech. A lot of this has to do with how we regard our fellow men, women and children. I will put it this way: on 1 February 2002 there was a very evocative picture on the front page of the Age. It was a picture of the Prime Minister, John Howard, and his wife, Mrs Janette Howard, and their two sons Tim
and Richard at Ground Zero in New York. Clearly they were all very moved by what was a most tragic event that occurred on 11 September 2001.

Today on the front page of the Age is a picture of young children in offshore waters in the general area of Australia. That is a very evocative picture as well. The question is whether we are able to cry not only for the people who were so devastatingly taken away from this earth on 11 September 2001 but for other people as well—children in the water, people starving in Africa, people in the Middle East conflict which never seems to have an end, as well as others. That seems to me to be the sort of thing we should be about. As the Governor-General said, we should regard everybody as equal and we can do that only if we are able to cry not only for some but for everyone.

People like Martin Luther King could cry for everyone, as you know. Martin Luther King made that great speech which I remember as the ‘I have a dream’ speech, where he set forth the principles which the Governor-General was talking about in his speech. There are too many examples of how we have fallen away from that great principle. It is a principle that applies not only to good people but also we have to have proper regard for those we would call ‘bad people’. I go to another matter in that context. Within the story I am about to tell there is an anniversary of an event that I have always found to be a great event and which occurred 388 years ago to this very day. In 1614, Edmund Peacham, a Puritan clergyman, was indicted for high treason for writing the draft of a sermon which was never delivered—he did not intend to deliver it. His house was broken into, the sermon was seized and, because it was critical of King James and his officials, it was found to be treasonous. Edmund Peacham was then in his mid-sixties but was subjected to torture. I think—I am subject to correction here—that was the last example of torture in England under a royal warrant or under official government warrant. There was some difficulty about the issue of treason, and the Attorney-General of the day, Francis Bacon, went to the judges individually and got them to say that it was treasonous. The only person who stood up for right and for fairness was the Chief Justice, Sir Edward Coke, and he said on this day 388 years ago that the sermon was not treasonous. I tell the story because, if we are going to be fair, we must be fair to everyone; we have to give everyone a fair go.

Take, for example, David Hicks, who is now imprisoned by the Americans in Cuba. He has been, I may suggest, treated the way Edmond Peacham was treated in those days. Sir Edmond Peacham was called a ‘raging devil’ and denigrated in other ways. But we look back now and say what an injustice was done in those times. He was guilty, so it was said, but due process was not accorded him. When we are talking about giving everybody a fair go we have to give due process. Due process is easy to give to attractive people. Take a young woman of 25—beautifully dressed, wonderfully intelligent and a magnificent sportsperson. It is easy to give that sort of person justice. It is a lot harder to give justice to people who are unattractive, old, or dirty. They are easy to denigrate. It is a lot harder to give them justice.

Mr Acting Deputy President Bartlett, there are people who have been demonised over the years in our own country. You might remember. One that occurs to me is Egon Kisch, an activist from Czechoslovakia in the 1930s. I can see from your face, Mr Acting Deputy President, that you probably do not remember him. He jumped ship. There was an order given against him by the Attorney-General of the day, Robert Menzies. We look back now and say how dreadfully he was treated. We look back now to the Communist Party Dissolution Act and we say that was a bad move.

There is always McCarthyism in the world. There is McCarthyism in Australia today, manifested in our approach to asylum seekers. Whether it is right or whether it is wrong to let people in is a political issue. People should not be able to come across the border unless they have legitimate reasons to do so. But I am talking about how you treat people, whether they come here lawfully or otherwise. If we want to be fair, as the Governor-General wants us to be, we should treat people with due process, treat them with re-
spect, treat them with dignity. Even though somebody is wrong, or has committed an offence—and the refugees by and large have not committed offences—we should treat them with respect. Even if a person is accused of murder, highway robbery or what have you, we treat them with respect. That is one of the things we seem to forget in the context of the current debate. We see today in the newspapers that very derogatory statements have been made about these people who have come here. Now we have to roll back our attitude to them. But even if those statements were true, nevertheless we should treat people with proper respect.

There is, unfortunately, in the community now a terrible fear. I think it was Fromm who wrote *Fear of Freedom*. There is a ‘fear of freedom’ in our society at the moment, which manifests itself in terms of the law and order campaign that is going on. Of course, we need law and of course we need order, but law and order have to be in the context of a society which is free and democratic and where people can be as truly human as possible. That, unfortunately, is not happening. We have arising out of 11 September—a most tragic incident—and arising out of other factors a call for all sorts of procedures whereby our society will be spied upon, whereby action will be taken against it and whereby in general we will be less free than we presently are.

There is a suggestion, for example, that we should give ASIO powers of arrest. ASIO is a body which up until now has been devoted to collecting intelligence. It is an intelligence gathering body, but not a law enforcement body. I make this point: as soon as an intelligence gathering body becomes a law enforcement body, as soon as you mix investigative functions with intelligence gathering in the context of ASIO, society is no longer as free; it comes under threat. There are some precedents of where bodies like ASIO and ASIS have gone wrong. There is the case of A. and Others v. Hayden and Others in the High Court in 1984, called the Sheraton Hotel case, where people from ASIS broke down the door of the Sheraton Hotel and committed offences. When the government down there tried to find out who committed this alleged crime, the defence was raised that, as this was a matter of national interest, the government up here should not say who they were. The High Court required the government to give up those names.

I think the High Court has been the great bastion of civil liberties in Australia over the years. I point to the case I have just quoted. Another one was the case of the Church of Scientology Inc. and Another v. Woodward and Others, which concerned ASIO gathering information which was used against the Church of Scientology. Again, the High Court took the right approach there. The High Court took the right approach with Mabo. The High Court took the right approach with the Communist Party Dissolution Act. We must forever remember in this chamber this great tradition which the High Court has set up, and remember that tradition when we debate some very important legislation that will be put forward in the near future.

I would like to talk about the issues of law and order and how a terrible atmosphere and a terrible culture can arise in their name. A lot of the investigations that go on in Australia today have their origins in the formation of the Australian Intelligence Corps which was set up within the Army in 1907. Bodies like that have been developing ever since. I would like to quote a passage from Jenny Hocking’s book *Beyond Terrorism*. In fact, Jenny Hocking’s mother, Barbara Hocking, was one of the people that did lots of work in getting information together for the Mabo case, so I know this author’s mother well. On page 43 she says:

> The conscription issue during the First World War was unprecedentedly divisive and venomous. The first referendum campaign on that issue was a watershed for the use of military intelligence as a political surveillance body, which expanded its activities to collecting information on anti-war and anti-conscription political groups and individuals. This is one of the earliest examples of the ease with which internal security operations merged with political surveillance, a problem exacerbated in wartime by the assumption by this government of exceptional powers and by the expanded conception of ‘national security’ which those powers reflected. Indeed, military intelli-
gence subsequently expanded its collection of dossiers in line with its growing political surveillance work, to include all the major organisations working for social and political reform.

Mr Acting Deputy President, you might well think that that statement resonates today with the use being made of material coming through DSD.

The statements put forward by the Governor-General are statements which we should take seriously. We should take those two statements that I read out as very serious statements and do something about them. A lot of work has to be done during this next parliament and as we go about that work—particularly the work concerning the expansion of investigative and intelligence gathering powers—we ought to remember where we are and where we come from.

I was listening to talkback radio this morning. My son, Justin Cooney, who is present in the gallery today, is here to take some of my books home because the end of my time in this place is coming nearer. He told me to listen to John Laws on talkback radio. John Laws was—of course, as I hope he would—taking the high moral ground about the inconsistencies in the statements that have been coming from the government about the asylum seekers. It is a warning, as you listen to talkback, that terrible injustices can be done, as they were done to Edmund Peacham, as they were done to the Communist Party in the fifties, as they were done to Lindy Chamberlain, and so on. As we approach our work, let us remember that and let us remember that we as a parliament have a high obligation to protect the rights of every citizen and every person, because one person is of equal worth to any other.

Senator KNOWLES (Western Australia) (1.05 p.m.)—Today we are debating the address-in-reply to the Governor-General’s speech which was delivered on Tuesday. A number of things probably need to be said about where things have gone since we were here in September and what has happened as a consequence of the electoral result. It is fascinating to look at the level of debate this week from the opposition—an opposition that clearly thought that they were going to ride into government and that it was their right to be in government—and to have watched them over the last 18 months, sitting on the other side of this chamber, just ticking away the time, thinking, ‘Oh well, we’ll be there. We don’t need to do any work. We don’t need to have any policies.’ And we kept asking, ‘What are your policies? What are you going to do about roll-back? What are you going to do about health? What are you going to do about education?’ All we got on education was the noodle nation thing, with all the squiggles going all over a page, with no explanations and no costings. We asked, ‘What are you going to do about the economy? What are you going to do about taxation?’ The answer was deafeningly silent.

It was interesting because, by the time the election came, the Labor Party then grizzled, ‘We can’t get any clear air for our message. We want to get our message across.’ What was your message? Tell us your message, and let us see if we can get it across. Of course, one of their messages that had been loud and clear for the previous three years was, ‘We are going to roll back the GST.’ People across Australia believed that the Labor Party were going to do what they said they were going to do, and that was roll back the GST.

I remember sitting here, question time after question time, listening to question after question directed to Senator Kemp, who was then the Assistant Treasurer. Senator Kemp offered a challenge to every Labor person who asked him a question about roll-back on every item, every product and every service that one could ever think of, from petrol to trucks to sunscreen to sunsuits. Senator Kemp would religiously ask, ‘Is that your policy? Is that what you are going to do if you are elected to government?’ He would then challenge whichever senator had asked the question to stand up—in taking note of answers following that same question time—and explain how the proposed roll-back was going to occur.

Wasn’t it interesting, when it came to the election debate, that we actually had to have something come through from the opposition? Did we see a roll-back on a whole range of these things? Unfortunately, I have lost my list of the questions—I kept a very
long list—but I think the list of items was in the high 20s or low 30s, and these were specific questions that the Labor Party had asked of the government about roll-back. I therefore expected, when I saw their policy release, that they would actually say that they would be rolling back 25, 30 or 35 items. What did we get? We got a commitment that they would roll back the GST on gas and electricity. That was interesting: gas and electricity. They would roll it back and get elected on 10 November. And when were they going to roll it back? In two years time. Where were all the other products and services that they had been grizzling about for three years or more, which they said were unjust and unwarranted? All they came up with in an economic and tax policy was, ‘We will roll back the GST on gas and electricity, but you are going to have to wait for two years to get the roll-back.’

Mr Acting Deputy President, I think it was clear from that moment on that the people of Australia had clearly decided that the Labor Party were still the Labor Party of old. They were still a high-taxing party. This was particularly so when they heard their former leader, Mr Beazley, say, when asked by voters in a radio interview for the Aston by-election—I think that was in July—whether Australia paid too much income tax, ‘No, I don’t think so, and I will say that with some vigour.’ So that was in the minds of people. They were thinking, ‘Uh oh, we have just had the biggest personal tax reductions in history, and we have now been confronted with an opposition who are saying that our personal income taxes are not high enough, an opposition that had a record while in government of increasing taxes, both personal and indirect.’ Then, on top of that, the opposition said, ‘We will abolish the GST on a whole range of things,’ but when it came to the crunch there were two things in two years time.

So when one looks at the level of debate that the Labor Party have mounted this week, all about asylum seekers and all about whether or not people knew about children being thrown overboard, children in the water, or whatever, I find that a very fascinating diversion. This comes from a Labor Party that staunchly supported the border protection issue prior to the election. Even though there were some in the Labor Party who were honest enough to voice their concerns, they soon had a sock put in their mouths. They were told that under no circumstances were they to voice their opinions until after the election. One such person, of course, is Dr Carmen Lawrence, the member for Fremantle. She said, only a week or so ago, in addressing a rally, ‘I feel ashamed that many of my colleagues haven’t yet spoken, but we have to make good that shame.’ One of her other colleagues, Mr Duncan Kerr, issued much the same statement, and a few other colleagues who have been game enough, who were not waiting for appointments or whatever, voiced the same concerns. So what did Mr Crean do as the new leader? He put a lid on everything. He said, ‘No-one is to speak out of tune. We will have a caucus meeting and we will decide our position on border protection.’ They have decided their position on border protection all right: they have decided not to have one because they cannot get agreement.

This, according to the Australian people, is something that is of vital importance to them. Yet the Australian Labor Party, which should be a responsible opposition, still do not have a position on border protection. Of course, during the election campaign—and, as I say, until very recently—the shame about which Dr Lawrence recently spoke did not force her to comment. Why did she not comment prior to the election, prior to 10 November? She, as a senior member of the opposition, had a responsibility to speak out but, no, she did not. Clearly there was some nudge-nudge, wink-wink arrangement within the opposition that, if elected to government, they would throw out all the border protection legislation anyway. It was ‘Just keep quiet, get elected, and we will throw it out when we get there.’ But the internal squabbles among those in the Labor Party still persist. It was interesting to see that one of Dr Lawrence’s colleagues, Mr McClelland, stated:

Her views are totally unrealistic, if she wants to be part of a party aspiring to government.
That was a nice flash of honesty from Mr McClelland. How many people in the Labor Party agree with him? Then, of course, you have the Premier of New South Wales, Mr Carr, who said:

Federal Labor supported that [strong border protection legislation] and I don’t want federal Labor to retreat from a policy that says the Australian people are entitled to protect their borders, and part of that means a detention policy.

So their most senior Premier in Australia is saying, ‘Whatever you do, don’t change the policy—and particularly don’t change the policy on detention.’ I want to make a point here about detention because some of the people in the Labor Party are now—feeling free that they can actually be truthful about this issue—saying that detention is the most shocking thing. I think everyone would agree. It is not an ideal world. It is certainly not an ideal world; nobody would willingly put people in detention.

It is interesting that Senator Kerry O’Brien just laughed then. It is worth noting at this stage that it was a Labor government that introduced the detention policy. It was not the coalition government; it was a Labor government that introduced it. So sensible Labor Party people are saying, ‘Whatever you do, don’t throw it out, because once you get people out into the community you will never ever be able to find them again.’ That is what has happened in France, that is what has happened in the United Kingdom and that is what has happened in America. I was in America many years ago—I think it was 1993—and I asked about their border protection issues. Some of the people with whom I met were particularly frank in their assessment. They said, ‘Senator, we honestly have no idea of our population number. We have no detention system, so people can come over the border or they can come in through any other source—by boat or by air or whatever. Some try and get into Australia by air too—and we do not know our population because they get out into the community and we will never find them again. The United Kingdom is now putting detention arrangements in place because they have something of the order of over 200,000 people who have absconded and are at large.

The Australian people really do not want that. The Australian people have said, ‘We agree with the detention process and we agree with trying to process them as quickly as possible.’ But that processing becomes very difficult when people have intentionally lost their documents. These are documents which they have had to have to get into Indonesia, but then the people smugglers say to them on departure, ‘Whatever you do, lose your documents because that will make the assessment of your situation more difficult and you more likely will be able to stay. The people smugglers are getting paid a lot of money. I do not know too many people who would agree. It is not an ideal world. It is certainly not an ideal world; nobody would willingly put people in detention.

It is fascinating also to think that there are so many of these people who are saying, ‘Let people out of detention.’ How many of those people have said, ‘I will guarantee to feed, to clothe, to educate, to transport and to house those people, and give an ironclad guarantee that in 10 weeks time, 10 minutes time or 10 months time I will know where that person is.’ No-one is saying that. We had people protesting in front of Parliament House on Tuesday, we have got a handful of protesters here, there and everywhere, but none of them are giving any guarantee of being able to keep track of some of these people. I do not deny that some of them are genuine asylum seekers, and Australia is looking after those particular people.

I was talking about France, the United Kingdom and America. It certainly appears that those overseas are now looking at how we manage our illegal arrivals. A recent article in Le Monde about a report written for
the French government disclosed that 90 per cent of rejected asylum seekers disappear into the French community. Is it any wonder that they are now looking at the way that Australia does it? As I said, the United Kingdom has a real problem: 200,000-plus people who have absconded. The United States have recently mounted a major security operation because they are concerned about large numbers of people from certain parts of the world and they want to make inquiries for security reasons. The United States have a partially different agenda now to that which they had six months ago. If people cannot understand their nervousness, then they are just simply naive or they do not want to know.

On the one hand the opposition say that the system is okay, that it is pretty great but it is not good enough; on the other hand they say that it is a rotten system. We have had a situation in Australia where in July, August and September last year we had 3,500 people arrive. Since then the numbers have decreased dramatically. Coming from Western Australia, I am not naive enough to think that that is just because an artificial barrier has been put across the oceans out of Indonesia or wherever. Of course, there is an element of weather associated with that decline: people travelling in rickety old boats with holes in the bottom are hardly likely to want to travel the high seas during the cyclone season. But, equally, if this government had not taken the stand it did at the time it did—in September—then the number of illegals arriving in Australia would probably have exceeded about 10,000 for that financial year. And the Labor Party’s response to it was, ‘Oh, is that right? Well, isn’t that fascinating?’ There was nothing of substance about how they would handle it.

I find it somewhat hypocritical that the Labor Party are now using that whole issue as a diversion from their own problems when they have so many people on their own side in absolute conflict and turmoil. It was their new leader, Mr Crean, who said:

... what I do believe is if we’re going to have the debate, we have respect for other people’s positions and where there are areas of overlap there’s consultation with those other people affected.

Apart from that being a lot of gobbledygook that does not hang together, what he is saying is, ‘There are people in the party who have differing views. I can’t control them and, therefore, we won’t have a policy.’

It is very important for Australia’s security that our national borders are continually protected and that we have a very strong policy and no equivocation. Her Majesty’s opposition should be part of that policy and part of that push to make sure that Australian borders are protected. Unfortunately, my time has nearly expired but I did want to go on to some other areas: the economy—where the Labor Party really failed the Australian people by not having a policy or anything they could compare—and also education.

The Labor Party had Knowledge Nation, otherwise known as ‘noodle nation’. They criticised the coalition for the School Funding Amendment Bill 2001, for example, and then proceeded to vote for it in parliament. That is when you often wonder where to go—some of the bills are referred to committees because you think the Labor Party oppose them, but you get to the committee and find that they have actually voted for them in the House of Representatives. It is quite staggering. But, once again, they made no promises to return to their original objection—not did they intend to keep any such promises, had they been elected.

To fund the old noodle nation they intended to cut funding to approximately 58 schools. They thought that spending $3.1 billion would fix everything. Clearly, the people of Australia were not as silly as the Labor Party thought. This is a very important time for Australia and its part in the world. The events of September changed the world forever, and now is not the time for the Labor Party to try to score political points and make hay while the sun shines when they think they have internal problems. I hope we will see the Labor Party take a more definite view.

Senator CHERRY (Queensland) (1.25 p.m.)—I will address a couple of issues arising from the address-in-reply but, before I do, I just have to address some of the issues raised by Senator Knowles. I was surprised to hear Senator Knowles lambasting the La-
bor Party’s economic management credentials today of all days when, if she had seen this morning’s unemployment figures in her home state of Western Australia, she would know that unemployment has risen by a full one per cent in the last three months.

Senator Knowles—Yes, since the Labor government took over.

Senator Cherry—It has also risen in South Australia. It has risen right throughout regional Australia. In fact, in the last year, the number of jobs in regional Australia, outside the five big capital cities, fell by 0.8 per cent. It is surprising that, if Senator Knowles is worried about economic policy management, she is not addressing some of the issues involving this government and why it is not addressing them. This government is the highest taxing government since the Whitlam government, which is another interesting point.

It was interesting to hear mention made of the United States’ migration policy, which is pretty much an open door policy, as Senator Knowles pointed out. Thirty million new people entered the US in the last 10 years. What is the United States’ unemployment rate? Five per cent. What is their economy like? Growing faster than ours. What is the vibrancy of their economy like? Absolutely sensational. There was talk of a terrible concern that we might have to take in 10,000 refugees in the last financial year. The Netherlands took in 18,000. What is the Netherlands’ unemployment rate? Four per cent. What is their economy like? Far more vibrant than ours. What is their society like? Much more inclusive and much more healthy than ours.

The government was re-elected on a platform of deception and a misleading, racist strategy. We have, in the last week, identified the absolute paucity of information on which its re-election was actually based. Its mandate is absolutely tatty. Over the next three years we are going to see the tattiness of its mandate come back to bite it very badly. The Governor-General’s speech is a very hard speech to reply to because there was so little in it. As a third term agenda, it was a tragedy, and it is tragic that the government is now presenting itself to run this country for three years without having any idea of what it is going to do.

The government’s commitment to regional Australia was much trumpeted in the Governor-General’s speech. I wanted to address one very small aspect of it—the issue of protecting tourism in northern Australia and particularly in my home state of Queensland. In the last fortnight, we have had the death of a British tourist off Mackay as a result of a sting by an irukandji or related jellyfish. We had a similar near death in Broome last year and another in Cairns a few years before. This summer has been one of the worst on record, with around 79 reported cases of hospitalisation and one death from stingers in northern waters.

The only funding for research aimed at finding an antivenom for the irukandji species of jellyfish has come through grants provided by community groups and distributed by the Australian Surf Lifesaving Association. That includes funding from Rotary, Lions, the CRC Reef Research Centre and the Thyne Reid Education Trust. These funding grants run out in June, and then there are no more. Yet there is still no antivenom developed. We have no detailed knowledge of an effective containment policy for the irukandji or for other deadly stingers in northern waters. We have no information on whether human activity on land is affecting irukandji incidence.

At the heart of this funding—or lack thereof, in our view—is the privatisation of the Commonwealth Serum Laboratories in 1995. This was a decision by the Labor government, supported very actively by the coalition. The last antivenom research by CSL was for box jellyfish in the mid-1990s. After it was sold—through a Labor bill, supported by the coalition and strenuously opposed by the Democrats—funding on antivenom research has largely dried up unless, of course, CSL can find a commercial reason for continuing. There was no rational reason for that sale; it was pure ideology. As the health spokesperson for the Democrats, Senator Meg Lees, pointed out in 1998:

... the decision to privatise CSL has resulted in, firstly, significantly reduced venom and antivenom funding; secondly, reduced support for
Australian venom research and researchers; thirdly, the cessation or disruption of important research projects; fourthly, decreased opportunities for training and education of health and medical professionals in the area of venom research and treatment; and, fifthly, the loss to Australia of many opportunities to achieve international commercial medical research leadership.

At that point, Senator Lees was tabling a petition in the Senate from almost 3,000 Australians who were concerned about the lack of research funding for the development of a diagnostic test and treatment for white-tailed spider bites, a serious problem in the southern part of Australia. Unfortunately, three years later the situation regarding funding—whether it be for antivenom for white-tailed spiders or irukandji jellyfish—remains the same. Simply put, if it is not a commercial proposition, CSL does not do the research.

The NHMRC has not moved to fill this gap so the research is not being done. Urgent funding needs to be provided for jellyfish to be harvested in northern waters so that the venom can be produced for research. Three years ago, 240 were caught; the following year, only two were caught; but this year, because of the massive influx, some 1,500 jellyfish have been caught. With such quantities available, the time for research very much is now. Under current community sponsorship and by volunteer work, the tentacles are forwarded to Australian Venom Research in Melbourne where the researchers hope to identify the several species of deadly irukandji and subsequently to develop antivenoms for them.

As stated earlier, the community grants for this research will run out very soon. The Democrats are in no doubt that the funding for venom research and biological research should come from the Commonwealth. I am urging the government to make funds available through the federal National Health and Medical Research Council for research into the medical aspects of stinger relief treatment and antivenom. I also urge them to provide additional funding from the Australian Research Council for biological research, such as where, when, why and in what numbers these lethal stingers are in our waters. The Queensland, and indeed the northern Australian, tourism industry cannot afford too many more seasons of bad publicity about marine stingers, such as the seasons we have just had. One death and one near death in two seasons and a quadrupling of hospital treatments must be a wake-up call to government. Research funding is needed now to ensure that the threat to public health from stingers is properly understood, treatable and effectively minimised.

For northern Australia, from Broome to Gladstone, which faces beach closures for many months every year due to the irukandji and other jellyfish, the failure of the government to fund research is yet another indication of the failure of Canberra to take the problems of the regions seriously. That, to me, highlights on a very small scale—with a very small northern issue—an area where I believe this government could be doing more. It could show its commitment to regional Australia by recognising that for parts of northern Australia the issue of stinger research is immediate, urgent and necessary, and it needs to be addressed.

Senator HUTCHINS (New South Wales) (1.33 p.m.)—I want to take the opportunity this afternoon, first of all, to pay tribute to Senator Brian Gibson, who has announced that he is going to retire from the Senate. In my dealings with Senator Gibson, I found that he was a very honourable man. He served his party well, and I am sure we are going to miss him in the Senate. He seemed to have a sense of humour. I know that he had been through some difficulties with his health and he has decided to pull the pin, so to speak.

I am reminded of an expression—I cannot recall where it comes from—that used to refer to the English cricket side. It said that there were the gentlemen of cricket and there were players. The gentlemen of cricket were, ostensibly I suppose, the aristocrats and the ruling class of the British system and the players were those dogged lads who did not have the right accent, did not come from the right side of the road or were not the proper sort of people. In a way, we have seen one of those gentlemen retire now that Senator Gibson has announced his resignation.
I rose in the Senate the other evening and referred to the campaign conducted by Senator Marise Payne in the marginal Liberal seat of Eden-Monaro. I referred in my contribution to a speech made by Senator Payne, which I believed would be her last speech to this Senate. In fact, I believe she felt that she was going to be defeated because she was No. 3 on the Senate ticket in New South Wales. She made quite a passionate speech in relation to the boat people issue. There have been subsequent reports from the Liberal Party room that Senator Payne was one of the bleeding hearts who challenged the Prime Minister’s view about asylum seekers and the government’s current policy. I have challenged Senator Payne to come in here and repudiate the letter she sent to electors in the then marginally held Liberal seat of Eden-Monaro, dated 2 November 2001, in which she said:

I share the Prime Minister’s belief that Australians should decide who comes to this country and the circumstances in which they come. You and I and the Australian public, and in particular the electors of Eden-Monaro, know what that meant. That was unmitigated code for the fact that she supported holus-bolus the hardline attitude that the coalition government has adopted to the asylum seeker issue. Senator Payne was quite willing to trade on that because she thought—and it has been proved correct—that it would get her over the line and get her elected for another six years in the Senate.

As I said the other night, and I repeat again, the federal Liberal Party director, Mr Lynton Crosby, said after the election that he believed that at least 10 per cent of people voted Liberal because of the boat people issue. As Mr Crosby has said, he believes that 10 per cent of people voted Liberal because of that issue, and that got Senator Marise Payne over the line. I have some biblical references here. That might seem too eccentric and it would be wasted on someone who might be seen to be hypocritical like Senator Payne.

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Senator Hutchins, I think you should withdraw that reference to the senator as hypocritical.

Senator Hutchins—Okay, you have dared me now to use a reference from the Bible.

The ACTING DEPUTY PRESIDENT—No. I have asked you to withdraw it.

Senator Hutchins—I withdraw it. Mr Acting Deputy President, I will not persist with the reference to the Bible, in recognition of my colleague Senator Schacht who is an agnostic or atheist—I am not sure—but I will do that for him.

Senator Schacht—you are not sure I am an agnostic or an atheist, but you are sure there is no God.

Senator Hutchins—I withdraw it. Mr Acting Deputy President, I will not persist with the reference to the Bible, in recognition of my colleague Senator Schacht who is an agnostic or atheist—I am not sure—but I will do that for him.

Senator Schacht—You are not sure I am an agnostic or an atheist, but you are sure there is no God.

Senator Hutchins—There are a number of us in here who do believe there is a God. I want to refer now to the Governor-General’s speech. The Governor-General’s speech highlighted the four areas in which the federal government is going to legislate in relation to workplace relations to enable it to pursue claims and prosecute. I just refer to one today because the first piece of legislation that the coalition introduced into parlia-
I think it is important that we have some background as to how we got to the situation where men and women who work for a living in this country have an opportunity to go to a tribunal and argue for unfair or unlawful dismissal. In 1993, the Keating government introduced unfair dismissal laws to protect employees not covered by state unfair dismissal regimes. This was enacted under the external affairs power of the Constitution as a ratification of the ILO’s Termination Of Employment Convention 1982. In 1994, unfair dismissal laws were amended to exclude persons who earn more than $60,000 a year. In 1996, procedural fairness provisions for unfair dismissal laws were watered down so that the commission or court could consider all the circumstances of the case. In 1996, the coalition introduced changes to unfair dismissal arrangements. There was to be a $50 filing fee for claims to ‘deter vexatious claims’. The commission was required to issue certificates when it believed all reasonable attempts were made to conciliate. There was a weakening of the procedural fairness provisions to the classic level of a ‘fair go all round’. There was an exclusion for casual employees working less than 12 months and employees on a three-month probationary period. Provisions for casual employees changed by regulations which were disallowed by the Federal Court in 2001.

In 1997, the government introduced changes to unfair dismissal laws to exclude, through regulation, all employees who had worked for less than 12 months and those who worked in a small business with 15 or fewer employees. These regulations were subsequently disallowed by the Senate. The government then introduced Workplace Relations Amendment Bill 1997 No. 2 to exclude all employees who had worked for less than 12 months and those who work in small businesses with 15 or fewer employees. Again in 1998, the government introduced the workplace relations amendments unfair dismissal bill and that was rejected by the Senate in 2001. Once again, we had legislation introduced by the government the other day in relation to this area.

A number of arguments have been advanced by the coalition to say that unfair dismissal laws have been undermining jobs growth. The fact is that when unfair dismissal laws were introduced in 1993 job creation rates increased and have done so consistently up until the present. Most states have maintained unfair dismissal regimes for decades with no apparent effect on jobs growth. Most economists would agree that what leads to jobs growth is economic growth and demand for jobs. Most small businesses agree. There is no evidence at all to support the claim that the scrapping of unfair dismissal laws would in particular assist young unemployed persons. Figures suggest that young job seekers do not have problems finding jobs, but rather staying in jobs.

It was not long ago that Mr Bastian, who was then the head of the Council of Small Business Organisations of Australia, guessed that if the unfair dismissal regime were disallowed it would create up to 50,000 jobs. This was not done based on any research, modelling or comprehensive data. In fact, the Yellow Pages Small Business Index survey conducted from 30 October 1997 to 12 November 1997 said that 79 per cent of small businesses thought that they would have been better off if they had been exempted. Yet, if you look at the figures from the Australian Workplace Industrial Relations Survey of 1995, in answer to the leading question asked by that survey about barriers to taking on new employees, 45 per cent of workplaces said lack of work—the most obvious answer—21 per cent said the cost of employing people; 13 per cent said employment conditions; 12 per cent said superannuation costs; and finding skilled staff, profitability, work care costs, lack of confidence, red tape regulations and the economic climate were variously seven, five and four per cent. Nowhere in the survey was any particular reference made to unfair dismissals.

Mr Acting Deputy President, if you look at a number of the other areas where the Yellow Pages survey was dismissive, you will see that when small businesses were asked to name what their issues were in
August 1998 taxation reform came in at 42 per cent; cheaper and easier to employ, 12 per cent; less red tape, 11 per cent; less paperwork, eight per cent; and economic growth, concessions for small business and providing employment were all seven per cent. The ninth issue exciting small business was unfair dismissal laws, and that came out at six per cent.

We will have an opportunity when this legislation hits the Senate to discuss further the unfair dismissal laws that are being sought. But I fundamentally object to trying to exempt or exclude men and women who have worked conscientiously and solidly for an employer or a business, whatever size it is, because they work for a company that has fewer than 15 people, from the operation of laws in this country. I do not believe that that sort of discriminatory regime should be introduced. As a person who operated in this jurisdiction as a full-time official of the Transport Workers Union for 18 years, I dealt with a number of cases in which people were unfairly or unjustly dismissed. A number of those cases were in yards where there were fewer than 15 employees—full-time truck drivers who, for one reason or another, had fallen out of love with their boss or whatever. When you had an opportunity to go to talk to their employer or had to go down to the courts, you were able to work out some satisfactory arrangement.

I remember that one of my first cases was with Boral. A man there had stuffed up, but he had worked with the company for about 15 years and they had terminated him. We went before Senior Commissioner Sid Wells in the New South Wales jurisdiction, and we argued the merits of the case for four days. This was in 1980. After four days, Senior Commissioner Wells ordered his reinstatement. That man retired from Boral about 10 years ago. He worked for them until he was able to retire at 60 or 65—I cannot recall his age—and they were pleased to have him.

I have talked to a number of employers in the last few days to find out their attitude to this unfair dismissal law. I asked them clearly: do you believe that you ever unfairly dismiss someone? I was talking to a chap yesterday who employs about 70 people and he said, ‘Yes, I think I have unfairly dismissed about three people in my life.’ I am sure he has dismissed many more than that and that they deserved what they got, but that is three people. He told me he actually went back to one woman and offered her her job back. She had moved on, but she thanked him for the recognition that she had not done the things out of line that he said she had done and she was appreciative of the fact that he had acknowledged that she had not stolen or done the things that he had dismissed her for.

There has to be an opportunity for men and women, whether they are in unions or not, to be able to go to some tribunal and argue that they were wrongfully and unjustly dismissed. It is only fair and just that that comes about. That we are seeking to exempt employers employing fewer than 15 or 18 employees is wrong, because in the scheme of things they are the most vulnerable in society. They are the ones who do not have the clout of probably being in a union or something like that. They are more than likely to be in regional and rural Australia. They are more than likely to be in difficult circumstances where an employer can exploit them. As a Catholic and a Christian—and they are the same—I find it objectionable that people could introduce this sort of legislation that makes the people with the weakest bargaining position in our workplaces susceptible to exploitation and denies them the same justice that men and women in bigger operations have access to.

As I have said, most small businesses identify two things as impediments to their employing people. The first and the most obvious is lack of demand. I am sure that if there was work out there they would employ people because they cannot do it all themselves. The second and most important—and on this the coalition is playing with a time bomb—is taxation reform. When you as a party start to beat up this rhetoric, you should understand that you may not know where it will end. The Australian Labor Party, as articulated through our spokesman, Mr McClelland, is opposed to this. Our constituency says that it is opposed to this. Whether we agree to 18 or 25 or we agree at some
point to a monetary figure, it will never be good enough for people on the other side of politics, because they have never accepted the fact that men and women have rights and that, if they are unfairly or unconscionably dismissed, they should have an opportunity to argue their case and, in the end, should have an opportunity to be reinstated.

Senator SCHACHT (South Australia) (1.53 p.m.)—Mr Acting Deputy President, I rise to speak in this address-in-reply debate. I have sat here now through both a Labor government and a Liberal government in the Senate and heard the governor-generals’ speeches. The one we heard earlier this week would have to be the least inspiring speech presented by the government via the Governor-General. I think the whole process of the Governor-General’s address is an anachronism that we should get rid of. I would much rather the Prime Minister, elected by the people, make a statement at the opening of parliament. The Prime Minister could speak on behalf of his government about what the government’s policy would be for the next three years. I think that is much more clearly understood than having a Governor-General speak, and I disagreed with much of what was in his speech. Under the Westminster system, a constitutional monarchy, it is his government that he is speaking on behalf of.

I always remember the time when Sir Paul Hasluck, as Governor-General, had to read out Gough Whitlam’s long policy speech after the 1972 election. I think someone in the new Prime Minister’s office deliberately had every paragraph starting, ‘And my government will,’ listing all the radical reforms of the Whitlam government but coming from the mouth of a former senior minister of the Menzies government and Holt government. I think that is an anachronism we should do away with. I do not think there is any need for the Governor-General to turn up and, if we have a republic, for the President of the Republic, to turn up and give the speech. It should be delivered by the Prime Minister on behalf of his newly elected government.

I think that much of the paraphernalia of the opening of parliament could best be forgotten, too. Calling over the House of Representatives into the Senate as though we are aping something from the 17th, 18th, 19th century from Westminster is an anachronism. Our Senate is not a House of Lords; it is a fully elected house with a full adult franchise, whereas the House of Lords—the house of the aristocracy, the house of the monarchy—is quite a different structure in Great Britain. Of course, they are changing their House of Lords with the Blair government reforms. I wonder how long it will be under those reforms, which will take place over the next 10 years, before the British wake up to what is happening in their own parliament: that it is an anachronism to have the Queen, as head of state of Great Britain, giving the speech on behalf of the government when, in fact, it should be the Prime Minister.

In the American system, the equivalent speech is the State of the Union address by the President of America in January of each year. It is the centrepiece of the congressional year’s activities, where the president outlines his policy. Initially, in the American constitution, the State of the Union address was written by the President, delivered to the Clerk of the House of Representatives in the American Congress. The clerk read the speech, usually in a dreadful monotone that sent most people to sleep because he was a non-political person. This became an anachronism when one of the great speeches in the American Congress was that of President Lincoln during the Civil War. He handwrote his own State of the Union speech about the future of America and democracy and sent it up to the clerk, who read it out. I am sure our Clerk would read it out with a more exciting voice than he did. But most people literally fell asleep. It was not until later on, when they read it, that they realised that they had delivered to them one of the great speeches of democracy and the future of American society by then President Abraham Lincoln.

I think it is time that the parliament, irrespective of the debate about a republic or a constitutional monarchy, did reform the process that we have about the Governor-General delivering the speech. I seek leave to continue my remarks later.
Leave granted; debate adjourned.

FINANCIAL SERVICES REFORM (CONSEQUENTIAL PROVISIONS) BILL 2002

First Reading

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.58 p.m.)—

Pursuant to notice, I move:

That the following bill be introduced: A Bill for an Act to amend the Retirement Savings Accounts Act 1997 and the Corporations Act 2001, and for related purposes.

Question agreed to.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.58 p.m.)—

I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.59 p.m.)—

I table the explanatory memorandum and move:

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

Question agreed to.

Bill read a first time.

The speech read as follows—


Under the superannuation and family law reforms, couples will for the first time be able to divide their superannuation interests on marriage breakdown in the same way as their other assets. The Consequential Bill will ensure that a Retirement Savings Account provider can comply with proposed regulations which will allow a Retirement Savings Account to be divided and a new interest created in the name of the Retirement Savings Account holder’s former spouse.

The bill also makes an urgent but minor amendment to the Corporations Act to correct a drafting error in the Financial Services Reform Act 2001. The Ministerial Council for Corporations has been consulted about the amendment and has approved it.

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

QUESTIONS WITHOUT NOTICE

Immigration: ‘Children Overboard’ Affair

Senator CHRIS EVANS (2.00 p.m.)—I wanted to ask Senator Vanstone a question but she is not here, so I will ask Senator Hill, the Minister for Defence, a question. Is the minister aware that his predecessor Mr Reith stated, in his first public statement on the ‘children overboard’ incident, on ABC radio on 10 October last year that it was a fact that children were thrown in the water? In fact, did he not state ‘this is a fact’ no less than five times during the interview—no qualifications, no doubts whatsoever? How do these unequivocal statements accord with the statement in the Department of the Prime Minister and Cabinet report that Mr Reith’s office was clearly advised earlier that day, some six hours before the minister made his statement, that there was significant doubt about the details of the incident? Wasn’t the minister unequivocally presenting as fact something that he already knew was under very serious doubt for what were clearly purely political purposes?

Senator HILL—Not only was Mr Reith told that there were children thrown overboard but so was the Prime Minister and so was Mr Ruddock. If the honourable senator reads the papers that were tabled yesterday, he will—
Senator Chris Evans—Very carefully.

Senator HILL—Well, you would have read, then, that the commander of the joint task force had a clear and well documented phone call with the commander of the Adelaide in relation to this particular vessel and it was said ‘child thrown over the side’. That is the record of the commander of the joint task force in Darwin. If that is the clear and unambiguous record of the commander, it is not surprising that that message was passed on to ministers.

Senator CHRIS EVANS—Madam President, I ask a supplementary question. Is the minister aware that in the same interview on 10 October Mr Reith said:

I have not seen [the video] myself and apparently the quality of it is not very good, and it’s infra-red or something, but I am told that someone has looked at it and it is an absolute fact, children were thrown into the water

Does the Department of the Prime Minister and Cabinet report not conclude that the minister’s military adviser, Mr Scrafton, was told by the maritime commander some six hours before this interview that ‘the video does not show a child being thrown into the water’? Is it not true that on 31 October, when told that the video did not show children being thrown overboard, former Minister Reith said, ‘In that case, we’d better not see it’?

Senator HILL—As I understand it, Mr Reith said he had not seen the video, but he believed it evidenced the fact that children were thrown overboard. We all know now that that is not the case. But that does not avoid the fact that the three—

Senator Robert Ray interjecting—

The PRESIDENT—Order! Senator Ray, cease shouting.

Senator HILL—It does not avoid the fact that the three key ministers were told that in this incident children were thrown overboard and it was, therefore, totally legitimate for them to communicate that publicly.

Economy: Government Policy

Senator COLBECK (2.03 p.m.)—My question is directed to the Minister for Finance and Administration, Senator Minchin. Will the minister advise the Senate of the government’s progress in implementing its election promises and its commitment to continued strong economic management? Is the minister aware of any alternative policies?

Senator MINCHIN—I thank Senator Colbeck for his maiden question and wish him well for his illustrious Senate career to come. The fact is that today the government has demonstrated its commitment to fully implementing what were its very responsible economic promises at the last election and meeting the challenges presented to it and this nation due to the international environment we now face as a result of September 11. This morning the government introduced bills into the House that provide substantial funding to cover the additional costs associated with fighting that war against terrorism and dealing with unauthorised boat arrivals in Australia.

The government is committing an additional $428 million this financial year since the MYEFO statement to defence and other agencies to support the war against terrorism and deal with the unauthorised arrivals. We are able to deal with these problems that have confronted the nation without adverse impact on the Commonwealth’s financial position because of our fantastic record of strong economic management over the last six years. These bills also seek funding in relation to particular election commitments made by the government during the last election campaign. Other election commitments will be implemented in the May budget.

The first instalment of delivering on our commitments to the Australian people includes the extension of the extraordinarily successful First Home Owners Scheme, which has already helped thousands of young Australian families own their own home for the first time and has underpinned the very strong recovery in the housing industry. They also provide for the introduction of the first child tax refund which will provide financial assistance at one of the most difficult times for any family: the birth of a child. The bills will also provide funding to assist with the consequences of Ansett’s financial collapse last year. Some $6 million in
further funding will be provided to the Australian Tourist Commission. We will also allow permanently departing temporary residents to access their superannuation entitlements.

This is consistent with the government’s strong record of implementing its election commitments, unlike those opposite who consistently fail to honour their election commitments. We all well remember Labor’s deceit after the 1993 federal election when it broke just about every one of its major election promises, most notoriously, of course, the l-a-w law tax cuts—one of the most notorious chapters in the history of this county.

Your years of economic management saw the second highest interest rates in the world, the collapse of thousands of small businesses and your complete addiction to federal government debt. As soon as the one minister who you did have that was any good resigned as finance minister—that is, former Senator Peter Walsh—you could not control your spending in government and you could not stop putting up taxes. Australians have not forgotten your record in government and that is why the Labor Party lost the last federal election. People are not prepared to put you back on the treasury bench because they do not trust you with the Treasury.

We have delivered on our promises of continued low interest rates—economic growth greater than any other developed country. The Economist in its latest poll of forecasters shows that they expect economic growth in Australia this calendar year of 3.3 per cent. That is nearly three times as high as it is in the United States at 1.2 per cent. No other developed country even scores above two per cent. We are the fastest growing country in the developed world. That is as a result of our proud record of strong economic management for this country.

Immigration: ‘Children Overboard’ Affair

Senator COOK (2.08 p.m.)—My question is directed to Senator Hill, the Minister for Defence and Minister representing the Prime Minister. Does the minister recall the Prime Minister’s statement fanning the flames of the ‘children overboard’ allegations at a doorstop interview in Ballarat on 10 October, when he said:

Well I was acting on advice given to me by the Immigration Minister to whom I spoke on Sunday ... As to the question of evidence as you put it I’ll make some inquiries and see what evidence can be made available.

Given that the Prime Minister repeated this offer to make inquiries no less than five times during the interview, exactly what action did the Prime Minister take back in early October to inquire into the facts of this politically useful allegation? Precisely who in the Department of the Prime Minister and Cabinet was contacted and directed to make these inquiries promised by the Prime Minister in early October?

Senator HILL—I will refer that to the Prime Minister because only he, obviously, would have knowledge of that sort of detail. But what I can say to the honourable senator is that the Prime Minister was advised nothing contrary to what he had been previously informed of, and that is that there were children overboard.

Senator Conroy—He said he’d inquire.

The PRESIDENT—Senator Conroy, you have been interjecting consistently since question time started today. I call you to order.

Senator HILL—As I said a few minutes ago, I think it is undisputed that the three senior ministers—the Prime Minister, the immigration minister and the defence minister—were all advised that there were children overboard. That is not surprising, Madam President, as I said, when you read the statement by Brigadier Silverstone, dated 3 December of last year, as recorded in the documents that were tabled yesterday: ‘men in water’, ‘child thrown over the side’. When you add that to the other material in the report that talks about a child being held over the edge, a threat of children being thrown into the water, it is not surprising that the Prime Minister and the other ministers were advised that there were children in the water. In those circumstances, it is perfectly legitimate for them to inform the public of that fact.
Senator COOK—Madam President, I ask a supplementary question. I thank the minister for referring the question to the Prime Minister for a proper answer—although I am surprised that he is underbriefed on relevant issues but overbriefed on others. If the Prime Minister was not informed of the doubts as to the veracity of the children overboard allegations on 10 October, why was he less assertive on these claims two days earlier? Can the minister assure the Senate that none of the Prime Minister’s staff was contacted by Mr Reith’s staff indicating that the Prime Minister should soft-pedal?

Senator HILL—That really is a nonsense question. How does the honourable senator expect me to know what one staff member said to another staff member, between two separate offices, in conversations that he is wanting to allege, which occurred on some occasion last year? What I can say to Senator Cook—and I am sorry Senator Cook is sitting so far away these days; you have moved so far from the front line, I have to say, Senator Cook—is that the Prime Minister was informed that there were children overboard, and he received no advice to the contrary.

Workplace Relations: Reforms

Senator TIERNEY (2.12 p.m.)—My question is addressed to the Minister for Communications, Information Technology and the Arts, Senator Alston. Could the minister please inform the Senate of the government’s commitment to further reform of Australia’s workplace relations system to curtail unwarranted trade union influence and to enshrine the fundamental principles of freedom of association? Is the minister aware of any alternative proposals in this area that are worthy of consideration?

Senator ALSTON—I think one thing we discovered when we came back here was that the Labor Party basically junked every policy, except one, and they were starting again. It is the third time in about six years that they have started from scratch. It must be getting a bit repetitive, and they do not seem to have made much progress. But one thing they did say was that we did not have a third-term agenda. There is one area where we certainly have a fundamentally different approach to the Labor Party. It is a very clear and explicit agenda, and it is one that is formulated on the basis looking at the interests of the workers of Australia. You might have thought—erroneously, of course—that the Labor Party used to think of themselves as representing the workers of Australia. Well, they simply do not. They represent those who purport to represent the workers of Australia.

What our policy approach does is to once again attempt to reform the unfair ‘unfair dismissal’ regime by reducing the burden of overly strict unfair dismissal laws within small businesses, by requiring mandatory union ballots before industrial action and by removing the ability of unions to levy charges on nonmembers. They are all pretty straightforward initiatives. They all ought to commend themselves to anyone of common sense—anyone who wants to see greater labour market flexibility, a greater ability for employers to employ more workers. But, no, what do we have? The wholly owned constituency once again turning its mind and head against these sorts of ideas.

What is eerily familiar is what happened after the last election, because I remember we saw this back in 1993. The Labor Party come back and say, ‘We’re going to reform; we’ll do something about industrial relations.’ We had a joint statement on 7 December—Senator Conroy was there too—which said:

Labor recognises the value of easing the compliance burden on small business that can be imposed by employment termination laws.

So they know the problem. But what have they done about it? Unfortunately, their workplace relations spokesman had a go the other day. The spokesman went into caucus and presented a partial exemption proposal. And what happened? The likes of Senator Hutchins got up and screamed and yelled blue murder. They threatened to pull the house down, and they ended up having to put it off for further discussion. In the meantime you get all the usual threats from all the usual suspects. You get the trade union movement out there—‘Crean hit by ACT backlash’. You get Jennie George saying, ‘What an outrage that you might even think of doing these things.’ You get union offi-
cials reminding the Labor Party that they got $27 million worth of donations from the federal government—thank you very much—and they want to keep getting it.

The end result is that it is just all too hard. You have two-thirds of that lot on the other side with trade union backgrounds. Are they going to stand up? Are they going to make martyrs of themselves? Are they going to set a good example by actually resigning? I mean resigning from a union, not from the parliament. We want them all here; they are great assets to us. The very least they could do is to show that they are a bit independent. But, no, it is not going to happen, so it would seem, even though you have Bob Herbert, the chief executive of the Australian Industry Group, urging them to follow the British government’s approach where employees are excluded from pursuing an unfair dismissal case until they have 12 months continuous service.

It is no coincidence that Tony Blair got re-elected once again, is it? And it is no coincidence that he took the hard decisions and stood up to the trade union movement. He showed that he was really interested in getting the country moving. That is what Bob Carr says: focus on the economy and get that right; build a stronger Australia and you will have a greater capacity to deliver. It is an absolutely extraordinary situation. We will press ahead with this for the fifth time, and I hope the Labor Party finally come to their senses. (Time expired)

Immigration: ‘Children Overboard’ Affair

Senator FAULKNER (2.17 p.m.)—My question is directed to Senator Hill, the Minister for Defence and the Minister representing the Prime Minister. In light of the contents of the Prime Minister and Cabinet and Defence reports tabled by the Prime Minister yesterday, how can the government possibly expect the Australian people to believe that not one of the myriad of officials who knew about the untruths and distortions being peddled by the government raised any concerns with ministers or the Prime Minister? If a raft of admirals, captains, brigadiers and air commodores, Defence and Prime Minister and Cabinet officials, Australian Federal Police officers, quarantine officers, Customs officials and Christmas Island residents all knew of the doubts within hours of the event, why didn’t someone tell the Prime Minister? Do you really expect anyone to believe that the Prime Minister was not told?

Senator HILL—The Prime Minister says he was not told and therefore I believe it, and I suspect the majority of Australians will believe it, because I think that they have more confidence in the Prime Minister, Senator Faulkner, than they have in you. Furthermore, you could ask them to believe it, because there is no evidence to the contrary. You list a whole lot of officials and others who you say have certain views, but there is no evidence in either the investigations or the reports that the Prime Minister was otherwise informed. That is why they will believe the Prime Minister. Furthermore, when they read these reports and go back to what occurred at the boat at the critical time, they will see why the Prime Minister had good reason to form the view. For example, I suppose Senator Faulkner has read the comments by the 16 crew of the Adelaide—

Senator Faulkner—I have read it.

Senator HILL—He tells me he has read it. He will recognise that a number of these witnesses also reported seeing a man dress a child of about five years of age in a life jacket and hold her over the side of the vessel. He would have read that the crew readied the inflatable boat to try—

Opposition senators interjecting—

The PRESIDENT—Order! Senator Faulkner has asked a question and Senator Hill is answering, and it is not helpful for other senators to continue shouting. We are entitled to hear what is being said.

The President—The crew readied the inflatable boat to be ready to catch the child as she was being dropped overboard. He would have read the statement by Able Seaman Wade Gerrits, who said—

Senator Robert Ray—Who read it?

Senator HILL—Senator Faulkner would have read it.
The PRESIDENT—Senator Ray and Senator Collins, there is an appropriate time for you to debate the matter if you wish to do so.

The PRESIDENT—And you, Senator Evans.

Senator HILL—These are quotes. What I am saying is that members of the public who want to read these reports will see this evidence set out in black and white. What is interesting is that I did not read any of this in this morning’s press. They would have read that Able Seaman Gerrits said that he saw the suspected unlawful persons jumping off the vessel by their own choice. He said:

... and I believe one child also went overboard.

They will read the notes taken by Brigadier Silverstone—

Senator Robert Ray interjecting—

The PRESIDENT—Senator Ray, I have called you to order several times already.

Senator HILL—He was told ‘men in water; child thrown over the side’ and they will read that senior public servants passed the message up to the ministers I have earlier mentioned saying that there were children overboard. In all those circumstances the public will see that it was perfectly legitimate. In fact, the Prime Minister could not have come to any other conclusion but that children were thrown overboard. So why will they believe the Prime Minister? They will believe the Prime Minister because the inquiries that are being conducted and the reports that have been put down support the Prime Minister in his belief at that time that the children were thrown overboard.

Immigration: ‘Children Overboard’ Affair

Senator STOTT DESPOJA (2.22 p.m.)—My question is also addressed to the Minister for Defence. Is the government aware that earlier today the former Minister for Defence blamed bureaucrats in the Department of Defence for the government’s failure to correct claims that asylum seekers threw their children overboard? Can the minister confirm that it was a failure in the system in the Department of Defence that resulted in the then defence minister not being made aware on 10 December or subsequently for another month that claims that asylum seekers threw their children overboard were false? When did this minister, the current minister, become first aware of this failure in the system in the department?

Senator HILL—I have read one transcript of an interview with Mr Reith and I did not read him as blaming bureaucrats. What we do know is that there clearly were failures of communication in this matter, because the reporter comes to the conclusion that now, with the benefit of hindsight and having carried out an investigation, there isn’t evidence that the children were thrown overboard. So somewhere a failure of communication occurred. As a result of these reports, we have considerable and worthwhile advice on how communications might be improved for the future. This government, and certainly I in relation to my responsibilities as defence minister, will take into account those advices in formulating what hopefully will be better chains of communication for the future. But this is not an issue of blaming bureaucrats. I do not think it is an
issue of blaming anyone. The important point was that clearly at the critical time ministers were told that children were thrown overboard. They legitimately and appropriately informed the public of that fact. Now, with the benefit of hindsight and two inquiries, we believe we know better, and what we want to do is to see what experiences can be learnt from this.

Senator STOTT DESPOJA—Madam President, I ask a supplementary question. I thank the minister for his answer. Given the minister’s acknowledgment that there have been communication problems and his claims that he has received worthwhile advice, can I ask the government: will there be a full investigation launched into these so-called communication breakdowns or this so-called failure within the system of the Department of Defence? Will there be a full investigation into what happened?

Senator HILL—I can only request the honourable senator to read the reports, because the reports are the investigation she is requesting and they set out recommendations on how to improve the communications. So the advice on how to improve communications is set out within the reports. And it is that public advice—public after yesterday—that I intend to act upon.

Immigration: ‘Children Overboard’ Affair

Senator ROBERT RAY (2.26 p.m.)—I direct my question to the Minister representing the Prime Minister, Senator Hill. Can the minister confirm that the report tabled by the Prime Minister yesterday indicates that the Prime Minister’s department was informed on 10 October:

- There is no indication that children were thrown overboard …
- Was the Secretary of the Department of the Prime Minister and Cabinet informed of these developments? If the secretary was not informed, what disciplinary action has been taken in response to this massive failure of process? Given the fact that the Department of the Prime Minister and Cabinet, the Department of Immigration and Multicultural and Indigenous Affairs and the allegation of the Department of Defence failed to inform their relevant ministers of the errors in regard to this, has any consideration been given to not awarding performance pay for the secretaries of these three departments?

Senator HILL—I do not know why Senator Ray wants to pick on the bureaucrats. I think that these—

The PRESIDENT—Order! We will wait until we can hear what is happening.

Senator HILL—As I said to the Leader of the Australian Democrats, I think it is better not to blame the bureaucrats.

The PRESIDENT—Senators shouting across the chamber are disorderly.

Senator HILL—I think it is better to learn from this experience. Clearly there is advice within these reports that the lines of communication can be improved and should be improved for the future. As I have said, it would be my intention to act upon that advice. In relation to what flowed from the communication to the Department of the Prime Minister and Cabinet referred to in the report, I do not have that detail, but I will ask the Prime Minister if he has any information on it.

Senator ROBERT RAY—Madam President, I ask a supplementary question. I ask the minister to ask the Prime Minister to check when the Secretary of Prime Minister and Cabinet first found out about this particular matter. Could you take that on notice, Minister? Secondly, will you reassert, at least in this place, the principle that public servants, on being informed that their minister has made a misstatement or a mislead—inadvertent, deliberate or whatever way you like to say it—have a duty to inform their minister or Prime Minister straightaway and if they do not should be held accountable? That is not picking on public servants. Thirdly, I want to know: given that some public servants have moved, like Miss Jane Halton to the Department of Health and Ageing, will they be made available to the select committee looking into these matters established by the Senate yesterday?
Senator HILL—Without blaming bureaucrats, I think all bureaucrats would accept that they have a duty to inform, and you might well say that ministers have got a duty to inquire. But the point is that somewhere or other in the later stages of this matter there was a breakdown of communication. We have now got advice on how that might be improved for the future. The constructive and positive thing is to act upon that advice.

In relation to a request that might come for access to various public servants for a Senate inquiry, I think it is better that that be responded to appropriately at that time.

Senator Robert Ray—And Mr Max Moore-Wilton?

Senator HILL—On that matter I will ask for further advice.

Immigration: ‘Children Overboard’ Affair

Senator BROWN (2.29 p.m.)—My question is also to the Minister representing the Prime Minister. I refer him to Liberal Attorney-General Bill Snedden’s suggestion in 1966 that the standard of Westminster responsibility should be ‘if the minister is free from personal fault, and could not by reasonable diligence have prevented the mistake, there is no compulsion to resign’. If the Department of the Prime Minister and Cabinet was told by the Defence Strategic Command on 10 October that there was no indication the children were thrown overboard, is there not a responsibility for the Prime Minister using reasonable diligence to have discovered that information in his own department? The responsibility, does it not, lies with the Prime Minister to have uncovered that information rather than continue to mislead the Australian people? Should not the Prime Minister take responsibility for misleading the Australian people and resign?

Senator HILL—With respect to Senator Brown, that question is a nonsense. The Prime Minister cannot be expected to know what he was not told. In this instance he has said that he was not told, and there is no evidence to the contrary. How could it possibly be said that the Prime Minister should be assumed to know every piece of correspondence that enters the Department of the Prime Minister and Cabinet? There is no way in which you could administer government on that basis.

Senator BROWN—Madam President, I ask a supplementary question. The question depends upon the phrase ‘reasonable diligence’. The question is: what is the evidence that the Prime Minister used reasonable diligence to uncover a fact already in his own department which showed—

Opposition senators interjecting—

The PRESIDENT—Order! We will wait until we can hear.

Opposition senators interjecting—

The PRESIDENT—I am still waiting to hear Senator Brown’s supplementary question. If senators would come to order, we could proceed.

Senator George Campbell interjecting—

The PRESIDENT—Senator George Campbell, I am addressing the chamber on the matter of behaviour and order, and it is very disorderly for you to start shouting while I am speaking. Senator Brown, please continue.

Senator BROWN—It is a very serious question. I again ask the Minister representing the Prime Minister: cannot the Prime Minister have been expected to use the reasonable diligence which would have discovered the advice already in his department that there was no indication that children were thrown overboard? What steps did the Prime Minister take to make sure that such evidence, if it was in his department, was available? After all, he had been asked for this evidence by reporters in Ballarat and elsewhere. What evidence is there that the Prime Minister used reasonable diligence in such an important matter to ensure that he was not misleading the Australian nation?

Senator HILL—As I have said several times today already, the Prime Minister was informed that there were children overboard. Other ministers were informed similarly. The statement was made public. The border control task force, or the illegal immigrant task force, whatever it is called, produced a written document to that effect. The Office of National Assessment documentation referred
to children being overboard. There was a mass of material to give ministers confidence that what they were saying was correct. It is only afterwards, with the benefit of hindsight, that these other questions can be asked. What that amounts to is a case of reasonable diligence. I hope that puts the honourable senator’s mind at rest.

Immigration: ‘Children Overboard’ Affair

Senator FAULKNER (2.34 p.m.)—My question is directed to Senator Hill, representing the Prime Minister. Does the minister recall the Prime Minister’s speech of 8 November 2001 at the Press Club at which the Prime Minister quoted from an ONA report relating to the asylum seekers on the MV Tampa? What security classification did that ONA report carry—restricted, classified, secret or top secret? Can the minister instance any previous occasion on which a Prime Minister has quoted directly from an ONA document to justify their political position? Can he give us any example where a Prime Minister has done so in the national interest?

Senator HILL—What flows from that is Senator Faulkner saying that, if the Office of National Assessment, the principal body we have for assessing security information that has the capacity to go back to source material—


The PRESIDENT—Senator Ray, I call you to order.

Senator HILL—Senator Ray, we have the right to expect that it goes back to source material. If that document said that children were overboard, is Senator Faulkner saying to the Senate that the Prime Minister is not permitted to say so? I am being questioned today on how the Prime Minister could have reached a certain conclusion, and then I am being told that he should not have relied on the material that he was given from the highest intelligence sources in the country. What a nonsense that is. The Prime Minister was told through a range of different sources—and not surprisingly, bearing in mind what is in the reports that we read yesterday—that there were children overboard. Rather than say that the public should be denied that relevant information just because it is in an Office of National Assessment report, it seems to me the public should be informed of that relevant information.

Opposition senators interjecting—

The PRESIDENT—Your leader has risen to ask a supplementary question. To keep shouting is also insulting to him.

Senator FAULKNER—Madam President, I ask a supplementary question. I note the minister did not answer my question about whether an ONA report had ever been made public in this manner before. Isn’t it a fact that the Prime Minister had made numerous public statements about the children overboard issue before the ONA report reached his desk? Wasn’t the Prime Minister’s unprecedented use of the ONA report a month later just a desperate measure to justify a reckless and inaccurate exploitation of an emotive issue in the middle of an election campaign?

Senator HILL—That is repeating the question, really. Senator Faulkner is saying that the Prime Minister should not be allowed to use a document from the Office of National Assessment which tells him that the children were thrown overboard and he should not be able to communicate that to the public as evidence that an authority that has access to all the source material has formed the same view as that which he was given earlier in October. That is what Senator Faulkner is saying, and if that is what he is saying then I am saying that that is ridiculous. The public are entitled to know what material there is in support of the Prime Minister’s position, in the same way that they are entitled to read these reports and look at the results of these investigations and see the mass of material that is in support of the fact that the three ministers were told in the first instance that the children were thrown overboard.

Taxation: Reform

Senator WATSON (2.38 p.m.)—My question is directed to the Minister for Revenue and Assistant Treasurer, Senator Coonan. Will the minister please advise the
Senate how the Howard government’s election commitments will continue to modernise and streamline the taxation system for the benefit of all Australians? Is the minister aware of any alternative policies?

Senator COONAN—I thank Senator Watson for the question and acknowledge his long interest in this important business tax initiative that will deliver a range of benefits for Australian companies, trusts and partnerships of all sizes and in all fields. The Howard government is committed to delivering a fair and a modern tax system that meets the needs of Australian businesses. Since coming to office, the Howard government has delivered comprehensive reforms to the tax system that have enabled the Australian economy to continue to grow and to weather the global economic downturn that has so affected other countries around the world.

The most recent edition of the Economist rates Australia’s growth the highest of some 15 countries, including Japan, the United States and many countries in Europe. The magazine notes that Australia’s forecast level of growth, at 3.2 per cent, is almost twice the forecast growth of the second highest country, and three times the average of nations surveyed. The recent positive business forecasts are a resounding endorsement of the Howard government’s sound economic management.

The new tax system represents the biggest change to the tax system in Australia’s history. These reforms, as we know, saw the demise of an old, outdated and unfair system by abolishing wholesale sales tax, lowering income taxes, abolishing financial institutions duty and removing the tax on exports.

Despite a record of great achievement, the government is not complacent. We recognise that there is still much to do and I am delighted to be able to contribute by bringing forward the government’s business tax program. In this context, the government has highlighted a number of key priorities. We see a great importance in improving international tax arrangements. The government is also further improving arrangements for venture capital investment in Australia by broadening the existing venture capital non-resident capital gains tax concessions.

The proposed consolidation regime which allows groups of wholly owned companies to be treated as a single taxpaying entity from July this year was released in an exposure draft of the legislation and a user guide last week, and I have encouraged the business community’s direct participation in developing the legislation and administrative systems for this measure. The measure will deliver tax savings of $1 billion over the next three years to businesses who choose to participate. The proposal, I am happy to say, has been broadly welcomed by businesses as a positive step forward. For example, the Business Council of Australia said:

The consolidated tax regime represents a major change in taxation with the potential to better align the tax system with commercial reality and to avoid the duplication of gains and losses within wholly-owned groups.

Despite Senator Conroy’s usual astuteness, he must have been asleep at the wheel over the past two weeks to have missed the benefits of consolidation. The government has announced its in-principle support for de-merger mechanisms in the tax law to improve flexibility in business structures.

I was asked whether I was aware of any alternative policies. The silence from the Labor Party is absolutely deafening. We knew that Mr Crean sort of had an idea, but it is hard to believe when—and this from a self-confessed conviction politician—in a recent newspaper commentary Mr Crean ditched roll-back and apparently was never too keen on it anyway. The hypocrisy of the Labor Party is stark. In the absence of any ideas from the Labor Party, you can only look at their track record as an indicator of where they have failed pitifully. (Time expired)

Immigration: ‘Children Overboard’ Affair

Senator ROBERT RAY (2.42 p.m.)—I direct my question to Senator Hill, representing the Prime Minister. Can the minister confirm that the Prime Minister received the ONA report on the Tampa two days after he made all his major statements on throwing children overboard on 10 October? Is the minister aware of any previous instances where the Office of National Assessments,
supposedly the nation’s premier intelligence analyser and reporter, has relied solely on a minister’s press release as the source for their reports? What steps did the Director-General of ONA take to inform the Prime Minister on 8 November, following the Prime Minister’s use of the ONA report in his National Press Club speech, that there was no independent source for that report and that it was based solely on discredited press releases?

Senator HILL—It was not based on discredited press releases, but I do think this is another aspect of the learning experience in this whole saga.

Senator Carr interjecting—

The PRESIDENT—Order! Senator Carr, you are out of order, and I call on you to maintain the orders and remain silent.

Senator HILL—It does seem that this part of the ONA assessment relied at least in part on the fact that ministers had stated that this had occurred. Of course, they, in turn, were relying on the advice that they had received, in the case of Mr Ruddock from the head of his department. I said there are lessons for all in this. The lesson for ONA presumably is: go back to primary sources. If Senator Ray is saying—

Senator ROBERT RAY—Madam President, I ask a supplementary question. The minister has said that ONA relied in part on the minister’s press releases. Minister, can you tell us what the other part was that they relied on? Where did they get the rest of their information? Surely the reports from the major general and from the PM&C officer indicated that they relied 100 per cent on Minister Ruddock’s press releases because of this exciting piece of intelligence that they supplied to the Prime Minister two days after he raised these issues. Can you explain to us, because you did not mention it in answer to the primary question, why the director of ONA would not have immediately contacted the Prime Minister on 8 November and said, ‘I’m sorry, Prime Minister, but you having quoted our report we have no independent substantiation of the material that you have released,’ and then the public record could have been appropriately amended that day?

Senator HILL—Why do I say ‘in part’? Because the ONA has the benefit of a wealth of primary source material. Much of that primary source material is now known by the public at large because it was released yesterday. If ONA observed that material, which one would like to think that they did, they would have had plenty of reason to be comfortable in accepting the statement by the three ministers that the three children had been thrown overboard, because that is what so much of this material actually says.

Immigration: Children

Senator BARTLETT (2.46 p.m.)—My question is to the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs. Minister, given the grave concern for the welfare of refugee children which the government expressed in nobly drawing public attention to the now discredited allegations regarding forcible lip sewing at Woomera and children being thrown into the sea, can the minister now outline what has happened to those children involved whom they were so concerned about? Is it the case that all the children rescued at sea over four months ago have been held in detention outside Australia ever since? Is it also the case that all of the children at Woomera have been imprisoned there for at least six months? Will the government actually back up its rhetoric concerning the wellbeing of children by releasing these children from detention as soon as possible?

Senator ELLISON—At the outset, Senator Bartlett needs to clarify and not mislead the Senate in what he says about discredited allegations. Yesterday I made very clear, in answer to his question whether there had been any involvement of parents sewing up the lips of their children, that there was no conclusive evidence either way. But
what there had been was a sewing up of children’s lips. That was in the report by the Human Rights and Equal Opportunity Commission in a letter to the minister and also it was the subject of a memo from the South Australian Department of Human Resources which formed the basis of the concern; that is, there were instances of children having their lips sewn up. The question was who had done it. The investigation which was conducted could not conclude either way who had done it, but let us make no mistake about the fact that children had had their lips sewn up. That was something which a lot of people misunderstood and chose to misunderstand yesterday and today, particularly in reports in the press.

I understand that the children Senator Bartlett refers to are in detention. I will confirm that. That is my understanding, but I will confirm that. If that is not correct, I will get back to Senator Bartlett and the Senate. But it is wrong to say that those allegations were discredited. They were based on a sound concern that there had been something amiss at Woomera. Obviously, when you have children who have had their lips sewn together you have to ask the question how did it happen, and quite rightly so. That concern came from the South Australian department, not from the minister for immigration. What happened is that they expressed their concerns and they were relayed to the minister for immigration, Mr Ruddock, and quite rightly he took the matter up. It would have been wrong for him not to have done so. In that initial concern there was reference to the mother of two children who stated that ‘she would have done the same things to her daughter as she had done to her son’. That was the cause of the concern that was raised by the South Australian department at the time. They were not baseless concerns. They warranted investigation, and one was carried out.

Senator Bartlett did ask about a report. I understand that there was no report as such to the minister and the conclusion of the investigation was in the form of advising the minister that it could not be concluded either way as to who had been responsible for the children having their lips sewn up.

Senator BARTLETT—Madam President, I ask a supplementary question. Firstly, it should be made clear that I specifically stated in my question that the government showed concern for these children, and I certainly agree that it is appropriate that concerns be investigated. The question I ask is why, once they were investigated, particularly given that such strong condemnation was made of the asylum seekers and detainees by the minister, and by Minister Brown in particular, that evidence was not released to the public. Can the minister confirm that Minister Brown and Minister Ruddock were aware before the South Australian election occurred that no evidence had been found either way? If so, why did they not inform the public about that fact before the election day? Is the minister also aware that in addition to this advice, which I again call upon him to table or release, the Human Rights and Equal Opportunity Commission, after a five-day, extensive inquiry into Woomera and consultation with ACM officers, found no evidence of parents encouraging children to engage in acts of self-harm? Given such categorical evidence, why will the minister not release—(Time expired)

Senator ELLISON—The fact remains that there was harm done to these children, quite rightly there were concerns about it and these concerns were investigated. Can I say that in relation to these matters the government was concerned, and as a result of that the South Australian department, which had a memorandum of understanding with the department of immigration, entered into monitoring of these children and a risk assessment in relation to the family of those children and paid close attention to the welfare of those children. But it is wrong to say that there was no basis for the concerns expressed by Mr Brown or the Minister for Immigration and Multicultural and Indigenous Affairs, Mr Ruddock. What you had were children who had had their lips sewn up. That warranted investigation, and an investigation was carried out accordingly.

Ministerial Staff: Defence Force Relations

Senator CHRIS EVANS (2.52 p.m.)—My question is directed to the Minister for Defence, Senator Hill. Given that Major Gen-
eral Powell in his report calls for further formal inquiries under the Defence Inquiry Regulations to be pursued, will the minister authorise this to occur? Given the trenchant criticisms made by Major General Powell of Mr Reith’s staff when they bypassed the chain of command and directed inquiries and demands into different sections of the Defence Force to gather material which we would say was for political purposes, will the current minister develop a protocol governing the relationship between the minister’s staff, the department and the Defence Force?

Senator HILL—Madam President, when you look at the chart which seeks to depict the relationship between various defence officials and minister’s staff, you will see that it is somewhat confused. I am hoping to develop lines of communication that are clearer than what appears to have existed in the past. In relation to the broader advice, as I said before, the government is going to consider that advice on how communications might be more broadly improved. The Prime Minister has asked that I confer with the heads of my department and advise him further in due course as to how that might occur.

Senator CHRIS EVANS—Madam President, I ask a supplementary question. I thank the minister for that answer. But, Minister, isn’t it a fact that when the media challenged the children in the water story in the photographs in early October, Mr Reith’s press secretary, Mr Hampton, having distributed the photos far and wide, stated he could not respond to media inquiries as to their veracity because ‘they dealt with operational matters’? Isn’t the invoking of the ‘operational matters’ defence under these circumstances the last refuge of a scoundrel?

Senator HILL—No, operational matters are not to be referred to publicly, but that is not really the point. The point is that there are statements and assertions made of what people said in these reports in a number of instances that are not accepted by those against whom the comment is made. It is just impossible to pursue that further in a constructive way. What would be constructive, I have sought to say in this question time, is to move on, to look at ways in which communication can be improved between departments and ministers—

Opposition senators interjecting—

Senator HILL—There is no question of lies. I have said the three ministers were properly informed that the children went overboard, and they made that information public. There seem to have been, subsequently, breakdowns of communications. What I think is important is that we put in place mechanisms to improve those communications for the future.

Forest Industry: Management Standards

Senator SANDY MACDONALD (2.55 p.m.)—My question is to Senator Ian Macdonald, the Minister for Forestry and Conservation. Minister, will you outline the steps being taken to improve standards for sustainable forest management practices in Australia? Will you also outline what consultation has occurred in developing these improved standards?

Senator IAN MACDONALD—I thank Senator Sandy Macdonald for that very important question. It is refreshing in this question time to get a question that is about something of substance, rather than something that happened many months ago and that, really, no one in Australia is very interested in. I know everyone is interested in sustainable forest management, so I thank Senator Sandy Macdonald for that question.

The government places a very high priority on sustainable forestry management. It is, of course, principally a state issue, but as a federal government we do play a significant role. We currently have the RFA Bill under consideration, and I will not reflect on that, but our third-term agenda goes even further. Senators will be aware that we have promised to reinstate the 12-month rule to provide taxation incentives for approved timber plantation schemes, so that will build up the timber resource within Australia.

Another important process in train is the development of the Australian Forestry Industry Standard. The standard will provide a basis for Australian forest owners and managers to demonstrate the sustainability of their management through voluntary, independent, third-party certification of forest
management. This is very important to Australia’s export potential in forest industry products. We have an exciting future in exports; they are currently running at about $2 billion, but we can do better. The Australian forestry standard will be based upon the Montreal criteria and will ensure that forest industry exports continue, to the benefit of all Australians.

The standard is being developed through a broad based stakeholder group, the Technical Reference Group, which provides for balanced participation of a wide range of interests and expertise at the national level. The technical references committee has a membership that has been drawn from independent professional and scientific groups, forest owners and processors, the ACTU, community and consumer interests including non-government organisations—represented by the World Wide Fund for Nature—other regulatory and controlling bodies, and indigenous people. The standard is expected to be completed in mid-2002.

The aim of the standard is to be internationally recognised alongside comparable forest management standards, to further contribute to Australia’s reputation as being amongst the world leaders in pursuing best practice forest management. Perhaps the most significant aspect of the Australian forestry standard is that not only has industry been involved in its development but the conservation movement and other informed stakeholders have also been involved in a cooperative effort to improve the industry standards and to meet the demands of markets to engage in sustainable forestry management.

I want to take this opportunity to congratulate all of those involved for their active contribution to this very significant process. I particularly thank those from the conservation movement, represented by the Worldwide Fund for Nature, for their contribution to what will be a major step forward in Australia’s forestry industry and will certainly enhance our export capability in the years ahead. The government’s third-term agenda reflects our commitment to certainty, a sustainable future for communities who rely on this very important industry and improved forestry management practices.

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

PRIVILEGE

The PRESIDENT (3.00 p.m.)—Senator Harris, by letter dated 13 February 2002, has raised a matter of privilege relating to a search of his Mareeba office conducted by the Queensland police on 27 November 2001. In essence, Senator Harris claims that breaches of the immunities of the Senate were involved in the search and seizure of material in his office. He draws attention to the following matters. Material was seized in his office, including material in electronic form on the hard drive of his computers, without regard to the limitation of the authorisation of the warrant. Police disregarded the possibility that some material in the office was immune from seizure by virtue of parliamentary privilege. Police have remained in possession of the material, although Senator Harris has made a claim of parliamentary privilege in relation to the material. Appropriate processes were not observed by the police in executing the search warrant.

I am required to determine whether a motion to refer the matter to the Privileges Committee should have precedence over other business, having regard to the following criteria: (a) the principle that the Senate’s power to adjudge and deal with contempts should be used only where it is necessary to provide reasonable protection for the Senate and its committees and for senators against improper acts tending substantially to obstruct them in the performance of their functions, and should not be used in respect of matters which appear to be of a trivial nature or unworthy of the attention of the Senate; and (b) the existence of any remedy other than that power for any act which may be held to be a contempt.

Past Presidents’ rulings have held that a matter will be regarded as meeting criterion (a) if the matter is capable of being held by the Senate to meet that criterion, and crite-
rion (b) if there is no other readily available remedy.

Each of the aspects of the search and seizure raised by Senator Harris is capable of being held by the Senate to be a breach of the immunities of the Senate and a contempt. In particular, the seizure of material not authorised by the warrant without regard to the question of parliamentary privilege and the continued possession of that material by the police could be so regarded by the Senate.

In relation to criterion (b) the judgment by Justice French in Crane v. Gething means that only the Senate can resolve a question of parliamentary privilege arising from the execution of a search warrant to seize documents in the possession of a senator. The matter therefore meets the criteria I am required to consider.

In its 75th report of March 1999, titled *The execution of search warrants in senators’ offices*, the Privileges Committee drew attention to the serious problem arising from the execution of search warrants to seize material in the possession of senators, in that material protected from seizure by parliamentary privilege may fall immediately into the possession of the police by the execution of warrants. The committee referred to the lack of any procedures whereby questions of parliamentary privilege may be raised and resolved. The committee recommended that such procedures be put in place by means of guidelines agreed to by the Presiding Officers and Attorneys-General. Such procedures have still not been established. The committee may wish to revisit the matter and pursue these questions further.

Subsequently, in 2000 and 2001, the Senate, following the judgment of Justice French, put in place a special process to determine whether material seized in the search which gave rise to that case was protected by parliamentary privilege and to ensure that such material was returned to the senator without going into the possession of the police. This action by the Senate indicates that the question of the seizure of material protected by parliamentary privilege is regarded very seriously by the Senate. I therefore determine that a motion to refer the matter to the Privileges Committee may have precedence.

I table the letter from Senator Harris and attachments. Under paragraph (7) of standing order 81, because the Senate is not meeting for more than seven days, Senator Harris may now move a motion to refer the matter to the Privileges Committee.

**Senator HARRIS (Queensland)** (3.04 p.m.)—I move:

That the following matters be referred to the Committee of Privileges:

(a) whether any breaches of the immunities of the Senate or contempts were involved in the search and seizure, and continued possession, by the Queensland police of material from the office of Senator Harris, and, if so, what remedies should be applied;

(b) whether any steps should be taken to ensure that any such material protected from seizure by parliamentary privilege is returned to Senator Harris without further access to the material by the police; and

(c) whether procedures should be established to ensure that, in cases of the execution of search warrants in senators’ premises, material protected by parliamentary privilege is appropriately treated.

**Senator ROBERT RAY (Victoria)** (3.05 p.m.)—There are two issues here, and I think the Senate should have a clear idea of what it is voting on in terms of these two issues. They have been dealt with before. Any action by police entering a senator’s office to seize material may or may not be in breach of parliamentary privilege. But mentioned in the statement was material that has been seized not in line with the warrant. That is his
That is exacerbated by the fact that so much material is now in electronic form that it is very hard to distinguish where it starts and finishes. But if there is material that has been taken that is outside the warrant, Senator Harris will have to take his own legal action. If there is material that he wishes to claim parliamentary privilege for, it is a matter for this chamber to determine.

I should also warn the Senate that the last time this came up, in Crane v. Gething, the Senate Privileges Committee did not resolve it. In fact, some of the more senior senators had to get together and make recommendations, draw up motions and move those motions in this chamber. For the record, that can be a very expensive process. I do not blame Senator Hill for his original estimate of what the Crane matter would cost us. I think it is true to say he indicated it would be about $10,000. Give or take another $50,000 on top, that is exactly what we may be up for. But if that is what we are up for, that is what we are up for—we do not have a choice.

What I am trying to indicate, as Chairman of the Privileges Committee—not with the authority of the Privileges Committee—is that I am not sure that we can directly deal with this particular matter. As a committee, we do not like looking at Senator Harris’s documents. We do not feel comfortable looking at Senator Harris’s private documents and trying to determine whether they are privileged or not, because then we try to put up Chinese walls. There may be stuff in there that, politically, we are not entitled to know and we do not want to know. It is then very hard to exercise that knowledge out of your mind having seen it.

The process with regard to Senator Crane was that, through the Senate, through the help of Madam President and others, we had a senior counsel look at the matter and determine it. It may well be that this matter may go to the Privileges Committee and we may have to draw up a similar resolution to have a senior counsel advise this chamber, to classify the material into different areas and then proceed. But the one thing we do not want and do not need is for matters of privilege of this nature to be determined by the courts. I think Justice French was absolutely right in his judgment. Justice Jones, however, was a much bigger worry in terms of his ruling on this—given our knowledge of privilege, it is much better to be settled here.

I am not opposing the motion; I am just saying that those areas that are outside the warrant but do not constitute a parliamentary privileged area are not our business, regrettably. That will have to be settled between Senator Harris and the police. When it does go to the Privileges Committee, I think we will have to use the modus operandi previously used in the case of Senator Crane that got us out of that particular fix.

**Senator BROWN** (Tasmania) (3.09 p.m.)—I support the motion.

**Senator HARRIS** (Queensland) (3.10 p.m.)—During the process of the execution of the warrant, the police officers in charge were provided with excerpts of advice from the Senate Clerk that clearly stated that the material they were taking was of a privileged nature in that it pertained exclusively to constituent issues. I had no problems and complied with the police in providing them with hard documents for which we were not, and are not, seeking privilege. The only thing we are seeking privilege for are the issues relating to constituents’ matters.

Question agreed to.

**ABSENCE OF PRESIDENT**

The PRESIDENT—I inform the Senate that, as Joint President of the Commonwealth of Australia Branch of the Commonwealth Parliamentary Association, I am to represent the parliament at a CPA conference in London in March 2002 to mark the Golden Jubilee of Her Majesty Queen Elizabeth II. I will be absent from the Senate from 11 to 14 March 2002 inclusive. I suggest to the Senate that the Deputy President, Senator West, be empowered to act as President during my absence, pursuant to standing order 13.

**Senator HILL** (South Australia—Minister for Defence) (3.11 p.m.)—by leave—I move:

1. That, during the absence of the President, the Deputy President shall, on each sitting day, take the chair of the Senate and may, during such absence, perform the duties and exercise the authority of the President in relation
(2) That the President be granted leave of absence from 11 March to 14 March 2002.

Question agreed to.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Immigration: ‘Children Overboard’ Affair

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.11 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Defence (Senator Hill) to questions without notice asked today relating to a report by the Office of National Assessments and asylum seekers.

Like Senator Hill, I have read the report of a junior officer of the Department of the Prime Minister and Cabinet into the investigation into advice provided to ministers on Suspected Illegal Entry Vessel 4. I think the report is an exercise in obfuscation. It is a whitewash. It lets the key culprits in this affair off the hook. It avoids the whole question surrounding media pressure on the issue and it ignores the question of the role of the Department of the Prime Minister and Cabinet. It ignores adviser-to-adviser contact and discussions between ministers. It concentrates on official Defence advice. It blames a retired defence minister. The fingerprints of the Department of the Prime Minister and Cabinet and its senior bureaucrat, Mr Max Moore-Wilton, are all over this document. It is yet another exercise in disinformation from a very discredited government.

We know that Mr Howard is a past master at blame-shifting, but what is striking about this is that officers of PM&C knew on 10 October, through the chronology sent by Defence, that the ‘children overboard’ slur which was being perpetrated by the Prime Minister, the Minister for Immigration and Multicultural Affairs and the Minister for Defence was a lie. I will quote from the report. They were told: ‘There is no indication that children were thrown overboard.’ What could be clearer than that? What could be more categorical than: ‘There is no indication that children were thrown overboard’?

The same message was relayed through the senior ranks of the ADF and the Department of Defence on 10 and 11 October. What is obvious is that senior members of Navy and Defence scrambled to correct the record. Sure, the exercise was messy, but they did correct the record. Mr Reith was told and, I repeat, so was the Department of the Prime Minister and Cabinet. Anyone who knows anything at all about the Public Service in this country, particularly its premier department, the Department of the Prime Minister and Cabinet, would know that this information would have come to the attention of Ms Halton—then chair of the people smuggling task force, now Secretary of the Department of Health and Ageing—and would have come to the attention of Mr Moore-Wilton as well. You cannot reach any conclusion other than that they were guilty of gross negligence in not telling ministers, or complicit in a cover-up to protect ministers, or complicit with ministers themselves in hiding the truth.

If this report is to be believed, Mr Moore-Wilton should resign and Ms Halton should follow him straight out. The Prime Minister, in fact, should be demanding the resignations of Mr Moore-Wilton and Ms Halton. The fact that he is not doing that itself raises very serious questions. Does he know that they did in fact do their job and, therefore, should not have to pay for the consequences of this incredible deception? Does he perhaps know that it would not be fair to sack them because they did tell him? Mr Howard cannot have it both ways. If his excuse for allowing lies to be perpetrated through the election campaign is that no-one told him that it was a lie, then either those who knew it was a lie but failed to tell him must pay the price or, if they did tell him and he did nothing to correct the record, then he has to pay the political price. You cannot beat around the bush about this. This is either a grand deception or a monumental failure of process. Either way, heads must roll.

Senator MASON (Queensland) (3.17 p.m.)—Senator Faulkner raises an important issue. I think it is fair to say that the implication is that either the Prime Minister or one of the other ministers—the Minister for Defence or the Minister for Immigration and
Multicultural and Indigenous Affairs—has been dishonest or at least lacked due diligence. I think that is the field that is being covered. The facts do not bear that out.

The three ministers were told that on the boat SIEV 4 the children had been thrown overboard. The information came from a range of sources including, as Senator Hill said before, the ONA, the military and other sources. Subsequently, it seems that some public servants may have been informed that there was no evidence that children had been thrown overboard or that the evidence that they had been thrown overboard may have been rather weak. There is, however, no evidence at all that any information was put before the Prime Minister or other ministers which contradicted their first briefing—none at all. I quote from the transcript from this morning when the Prime Minister was interviewed by Steve Price on radio 2UE. The Prime Minister said:

At no stage did my department or any other official tell me that the original advice was wrong. We acted on that advice. At no stage did my department or did any other official tell me that I had not been, that the original advice was wrong. I can only react to the information that has been made available to me. Importantly, at all times I acted on advice and at no stage did I invent anything and at no stage subsequently have I tried to cover anything up.

Indeed, the only conclusion that the Prime Minister might have been able to come to on the evidence available, and that he was entitled to come to, was the one that he did come to—and that was that children had been thrown overboard.

Senator Faulkner, and indeed Senator Brown, raised the issue of due diligence, if not dishonesty. That was another part of the debate. That goes something like this: in effect, perhaps the Prime Minister should have done something more than rely on the original advice. This is not saying that the Prime Minister is dishonest; rather, it is saying that he or perhaps his advisers should have done more to find out what happened. Perhaps in an ideal world that would be great, but the exigencies of government perhaps make that impossible.

The Prime Minister acted with due diligence in this case. There is no evidence of dishonesty. In fact, there is no evidence of the fact that he lacked any diligence. Senator Faulkner referred just now to the events of 9 and 10 October. He said that the Prime Minister and Cabinet officials were informed about the fact that evidence may have been lacking. The report Senator Faulkner referred to finds that on 9 or 10 October PM&C officials requested that further checking be done on the incident and sought further information from Strategic Defence Command. However, statements from PM&C officials indicate that when Mr Reith released the photographs a few hours later, these were seen as confirming the original reports, and therefore they did not pursue the matter further. I repeat: there is no evidence of dishonesty and none of a lack of diligence.

Mr Swan makes the claim that this incident cost the Australian Labor Party the election. The Australian Labor Party lost the election because they had become the trimmers and the management consultants of modern politics. They stand for nothing. To sit back for the last six years and hope that the GST would cause us to be thrown out of government was ridiculous. For a big man, Mr Beazley has become the god of small—(Time expired)

Senator COOK (Western Australia) (3.23 p.m.)—Truth, it is commonly held, is the first casualty of war. For this government, truth is a casualty at any time, but particularly during an election campaign. The reports that were tabled yesterday provide ample evidence that the truth was treated casually or deliberately ignored, or the public was manipulated as a deliberate electoral ploy. Who was responsible for that under the reports is a little clouded, but the responsibility stops at the head of the queue—at the Prime Minister’s office and at the Minister for Defence’s door. And there is no defence by either of those, surely, that their departments knew but did not tell them or their staff was told but did not pass on the information.

The fact that no heads have rolled for such a monumental misdirection of responsibility, if that defence were true, is, in itself, an eloquent indication that maybe there is some-
thing more complicit here than we have been told. It is not for nothing that the President of the Liberal Party of Australia, Mr Shane Stone, last year described the Prime Minister as 'mean and tricky'. The reports yesterday have been viewed by the Australian media and it is important just for a moment to go through their take on the explanation now offered by the government. The headline in the Sydney Morning Herald was: 'The great "children overboard" lie'. The headline in the Daily Telegraph, alongside the misleading photos, was: 'It never happened'. In the Canberra Times, the headline was: 'Govt knew claims to be false'. In the Australian, the headline was: 'Verdict on Reith: facts overboard'. In the Herald Sun, the headline was: 'It was a lie'. In the Age, the headline was: ‘“Overboard” lie exposed’.

Rarely has there been such a chorus of dissent from and disapproval of the government’s position across all media ownerships in Australia than we have seen in today’s headlines. And that is not surprising. Take, for example, paragraph 24(h) on page 7 of the report by Major General RA Powell for the Australian Defence Force. He stated:

By the forenoon of 11 October 2001, the two photographs released to the media on 9 October were being used inaccurately.

He went on to say what happened. He concluded by saying:

A factual clarification of the situation was communicated to the Military Adviser to the Minister both verbally and via email on 11 October 2001.

The former minister today is quoted as saying he still did not know. Are we being invited to believe that, with respect to a high profile, fundamentally political issue like this in which the minister was centre stage and was monitoring developments momentarily, he was never told by the military adviser in his office of the email and the verbal advice from the Department of Defence? Are we being invited to believe that that information was not passed to the Prime Minister and the minister for immigration forthwith, as a matter of urgency? Are we to believe that messages left on the mobile phone of the media consultant to the minister were not listened to in the middle of an election campaign when the media is clamouring for the minister’s attention and the minister is wanting to manage the media at every moment? There are monumental gasps of disbelief that such a thing could ever happen.

Brigadier Michael Silverstone said to the minister, ‘Minister, the video does not show a child being thrown in the water.’ What was Minister Reith’s reply? He said, ‘Well, we’d better not see the video then.’ Was this a minister who was manipulating the facts and deliberately pretending not to know so that he could then say he did not know, so that his obligation as a minister, under his oath of office to the Crown, could be dishonoured?

(Time expired)

Senator LIGHTFOOT (Western Australia) (3.28 p.m.)—I appreciate the contributions made by Senator Faulkner and Senator Cook to this afternoon’s debate, but both senators failed—this is over and above the contributions made by their colleagues during question time—to state that there are serious defects in the people smuggling route from Indonesia to Australia, and ultimately in the areas in which they are held, particularly in South Australia, and in Western Australia. The children do travel in leaky boats. Those boats are overloaded. Parents have no right to take their children on what are obviously dangerous and uncertain voyages. Indeed, the Senate will recall that a boat was lost. I had not heard of a tragedy of that proportion for a long time; 300 or 400 people were lost overboard.

That is not the fault of this government. This government has tried everything to discourage people from leaving Indonesia, including showing video clips of what will happen. And the worst, of course, has happened: they have, in fact, damaged the steering on the boats so that they can get picked up—a dangerous move in itself. They have disabled the engines on these crude boats that come from Indonesia. Nothing has been said about that. When the people arrive here, they attack the security guards at these institutions. They burn down these institutions.

These are areas in which our defence people are expected to live and yet they are not good enough for these people who come into Australia illegally. Nothing has been said
about that. Nothing has been said about the children who have had their mouths stitched—whether the children did it themselves, which I doubt, whether it was done by their parents or some older person or whether it was done through some sort of coercion. No-one has said anything about that. Yet the doubt remains only because it has been raised by the press and they are issues that the opposition prefers to believe. No-one has produced any evidence that the ‘children overboard’ issue was not a fact. I refer to the initial report and the key findings regarding the initial advice which was provided to Minister Ruddock and former Minister Reith entitled *Investigation into advice provided to Ministers on “SIEV 4”* which states:

It is clear that Ministers were advised on 7 October that children had been thrown overboard...

Is the opposition saying that the relevant ministers made this up? If you are saying that the ministers or their staff made this up, then the report clearly, unambiguously and decisively rebuts what you are saying. The report goes on to state:

Commander Northern Command provided a report to HSC in good faith that a child had been thrown overboard from SIEV 4, based on his conversation with the CO of HMAS ADELAIDE. There is nothing more certain than that. If the ministers were given information as unambiguous as that, how can it be that somehow your railing against the ministers produces a document or a conversation which denies what it says in this initial report. Where is your evidence that rebuts that? This is good solid evidence. For heaven’s sake, there are other issues that are far more important. It further goes on to state:

The written briefings provided by the taskforce and ONA give greater weight to initial verbal reports, and appear to have been seen as confirming the earlier advice.

It goes on and extends the reason for that initial advice by saying:

These reports were based on the early verbal advice and media reports of Ministers’ comments.

What is better to believe? Is it better to believe the initial report of the ‘children overboard’ tragedy or is it better to believe something that is purely politically motivated, without any evidence being offered and without anything whatsoever of a substantial nature that the ministers did anything wrong? Let us get this into proportion. You are saying a fraction of what the problem is. We need the whole picture. We need to understand why there are riots in these institutions and why they sew their lips up. Are these the type of people that we want here? I firmly believe that there were children or at least a child overboard. Until better evidence is provided to me, I am prepared to believe that there was at least one child overboard. In the interests of Australia you should believe the same thing too.

Senator ROBERT RAY (Victoria) (3.33 p.m.)—On 8 November last year the Australian Prime Minister set a precedent. He quoted from a security document at the National Press Club. Senator Hill and the rest of them cannot evince one case in the past where a Prime Minister has quoted from an ONA document. But this desperate and opportunistic Prime Minister, under political pressure, to help save his own skin, quoted from an ONA document. What is also clear, in justifying his position from that ONA document, is that this is a document he got 48 hours after he made his major statements on children being thrown overboard. He made those statements on 8 October and the ONA report came to his desk on 10 October. What a horrible justification.

What of the report itself? We now know that the only evidentiary base for the material in the ONA report was Minister Ruddock’s own press release. What has happened to ONA? What a miserable humiliation for an organisation I previously had high regard for. It is essential that the director of ONA take immediate action to remedy these systemic failures. If he does not, I regrettably say that he should resign. I have a high opinion of Mr Jones, his capability and his integrity, but if he does not get in and clean up this mess he should go himself.

We want to know what steps the director took to correct the Prime Minister’s views on 8 November. Did he contact the Prime Minister’s office and say, ‘Well, that is not exactly right. We do not have any independent evidence that kids were thrown overboard.’
Major General Powell’s inquiry clearly points to the fact that former Minister Reith’s office was out of control, that his staff constantly ignored the lines of command, pursued issues and lines of inquiry for political purposes and caused total confusion in the Australian Defence Force. They acted like a black bag operation, just running a political agenda. This has never happened before in a relationship between a minister’s office and the Australian Defence Force.

Then we had the former minister’s press secretary, Mr Ross Hampton. He spreads the photographs out that he had received without the captions and without explanation to all the media around the place. When finally one or two journalists twigged that there may be something wrong his excuse was, ‘I can’t answer those questions. These are operational matters.’ The last refuge of a scoundrel. On occasions you use that as a defence, but not as a political defence. Having spread these photos everywhere, he said, ‘Sorry, I can’t comment, it is an operational matter.’ What a low rent option that press secretary was.

We must ask why the Prime Minister has declared himself innocent and Mr Ruddock innocent but there has been no mention of Mr Reith. He has been left to hang out to dry, very deservedly so. In reports tabled yesterday it is clear that on four separate occasions either Mr Reith or his office were informed of the dubious nature of the claims of kids going overboard. They did nothing to correct the public record. Similarly, when told by Brigadier Silverstone on 31 October that the video did not show anything, what was Mr Reith’s action—the concerned minister, the honest parliamentarian? ‘Oh, no, I won’t watch that, therefore I will have deniability,’ That is what he said: ‘I don’t want to watch it if it does not show kids being thrown overboard.’

What do we have today? Mr Reith out there publicly attacking and blaming defence bureaucrats. I have to say that, at various times in the first two days, elements of the Defence Force and the defence department acted in a dopey manner. But from the moment they knew that these claims were not true they acted honourably: they reported it to the Department of the Prime Minister and Cabinet; they reported it to the minister’s office. They behaved honourably, only to see their own minister dishonour them. Of course, they never expected such a garbled message as first appeared to be jumped on so opportunistically by politicians.

The fact is that Peter Reith has left politics as nothing more than a mendacious low-life—what else could you say about him?—someone who will say anything, do anything, et cetera. For the first time ever, as a former immigration and defence minister, I feel ashamed about my successors. And I have one last thing to say to Mr Paul Salteri, someone whom I have immense time for: you have just employed a professional liar; give him a pink slip. (Time expired)

Question agreed to.

CONDOLENCES

Higgins, Mr Arthur Herbert

The DEPUTY PRESIDENT (3.38 p.m.)—It is with regret that I inform the Senate of the death on 10 February 2002 of Mr Arthur Herbert Higgins, a distinguished former officer of the Senate who was Senior Clerk of Committees of the Senate on his retirement.

Senator HARRADINE (Tasmania) (3.39 p.m.)—by leave—Madam Deputy President and colleagues, I thank you for granting me leave to make a very brief statement. Arthur Higgins left this place in 1980. He was the Senior Clerk of Committees. He was a very industrious, intelligent person and a very good writer. I think it behoves us to recognise such people not only when they leave this place but also when they pass on.

Arthur was a real gentleman. There is a story about a Senator Tony Mulvihill who at one particular time talked about and lambasted the Croatian community. A committee of the Senate was established to investigate the human rights of migrants—I think our present Clerk was either the research officer or the assistant clerk of that particular committee—and Arthur Higgins happened to be its clerk. At all events, the Croatian community got very upset and decided to sue Senator Mulvihill for slander.
During the morning tea break of this particular committee, whilst it was in Sydney, a process server came and tried to serve, and eventually did serve, Senator Mulvihill with a writ. But Tony, being what he was—very fiery—threw a punch at the server. Writ servers being what they are—very adept at ducking punches—this writ server ducked the punch which, instead, landed on the secretary of the committee, Arthur Higgins, who was having a quiet cup of tea at the time. A number of people tried to get Arthur Higgins at that time to lodge an official complaint about Senator Mulvihill. But Arthur, being such a servant of this place and a gentleman, refused to do so, saying that he did not see the punch—he certainly did not see it, but he felt it. I would like to pass on my condolences to Arthur Higgins’s family, and I thank the Senate for the opportunity to relay that story. I am very grateful, of course, to my former secretary Dennis Strangman for that information.

MATTERS OF PUBLIC IMPORTANCE
Immigration: ‘Children Overboard’ Affair

The DEPUTY PRESIDENT—Order! The President has received the following letter from the Leader of the Opposition in the Senate, Senator Faulkner, proposing that a definite matter of public importance be submitted to the Senate for discussion, namely:

The Government’s deceit and duplicity in the ‘children overboard’ affair.

I call upon those senators who approve of the proposed discussion to rise in their places.

More than the number of senators required by the standing orders having risen in their places—

The PRESIDENT—I understand that informal arrangements have been made to allocate specific times to each of the speakers in today’s debate. With the concurrence of the Senate, I shall ask the clerks to set the clocks accordingly.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.43 p.m.)—I would like to begin my contribution on this very important matter of public importance wearing my hat as the shadow minister responsible for the Public Service. I want to express my very deep concern at what the two reports tabled yesterday by the Prime Minister in the House of Representatives have revealed—that is, if those reports are to be believed—about the current state of the Public Service.

It was only a little over two years ago that the parliament passed the new Public Service Act. That act was the product of a further two years of negotiations between the government and the opposition. One of the key features of the act is that it enshrines in legislation, for the first time, the values that must be upheld by public servants and a code of conduct which public servants are obliged to follow. The values and the code naturally reflect the best traditions of the Public Service, which have been established over its century of existence.

The values include the following: the APS is apolitical, performing its functions in an impartial and professional manner; the APS has the highest ethical standards; the APS is openly accountable for its actions; and the APS is responsive to the government in providing frank, honest, comprehensive, accurate and timely advice. The code of conduct requires that public servants must behave honestly and with integrity. They must act with care and diligence and they must not provide false or misleading information in response to a request for information. The Guidelines on Official Conduct of Commonwealth Public Servants, which also give expression to the core principles of the Public Service, state:

... an enduring feature of Commonwealth Administration has been the existence of a significant core Public Service, which has as a base the traditional public service values of upholding high standards of probity, integrity and conduct, efficiency and loyalty to governments while providing frank and fearless advice.

Significantly, the guidelines stipulate that public servants are expected to take all reasonable steps to ensure that the information on which actions are based is factually correct. I am one of those senators who have been here for a long time, and I have now had quite long experience of the Public Service. I genuinely believe that the vast
majority of public servants, from secretaries down, are deeply committed to those values and standards, and in fact they uphold them. I am not alone in that; the Prime Minister was obviously of the same view. On 19 June last year, on the occasion of acknowledging the centenary of the Australian Public Service, the Prime Minister said:

I think Australia has had an extremely professional and committed Public Service of great integrity ... one constant, I believe, has been the commitment of the men and women of the Australian Public Service to give high quality advice, to give it fearlessly and to give it with the best interests of Australia at heart.

That might have been the case in June last year, but if the two reports that were tabled by the Prime Minister in the House of Representatives yesterday are to be believed, and if the claims of the Prime Minister, the Minister for Immigration and Multicultural and Indigenous Affairs and the former Minister for Defence that ‘nobody told us’ are to be believed, the Public Service of today is a very different organisation.

According to these two reports, there are no fewer than 31 senior government officials and officers of the defence forces who knew either that the original reports of children being thrown overboard were incorrect or that the photos which were released to justify those reports were, in fact, taken a day after the incident. I am not going to name those 31 officers and officials but, in Defence, you can start with the secretary of the department, the CDF, the Chief of Navy and go through the ranks, both military and civilian. In the Department of the Prime Minister and Cabinet, you can include the secretary of the department, Mr Max Moore-Wilton. On the interdepartmental committee—the People Smuggling Task Force—you can include Ms Jane Halton, the chair—now Secretary of the Department of Health and Ageing; Mr Farmer, Secretary of the Department of Immigration and Multicultural and Indigenous Affairs; and a range of other senior officials from the Department of the Prime Minister and Cabinet, the Department of Immigration and Multicultural and Indigenous Affairs; and a range of other senior officials from the Department of Transport and Regional Services, other officers from the Department of Defence and an officer from the Department of Foreign Affairs and Trade. Presumably, you could also include officers from the Office of National Assessment.

The situation here is that the two reports indicate that at least some of these officials made efforts to have the record corrected. But, if the reports are to be believed, all of these officials effectively allowed lies to be perpetrated throughout the election campaign, time and time again, without taking effective action to have the public record corrected. It is all very well to try to tell the minister the truth, but when your minister continues to tell untruths or continues to fail to correct the record, you are obliged to try again. Are we to believe that the senior ranks of the premier departments in the Public Service in this country have become so spineless, supine and politicised that they are unable to tell their political masters that they have something totally and completely wrong? Are we really expected to believe that? If that is the case, the Public Service values and the code of conduct are nothing more than cant. They are not worth the paper they are written on. If that is the case, not only this opposition and this parliament but every Australian should be very concerned about what has happened to one of our most important and most significant national institutions. And, if it is the case, the Prime Minister has to act to remedy the situation. He must at least demand the resignation of the head of his department, Mr Max Moore-Wilton.

Questions here go to the Prime Minister, the Minister for Immigration and Multicultural and Indigenous Affairs, the former Minister for Defence, a number of ministerial staff and, of course, two senior public servants: Mr Max Moore-Wilton and Ms Jane Halton. I think the problem we have here is that the rot is at the top. If the report that we have seen tabled from the Department of the Prime Minister and Cabinet, a report from a comparatively junior officer in that department, effectively into the secretary of that department and others is to be believed, Mr Moore-Wilton should resign and Ms Halton should follow suit. Ms Halton is a former Deputy Secretary of the Department
of the Prime Minister and Cabinet and is now secretary of a department and has just been awarded a Public Service medal. If the report is to be believed, the Prime Minister should be demanding their resignations. As I said before, the fact that he does not raise some very serious questions. Does he know they did their job and therefore they should not pay for the consequences of this incredible deception, this incredible series of events? Does he perhaps know it would not be fair to sack them because they did tell him? As I said before, you cannot have it both ways. You cannot beat around the bush about the significance of what has happened here, the significance of this deception. This was on an issue that was central to the last election campaign. It was a key issue, crucial in forming voters’ opinions and voters’ decisions about which government they wanted to see elected in that campaign. It was an incredibly emotive issue as well. It had a powerful impact on voters. Because it was so emotive, because it was so powerful, the government deliberately let that lie run its course. The fact that Mr Howard is not demanding the resignation of his departmental secretary poses the question: why? Is it perhaps the case—and I hope it is the case, for the sake of the Public Service—that the Prime Minister, the Minister for Defence and the minister for immigration were in fact informed of the truth but preferred to stick with the lie? We have some reason to believe that this may have been the case. Consider the words that were chosen by Mr Howard when he spoke to Alan Jones on 8 Oct, a day after the event:

Quite frankly, Alan, I don’t want in this country people who are prepared, if those reports are true, to throw their own children overboard.

His own interdepartmental task force had given him advice the day before that the asylum seekers had in fact thrown children overboard. Mr Howard was already putting in caveats a day later. Was he perhaps already aware that there was some doubt about the claims? He was not specific about the people on the vessel. He said he did not want people in the country who threw their children overboard. It was a comment in the general, and for safety’s sake he threw in the disclaimer ‘if these reports are true’. What a sneaky way to exploit a dubious report in order to play on people’s emotions in the most emotive issue of the election campaign. That exploitation continued right through the election campaign. The only conclusion that can be reached from these reports is that the public servants and serving officers who were involved in this affair were either guilty of gross negligence in not telling ministers of the facts, complicit in a cover-up to protect ministers or complicit with ministers themselves in hiding the facts.

As I say, I think the rot is at the top. I think the rot really is at the top with this issue. These reports we have seen raise many more questions than are resolved. They underline the need for a thorough inquiry into this, one of the most disgraceful episodes we have seen in this nation. I look forward to the Senate select committee which was established yesterday, because it is vitally important that that committee get to the bottom of these issues. That the Australian people have been deceived is clear. That the former Minister for Defence was guilty of deception is also clear. That we have all been taken for mugs—the Australian people, the opposition, the parliament, everyone has been taken for mugs—is clear. Just who else were the perpetrators of this deception is not yet clear. That is what we have got to find out. It is vital that that truth be revealed. I do hope the Senate and its committee system can do that job effectively.

Senator ABETZ (Tasmania—Special Minister of State) (3.58 p.m.)—It was just a few days ago that the Leader of the Opposition, Mr Crean, promised the Australian people that he was willing to turn over a new leaf in parliamentary standards. Yet today, in the Senate, in the first MPI that the 40th Parliament is dealing with, what do we have? A motion termed in phraseology which would do the tabloids proud, the sort of hysterical terminology that might sell a newspaper. But it should not do an opposition proud, especially one which is claiming to turn over a new leaf and set new standards. Terminology such as ‘The rot is at the top’ and ‘There is no doubt people have been deceived’ and so on is used: the personal vitriol just gets sprayed out. Why do the Labor Party indulge
in these sorts of motions? They did it during their last five years in opposition. The reason they did it was to try to deflect the attention of the Australian people away from the policy void from which they suffered. Having no policies of their own that they could promote to the Australian people, they spent the last 5½ years seeking to denigrate a government that was making decisions and promoting Australia’s interests. Here they are, in their third term of opposition, embarking on exactly the same course that has got them into trouble in the 1996, 1998 and 2001 elections. The people of Australia do expect better of an opposition, especially one that has promised to lift its standards.

I refer honourable senators to the terminology ‘deceit and duplicity’. You could just see Senator Faulkner working himself up into a bit of a lather in the office as he wrote that out—of course oblivious to the fact that he was a senior minister in a government that was willing to embrace, and now in an opposition that is willing to embrace, the honourable member for Fremantle. What did a royal commission find about her? That she had lied to a royal commission. Possibly the word ‘deceit’ might be appropriate for that finding. They also had somebody else on their front bench who had difficulty with filling out travel allowance forms.

Senator Faulkner was a senior minister in a government that promised the Australian people l-a-w law tax cuts and then, straight after the election, repealed the legislation. Some people might refer to that as deceit. Senator Ray, who partook in the take note of answers debate earlier today and who is a former Minister for Defence, used to go out and tell the Australian people that the construction of the Collins class submarines was on time and on budget. We know the history of that: the delays and the blow-out in the budget. Some people might refer to that as deceit. Indeed, Senator Faulkner was a senior minister in a government that went to the election promising the Australian people in 1996 that the federal budget was in surplus, only for us to find out straight after the election that it was in deficit to the tune of $10.3 billion. Some might refer to that as deceit.

So it is quite disingenuous of Labor senators with such a stained record to try to parade themselves before the Australian people as somehow championing the cause of honesty and integrity in government. The one thing that they just cannot overcome is the fact that, if there is one strong point about the Prime Minister of Australia that the people of Australia appreciate, it is his honesty and his integrity. He is willing to make the tough decisions, albeit unpopular ones from time to time. But the people of Australia do appreciate his honesty and integrity. It is quite rich for the Australian Labor Party to come into this place and hector us about parliamentary standards and about honesty and integrity.

The real issue in this matter of public importance before us is the fact that the Prime Minister, as soon as his mandate had been confirmed on 13 November, wrote to the Secretary of the Department of the Prime Minister and Cabinet and sought that a task force conduct a full examination of issues relating to the vessel known as SIEV4 in particular. The Prime Minister added:

Should the examination point to shortcomings in the collection and transmission of this advice, I would also appreciate your recommendations on how such shortcomings might be avoided in the future.

If the rot is at the top, as Senator Faulkner claims, why on earth would you seek an independent inquiry to come out with the facts? The reason is that Mr Howard is a decent fella. That is why he said, ‘There are questions about this issue. Let’s have an inquiry. Let’s find out the truth.’ Senator Faulkner gave his tirade this afternoon without referring to the actual report into this incident and what the findings were. If he had bothered to study the findings, he would have saved himself from giving the sort of speech that he did. Allow me to refer to the key findings on page vi of the report prepared on behalf of the People Smuggling Task Force. It states:

The fact that the original explanatory text was not included when the two photographs— which have been mentioned—
were transmitted to Mr Reith’s Office appears to have been the result of technology and haste, rather than deliberate obfuscation.

What evidence does Senator Faulkner have to contradict this report? If he has it, let him lay it on the table, not sleaze around with innuendo and unsubstantiated assertions. You can always tell when Senator Faulkner’s assertions are unsubstantiated: he thinks that, if he raises the decibels, he will not need as much evidence. But the fact is that we do have the evidence: a report before this parliament which deals with these issues. Another finding on page vii of the report states:

... public statements on 10 October appear to have been made on the basis of the verbal advice he had received that day.

That was in reference to Mr Reith. The finding continues:

Neither the Minister nor his office appear to have been advised that the initial information about what the EOTS video showed was incorrect until Commander Northern Command told Mr Reith during the course of a casual conversation ... that the video did not show a child being thrown overboard.

The circumstances of a video showing or not showing something does not, of itself, lead you to the conclusion that a particular event did not happen.

The assertion had been made that children had been thrown overboard. Then there was the assertion that a video showed it. Then he was told that in fact the video did not show it. That does not of itself immediately contradict the initial assertion that was passed right down the line. It was not manufactured by a spin doctor in Mr Reith’s office. The information that that had in fact occurred came through the appropriate channels. The main finding of the report is this:

It is a significant failing of the system that no formal written briefing was provided to Mr Reith advising him that no children had been thrown overboard.

It was a flawed process; it needs correction. The other finding is also important:

Neither the Prime Minister nor Mr Ruddock were advised by their Departments that there was doubt about the veracity of the original claims because after the release of the photographs, which were seen as resolving any doubts, Departmental officials remained unaware of the evidence which had been collected by Defence.

That is the evidence; let Senator Faulkner come up with his contrary evidence. *(Time expired)*

**Senator STOTT DESPOJA** *(South Australia—Leader of the Australian Democrats)*

(4.08 p.m.)—I rise on behalf of the Australian Democrats to support the matter of public importance put forward today by Senator Faulkner on behalf of the Australian Labor Party. Indeed, we are talking about an event that has involved duplicity and deceit. While I acknowledge the contribution of Senator Abetz to this debate, and his cautioning against hysterical terminology, I think this motion encapsulates what has indeed happened, and that is that the Australian public has been deceived in relation to this particular incident. This has been a broad campaign designed to demonise some of the most victimised and vulnerable people within our borders, and it was done for base political motives.

Throughout the recent federal election campaign, the Prime Minister and his senior ministers repeatedly claimed that children were thrown overboard from a suspected illegal entry vessel—that is, SIEV4. Time and time again ministers and the Prime Minister disparaged the character of these asylum seekers on board the SIEV4, feigning disgust that asylum seekers would endanger the lives of their own children by throwing them overboard. Senator Abetz refers to terminology; let us check the terminology. I am happy to move on to look at the report shortly, but I have been going through the transcripts and the newspaper articles from the time and they make it very clear that the terminology used was incredibly harsh, incredibly disparaging and, indeed, quite defamatory. I have a transcript from the Clark program on 2GB. The Prime Minister said:

... genuine refugees don’t put their own children at risk ...

He goes on:

There is something to me incompatible between somebody who claims to be a refugee and somebody who would throw their own child into the sea, it offends the natural instinct of protection and delivering security and safety to your chil-
He claims:
But it’s a determined attempt to intimidate us and we have to understand that.

Mr Ruddock said, and I refer to reports on 8 October:
It clearly was planned and premeditated.
How was this evident? How was this clear to him on this particular date? I regard these statements as some of the most disturbing I have come across in the time I have been involved in public life. They go on. I can quote from Deputy Prime Minister John Anderson, who said on 12 October:
The reports I get indicate from time to time that that particular action is deployed and I find it deplorable.
That is, the notion that boat people had, from time to time, thrown their children into the water. Quoting from the Verbatim column of the Australian on 11 October, our Prime Minister was asked about this particular incident:
Are you still confident of this information?
He says:
I have been provided with no information that would cause me to doubt it.
I take on board Senator Abetz’s point that just because you receive information you should not jump to a conclusion. Yet this government chose to jump to a damning conclusion that resulted in the waning of public sympathy for these refugees.

It appears from the report of the Department of the Prime Minister and Cabinet that they had early doubts about the accuracy of the claims ministers had been making about the incident. The Department of the Prime Minister and Cabinet contacted the Defence Strategic Command seeking confirmation—that children had been thrown overboard. On 10 October, the Department of the Prime Minister and Cabinet was advised:
There is no indication that children were thrown overboard.

On that same day, the commanding officer of HMAS Adelaide reported to both Commander Northern Command and the Maritime Commander that it was apparent to him that no children had been thrown in the water. The Maritime Commander notified the Commander Australian Theatre of this advice. It beggars belief that the Prime Minister and the Minister for Defence, not to mention others, could continue to make outrageously false claims about children being thrown overboard—not just for a day, not just for a week, but for several weeks and throughout the duration of that campaign. It beggars belief that they could continue to do this without even being privately corrected by their departments.

The Department of the Prime Minister and Cabinet knew, one month before the election result, that there was no evidence whatsoever to support the claims of children being thrown overboard, but we are asked to believe that at no time during that month was the Prime Minister advised that his repeated claims about this incident were false. It is very hard to believe that. This reeks of an exercise in utmost dishonesty.

Throughout the campaign the Australian Democrats were highly critical of the government’s shameful exploitation of the asylum seeker issue. Not only that, our comments are on record at the exact time of this particular incident. When I was asked I said:
... all facts should be gathered before ministers condemn the asylum seekers.
I know that the Democrats and I were ridiculed and condemned as a consequence. Some radio commentators, specifically John Laws, offered me and my party an apology on his program because he acknowledged that we got it right in the first place, and that is that you do not jump to conclusions unless you have the evidence, especially when that evidence was available, as it seems, all along. Yet the government, the Prime Minister and other ministers, continued and went along with the shameful exploitation and disparaging of asylum seekers and refugees. What is more, it seems to have been for a basic political motive.

Not only were the child overboard claims false but in current days it has emerged that the government’s allegations that adult asylum seekers were forcibly sewing together
the lips of children were also false; there was no evidence to substantiate those claims. That did not stop ministers not only of this government but of the South Australian government at the time making those claims. In addition, it appears that the Defence Signals Directorate, a clandestine intelligence agency, was used by our government to eavesdrop on communications to and from the *Tampa* during the asylum seeker crisis. This sort of activity is suspicious in the extreme. We are left with no other choice but to question why this action was taken and whether or not it was taken at the request of a government for party political purposes.

The government can choose to resolve these questions at any time by holding an independent public inquiry—that is, a publicly reporting inquiry. The public has to know the truth on this one. It has to have proper terms of reference. The government has not done so yet and certainly the Australian Democrats were quick, along with a number of concerned citizens, to ensure that Mr Blick, the Inspector-General, was advised of our request to investigate this matter. I am glad that that is happening, but it must be publicly available. This has to be resolved because it goes to the very heart of the issue of people’s trust and people’s faith in government. The government cannot simply expect that we as Democrats, the chamber, the Senate or, indeed, the public, can simply trust it, given its history of dishonesty, particularly in relation to these issues revolving around refugees and asylum seekers. I believe that public confidence in the government has been severely tarnished as a consequence of recent revelations.

We cannot afford to forget that most asylum seekers are genuine refugees fleeing persecution on the basis of their race, religion or political beliefs. The government seems to want the community to believe that asylum seekers are somehow barbaric individuals, that they are all criminals, that they would needlessly harm or endanger the lives of their children. I have to say on a personal note, having actually gone into a detention centre like Woomera and having seen and met with people who have had their lips stitched, that the last thing these people, particularly the women, want is to harm their children. A woman who spoke to me with her lips stitched at the time was saying, ‘I wouldn’t do this to my children.’ I saw the distress of the parents, men and women, about their children who were hunger striking. They said, ‘We’re trying to force our children to eat. We don’t want them to hunger strike.’ We must be very wary of the motives we attribute to these people, or else we can just ask why they are doing these desperate acts of self-harm in this particular case. It is not simply the notion that they are attention seeking: it is because they are desperate—and for obvious reasons.

This government is locking up children for extended periods of time in inhumane conditions. It shows a disregard for the truth, a disregard for compassion, a contempt for the right of the community to honestly be informed by this government and a disturbing willingness to abuse power for partisan gain—I refer to those events that have been revealed over the last couple of days. The Democrats support this motion because we believe that deceit and duplicity have been shown in one of the worst political incidents in contemporary political history.

**Senator KNOWLES (Western Australia)**
(4.18 p.m.)—Is it any wonder that the Labor Party are in opposition and the Democrats are fading into oblivion? To listen to the temporary leader of the Democrats at the moment talking about her party—I would have thought it was actually a party of various members—and her position on this issue is just a crying shame. She is still so out of touch she does not bother to read parts of this report from the Department of Prime Minister and Cabinet that are clearly relevant to today’s debate, and nor has the opposition. The opposition have clearly raised this issue again this week to divert public attention away from their own internal difficulties on the issue of border protection. The question of border protection and detention of asylum seekers is something from which they cannot hide forever. They had division before the last federal election; they have even greater public division now after the election. Quite clearly they are not listening to the relevant
people when they speak, and clearly they do not wish to read sections of this report.

I wish to quote from Mr Ruddock when he talked on this issue in the House of Representatives yesterday. He said:

Early in October a suspected illegal entry vessel with 229 people on board was intercepted off Christmas Island. On 7 October at 9.45 a.m. I was explaining the implications of the border protection legislation bills that this House has passed and I had a call from the secretary to my department...

He went on to say:

[The secretary] advised me that the working group had received advice from a representative of the Department of Defence that all passengers on the vessel were wearing life jackets, that some were jumping into the water—

There were interjections, and Mr Ruddock went on to say:

and that some were throwing their children overboard. My recollection is that the vessel sank several days later. I did advise the media attending the press conference of the information I had received, ... at no time was I advised that the information that was given to me was otherwise than correct.

The Labor Party’s only recourse in this issue is to say, ‘They’re lying, they’re lying.’ Apart from anything else, it is unparliamentary to use that accusation. But if one were to examine their own record on this particular issue, I would say that would quickly see who was telling the truth and who was not. They had difficulty on this issue, as I said, before the election and now they are having difficulty on it after the election. Their then leader, Mr Beazley, made no commitment about border protection, saying:

... what we say in this election is one thing, what we offer for the next three years and beyond is another.

Clearly he was under pressure. We know from the debate that was held in the Senate chamber that there were certain senators here from the opposition who said, ‘This will have to change. This will change when we win government.’ Of course, since the election the Labor Party has confirmed what the government said it would do. It has walked away from its original support. Mr Kerr, Mr Snowdon, Ms Plibersek, Mr Quick and Mr McLeay are all crying out for reconsideration. Both Mr Kerr and Dr Lawrence only saw fit to comment after the election. Mr Kerr said that his reason was that he thought he was doing the honourable thing by trying to change the party line from within. Maybe he was right—maybe he was the only honourable one trying to change the party from within.

If ever anyone is talking about political expediency here, it is the opposition. They allegedly supported the Border Protection Bill prior to the election for political expediency, not because it is what they believed. It is clear, from the debate today and the debate that has gone on in recent weeks, they do not believe in the Border Protection Bill, the border protection legislation generally, and the position that the Australian government has taken. Yet fascinatingly enough when they cry foul about detention, it was, as I said in a debate earlier today, the Labor government that brought about the detention system. They introduced detention, not the coalition. So how dare the bleeding hearts in the Labor Party say the detention system is all wrong. If they thought that was the case, why didn’t they prevent it starting in the first place?

Mr McLeay has written to his colleagues to call for the scrapping of the Nauru and PNG detention camps and the Woomera and Curtin centres and for the detainees to be moved into bigger towns. Both Mr Crean and Ms Gillard are trying to reinforce the view that the ALP continues to support retaining detention centres, but the internal debate has exposed the serious policy tensions. Mr Crean said, ‘Don’t worry, we’re going to solve all this problem in the Labor Party at our caucus meeting last Monday.’ Solve it? All it has done is exacerbate it. They cannot solve this problem. So, being unable to solve the problem, they then waste the first week of parliamentary sittings in debating an issue that is clearly reported on in this report, and do not get onto the real issues.

I happen to know someone who has actually said to one of the colleagues sitting opposite me right at this minute, ‘Why don’t you get onto the real game? You lost the
election. Why don’t you get onto the real game and focus on the issues? That was just laughed off by a Labor senator sitting opposite me right now. This person said to him, ‘Don’t you know why you lost the election? Well, if you don’t know, I’m not going to tell you.’ So it is very interesting that, in the sittings on Tuesday, Wednesday and Thursday this week, that is all they have been able to talk about. One might well ask: what else have they done? What has happened since the election? They did not have any policies before the election. They have none now.

Labor’s Victorian Left wing also demands an end to the Pacific solution and mandatory detention of illegals. Mr McClelland says comments on immigration should be left to the immigration spokesman, but no-one else thinks that in the Labor Party. The ALP are most concerned that Dr Lawrence did not consult Mr Crean and Ms Gillard. I suppose they are, but they still have not been able to shut her up. She went outside to a demonstration the other day and still ranted and raved, and she still did not toe the Labor Party line. So how futile is this? This is purely and simply about having another debate to try and deflect attention from their own problems. And if anyone wants to say to me that pushing a 13-year-old into the water from these boats is not pushing a child into the water, then I want to know.

Senator Chris Evans—It doesn’t say they pushed him.

Senator KNOWLES—The report says that the 13-year-old was pushed or jumped. Is a 13-year-old a child or not? He was 12 or 13. Surely the Labor Party is not going to give majority now to 12- and 13-year-olds, and say that they are old enough. The whole issue is something that the Labor Party really needs to look at. Why don’t they get onto the main game? Why don’t they talk about the economy? They can’t talk about any other policy. They have no policies. Here they are having been defeated.

Senator CHRIS EVANS (Western Australia) (4.26 p.m.)—It is interesting that Senator Knowles starts by saying this is something that the Labor Party has brought on this week. I thought it was actually precipitated by the Prime Minister tabling his own report into the matters surrounding the MV *Tampa* and the allegations about children overboard. He also tabled a very interesting report by Major-General Powell, for the Defence Force, which is dated 14 December last year and deals with the same issues. What we have is the government on its own reports, on its own admission, proving the case that, in fact, children were not thrown overboard, that there was no evidence to support the claims they made at the time.

Much more importantly for confidence in political life in this country, the reports conclusively prove that the government knew on 10 October last year that those allegations were untrue, that in fact children had not been thrown overboard. That is what the Prime Minister’s own report establishes. This is not a claim made by the opposition; this is the evidence of the Prime Minister’s own inquiry—a very limited inquiry, an inquiry that missed many of the key issues, but which attempted to provide the defence for the Prime Minister. And his own report says the government knew on 10 October. When was the election? 10 November, as I understand. So for a month the mistruth, the deceit, was perpetrated by Prime Minister Howard, Minister Reith and the minister for immigration, Mr Ruddock. We now know very clearly from the report that that happened.

One of the things I want to concentrate on is the role of the defence minister and Defence, because there has been an attempt by former minister Reith on the radio today, and from some in the government in defending their position, to attempt to blame Defence for the problems that have occurred in relation to this matter. In fact, it has been pretty easy to try and say, ‘Oh, well, because of early reports from the naval officers involved, this impression was created, and it is not our fault—if only the Navy had got it right it would not be a problem.’ But what is very clear from both reports is that the Navy were put under enormous pressure immediately the incident occurred to provide information to the political chiefs about what had occurred on the MV *Tampa*. They were under enormous pressure from the start to pro-
vidoe information. The report by Major-General Powell makes it clear that:

Unprecedented haste was demanded of Defence personnel, including junior staff not supposed to account directly to the Minister’s office, let alone to the Department of PM&C, for giving information. No time was allowed or encouraged for verification of facts. Significant pressure went onto ADF, including many who were not part of a chain of command, to give information in very truncated timeframes. The Minister’s concern was for urgent advice, not accurate advice.

That is what we know. What Major-General Powell’s report makes very clear is that Defence were under pressure to provide information. There was some unverified information passed on, which led to the allegations that children had been thrown overboard.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Order! It being 4.30 p.m., the time for the debate has expired.

BUSINESS

Rearrangement

The ACTING DEPUTY PRESIDENT (Senator Watson)—Before we proceed to general business, I ask whether leave is granted to deal with messages from the House of Representatives establishing joint committees, appoint members to those committees and a statutory body, and deal with the readoption of certain committee references and the presentation of two Auditor-General’s reports and the Clerk’s documents.

Leave granted.

COMMITTEES

Joint Committees

Establishment

The ACTING DEPUTY PRESIDENT (Senator Watson)—Messages have been received from the House of Representatives transmitting for concurrence resolutions relating to the formation of joint committees. Copies of the messages have been circulated in the chamber.

The House of Representatives messages read as follows—

Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund

That, in accordance with section 204 of the Native Title Act 1993, matters relating to the powers and proceedings of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund shall be as follows:

(a) That the committee consist of 10 members, 3 Members of the House of Representatives to be nominated by the Government Whip or Whips, 2 Members of the House of Representatives to be nominated by the Opposition Whip or Whips or by any independent Member, 2 Senators to be nominated by the Leader of the Government in the Senate, 2 Senators to be nominated by the Leader of the Opposition in the Senate and 1 Senator to be nominated by any minority groups or independent Senators.

(b) That every nomination of a member of the committee be forthwith notified in writing to the President of the Senate and the Speaker of the House of Representatives.

(c) That the committee elect a Government member as its chair.

(d) That the committee elect a deputy chair who shall act as chair of the committee at any time when the chair is not present at a meeting of the committee, and at any time when the chair and deputy chair are not present at a meeting of the committee the members present shall elect another member to act as chair at that meeting.

(e) That, in the event of the votes on a question before the committee being equally divided, the chair, or the deputy chair when acting as chair, have a casting vote.

(f) That 3 members of the committee constitute a quorum of the committee, provided that in a deliberative meeting the quorum shall include 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.

(g) That the committee have power to appoint subcommittees consisting of
3 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.

(h) That the committee appoint the chair of each subcommittee who shall have a casting vote only, and at any time when the chair of a subcommittee is not present at a meeting of a subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chair at that meeting.

(i) That the quorum of a subcommittee be 2 members of that subcommittee, provided that in a deliberative meeting the quorum shall comprise 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.

(j) That members of the committee who are not members of a subcommittee may participate in the proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.

(k) That the committee and any subcommittee have power to send for persons, papers and records.

(l) That the committee have power to examine and report on such annual and related reports as may be referred to it by the President of the Senate or the Speaker of the House of Representatives.

(m) That the committee and any subcommittee have power to move from place to place.

(n) That a subcommittee have power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives.

(o) That the committee have leave to report from time to time.

(p) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

Parliamentary Joint Committee on the National Crime Authority

That, in accordance with section 54 of the National Crime Authority Act 1984, matters relating to the powers and proceedings of the Parliamentary Joint Committee on the National Crime Authority shall be as follows:

(a) That the committee consist of 10 members, 3 Members of the House of Representatives to be nominated by the Government Whip or Whips, 2 Members of the House of Representatives to be nominated by the Opposition Whip or Whips or by any independent Member, 2 Senators to be nominated by the Leader of the Government in the Senate, 2 Senators to be nominated by the Leader of the Opposition in the Senate and 1 Senator to be nominated by any minority group or groups or independent Senator or independent Senators.

(b) That every nomination of a member of the committee be forthwith notified in writing to the President of the Senate and the Speaker of the House of Representatives.

(c) That the committee elect a Government member as its chair.

(d) That the committee elect a deputy chair who shall act as chair of the committee at any time when the chair is not present at a meeting of the committee and at any time when the chair and deputy chair are not present at a meeting of the committee the members present shall elect another member to act as chair at that meeting.

(e) That, in the event of an equality of voting, the chair, or the deputy chair when acting as chair, have a casting vote.

(f) That 3 members of the committee constitute a quorum of the committee, provided that in a deliberative meeting the quorum shall include 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.

(g) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.

(h) That the committee appoint the chair of each subcommittee who shall have
a casting vote only and at any time when the chair of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chair at that meeting.

(i) That the quorum of a subcommittee be 2 members of that subcommittee, provided that in a deliberative meeting the quorum shall comprise 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.

(j) That members of the committee who are not members of a subcommittee may participate in the proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.

(k) That the committee or any subcommittee have power to send for persons, papers and records.

(l) That the committee or any subcommittee have power to move from place to place.

(m) That a subcommittee have power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives.

(n) That the committee have leave to report from time to time.

(o) That the committee or any subcommittee have power to consider and make use of the evidence and records of the committee appointed during previous Parliaments.

(p) That, in carrying out its duties, the committee or any subcommittee, ensure that the operational methods and results of investigations of law enforcement agencies, as far as possible, be protected from disclosure where that would be against the public interest.

(q) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

Joint Standing Committee on Treaties

(1) That a Joint Standing Committee on Treaties be appointed to inquire into and report upon:

(a) matters arising from treaties and related National Interest Analyses and proposed treaty actions presented or deemed to be presented to the Parliament;

(b) any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the committee by:

(i) either House of the Parliament, or

(ii) a Minister; and

(c) such other matters as may be referred to the committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.

(2) That the committee consist of 16 members, 6 Members of the House of Representatives to be nominated by the Government Whip or Whips, 3 Members of the House of Representatives to be nominated by the Opposition Whip or Whips or by any independent Member, 3 Senators to be nominated by the Leader of the Government in the Senate, 3 Senators to be nominated by the Leader of the Opposition in the Senate and 1 Senator to be nominated by any minority group or groups or independent Senator or independent Senators.

(3) That every nomination of a member of the committee be forthwith notified in writing to the President of the Senate and the Speaker of the House of Representatives.

(4) That the members of the committee hold office as a joint committee until the House of Representatives is dissolved or expires by effluxion of time.

(5) That the committee elect a Government member as its chair.

(6) That the committee elect a non-Government member as its deputy chair to act as chair of the committee at any time when the chair is not present at a meeting of the committee and at any time when the chair and deputy chair are not present at a meeting of the committee the members present shall elect another member to act as chair at that meeting.

(7) That in the event of an equality of voting, the chair, or the deputy chair
when acting as chair, shall have a casting vote.

(8) That 3 members of the committee constitute a quorum of the committee, provided that in a deliberative meeting the quorum shall include 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.

(9) That the committee have power to appoint not more than 3 subcommittees each consisting of 3 or more of its members, and to refer to any subcommittee any matter which the committee is empowered to examine.

(10) That, in addition to the members appointed pursuant to paragraph (9), the chair and deputy chair of the committee be ex officio members of each subcommittee appointed.

(11) That the committee appoint the chair of each subcommittee who shall have a casting vote only, and at any time when the chair of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chair at that meeting.

(12) That the quorum of a subcommittee be 2 members of that subcommittee, provided that in a deliberative meeting the quorum shall include 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.

(13) That members of the committee who are not members of a subcommittee may participate in the proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.

(14) That the committee or any subcommittee have power to send for persons, papers and records.

(15) That the committee or any subcommittee have power to move from place to place.

(16) That a subcommittee have power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives.

(17) That the committee have leave to report from time to time.

(18) That the committee have power to consider and make use of the evidence and records of the Joint Standing Committees on Treaties appointed during previous Parliaments.

(19) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

**Parliamentary Joint Committee on Corporations and Securities**

That, in accordance with section 242 of the *Australian Securities Commission Act 1989*, matters relating to the powers and proceedings of the Parliamentary Joint Committee on Corporations and Securities shall be as follows:

(a) That the committee consist of 10 members, 3 Members of the House of Representatives to be nominated by the Government Whip or Whips, 2 Members of the House of Representatives to be nominated by the Opposition Whip or Whips or by any independent Member, 2 Senators to be nominated by the Leader of the Government in the Senate, 2 Senators to be nominated by the Leader of the Opposition in the Senate and 1 Senator to be nominated by any minority groups or independent Senators.

(b) That every nomination of a member of the committee be forthwith notified in writing to the President of the Senate and the Speaker of the House of Representatives.

(c) That the committee elect a member nominated by the Government Whips or the Leader of the Government in the Senate as its chair.

(d) That the committee elect a deputy chair who shall act as chair of the committee at any time when the chair is not present at a meeting of the committee, and at any time when the chair and deputy chair are not present at a meeting of the committee the members present shall elect another member to act as chair at that meeting.

(e) That, in the event of the votes on a question before the committee being equally divided, the chair, or the deputy chair when acting as chair, have a casting vote.
(f) That 3 members of the committee constitute a quorum of the committee, provided that in a deliberative meeting the quorum shall include 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.

(g) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.

(h) That the committee appoint the chair of each subcommittee who shall have a casting vote only, and at any time when the chair of a subcommittee is not present at a meeting of a subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chair at that meeting.

(i) That the quorum of a subcommittee be 2 members of that subcommittee, provided that in a deliberative meeting the quorum shall comprise 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.

(j) That members of the committee who are not members of a subcommittee may participate in the proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.

(k) That the committee and any subcommittee have power to send for persons, papers and records.

(l) That the committee and any subcommittee have power to move from place to place.

(m) That a subcommittee have power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives.

(n) That the committee have leave to report from time to time.

(o) That the committee have power to consider and make use of the evidence and records of the Joint Committee on Corporations and Securities appointed during previous Parliaments.

(p) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

### Joint Standing Committee on Electoral Matters

(1) That a Joint Standing Committee on Electoral Matters be appointed to inquire into and report on such matters relating to electoral laws and practices and their administration as may be referred to it by either House of the Parliament or a Minister.

Annual reports of government departments and authorities tabled in the House shall stand referred to the committee for any inquiry the committee may wish to make. Reports shall stand referred to the committee in accordance with a schedule tabled by the Speaker to record the areas of responsibility of each committee, provided that:

(a) any question concerning responsibility for a report or a part of a report shall be determined by the Speaker; and

(b) the period during which an inquiry concerning an annual report may be commenced by a committee shall end on the day on which the next annual report of that Department or authority is presented to the House.

(2) That the committee consist of 10 members, 3 Members of the House of Representatives to be nominated by the Government Whip or Whips, 2 Members of the House of Representatives to be nominated by the Opposition Whip or Whips or by any independent Member, 2 Senators to be nominated by the Leader of the Government in the Senate, 1 Senator to be nominated by the Leader of the Opposition in the Senate and 2 Senators to be nominated by any minority group or groups or independent Senator or independent Senators.

(3) That every nomination of a member of the committee be forthwith notified in writing to the President of the Senate and the Speaker of the House of Representatives.

(4) That the members of the committee hold office as a joint standing committee until the House of Representatives is dissolved or expires by effluxion of time.
(5) That the committee elect a Government member as its chair.

(6) That the committee elect a deputy chair who shall act as chair of the committee at any time when the chair is not present at a meeting of the committee and at any time when the chair and deputy chair are not present at a meeting of the committee the members present shall elect another member to act as chair at that meeting.

(7) That, in the event of an equality of voting, the chair, or the deputy chair when acting as chair, shall have a casting vote.

(8) That 3 members of the committee constitute a quorum of the committee, provided that in a deliberative meeting the quorum shall include 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.

(9) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.

(10) That the committee appoint the chair of each subcommittee who shall have a casting vote only and at any time when the chair of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chair at that meeting.

(11) That the quorum of a subcommittee be 2 members of that subcommittee, provided that in a deliberative meeting the quorum shall comprise 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.

(12) That members of the committee who are not members of a subcommittee may participate in the proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.

(13) That the committee or any subcommittee have power to send for persons, papers and records.

(14) That the committee or any subcommittee have power to move from place to place.

(15) That a subcommittee have power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives.

(16) That the committee have leave to report from time to time.

(17) That the committee or any subcommittee have power to consider and make use of:

(a) submissions lodged with the Clerk of the Senate in response to public advertisements placed in accordance with the resolution of the Senate of 26 November 1981 relating to a proposed Joint Select Committee on the Electoral System, and

(b) the evidence and records of the Joint Committees on Electoral Reform and Electoral Matters appointed during previous Parliaments.

(18) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

**Joint Standing Committee on the National Capital and External Territories**

(1) That a Joint Standing Committee on the National Capital and External Territories be appointed to inquire into and report on:

(a) matters coming within the terms of section 5 of the *Parliament Act 1974* as may be referred to it by:

(i) either House of the Parliament; or

(ii) the Minister responsible for administering the *Parliament Act 1974*; or

(iii) the President of the Senate and the Speaker of the House of Representatives;

(b) such other matters relating to the parliamentary zone as may be referred to it by the President of the Senate and the Speaker of the House of Representatives;

(c) such amendments to the National Capital Plan as are referred to it by a Minister responsible for administering the *Australian Capital Territory (Planning and Land Management) Act 1988*;

(d) such other matters relating to the National Capital as may be referred to it by:
(i) either House of the Parliament; or
(ii) the Minister responsible for administering the Australian Capital Territory (Self-Government) Act 1988; and

(e) such matters relating to Australia’s territories as may be referred to it by:
(i) either House of the Parliament; or
(ii) the Minister responsible for the administration of the Territory of Cocos (Keeling) Islands; the Territory of Christmas Island; the Coral Sea Islands Territory; the Territory of Ashmore and Cartier Islands; the Australian Antarctic Territory, and the Territory of Heard Island and McDonald Islands, and of Commonwealth responsibilities on Norfolk Island.

(2) Annual reports of government departments and authorities tabled in the House shall stand referred to the committee for any inquiry the committee may wish to make. Reports shall stand referred to the committee in accordance with a schedule tabled by the Speaker to record the areas of responsibility of each committee, provided that:

(a) any question concerning responsibility for a report or a part of a report shall be determined by the Speaker; and

(b) the period during which an inquiry concerning an annual report may be commenced by a committee shall end on the day on which the next annual report of that Department or authority is presented to the House.

(3) That the committee consist of 12 members, the Deputy Speaker, 3 Members of the House of Representatives to be nominated by the Government Whip or Whips, 2 Members of the House of Representatives to be nominated by the Opposition Whip or Whips or by any independent Member, the Deputy President and Chairman of Committees, 2 Senators to be nominated by the Leader of the Government in the Senate, 2 Senators to be nominated by the Leader of the Opposition in the Senate and 1 Senator to be nominated by any minority group or groups or independent Senator or independent Senators.

(4) That every nomination of a member of the committee be forthwith notified in writing to the Speaker of the House of Representatives and the President of the Senate.

(5) That the members of the committee hold office as a joint standing committee until the House of Representatives is dissolved or expires by effluxion of time.

(6) That the committee elect a Government member as its chair.

(7) That the committee elect a deputy chair who shall act as chair of the committee at any time when the chair is not present at a meeting of the committee, and at any time when the chair and deputy chair are not present at a meeting of the committee the members present shall elect another member to act as chair at that meeting.

(8) That, in the event of an equality of voting, the chair or the deputy chair when acting as chair, shall have a casting vote.

(9) That 3 members of the committee (of whom one is the Deputy President or the Deputy Speaker when matters affecting the parliamentary zone are under consideration) constitute a quorum of the committee, provided that in a deliberative meeting the quorum shall include 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.

(10) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.

(11) That the committee appoint the chair of each subcommittee who shall have a casting vote only and at any time when the chair of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chair at that meeting.

(12) That the quorum of a subcommittee be 2 members of that subcommittee, provided that in a deliberative meeting the quorum shall comprise 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.
(13) That members of the committee who are not members of a subcommittee may participate in the public proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.

(14) That the committee or any subcommittee have power to send for persons, papers and records.

(15) That the committee or any subcommittee have power to move from place to place.

(16) That a subcommittee have power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives.

(17) That the committee have leave to report from time to time.

(18) That the committee or any subcommittee have power to consider and make use of the evidence and records of the Joint Standing Committees on the National Capital and External Territories, the Joint Committees on the Australian Capital Territory, the Joint Standing Committees on the New Parliament House, the Joint Standing Committee on the Parliamentary Zone and the Joint Committee on the National Capital appointed during previous Parliaments and of the House of Representatives and Senate Standing Committees on Transport, Communications and Infrastructure when sitting as a joint committee on matters relating to the Australian Capital Territory.

(19) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

**Joint Standing Committee on Foreign Affairs, Defence and Trade**

(1) (a) That a Joint Standing Committee on Foreign Affairs, Defence and Trade be appointed to consider and report on such matters relating to foreign affairs, defence and trade as may be referred to it by;

(i) either House of the Parliament;

(ii) the Minister for Foreign Affairs;

(iii) the Minister for Defence; or

(iv) the Minister for Trade.

(b) Annual reports of government departments and authorities tabled in the House shall stand referred to the committee for any inquiry the committee may wish to make. Reports shall stand referred to the committee in accordance with a schedule tabled by the Speaker to record the areas of responsibility of each committee, provided that:

(i) any question concerning responsibility for a report or a part of a report shall be determined by the Speaker; and

(ii) the period during which an inquiry concerning an annual report may be commenced by a committee shall end on the day on which the next annual report of that Department or authority is presented to the House.

(2) That the committee consist of 32 members, 12 Members of the House of Representatives to be nominated by the Government Whip or Whips, 8 Members of the House of Representatives to be nominated by the Opposition Whip or Whips or by any independent Member, 5 Senators to be nominated by the Leader of the Government in the Senate, 5 Senators to be nominated by the Leader of the Opposition in the Senate and 2 Senators to be nominated by any minority group or groups or independent Senator or independent Senators.

(3) That every nomination of a member of the committee be forthwith notified in writing to the President of the Senate and the Speaker of the House of Representatives.

(4) That the members of the committee hold office as a joint committee until the House of Representatives is dissolved or expires by effluxion of time.

(5) That the committee elect a Government member as its chair.

(6) That the committee elect a deputy chair who shall act as chair of the committee at any time when the chair is not present at a meeting of the committee and at any time when the chair and deputy chair are not present at a meeting of the committee the members present shall elect another member to act as chair at that meeting.

(7) That in the event of an equality of voting, the chair, or the deputy chair
(8) That 6 members of the committee constitute a quorum of the committee, provided that in a deliberative meeting the quorum shall include 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.

(9) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.

(10) That, in addition to the members appointed pursuant to paragraph (9), the chair and deputy chair of the committee be ex officio members of each subcommittee appointed.

(11) That the committee appoint the chair of each subcommittee who shall have a casting vote only, and at any time when the chair of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chair at that meeting.

(12) That the quorum of a subcommittee be 2 members of that subcommittee, provided that in a deliberative meeting the quorum shall comprise 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.

(13) That members of the committee who are not members of a subcommittee may participate in the proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.

(14) That the committee or any subcommittee have power to send for persons, papers and records.

(15) That the committee or any subcommittee have power to move from place to place.

(16) That a subcommittee have power to adjourn from time to time and to sit during any adjournment of the Senate and the House of Representatives.

(17) That the committee have leave to report from time to time.

(18) That the committee or any subcommittee have power to consider and make use of the evidence and records of the Joint Committees on Foreign Affairs and Defence and Foreign Affairs, Defence and Trade appointed during previous Parliaments.

(19) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

**Joint Standing Committee on Migration**

(1) (a) That a Joint Standing Committee on Migration be appointed to inquire into and report upon:

(i) regulations made or proposed to be made under the *Migration Act 1958*;

(ii) all proposed changes to the *Migration Act 1958* and any related acts; and

(iii) such other matters relating to migration as may be referred to it by the Minister for Immigration and Multicultural and Indigenous Affairs.

(b) Annual reports of government departments and authorities tabled in the House shall stand referred to the committee for any inquiry the committee may wish to make. Reports shall stand referred to the committee in accordance with a schedule tabled by the Speaker to record the areas of responsibility of each committee, provided that:

(i) any question concerning responsibility for a report or a part of a report shall be determined by the Speaker; and

(ii) the period during which an inquiry concerning an annual report may be commenced by a committee shall end on the day on which the next annual report of that Department or authority is presented to the House.

(2) That the committee consist of 10 members, 3 Members of the House of Representatives to be nominated by the Government Whip or Whips, 3 Members of the House of Representatives to be nominated by the Opposition Whip or Whips or by any independent Member, 2 Senators to be nominated by the Leader of the Government in the Senate, 1 Senator to be nominated by the Leader
of the Opposition in the Senate and 1 Senator to be nominated by any minority group or groups or independent Senator or independent Senators.

(3) That every nomination of a member of the committee be forthwith notified in writing to the President of the Senate and the Speaker of the House of Representatives.

(4) That the members of the committee hold office as a joint standing committee until the House of Representatives is dissolved or expires by effluxion of time.

(5) That the committee elect a Government member as its chair.

(6) That the committee elect a deputy chair who shall act as chair of the committee at any time when the chair is not present at a meeting of the committee, and at any time when the chair and deputy chair are not present at a meeting of the committee the members present shall elect another member to act as chair at that meeting.

(7) That, in the event of an equality of voting, the chair, or the deputy chair when acting as chair, shall have a casting vote.

(8) That 3 members of the committee constitute a quorum of the committee, provided that in a deliberative meeting the quorum shall include 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.

(9) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.

(10) That the committee appoint the chair of each subcommittee who shall have a casting vote only and at any time when the chair of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chair at that meeting.

(11) That the quorum of a subcommittee be 2 members of that subcommittee, provided that in a deliberative meeting the quorum shall comprise 1 member of either House of the Government parties and 1 member of either House of the non-Government parties.

(12) That members of the committee who are not members of a subcommittee may participate in the public proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.

(13) That the committee or any subcommittee have power to send for persons, papers and records.

(14) That the committee or any subcommittee have power to move from place to place.

(15) That the committee have leave to report from time to time.

(16) That the committee or any subcommittee have power to consider and make use of the evidence and records of the Joint Committees on Migration Regulations and the Joint Standing Committees on Migration appointed in previous Parliaments.

(17) That the foregoing provisions of this resolution, so far as they are inconsistent with the standing orders, have effect notwithstanding anything contained in the standing orders.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (4.30 p.m.)—by leave—I move:

That the Senate concurs with the resolutions of the House of Representatives contained in messages nos 1 to 8 relating to the appointment of certain joint committees.

Question agreed to.

**Membership**

The **ACTING DEPUTY PRESIDENT** (Senator Watson)—The President has received letters from party leaders nominating senators to be members of various committees.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (4.31 p.m.)—by leave—I move:

That senators be appointed to various committees as follows:

Community Affairs Legislation Committee

Appointed, as participating members: Senators Abetz, Calvert, Carr, Chapman, Coonan, Crane, Crowley, Eggleston, Evans, Faulkner,
Ferguson, Ferris, Gibbs, Lightfoot, McGauran, McLucas, Payne, Tierney and Watson.

Community Affairs References Committee
Appointed, as participating members: Senators Bishop, Carr, Denman, Evans, Faulkner and West.

Economics Legislation Committee
Appointed, as participating members: Senators Abetz, Boswell, Calvert, Carr, Chapman, Conroy, Coonan, Crane, Eggleston, Evans, Faulkner, Ferguson, Ferris, Knowles, Lightfoot, Mason, McGauran, Payne, Sherry, Tchen and Tierney.

Economics References Committee
Appointed: Senators Brandis and Chapman.
Appointed, as participating members: Senators Carr, Conroy, Faulkner and Sherry.

Employment, Workplace Relations and Education Legislation Committee
Appointed: Senator Crane, as a substitute member to replace Senator Brandis for matters relating to Employment, Workplace Relations and Small Business portfolio.
Appointed, as participating members: Senators Evans, Faulkner, Gibbs, Hutchins and Sherry.

Employment, Workplace Relations and Education References Committee
Appointed, as participating members: Senators Buckland, Crowley, Denman, Faulkner, Hutchins and Sherry.

Environment, Communications, Information Technology and the Arts Legislation Committee
Appointed, as participating members: Senators Abetz, Bolkus, Boswell, Carr, Chapman, Coonan, Crane, Evans, Faulkner, Ferguson, Ferris, Knowles, Lightfoot, McLucas, Mason, McGauran, Sherry, Tierney and Watson.

Environment, Communications, Information Technology and the Arts References Committee
Appointed, as participating members: Senators Bolkus, Buckland, Carr and Faulkner.

Finance and Public Administration Legislation Committee
Appointed, as participating members: Senators Abetz, Carr, Chapman, Conroy, Coonan, Crane, Eggleston, Evans, Faulkner, Ferguson, Ferris, Knowles, McGauran, Payne, Sherry, Tchen, Tierney and Watson.

Finance and Public Administration References Committee
Appointed, as participating members: Senators Carr, Conroy, Faulkner and Sherry.

Foreign Affairs, Defence and Trade Legislation Committee
Appointed, as participating members: Senators Abetz, Bishop, Boswell, Brandis, Carr, Chapman, Coonan, Crane, Eggleston, Evans, Faulkner, Ferris, Hutchins, Knowles, Mason, McGauran, McKiernan, Tchen, Tierney and Watson.

Foreign Affairs, Defence and Trade References Committee
Appointed, as participating members: Senators Bishop, Carr, Denman, Faulkner and McKiernan.

Joint Committee on the Broadcasting of Parliamentary Proceedings
Appointed: Senator Knowles.

Joint Committee of Public Accounts and Audit
Appointed: Senators Colbeck, Murray, Scullion and Watson.

Joint Standing Committee on Electoral Matters
Appointed: Senators Bartlett, Ferris, Mason, Murray and Ray.

Joint Standing Committee on Foreign Affairs, Defence and Trade

Joint Standing Committee on Migration
Appointed: Senators Bartlett, Eggleston, McKiernan and Tierney.

Joint Standing Committee on the National Capital and External Territories
Appointed: Senators Greig, Crossin, Lightfoot, Lundy and Watson.

Joint Standing Committee on Treaties
Appointed: Senators Bartlett, Cooney, Ludwig, Mason, McGauran, Schacht and Tchen.

Legal and Constitutional Legislation Committee
Appointed, as participating members: Senators Abetz, Bolkus, Brandis, Calvert, Carr, Chapman, Crane, Eggleston, Faulkner, Ferguson, Ferris, Knowles, Lightfoot, Ludwig, McGauran, Sherry, Tchen, Tierney and Watson.

Legal and Constitutional References Committee
Appointed: Senators Payne and Scullion.
Appointed, as participating members: Senators Bolkus, Carr, Faulkner and Sherry.

Library Committee
Appointed: Senators Boswell, Scullion and Tierney.

Parliamentary Joint Committee on ASIO, ASIS and DSD
Appointed: Senators Calvert and Sandy Macdonald.

Parliamentary Joint Committee on Corporations and Securities
Appointed: Senators Brandis, Chapman, Conroy, Cooney and Murray.

Parliamentary Joint Committee on the National Crime Authority
Appointed: Senators George Campbell, Denman, Ferris, Greig and McGauran.

Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund
Appointed: Senators Crossin, Ferris, Lees, Mason and McLucas.

Parliamentary Standing Committee on Public Works
Appointed: Senators Calvert and Ferguson.

Rural and Regional Affairs and Transport Legislation Committee

Rural and Regional Affairs and Transport References Committee
Appointed, as participating members: Senators Carr, Faulkner, Hutchins and McKiernan.

Select Committee on a Certain Maritime Incident
Appointed: Senators Bartlett, Collins, Cook, Faulkner, Murphy.

Standing Committee on Regulations and Ordinances
Appointed: Senators Brandis, Mason and Tchen.

Question agreed to.

COUNCIL OF THE NATIONAL LIBRARY OF AUSTRALIA

The ACTING DEPUTY PRESIDENT (Senator Watson)—The President has received a letter from the Leader of the Government in the Senate, Senator Hill, nominating a senator to be a member of the Council of the National Library of Australia.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (4.32 p.m.)—by leave—I move:

That, in accordance with the provisions of the National Library Act 1960, the Senate elect Senator Tierney to be a member of the Council of the National Library of Australia on and from 14 February 2002, for a period of 3 years.

Question agreed to.

COMMITTEES

Community Affairs Legislation Committee
Report

Senator FERRIS (South Australia) (4.32 p.m.)—On behalf of Senator Knowles, I present the report of the Community Affairs Legislation Committee on matters referred to the committee during the previous parliament. I also present submissions and the Hansard record of the committee’s proceedings.

Ordered that the report be adopted.

Community Affairs References Committee
Report

Senator FERRIS (South Australia) (4.32 p.m.)—On behalf of Senator Crowley, I present the report of the Community Affairs References Committee on matters referred to the committee during the previous parliament.

Ordered that the report be adopted.

Environment, Communications, Information Technology and the Arts References Committee
Report

Senator FERRIS (South Australia) (4.32 p.m.)—On behalf of Senator Allison, I present the report of the Environment, Communications, Information Technology and the Arts References Committee on matters referred to the committee during the previous parliament.

Ordered that the report be adopted.
DOCUMENTS
Auditor-General’s Reports
Reports Nos 31 and 32 of 2001-02

The ACTING DEPUTY PRESIDENT
(Senator Watson)—In accordance with the
provisions of the Auditor-General’s Act
1997, on behalf of the President, I present
the following reports of the Auditor-General:
Report No. 31 of 2001-02—Audit Activity
Report: July to December 2001—Summary
of Outcomes; and Report No. 32 of 2001-
02—Performance Audit – Home and Com-
munity Care: Follow-up Audit—Department
of Health and Ageing.

INSURANCE: PUBLIC LIABILITY
Senator CONROY (Victoria)  (4.33
p.m.)—I move:
That the Senate—
(a) expresses its concern about the
significant increase in public liability
insurance premiums and the effect it is
having on the viability of many small
businesses and community and sporting
organisations;
(b) condemns the Government for its
inaction; and
(c) urges the Minister to propose a solution
to this pressing issue, as quickly as
possible, not just look at the problem.

How can I describe the Howard govern-
ment’s approach to the public liability crisis
that has emerged over the last 12 months
following the collapse of HIH? To borrow
some words from Laurel and Hardy: what
another fine mess the Howard government
has got us into. Indeed, the actions of Cos-
tello, Hockey and Coonan over the last
month read like a bad Laurel and Hardy film
script. The script starts late last month with
Minister Hockey boldly coming out with a
proposal to establish a national compensation scheme.
Mr Hockey stated that he would write to
state governments proposing a national fund.
It is a very good question as to whether Mr
Hockey has ever got around to writing that
letter. It is worth remembering that Mr
Hockey has form when it comes to saying he
will write letters. On 15 January 2001, he
sent out a press release saying that he had
directed the ACCC ‘that no prices will in-
crease by more than 10 per cent as a result of
the GST—that is our policy and that is the
law’. The only problem was that he never
wrote to the ACCC to tell them that, so Mr
Hockey’s courageous proposal for a national
compensation scheme resulted in a quick
response from his colleagues.

However, instead of backing his plan, as
he may have expected, they left him hanging
out to dry. Senator Coonan was particularly
harsh on Mr Hockey, stating on 23 January
2002 that Joe Hockey’s plan for a national
public liability scheme was ‘really flawed’
and ‘untenable’.

Senator Sherry—Isn’t she a lawyer?

Senator CONROY—She is a lawyer. I
think Mr Hockey might be a lawyer too. She
went further, stating:
I wouldn’t be persuaded that the New Zealand ...
is one that we follow here. I think that we have to
be very careful that the cure we advocate isn’t
worse than the disease.
What does that say for Mr Hockey? It is a real slap in the face. The Treasurer was also quick to distance himself from the Hockey plan, only going as far as to state on 23 January:

Mr Hockey has legitimately raised the point that businesses are finding premiums very expensive. Not exactly an endorsement, but damning with faint praise. Now we have the on again and off again forum. On Thursday 31 January, the *Australian* newspaper—apparently through a very good source—reported that Senator Coonan was to announce a national forum into public liability which would come up with proposals to put to a meeting of federal and state ministries in March. The next day, however, the *Australian* newspaper—apparently through another very good source—reported that the announcement of the forum was delayed due to the need to coordinate government portfolios. A spokesperson for Senator Coonan stated that the delay was caused by cross-portfolio issues and legal matters. Finally, on 3 February Senator Coonan announced:

While the affordability and accessibility of public liability insurance are matters for state and territory governments, the Commonwealth is prepared to assist them gather and share information on possible courses of action.

Yet again today we have had Mr Hockey in the other place buying into the debate. I listened, and I noted that Senator Coonan was also listening. I am glad she was listening, because it was clear. Mr Hockey made it perfectly clear in that other place that he intends to gatecrash the forum that Senator Coonan has organised. He said that ‘we’ will be hosting this and ‘we’ will be inviting this—he has gatecrashed Senator Coonan’s party.

Will somebody please step in and sort out these warring children? Let us get on with solving this problem and let us stop having petty disputes between Mr Hockey and Senator Coonan. This is far too important an issue.

**Senator Troeth**—What are you going to do with Carmen Lawrence?

**Senator CONROY**—It is clear from the announcement made by the Assistant Treasurer and supplemented today by Mr Hockey, I am sure with Senator Coonan’s welcoming assistance—

**Senator Sherry**—She was listening.

**Senator CONROY**—She was listening; you are right. The government does not believe that they have a role in resolving this crisis. The New South Wales Premier, Bob Carr, stated on 4 February:

It is all right to convene a conference of the states, that’s a good thing and we will go to it. But the federal government must have a proposal to put on the table.

If it becomes an exercise where the states go there and put forward a range of proposals and nothing’s agreed then we are wasting everybody’s time.

What they are asking for is leadership. The government’s forum must be a genuine attempt to address the public liability insurance crisis that is facing small businesses. This means that the government must put specific proposals on the table for the forum to consider. The government must be condemned for its failure to act earlier on this issue. Again, Mr Hockey has form.

On 7 June last year, I was questioning Professor Allan Fels from the ACCC at Senate estimates committee hearings about whether the government had directed the ACCC to investigate the extraordinary increases in insurance premium prices that were being reported in the daily newspapers. While I was in the process of questioning Professor Fels and Senator Kemp, who was at the table representing Mr Hockey, a letter from the government was rushed into the Senate estimates room and delivered to Professor Fels in front of all of us. It accompanied a press release from the Minister for Financial Services and Regulation that he had just released—government on the run yet again. The press release indicated that the minister had asked the Australian Competition and Consumer Commission for a report on the significant increases in general insurance premiums following the collapse of HIH.

However, there is more. Upon opening the letter, a clearly disappointed Professor Fels was quick to tell the Treasury committee that the minister was not providing him with any monitoring powers whatsoever. The govern-
ment had a clear opportunity to take action on this issue almost nine months ago by directing the ACCC to monitor the increase in insurance premiums. We did not have to wait nine months. We could have had a report on the table now; we could have had evidence and information already collated. But Mr Hockey was asleep at the wheel.

The question that must be asked is: how many small businesses could have been saved if the federal government had used its powers to direct the ACCC to formally monitor insurance premiums? The government’s lack of action, their dithering and squabbles would be laughable except for the fact that we have a real crisis with small business as a result of rising public liability premiums. While the Howard government’s ministers are squabbling amongst themselves over petty issues such as who gets to chair the meeting and who gets his name on the top of the press release, small businesses are closing.

*Senator Troeth*—We are not like the Labor Party.

*Senator CONROY*—Let me give you just a few examples. You may laugh on the other side of the chamber, but when I have gone through this list of businesses you will not think it is quite as funny. They certainly do not think it is funny. The Royal Canberra Show Society saw its public liability premiums rise from $19,000 to $32,000—

*Senator Ferris*—And we’re doing something about it.

*Senator CONROY*—Despite not having made a claim. In Adelaide, South Coast Go-Carting’s public liability insurance premiums increased from $3,500 to $12,500, forcing it to close. Muskerry Motor Park in northern Victoria closed after an insurer refused to renew a public liability policy. The Big Banana in Queensland—that is not you, Senator Brandis; you can go back to sleep—has seen its public liability premiums increase from $39,000 to $140,000. Surf Lifesaving Western Australia’s public liability premiums increased from $6,800 in 1997-98 to $35,000 in 2001. Victoria District Cricket Clubs were told that their premiums would rise from around $245 to $3,500.

I would now like to look in some detail at what is causing this crisis in public liability premiums. But, as I said, to acknowledge those interjections from Senator Troeth, what we have here is a government that has ignored the issue, that has grandstanded on the issue—

*Senator Ferris*—But we are doing something about it.

*Senator CONROY*—You should have been doing something about it. Senator Ferris, back on June 7 when we talked about it in estimates. The key question here is: why did this government do nothing? On June 7 Professor Fels, in front of the Senate estimates committee, said that this was basically a stunt by Mr Hockey just to get his name in the paper, just to get himself a couple of column inches, when what we actually got from Mr Hockey was no increase in powers. Don’t go Senator Brandis, it is still only 527 sleeps to go; don’t you worry about it.

*Senator Brandis*—I am not going anywhere, Senator Conroy.

*Senator CONROY*—There are two touted reasons for the massive increase in premiums. Firstly, it is suggested that HIH’s collapse contributed to the premium increase because HIH was known to be aggressively pricing its policies in order to bring in clearly needed cash flow. The second reason that is often suggested is that the events of September 11 have led to repricing of insurance policies—but it is difficult to see why this could be the case. We know that the reinsurance industry has made a decision to no longer provide Australian insurance companies with terrorism cover from 31 December 2001. So this should mean that acts of terrorism are not currently priced into premiums. The third reason for the increase in premiums is said to be that Australia is becoming a litigious society. According to figures from APRA, the number of public liability claims increased from 55,000 in 1998 to 88,000 in 2000.

The reasons why public insurance premiums have risen need to be the subject of debate. That is probably the only constructive thing that this government has offered so far: a talkfest. But, if we can get some of the is-
sues that I am going to talk about here onto the table in this committee, it may actually be useful. I am not holding my breath, because no doubt it will get bogged down in a spat between Senator Coonan and Minister Hockey. When the government’s forum is ultimately held, it is important that the insurance industry brings to the table evidence on what has actually caused the increase in premiums. It is important that when the forum is held it does receive this information about the pricing of public liability premiums. We need to know how the industry sets their public liability premiums. We need to know why it is that organisations that do not have a history of claims are experiencing massive premium increases. We need to know what areas of the community and business are the most litigious. We need to know whether the risk pools that the insurance industry establishes to measure risk are appropriate.

I am concerned, for instance, that community groups and charities that run fairs and sausage sizzles may be placed in a risk pool with adventure groups. The premiums that these groups are paying would therefore reflect the risks of the adventure groups and not their own risks. There is also a need to examine the ways that we can reduce risks. This could involve public education campaigns or health and safety training. I am concerned that there have been attempts by the government to trivialise some of the claims made under public liability insurance. Mr Hockey has stated:

At the moment if you fall off a chair at home you accept personal responsibility for the injury, but if you fall off a chair at a park or a supermarket you are able to sue for hundreds of thousands, and in some cases millions of dollars.

Mr Hockey’s comments are uninformed, inflammatory and inaccurate. It is important that we do not engage in hyperbole on this issue. Let us sit down and get to the bottom of it. Firstly, a common law action will only be successful if it is able to prove that a business was negligent. Simply slipping off a chair in a supermarket, as Mr Hockey suggests, will not entitle a person to compensation unless there has been negligence.

It is appropriate in examining solutions to the public liability insurance crisis that we ensure that Australians have access to justice. The main principle behind the justice system is that no person’s access to justice and the legal system should be prejudiced by reason of their incapacity to obtain adequate information about the law or the legal system or their inability to afford the cost of independent advice or legal representation. The recognition that low income earners faced significant barriers in accessing the justice system led to the Whitlam government establishing the Australian Legal Aid Office.

Federal expenditure on legal aid increased from virtually nothing in 1972-73 to over $80 million in 1987-88 rising until 1997-98 when the total amount spent by the federal government on legal aid and family services was $171 million. It is worth noting that by 2000-01, the total budget contribution towards legal aid by the federal government was only $108 million. We must question whether the federal government’s reduction in funding for legal aid has led to an increase in the number of unrepresented parties before federal courts and tribunals. The ALRC is concerned that the number of unrepresented parties involved in litigation is seen to be large and increasing. In the commission’s research samples, around 18 per cent of Federal Court cases, 41 per cent of Family Court cases and 33 per cent of Administrative Appeals Tribunal cases involved one or more unrepresented or partially represented parties.

It is important in our society that all Australians are capable of getting access to justice. There are many examples of where Australians have been victims of negligent activities. In particular, I would like to look at one example: that of Australian workers and families who have become victims of asbestos related cancer. This cancer can take many decades to reveal itself and is ultimately terminal. In the 1960s, companies
associated with James Hardie Industries Ltd continued to manufacture asbestos when it was proved that they knew of the dangers. In the past, asbestos victims have had to struggle to achieve justice. Indeed, the Asbestos Diseases Society president, Robert Vojakovic, has previously stated that insurance companies had an incentive to frustrate the legal processes knowing that a claimant did not have long to live.

These examples show that it is real people with real lives who require the ability to access justice. We are not talking about, as Mr Hockey arrogantly asserts, people opportunistically suing after slipping on a banana peel in a public place. We should not trivialise this debate. It is an important debate; we are talking about families that have had loved ones taken away or whose lives are severely hampered because of another’s negligence. I believe it is important that we continue to debate the issue of access to common law. However, the debate must be rational and not clouded with the inaccurate examples that Mr Hockey likes to use.

In developing solutions we need to ensure that there is access to the justice system, particularly for low income earners, and that our legal system does not become the preserve of the rich. There must be no further delays in organising a forum to discuss the issue of public liability insurance. It is worth noting that a date has not at this stage been set for the forum. I was hoping Senator Coonan might participate in this debate and that she could give us the details that Senator Ferris is so proud of announcing are available.

**Senator Ferris interjecting—**

**Senator CONROY**—Well, come in and tell the parliament about it. According to a letter in the *Hobart Mercury* on 12 February—just a few days ago—from David Crean, the Tasmanian Treasurer, he has had no indication yet as to when the meeting will be held and what the meeting will specifically discuss. What a shambles! That is not good enough. After all the mucking around by the government on this issue they still do not have a date for the meeting and still do not have an agenda. Yet they expect to be taken seriously.

It is important that the public liability forum is constructive and does result in solutions. For this to happen, we need leadership from this government. We have a situation where the minister and senators opposite are trying to grandstand, saying, ‘We’re doing something.’ No date, no agenda, lots of talking, more petty squabbling, more sniping across the chambers. For goodness sake, Mr Costello, step in and intervene; pull Senator Coonan and Minister Hockey into line so that we can get on with dealing with this very serious issue.

**Senator BRANDIS (Queensland)** (4.54 p.m.)—It is disappointing that after losing three elections on the trot Senator Conroy has learnt nothing. The speech we have just heard from him this afternoon used the same technique that the Labor Party adopted in the last parliament and in the parliament before that—the big three: offer no solution, play the politics of blame rather than playing the politics of constructive engagement and misrepresent the government’s position.

Senator Conroy’s motion does identify an important issue facing the Australian community. It is an issue which this government identified a long time ago and has already taken decisive steps to address. It is an issue which Mr Hockey addressed on 7 June last year when he instructed the ACCC to conduct an inquiry into insurance premiums, particularly as a consequence of the HIH collapse. That inquiry is ongoing and the reporting date for the inquiry is expected to be in March this year.

It is simply not the truth to allege, as Senator Conroy does, that the government has done nothing in relation to it when the minister tasked the ACCC with carrying out an inquiry in June last year. That was done promptly when the escalation of insurance premiums, particularly resulting from the HIH collapse, began to become a great problem for small business and community organisations. Not only did the government and the responsible minister take that step then, but they have also taken the other steps to which Senator Conroy adverted in a most misleading fashion.

In the course of two consecutive days, 3 and 4 February this year, the Minister for
Revenue and Assistant Treasurer, Senator Coonan, and the Minister for Small Business and Tourism, Mr Hockey, called for and announced arrangements for the convening of a national summit to consider this issue. So the two ministers in the government whose portfolio responsibilities most immediately address this issue, Senator Coonan and Mr Hockey, have taken the initiative.

What is Senator Conroy’s complaint? This summit was foreshadowed on 3 and 4 February, a fortnight ago, and what does Senator Conroy’s complaint amount to? For those who heard Senator Conroy’s words, the complaint amounts to nothing more than this: that there is no agenda and no date yet. If that is all the Labor Party’s criticism of the government amounts to—and it seems, from listening carefully to Senator Conroy’s speech, that that is all it does amount to—then what a sad indictment it is. Senator Conroy should heed his own advice and not trivialise the debate. Yet the point scoring, the absence of a solution and the blame games we have heard in his speech do precisely that.

I remind honourable senators of a couple of elementary points. In the first place, this is an issue within the jurisdiction of the states and territories. The capping of civil claims, the regulation of the court process and the abolition of stamp duty in respect of insurance premiums are three solutions which have been suggested by some as being the most expedient way of addressing this issue. All of these matters are within the jurisdiction of the states and territories. The Commonwealth’s legislative powers in relation to insurance do not extend to the power of price control—that is, the power to control insurance premiums. So if there is to be legislative intervention to address the problems generated by the escalation of insurance premiums, that legislative intervention can only come from the state and territory parliaments. One could have listened to Senator Conroy’s 20-minute harangue and not appreciated that point: the legislative intervention can only come from the state and territory parliaments.

However, it is true to say that in the insurance market, classically, the only solution that is going to be effective is a national solution. There is a national market for insurance products and therefore it would make no commercial sense for the different states and territories to intervene in different fashions and have inconsistent legislation to address the issue. That would be a recipe for chaos in the insurance market.

Indeed, it is true that this is an issue on which the national government should take leadership, as the government has done, but only in the manner of coordinating a national response. That is precisely what Senator Coonan did in her media release of 3 February, and it is precisely what Mr Hockey foreshadowed in his media release of 4 February—to hold a national summit in which the state and territory governments can be facilitated by the Commonwealth government to meet in order to arrive at a solution.

What have the state and territory governments done? It must be conceded that most of them have been, and now all of them are, in the hands of this government’s political opponents. Let us run through what the state and territory governments have done. The New South Wales government has announced a working party to look at the issue. It has proposed no specific policy or legislative initiatives at all. It is looking at the question. The Victorian government, on 21 September last year, held a public liability summit, and conducted meetings with community organisations and small business representatives on 2 and 9 November. Notwithstanding that process of community consultation, the Victorian government is yet to come forward with any specific policy initiatives or legislative proposals.

On 23 January this year, the Queensland government announced the establishment of a task force on public liability insurance. Given that, as I have said, the legislative and policy obligations in this field lie exclusively with the state and territory parliaments and governments, it might be thought that the Queensland government had been very slow—had been asleep at the wheel—as it did not give any attention to the problem until 23 January this year. In Tasmania, the Labor government in that state has released a discussion paper on public liability. As yet,
there have been no policy proposals or legislative initiatives. The ACT government is holding discussions with community groups and stakeholders. The Northern Territory government announced only yesterday, in the Northern Territory News, that it would host a series of community forums on public liability insurance.

So there we have it: all of the state and territory governments, all of them now in the hands of the Commonwealth government’s political opponents, and all of which have the immediate and exclusive responsibility for this area, have announced that they will look at the question. And, in a leisurely fashion, that is what they are doing. The Commonwealth government has no legislative power in the area at all and has no constitutional responsibility either for the setting of insurance premiums or stamp duty or for the limitation of civil claims, which are claims that are litigated in state courts. Yet as long ago as 7 June last year, when the market pressures arising from the HIH collapse first began to be felt within the industry, the Commonwealth government came out of the blocks fast. It tasked the ACCC to investigate the matter and to report back, which the ACCC has since been doing. More recently, through the two responsible ministers, Senator Coonan and Mr Hockey, it announced that a summit would be facilitated by the Commonwealth government.

The problem which is identified in the first paragraph of Senator Conroy’s notice of motion is a serious problem. That is appreciated by those on all sides of politics. It is appreciated by the state Labor governments, which are at least looking at the problem. It has been appreciated by the Commonwealth government, which promptly, in the middle of last year, took steps to examine the market behaviour of insurance companies. But it is a problem not of the government’s making. It is a problem arising in part from the collapse of HIH; it is a problem arising in part from the extraordinary escalation of claims against insurers from events elsewhere in the world, including, of course, the terrible events of 11 September 2001.

The Commonwealth government is chasised by Senator Conroy in his motion for failing to take initiatives when, firstly, it was the first government in this country which took an initiative, through the ACCC inquiry; and, secondly, it is the only government in this country which bears no direct legislative responsibility and has no constitutional power to deal with the very issues which, according to various stakeholders in the industry, are the issues which need to be dealt with—that is, the limitation of claims, the capping of claims, access to justice, relief in relation to stamp duty and regulation of insurance premiums. So how it comes to be, in the peculiar logic of the mind of Senator Conroy, that the only government in the land which is not immediately responsible for and is not legislatively empowered to deal with the problem, but was nevertheless the first government in the land, through its regulator, the ACCC, to address the problem, is asleep at the wheel, heaven alone knows. Heaven alone knows how Senator Conroy comes up with that set of propositions.

It appears, when one appreciates the sequence of events in which the state inquiries have been announced—all at a time after the reference by Mr Hockey to the ACCC on 7 June last year—that Senator Conroy’s own political colleagues in the state and territory parliaments were the people who were asleep at the wheel. Not one of the state inquiries was convened at a time earlier than Mr Hockey’s reference to the ACCC. And one might well ask why. One might well ask why it was, when the problem of escalating claims, particularly in the state of New South Wales where there are commonly jury verdicts in personal injuries claims—not a practice that exists in most of the states, but a practice that is still available in the state of New South Wales—that the state and territory Labor governments so dragged their feet. In fact, it must have been apparent to the state and territory Labor governments from the very time of the HIH collapse, much earlier last year, that this would be a problem. It was well known in the insurance market from the time of the HIH collapse. It was widely said in the financial press shortly after the HIH collapse that insurance premiums were likely to escalate very severely.
We do not blame the state and territory governments for the HIH collapse, nor could it fairly and in a balanced way be said that the Commonwealth government was responsible for the HIH collapse. It would be an absurdity to say so. It would be an absurdity to say that the Commonwealth government was responsible for the collapse of a major corporate enterprise and for the failure of the directors and managers of that company in corporate governance. But, equally, once that collapse took place, it was as plain as could be—it was spoken of in the market, in the financial press and in the general community—that one could expect a rapid escalation of insurance premiums, and that is precisely what happened. Why the state and territory governments were asleep at the wheel, why the first initiative to get to the bottom of the problem was, first, the creation by the Commonwealth of the HIH royal commission and, second, the reference by Mr Hockey of the escalation of insurance premiums to the ACCC on 7 June 2001, are mysteries. What remains is that the Commonwealth government took the first initiative, and now the Commonwealth government has, through two ministers, announced that a strategy to coordinate a national response to this issue, rather than a segmented state by state response, will take place.

I will go back to Senator Conroy’s speech. What were Senator Conroy’s complaints? Senator Conroy has two complaints about a policy initiative—

Senator Conroy—What policy initiative?

Senator BRANDIS—The one that was announced, first by Senator Coonan and then by Mr Hockey, on 3 and 4 February respectively, of a coordinated national response facilitated by the Commonwealth government. The Commonwealth government can do no more than facilitate this meeting, because the Commonwealth does not have the legislative power in relation to civil litigation. It has no legislative power in relation to the setting of insurance premiums. It has no legislative power in relation to the insurance market. Its legislative power under section 51 of the Commonwealth Constitution—and as interpreted by the High Court—is limited to the regulation of corporations carrying on the business of insurers; that is, the licensing and regulation of those corporations but not the commercial regulation of their premiums. The Commonwealth government has taken the only initiative it could take. It has taken it in a timely fashion.

Today Senator Conroy quite rightly raised the escalation of insurance premiums as an issue of important community and commercial concern. But then, because he cannot help himself, he tries to trivialise the issue, tries to make it a partisan issue, by suggesting that the Commonwealth government, which acted promptly and has no legislative power, is to blame. He suggests that the state and territory governments—almost all of them at the time Labor governments and now every last one of them Labor governments—which dragged the chain and are still to produce a set of specific legislative initiatives have somehow been proactive in this area. The reverse is the truth. When Senator Conroy’s speech is analysed, what are the complaints? Senator Conroy says in relation to the national summit, the announcement of which took place only a week and a half ago, that we do not yet have a date and we do not yet have an agenda. If Senator Conroy inspected the press releases of the two ministers, as I am sure he has done, he would find that it is pretty clear what the agenda is. The agenda is to achieve a coordinated national response of initiatives which may only come from state and territory governments. As to a date, perhaps there is not a date set yet, Senator Conroy. If that is your only complaint—

Senator Conroy interjecting—

Senator BRANDIS—That is all your speech amounted to, Senator Conroy—that a date has not yet been set. Mr Hockey was out of the blocks on 7 June last year, and the ACCC report is due in March—well before any state or territory Labor government, the responsible governments, had a word to say about the matter.

Senator CHERRY (Queensland) (5.14 p.m.)—That was a very disappointing contribution from the government. It is extraordinary to hear from one of our more esteemed legal members of the chamber that this government does not have control over matters
The little document in our drawers, the Australian Constitution, in section 51(xiv) makes it quite clear that the federal government has control over insurance matters.

Senator Brandis—That is not right, Senator Cherry. You don’t know what you are talking about. That provision has been interpreted by the High Court several times, and it does not give the Commonwealth the power to regulate premiums.

The ACTING DEPUTY PRESIDENT (Senator Crowley)—Order, Senator Brandis! You have already spoken.

Senator CHERRY—That will certainly be news to Senator Patterson, who is currently regulating private health insurance premiums. The key thing is that the Commonwealth does have a responsibility, and a legislative responsibility, not just in the area of insurance but also in trade practices law, funding community organisations, taxation and a whole range of other areas. What we have seen over the last three to four weeks has been the most pathetic piece of Pontius Pilate finger pointing from a range of government ministers who are desperate to get themselves out of an incredibly complicated situation and flick pass the issue. I was astounded and disappointed by the performances of Mr Hockey and Senator Coonan over the last couple of weeks. But when Mr Hockey first made his proposal that we adopt the New Zealand Accident Compensation Commission’s policy with its $6 billion unfunded liability as national policy, Senator Coonan correctly pointed out that this issue is very complicated, that you cannot go around interfering with people’s legal rights and a whole range of other issues. Three weeks later—I do not know who had talked to whom—suddenly she puts out a press release which makes it abundantly clear that, in her humble view, ‘the state governments have a clear and unambiguous responsibility in this area,’ ignoring the impact of the Trade Practices Act, which, of course, regulates waivers and unfair pricing, ignoring section 51(xiv) of the Constitution and ignoring the Commonwealth’s overriding regulation of prudential supervision of the insurance industry. I am disappointed by this. I am disappointed by the reaction of probably all governments in Australia over the last couple of months, but I have been pleased to see a lot of catch-up happening over the last couple of weeks.

I commend particularly the Western Australian government with their five-point proposal released last week, still in proposal form. The Queensland government is probably still ahead of all the other governments in getting things up and running—they have actually picked up P&C associations and given them government coverage. I am very apprehensive about what impact, what resolution, what solution we are going to get out of this national summit if all it is going to consist of is an increasing bevy of federal government ministers. We now have Senator Kemp—talking about sport—Mr Hockey and Senator Coonan all interested in the issue, all lining up and pointing their finger at the states across the table and saying, ‘It’s your responsibility.’ The states are probably pointing their finger back and saying, ‘We’re not going to do anything until the ACCC tells us what’s going on.’

We should talk briefly about the ACCC’s review of general insurance. The ACCC’s review of general insurance is not going to tell us why premiums on public liability have risen by 200, 300, 400 or 500 per cent. I know the reason; I have asked them. It is not part of the review. They are looking at the general issue of general insurance; they are not going into companies to ask what is happening. I concede, as I am sure everyone in this place does, that public liability insurance premiums had to go up. In the year 2000, according to APRA—a federal government body, not a state government body, which prudentially supervises insurance companies—payouts on public liability and product liability were $1.18 billion and premiums were $883 million—that is, a shortfall of $300 million. That is not a very good way to run business, but that is how the insurance companies have run their public liability books for the last three years. It was clear that premiums had to go up. To ensure that premiums exceeded claims, they would have had to go up by at least 35 to 40 per cent and probably a bit more. But that is not what we...
have seen in any of the sectors that we have been talking about. What we have actually seen is junior soccer clubs facing premium increases of 328 per cent; kindergarten associations which have had no claims in 40 years having an increase of 130 per cent; community festivals facing increases of between 100 and 600 per cent; community halls facing increases of 300 to 400 per cent; and in sporting areas, waterskiing federations and clubs not being able to get coverage for love or money. The tragic stories go on and on. I do not know what the government is going to say to the good residents of Mitta Mitta in Victoria who have now had to cancel the Mitta Mitta Muster which was due to take place on 10 March. Why? Because they could not get coverage from any insurance company for a reasonable price.

I had correspondence only yesterday from the Yetholme Progress Association outside Bathurst which runs a small community hall. Their premium has gone up from $300 to $2,000 this year and they are wondering whether their hall committee can continue to run their hall effectively in the future. I suspect that quite a few community halls are going to be closing over the next couple of months unless this government—and I am pleased to see Senator Boswell in the chamber today—does something about the issue of public liability insurance for community halls. The Veresdale scrub hall near my family’s farm had to cancel its Boxing Day dance because they could not get insurance for it. They were told that the insurance company would insure the hall as long as nobody moved while they were in the building—a dance without dancing.

Senator Boswell—Where was that?
Senator CHERRY—Veresdale.
Senator McGauran—Has anyone mentioned the lawyers?
Senator CHERRY—I am getting to the lawyers. The point I am trying to make, Senator McGauran, if you were listening carefully, is that I concede that there has to be an increase in premiums and that increase in premiums is probably justified at 35, 40 or maybe 50 per cent but not at 500 per cent, which is what the Yetholme Progress Association is facing, not the 600 per cent that the community festivals like the Herberton Tin Festival are facing, not the 300 per cent that junior soccer clubs are facing, the 1,000 per cent that the Gymnastics Federation are facing. These are not justified increases. They do not reflect the risk profiles of those organisations. They do not reflect their claims history. One of the great difficulties we have here is that we do not have the proper information to apportion blame fairly between the lawyers and the insurance companies. I am concerned that this government is letting the insurance industry off the hook—that is what you are doing. You are trying to flick pass the issue back to the states, back to the common law, back to the lawyers and ultimately—more importantly than the lawyers—back to the plaintiffs and people who have suffered negligence and damage. You are trying to inflict it back on the victims, but you are not looking at the insurance industry itself. If we are going to have a proper, comprehensive, full and appropriate resolution of the issue of public liability insurance, we have to start by asking: are the premium increases, in their entirety, justified? That means asking the ACCC because that is a federal body. Your clear and unambiguous responsibility is to ask the ACCC to go in and justify each and every one of these premium increases. That is what we need. We are looking at the closing of dozens of community organisations, sporting clubs, festivals, shows, tourism ventures, the Big Banana—which is in New South Wales rather than Queensland, I am terribly sorry. We have the Big Pineapple—

Senator Conroy—Is it on the border? Oh, the Big Pineapple; I am sorry.
Senator CHERRY—No, the Big Banana is in New South Wales. The whole adventure tourism industry is under threat in this country, because of public liability. We have to go back and ask, almost premium by premium, whether premiums are justified at their current levels. That is question 1; that is a federal responsibility. Question 2 then becomes: what do we do about the lawyers? That is clearly a state and federal responsibility—but predominantly a state one. We have to talk about that. We have to look at the contin-
gency fee arrangements. I have no doubt about that, although Slater and Gordon will probably never talk to me again for saying that. We have to go back and look at advertising.

Senator Conroy—I want to know why they were talking to you in the first place.

Senator CHERRY—They are a very good, eminent firm. We have to look at the whole issue of risk management. Unfortunately, when you are talking about sporting and community groups, that is an area where they have to get funding to do it because most of these organisations are funded. That again is a federal responsibility, because risk management involves training volunteers how to reduce the risk in terms of running an event, a sporting organisation or sporting event, a festival or whatever. You cannot expect organisations to pick that up, do the training and work out the issues on their own on the shoestrings they are currently running on. Volunteers are running away from organisations in this country because of the complexity of the GST, the complexity of insurance and all of the other extra legal niceties being thrown on the people who run organisations.

I met yesterday with sporting industry representatives, and they want to see risk management and training for risk management for their volunteers. That becomes a government responsibility. I want to make sure that, when we start looking at the issue of community grants from the federal government to community welfare organisations across the country, we recognise that this year, more than any other, those organisations are losing a huge chunk of their grants by paying insurance premiums. That again is a federal responsibility. There will be budget implications of public liability insurance for the Commonwealth in terms of ensuring value for money from its grants, and the government has to recognise that ahead of the federal budget. I raised this with Senator Vanstone last September, and I am pleased that she has assured me that she will continue to monitor that issue.

We also have to start looking at some of the other areas. In addition to looking at risk management, the legal system and the insurance industries, we have to look at practices within the insurance industries to make sure that, if an organisation puts in place a decent risk management strategy, it gets its discount. We have to ensure that, if an organisation has not made a claim for 40 years, it gets its discount. Why should a kindergarten that has never made a claim in 40 years be subjected to a 130 per cent premium increase? That does not reflect their risk profile. We have to go back and look at the practices of the insurance industry—and that is a federal responsibility. We have to ensure that the discounts are there, that the risk is calculated and that the risk is reflected in the premium, because that is not happening at the moment.

Senator Boswell—This is a childish speech. What—are we going to write the premiums?

Senator CHERRY—I think you are going to have to this year.

The ACTING DEPUTY PRESIDENT (Senator Crowley)—Order, senators! It is very noisy and, if you all interject at once, none of you will make Hansard. So, if you wish your wisdom inscribed, one at a time please.

Senator CHERRY—The difficulty we have is that the market for public liability insurance in Australia at the moment is incredibly flawed. With HIH leaving the industry, the biggest player has left. A number of other players, including Suncorp Metway, have also left the industry.

Senator Boswell—Why?

Senator CHERRY—Because they could not make money on their books. This has left fewer people in the industry, and that means they are able to charge whatever they want. This is the fundamental difficulty we currently have. From that point of view, the regulators should be in that industry like Flynn, trying to make sure that there is value for money in premiums, and the federal government is not doing that. Our communities are suffering, our sporting groups are suffering, small business is suffering, the bush is screaming—and it is a tragedy that all we hear out of Senator Coonan is ‘It is a clear
and unambiguous responsibility for the states.’

I would really hope to get more. I hope that, ahead of the summit we are having in a couple of weeks with an as yet unspecified invitation list, the government recognises and starts producing a little bit more information on what it is going to do to ensure that it cleans up its own backyard and that the issues under its responsibility are acted on. I also publicly urge the government to extend its invitations list—to make sure the Australian Local Government Association is represented, because they host all the facilities the sporting clubs are using; to make sure that the sporting industry peak bodies are represented; to make sure that the Australian Council of Social Services, representing the community sector, is represented; to make sure that small business groups like COSBOA are represented and to make sure that the Tourism Council is represented—because we need to make sure that all the different needs and concerns of these groups are properly addressed.

I urge the government to make sure that, rather than having the finger point across the table about which politician is responsible, we sit down and come up with a solution. I want to see a solution; the Democrats want to see a solution. We are happy to work with Senator Coonan, and with whichever other minister has responsibility in this area, to come up with a solution. We have quite a few ideas that we are working on, and we have been in contact with literally hundreds of community and sporting organisations to develop our position. We are happy to feed that into this summit, or into whatever process you develop, and we are keen to do it. It has to be done, because we are about to lose a huge chunk of what makes our Australian community vibrant, interesting and healthy.

Senator WEST (New South Wales) (5.28 p.m.)—This is an absolutely critical issue. It is having an impact upon rural and regional communities like none other before it that I am aware of. It is actually destroying the fabric of many communities—small communities in particular—outside the metropolitan area. I cannot speak for metropolitan areas, as I do not work in that field, but I am aware of so many programs, projects and events that have ceased. I have a whole desk covered with newspaper articles that have appeared in rural New South Wales. I have one here from the Express-Summit Sun, which is one of the newspapers in the state electorate of Monaro, whose local member is Peter Webb, a member of the Liberal Party.

Senator Boswell—Actually, he is not; he is a member of the National Party.

Senator WEST—He is a conservative member; sorry, Senator Boswell. You are totally out of order, not being in your seat or anything. He is a conservative gentleman.

The ACTING DEPUTY PRESIDENT (Senator Crowley)—Senator Boswell, we have let it go to this point. It now being pointed out, I ask that if you wish to interject, please return to your seat. If not, be quiet.

Senator WEST—I call him a gentleman as I would not want to reflect upon a member of a house of parliament in any other legislature in this country.

Senator McGauran—Other than the Senate.

Senator WEST—Do not tempt me, Senator McGauran.

Senator McGauran—You reflect on us all the time. Have you ever called Senator Boswell a gentleman?

Senator WEST—Senator McGauran has been saying. This seems to be at odds with what the minister, who is totally responsible for this, Senator Coonan has been saying. I will go on to outline the reasons Mr Webb thinks this needs to be considered or considered more
than this federal government is doing. He is obviously saying that it needs to be considered at a federal level. He states:

Many community and sporting events across the Monaro Electorate have had to be abandoned because of the prohibitive cost of spiralling public liability premiums.

Also, some businesses are considering shutting their doors due to unrealistic premiums, leaving many people facing unemployment.

While it is important to ensure people are genuinely injured through negligence are properly compensated the situation at the moment is clearly unsustainable.

Society has become far more litigious and courts are awarding bigger and bigger payouts each year. It is business and communities that foot the bill for these payouts through higher premiums.

This is an issue we must get on top of so community spirit and local economies are not jeopardised.

I think that is a pretty good analysis of the problem facing communities and organisations. This is a very serious situation. It is not one that we want this government to sit on its hands and prevaricate and do nothing about.

I turn now to the problem confronting Evans Shire Council around Bathurst. This is a small rural council which donuts the larger centre of Bathurst. It has a competent and good council. They work hard. A few years ago they were undertaking roadworks. There was some excess gravel on the road and a person’s vehicle hit that gravel and had an accident. The victim was left more than a quadriplegic. The only thing the victim can move is her mouth. She has a very high-level spinal cord injury that requires high levels of care. The victim is a tetraplegic and is unable to move any portion of her body below her mouth. This person, I would suggest rightly so, took the case to court and was awarded $16,047,477 for economic loss, past expenses, domestic care, equipment, housing, future medical expenses and holidays.

The council had adequate insurance until HIH collapsed. This accident occurred before the collapse of HIH. They are left with a $6 million payout as a result of the HIH collapse. There is $6 million that HIH would have been responsible for were they still in operation. They are not in operation as they have collapsed. This is a small council that probably has a budget of less than the $6 million that they are expected to find. This is of major concern. According to an article in the Western Advocate on 26 January, they have been told:

... the council’s public liability insurer, Statewide Mutual, had advised that cover in excess of $2 million for any claim falls within the cover that was provided by both FIA and HIH.

That is the reason this council has been left with that bill. This council’s annual rate revenue is approximately $1.75 million. That is two-thirds less than the payout they are expected to make. The article in the Western Advocate goes on to state in relation to the Evans council:

“Council understands that for similar claims incurred by Balranald and Nundle shire councils, which have also been affected ... the Government agreed to provide financial assistance to the full extent...

This council is, quite rightly, seeking assistance from the state government. This is Australia wide. Why is it that the state governments are being expected to foot the bills? This is a federal responsibility. The federal government is the government that actually collects most government revenue. I think it is incumbent upon this federal government to do something constructive rather than just have a talkfest. A talkfest is fine, but we are talking about an issue that should have been addressed some time ago. It is now becoming quite apparent that there are major problems out there. One shire council in New South Wales has, as a result of a compensation claim of $16 million, to find $6 million when it has a rate base of $1.75 million. Those figures do not match up.

This is an issue of concern. The shire association’s president, Michael Montgomery, has said that he is very concerned about the issue. Mike Montgomery is also the Mayor of Moree Plains Council. He is certainly not
a member of the Labor Party, but he also is saying that he fully supported the federal government initiative in trying to limit the cost of payouts—and this was written at the time Mr Hockey had put up his proposal. So it is pretty important that the conservative government we have here actually listens—and listens very carefully—to its conservative constituency who are out there in the marketplace, who are out there at the coal-face having to deal with this.

It is fine to say, ‘It’s all the states’ and territories’ problem.’ It is not. The one with the big money bags, the one with the big purse, is the federal government. And what happens when accidents occur on state borders? Involve the federal government and those problems are overcome.

Just turning to another issue, in today’s Forbes Advocate there is a story headed ‘Camp oven off ... rising insurance costs claim another event’. This article is about the Bedgerebong Camp Oven Day. Bedgerebong is a small community just outside of Forbes, a wonderful little community on the Lachlan River. For a number of years now, they have been having a Camp Oven Day—but no more. The rising cost of insurance has got to them. Since last year, their insurance costs have risen 255 per cent. In the light of what they call ‘somewhat insurmountable odds’, the Camp Oven Day will not be held this year. To put this in perspective, the article says that last year their insurance costs were $563; to hold the event this year would cost just under $2,000.

This is a group that last year, after paying the $563 for insurance, raised about $4,000. In the five years that it has been operating, it has raised over $26,000—and what has this $26,000 gone to? It has gone to Lach Haven, which is an institution in Forbes for children with disabilities; it has gone to ChildFlight, which is the helicopter service that evacuates children with severe and acute medical conditions to the major teaching hospitals or from Forbes to Orange Base Hospital, whichever is needed; the Cancer Patients Assistance Society; Camp Quality, which is of course for children with cancer; and the Kidney Kar Rally. These are the sorts of associations that will be dramatically affected by the fact that organisations like the Bedgerebong Camp Oven Day cannot continue because of this insurance liability issue. This government has to think seriously about this matter because these are the flow-on effects of this insurance disaster—and I do not think that is too strong a word for it; it is a disaster.

I also have an article that is written by Councillor Chris Vardon, the Mayor of Eurobodalla Shire in Batemans Bay. His article tells of what happened in that area as a result of a Saturday afternoon cricketer being injured when he slid into a fence on the oval boundary. That cricketer won over $30,000 by convincing a judge that the council should have told him the fence was there. I think maybe he needed a pair of glasses. Anyway, I do not want to cast a reflection upon any judgment that a judge has made, but one has to wonder about that.

Councillor Vardon also has concerns, as we all do, about professional indemnity and insurance premiums that doctors are being slugged with in many areas. In New South Wales our state government has come to the party and has certainly outlined some initiatives to overcome the problem in the public hospital system. But it is a problem. Because doctors are concerned, people can be denied health care. It will also get to the stage where we will see increasing health costs, because doctors are concerned that they might be sued for something and will be running more tests than they normally would—and not to get or exclude a diagnosis but just to actually do the belt and braces issue. That will push up the general cost of health. Councillor Vardon cites the problem of a little pub between Coolamon and Wagga Wagga out in the Riverina. That pub’s insurances have increased by 150 per cent.

But now there are many organisations that for neither love nor money can get insurance cover—because there are two problems with the insurance issue now. Not only is there the problem of the cost of insurance premiums but there are many areas that cannot get insurance cover. There are art groups, art organisations, that have ceased to fund events. We know that in a number of communities the councils have tried to step in and cover the casual ‘for hire’ of their halls and so on.
But now in certain areas groups are not being covered, and they therefore cannot actually undertake their function. I have heard—I do not know whether this is correct or not—that one insurance company has ceased to offer public liability. This is pretty serious because, if we are going to continue running around being a very litigious society, we have to make sure that we have the insurance to cover us—but it would appear that that is not going to be happening.

For Australia Day, there was a Back to Mandurama Weekend in the Shire of Blayney and Australia Day celebrations in the historic village of Carcoar. If things had been different when the capital of this country was being decided upon, it might be that we now would be sitting in parliament in the Carcoar area. That would have suited me very nicely because it would have been a 35-minute drive home—but we are here instead. The Blayney Council stepped in at the last minute to save those two community events—the Back to Mandurama Weekend and the Australia Day celebrations in Carcoar. It had to pay a $1,815 premium for the Back to Mandurama Weekend; but the organisers of the Australia Day celebrations were unable to get public liability insurance cover because no company was prepared to give them a quote.

Councils cannot keep on bailing out community organisations for any length of time. The councils’ insurers are now warning the councils that they might be treading on dangerous ground and leaving themselves liable as well. So, whilst they are trying to do the right thing, councils are being hamstrung and hampered. If they are going to be stung in the same way as Evans has, what is going to happen to the roads? It will be an even bigger problem. It is an issue which is of major concern, and it is one that this government has to address federally. I hope that Mr Hockey and Senator Coonan can resolve their differences and strike a solution.

I have had one council tell me that they have had a number of people saying, ‘South Australia’s Volunteers Protection Act is great; it would help.’ But I am also told that they have legal advice that, although it protects the volunteers, it puts the liability back onto the organisation for which they are volunteers. That does not help the organisation, and it is not as good as people would like to think.

When Mr Hockey made his announcement, there was a certain ring, a familiarity, about this proposal. I have to say that my mind went back—I would like to say 25 years but unfortunately it is a bit longer than 25 years—to the period between 1972 and 1975 when Gough Whitlam proposed a national insurance scheme. If that had happened then, we would not be facing this problem now.

Senator Boswell—Oh, come on!

Senator WEST—Senator Boswell is getting very upset about this. He is interjecting and he is not in his seat. He is being a bit naughty.

The ACTING DEPUTY PRESIDENT (Senator Crowley)—I have gently reminded Senator Boswell that if he does wish to go public, he must move to his own seat.

Senator WEST—This is an issue that is going to the heart of small communities. It is going to the fabric that makes up these communities. People are going to feel very angry about the fact that somebody has made an insurance claim and taken an organisation to court. It is an issue that this government—the federal Liberal-National Party government, led by Mr John Howard and Mr John Anderson—have to address. They have to address it quickly, not flick the responsibility back to the states, because this is a national responsibility. It is something that we, for the whole of Australia, have a responsibility to think very seriously about and to look at ways to overcome the problem. I wait with great interest and anticipation for this federal government to come up with something constructive that is not going to flick the problem to somebody else. (Time expired)

Senator FERGUSON (South Australia) (5.48 p.m.)—I am very sorry that Senator Conroy is not still in the chamber. Although I was not in the chamber when he spoke, I did manage to listen to all of his speech. When he started talking on this general business notice of motion, I could almost see what was going through his mind: another three
very long years of general business on Thursday afternoons. He was probably thinking, ‘How on earth are we going to think of enough subjects of interest over the next three years to try to get some publicity, to try to highlight what are perceived to be government inadequacies.’ Poor old Senator Conroy resorted, I think, to a few quotes from a book. We had a little of everything from Senator Conroy this afternoon. I wish he were still here, because there were one or two things that I have made a note of, but I have no doubt that we will have plenty of opportunity in the next three long years that we are going to see Senator Conroy sitting in those—

Senator West—It might only be 2½ years.

Senator FERGUSON—Senator West interjects that it might only be 2½ years. But in fact I think she will realise that the parliament is having its first week now, and I do not think another election is due until the third anniversary of the first sitting week of the parliament. Parliament may then go back to March elections, which means we will not have the problem of long breaks over Christmas, and we will not have the problem of people who are retiring on 30 June having to spend another six months in the Senate after the election. I am not quite sure that what I have said is totally accurate, but I think I am right in saying that parliament does not have to have an election until three years after the first meeting of the parliament. It is something to do with the issuing of writs. So I can promise Senator West that it will be more than 2½ years before you have the next election—unless the Labor Party is going so badly that there may be a double dissolution or something like that. It depends how badly they are doing.

Senator McGauran—As long as they are not obstructionist.

Senator FERGUSON—As long as they are not obstructionists; that is true. There is one thing that Senator Conroy did say in his notice of motion that I totally agreed with. That is that we are all very concerned—as is expressed in part (a) of the resolution—about the significant increase in public liability insurance premiums and the effect it is having on the viability of small business and community and sporting organisations. I could not agree more. There is not anybody who is not concerned about the level of insurance premiums and the significant increases that have taken place for a variety of reasons.

After the HIH collapse and the terrible events of September last year, reinsurers knew that the risks they were taking were higher and so premiums have tended to move up considerably since that time. Because premiums have gone up considerably since that time, it is causing pressure on many of the organisations that have been mentioned today, particularly the small, voluntary and charitable organisations. In this age of litigation, a person who goes into a supermarket and slips over looks around to see whether there was a banana skin on the floor or whether the floor was wet or something. The first thought is: can I make some money out of this? The litigants society that we currently live in is helping to put tremendous strain on people who are providing public liability insurance and the reinsurers who need to make sure that there is adequate money to pay the very large claims that are currently being made.

The government is aware of what Senator Conroy said in part (a) of the motion. That is the only part I agree with; the rest of it is Senator Conroy just playing a bit of politics. It is probably not a first for Senator Conroy that he should choose to play politics over an issue such as this. My colleague Senator Brandis in his contribution outlined in detail the actions that this government is taking. Senator Conroy in part (b) talks about condemning the government for its inaction. He should have taken note of the issues that were raised by Senator Brandis in a very detailed response, point by point, as to the actions that the government has taken. I am totally opposed to part (b) of this motion, which condemns the government for its ‘inaction’. Part (c) is just a follow-on with the usual grab bag of urging a minister to do something when in fact, as outlined by Senator Brandis, the government has done plenty to try and make sure that we are in a situation where this issue can be addressed.
I know myself of many groups that are finding it very difficult to maintain their viability. In some cases they are not able to obtain cover. That is one of the problems. But, most importantly, they have been hit by such large increases in premiums that they simply cannot afford to continue their existence. The government shares the community’s concerns over the affordability of public liability insurance and the consequent impact that it has on small business, community groups and local councils. Let us not forget local councils are also feeling the pinch in this area. It is quite clear that the responsibility is an unambiguous responsibility of state and territory governments. Many of the forms of relief such as the removal of stamp duty, the abolition of common law rights and the capping of claims have been publicly canvassed, and they all fall clearly within the jurisdiction of states and territories. So the federal government can only be a facilitator. I notice my colleague Senator Tierney nodding his head: he knows in his own area that all the federal government can do is become a facilitator of trying to solve this problem. That is what it is doing. It is because of the complexity that arises in the area that the Commonwealth is offering to coordinate among the relevant ministers the exchange of information about the affordability and the accessibility of public liability insurance.

Senator Coonan, who has recently taken up the position of Minister for Revenue and Assistant Treasurer, has been very active since her appointment. She has offered to host a ministerial meeting to facilitate the exchange of information and ideas between the states and territories. Once that has been established, perhaps we can come to some common ground. Because public liability insurers are national, there has to be a national response to the problem. It cannot be a state by state response in the way that you would normally solve these things. It has to be a national, coordinated response because insurers do business in all of the states. They go over state boundaries, so it is important that it be a national response. That is why the Minister for Revenue is offering to host this ministerial meeting: to make sure that everything can be put on the table. This proposal has been widely supported by state governments and other interest groups. The government is keeping in close contact with the states and has been advised of certain state and territory initiatives which include working parties, assistance packages and consultation with the community.

How can Senator Conroy possibly bring forward a motion such as this about government inaction when the government has clearly taken a leadership role to assist the states and territories in finding a solution for all of those who have been hit hardest by rising premiums? And there are plenty. There are plenty of people who have been hit by these rising premiums. Senator Conroy is a little bit like Premier Carr from New South Wales, who has criticised the Commonwealth government’s attempts to conduct an open dialogue with the states and territories. This is typical of state Labor premiers—of which it appears we might have one more now—who want to play the blame game. They want to blame somebody else. The blame has to be sheeted home somewhere else. It hurts ordinary Australians who most need assistance. Senator Conroy in this motion is really condemning the actions of his state colleagues, each one of them Labor premiers and Labor governments, in the way it has been framed. If Mr Carr’s own Labor colleagues in Victoria, Western Australia and Queensland have come to the table, why has New South Wales fought against it? I am sure Senator Conroy will be reminded of that question quite often by Senator Tierney and my other colleagues in New South Wales, because the Labor government in New South Wales is being very difficult to get on with.

Senator Conroy seems to be blissfully unaware of many things. Particularly in this case he is blissfully unaware that most state and territory Labor governments have welcomed the Commonwealth’s initiative to hold a ministerial meeting. So it would seem that either Senator Conroy is blissfully unaware or else he is ill informed. I would not want to pass judgment on Senator Conroy as to which of those two reasons is likely to be most at the fore. I think he is probably ill informed and he probably is still blissfully unaware. He has a very long three years
ahead of him, and every Thursday the Labor Party will have to come up with some general business motions. Senator Conroy got lumbered with the first one. I bet he hopes he does not have to do the second one, because it is going to be very difficult during that long period of time that is facing the Labor Party in opposition to maintain any enthusiasm for a motion such as this. It does the right thing in its first part. It does the right thing by expressing concern about significant increases in public liability insurance. I am very happy with the first part of the motion, but the rest of the motion which has been moved by Senator Conroy is simply trying to score a couple of very cheap political points, something which Senator Conroy tries to do a number of times.

The ACTING DEPUTY PRESIDENT (Senator Crowley)—Order! The time allotted for the debate has expired.

DOCUMENTS
Australian Law Reform Commission
Consideration resumed from 12 February.
Senator LUDWIG (Queensland) (6.00 p.m.)—I move:
That the Senate take note of the document.
I speak to the Australian Law Reform Commission Report No. 92 titled The judicial power of the Commonwealth: a review of the Judiciary Act 1903 and related legislation. The judicial power of the Commonwealth is embodied in the Judiciary Act 1903 and related legislation. A review of the Judiciary Act obviously is well overdue, given its long and esteemed history since 1903. Of course it has been updated and reviewed since that time. The Attorney-General referred the reference to the Australian Law Reform Commission to undertake a review. Professor Weisbrot and the commissioners have done a mighty job in producing a report. It would not do to allow the report, such as it is, to go without at least taking this opportunity to congratulate the Australian Law Reform Commission for its work in providing a valuable report. I do not intend to take the time of the Senate by referring to it in detail this evening, given the great number of reports that are listed on the Notice Paper. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Aged Care Act 1997
Consideration resumed from 12 February.
Senator WEST (New South Wales) (6.02 p.m.)—I move:
That the Senate take note of the document.
I speak on the report for 2000-01 on the operation of the Aged Care Act 1997. This is the act introduced in 1997 which led to kerosene baths, maggots in wounds and other absolutely appalling standards of treatment for people in aged care facilities. It has led to a shortage of aged care beds in high-dependency need areas and in low-dependency need areas. It has led to institutions or facilities having grave concern about their viability. It is quite interesting that earlier today we were debating the issue of the MV *Tampa* and children being thrown overboard, because the public servant who was in charge of the introduction of the Aged Care Act was Ms Jane Halton. This is the public servant who was the Deputy Secretary of the Department of the Prime Minister and Cabinet and, I understand, was the chair of the People Smuggling Task Force and handled those issues. This is the same public servant who is now the head of the Department of Health and Ageing and again back in the field of aged care.

I would certainly urge people to think very seriously about this particular issue. This act has been an absolute disaster. When this act was still a bill, we were told by the government it was to be laid on the table for public comment. It was laid on the table for public comment for 10 days. That is not adequate. The failure of that act has been that it left out the 63 key schedules which actually outline how the act was going to work—or rather, in the case of this act, not work. As I said before, this is the legislation that led to kerosene baths.

When the Senate Community Affairs Committee was investigating this legislation, I asked a public servant what professional nursing consultation the department had undertaken. She proceeded to tell me—and I was asking about professional standards and the organisations involved—that it was the ANF. I have a great deal of respect for the
Australian Nursing Federation; it is a good union, but it is not the body that sets the professional nursing standards. The Royal College of Nursing and the New South Wales College of Nursing do, and within those organisations is the organisation Geriaction. I had three public arguments to try to get—successfully, I might say—the department to comprehend that, if they wished to have meaningful consultation with all the nursing providers and the professional bodies within nursing that set the standards for nursing practice, and still do to this day, they had to involve the Royal College of Nursing and the New South Wales College of Nursing. It took me several public slanging matches to get that particular point across to the department.

I have grave concerns about how aged care in this country is being run. I have those concerns because organisations, institutions and facilities keep coming to me and outlining the problems they are having. They are having a significant number of problems. There is no funding to assist non-profit organisations in any upgrade of their facilities. But this was all known by this government and was carefully set out when the act was enacted. I ask just how caring are some people. What is the important bottom line? It is obviously not compassion and caring for people. When one looks at how many of the asylum seekers are being treated today and the work that was done by the task force, one sees a rather common thread of somewhat difficult people to hold discussions with.

Senator BUCKLAND (South Australia) (6.07 p.m.)—I rise to speak tonight on the report on the Aged Care Act to extend the contribution I made yesterday in the address-in-reply to the Governor-General’s speech. I do so because of the overwhelming response I got to that from members of the aged community. I would like to speak about something that has been worrying me since I spoke with these older people over the five-month break since we were last here, and that is the quality of life. Whilst ‘quality of life’ is in the guidelines, what it might mean is a little scant. As we go around visiting these facilities, we see people who are frail, may have a broken leg, may be in a wheelchair or may have had a hip replacement, and it is easy to see that they are not scoring too well at the time, but their quality of life may not be too bad. Their quality of life, however, when it comes to mental stimulation and activities provided to allow them to lead an active and thoughtful life—that is, to participate in their own community and the outside community as the guidelines advise—is not being addressed sufficiently by this government and through the guidelines that are set down.

We are now beginning to see that the aged population as a community is important to us. There are some moves—and I am not convinced as yet that those moves are sufficient by any means—to address the conditions that some older people are living in that we hear about in those horrible reports about kerosene baths or people being locked away in their rooms because they might call out of a night in fear of the dark or of there being no-one there to care for them. Those things seem to be being addressed by the government. But it is worrying to me that what is not being addressed in any real form is the provision of adequate mental stimulation for residents. There is nothing being done to bring the communities together so that they can participate.

I have not on any occasion been to a nursing or aged care facility where the residents regularly meet so that they can have some input into how the community they are living in can be improved or run. They have very little input into what their meals will consist of. I understand that some would be on quite strict diets, and I take that into account, but there is not that consultation. One facility I am closely associated with through family connections has an annual trip away for mental stimulation and to get the people out into the community. They go away and they spend their time sharing rooms in a motel. From the motel they are driven down to the hotel where they are allowed to play the poker machines for a little while and have lunch together. They go back to the motel and then they are taken for a drive. That is not interaction with the community by any means. Nor does true interaction with the community consist of going down to the local bingo with the senior citizens. It is a
wonderful thing that they do that, because they are mixing with people, but it is not interaction with the community. All they are doing is interacting with people in the same situation as them but not as yet in the aged care facilities. I am terribly concerned that we are neglecting the value that these people have put into our community over their lifetimes and that we are not giving them anything back. They sit in chairs staring across the room, watching *Days of our Lives*. Many of them cannot get up to change the channel to something more stimulating, so they just stare. Some of them do not even have up-to-date newspapers. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Wet Tropics Management Authority**

Senator BARTLETT (Queensland) (6.12 p.m.)—I move:

That the Senate take note of the document.

I speak on the annual report of the Wet Tropics Management Authority. The wet tropics are in the far north of my own state of Queensland. It is a particularly spectacular World Heritage area of immense ecological value, enormous biodiversity and incredible economic value to, particularly, the residents and community of Far North Queensland but more broadly to Queensland. It is a tribute to previous governments and the previous Labor government that established this World Heritage area. One of the crucial tasks and tests which current and previous governments have not always come up to scratch on is the adequate management and protection of those World Heritage areas. The wet tropics is immensely valuable as a tourist resource and brings a lot of people to the region in conjunction with the Great Barrier Reef Marine Park and World Heritage area which it adjoins in some parts.

There are still significant threats to the ongoing health of the wet tropics area. The management authority’s report details that to some extent, and I think there are issues in terms of resourcing and the overall structure of the authority. Again there is this ongoing need to have a wrestle between state and federal governments. I also think there is still a long way to go to more adequately ensuring proper involvement of the area’s indigenous people, particularly traditional owner groups. The region is at the very southern end of Cape York before you get into Cape York proper, and that region as a whole is very significant for the indigenous communities and traditional owners. I think that aspect of the operation of the Wet Tropics area has not been particularly successful at all to date. Indeed, I know that there are continuing efforts by indigenous people from the region to try and get the area listed for World Heritage not just under its current ground, which is for its natural values, but also for its heritage value and its social value, because it is an incredibly significant area of land for the indigenous and traditional owners. I think that is an area that the previous government failed to act on—basically hastened slowly on—and I call on the new government to act in that regard because I think it would be a significant advance not just in a symbolic sense of highlighting the broader value of the wet tropics area but also in improving one area where I think there has been significant failure to date, which is in the involvement of the indigenous people, and traditional owners particularly, of that region.

The threats to the ongoing environmental health of the wet tropics area are many, and obviously the benefit it provides in terms of tourism is one of the dangers. Management of the increasing number of people that visit the region is a major challenge. Particularly in the area around the Daintree and across the north of the Daintree River there are immense pressures in terms of numbers of people, ongoing pressure of greater expansion for people to live in that region to enable further subdivisions of land that has title that enables it to be subdivided. There is a continuing threat of that subdivision and increasing population north of the Daintree River having significant impact on the Wet Tropics Management Authority.

There are ongoing problems which really need to be sorted out about parts of the region. North of the Daintree is a classic example. You can have a small strip of land where one side of the road is managed by the management authority, the next bit is managed by National Parks and Wildlife, the
next bit is managed by the council and the beach is managed by somebody else. That cannot be allowed to continue. There are particular threats to the ongoing survival of the cassowary, a unique and absolutely magnificent bird that is being threatened by ongoing habitat depletion. The Democrats have argued hard in the past for more resources to preserve more habitat there and we would add that call as well to the federal government. It is in a significant area particularly for the state of Queensland—so significant that I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Aged Care Standards and Accreditation Agency

Senator BUCKLAND (South Australia) (6.18 p.m.)—I move:

That the Senate take note of the document.

I rise to speak on the report for 2000-01 of the Aged Care Standards and Accreditation Agency Ltd. My comments on this report are very similar to those I made earlier tonight. I was relaying to the Senate an instance of a gentleman I met recently during the South Australian election campaign. He was not a man who was going to be voting in the election, but I had been asked by a member of my church to visit him. He is a man who does not vote anymore; he is past that age and he is entitled not to vote. It is probably good for both of us that he did not partake because when I spoke to him he asked me what was going on around the place and when I explained there was an election he asked me what was going on around the place and when I explained there was an election on he did not know as the last Bulletin magazine he had was in fact from January of this year. It is very kind of the people who take those magazines in but, because he was lying in a bed most of the time, he did not have access to current news. He is a charming man, whom I hope to visit a number of times over a long period of time.

His difficulty is that he has no living family anymore. He gets plenty of attention for the problems he has with his body by getting massage and physiotherapy to assist him, but he gets no mental stimulation. He is as bright as bright can be if you want to talk about things from five or six months ago. People like this in aged care facilities have the problem of not being able to be stimulated mentally. I can recall, too, not so long ago talking to another man in a similar situation. He was bright and he was going out each day for a walk and he could read the papers. He was 93 when I spoke to him. He could still get out and he said he could still nip into the pub, if nobody was watching him, for a drink now and again. He would buy the paper and was kept abreast in that sense. The reason he could not look after himself was quite sad. He dribbled a lot and they felt this dribbling could cause problems for him. I think they really wanted to monitor his fluid intake. I am not a medico and I would not like to comment on that, but I feel that is what it was about. The problem he had was that no-one else in the facility was in a position where they could discuss things with him; no-one else was up to date like he was and there was no effort, and still is no effort, on the part of that facility—

Senator West—They haven’t got time. They are too overworked by this government’s legislation.

Senator BUCKLAND—I think we ought to come to that and we need to address that too—you are correct, Senator West. In this case, there was no one there to help get discussion going and get them talking. He knew everything everyone had done in their lives—they had talked about it one day. He had never had a group meeting where people just got down and had a talk about current affairs or about something historical or about TV. As he said, ‘What is the good of going in the TV room? They all sit there and stare.’ And he said, ‘So you do the same.’

There is an opportunity now, when we are reviewing nursing home facilities, to start saying that maybe we need to put money into the system. As Senator West said, the staff that are there now cannot do any more than they are doing. They are caring for them; they are doing their best with limited funds. But we need someone to go in there as a professional to stimulate the minds of these people and keep them alert, rather than letting them start lying on a bed by themselves or sitting in a chair watching Days of Our Lives day after day. I have never seen Days
of Our Lives, so I cannot say if it is good or bad; I have heard strange stories. But unless we start stimulating people beyond that limit, I think the government of the day has to take some responsibility. (Time expired)

Senator WEST (New South Wales) (6.23 p.m.)—I am prompted to make some remarks by Senator Buckland’s very clear analysis and outline of the problems that are facing a number of elderly people living in aged care facilities—that is, those particular individuals who are physically frail but mentally very alert. In this day and age we are seeing more and more people affected by Alzheimer’s—dementia. Often, particularly in the initial stages, they are physically quite active and able, but intellectually and mentally not alert and able. Mixing those people with others who are physically frail and mentally acuity is not very good.

We need more dementia-specific funding so that people with dementia can be treated in facilities where the staff are able to specialise in dementia care and where there is a physical layout such that those with dementia are able to wander if they want to wander, to walk in safe locations and to have an environment that is not threatening to them and is familiar at all times so they do not get as confused. People with physical frailty but mental acuity do not need the same physical set-up as those with dementia but have a greater need for intellectual stimulation and enjoyment. They need to be able to read the Bulletin magazine each week, or have it read to them if they have a visual problem; they need to have someone come in and read books and they need someone to just come and sit and talk with them.

If the staff were not as busy, stressed and harassed as they are, they would be able to do more—and they want to do more. I speak from experience when my father was in a nursing home prior to his death. The staff wanted nothing more than to come and talk to these elderly people with frail bodies but alert minds, because they were able to learn from them and also to provide them with the information they require so much. Another thing that happened in this nursing home was that, yes, there was television in their rooms, but the nursing home proprietors did not really care whether they could actually get all the television channels.

In this particular institution, they could not get the ABC or Channel 9, or SBS either—and those three channels provide the best television. For somebody who wants to be intellectually stimulated and to know what is going on in the world, ABC television, with their news, the 7.30 Report, Four Corners and Foreign Correspondent, keeps them apprised of what is happening out there. But with the funding situation this government has introduced into aged care, the institutions are not able to do this. They are not able to afford enough registered nurses or enough enrolled nurses, and are having to rely on lesser trained people. That is a situation for which this government stands roundly criticised.

Senator Hogg—Condemned.

Senator WEST—Condemned is correct. We owe it to our elderly people to provide them with the appropriate level of care. We know they have all these standards they say they are abiding by, and they are giving institutions three years accreditation. But if you talk to the staff, they will certainly tell you that they do not think the level of care they are able to provide is the level that they would like to provide, and they are paid less than those working in acute hospitals. This leads to burnout and dissatisfaction, and this leads to staff turnover. For many of these people, staff turnover is the last thing they need. They need continuity of care and continuity of personnel caring for them, but the way funding is operating at present that is not happening. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Department of Immigration and Multicultural Affairs

Senator BARTLETT (Queensland) (6.30 p.m.)—I move:

That the Senate take note of the document.

The Department of Immigration and Multicultural Affairs has been in the news not just in the last day or two but a lot over the last few years, and particularly over the last six months or so. The focus has been predominantly on refugee issues. That is a focus that
the Democrats share and have put a lot of time into. But there are other aspects of the immigration department. In many ways it is a bit misleading to group refugee matters with immigration because they are not immigration in the normal sense of the word. Other important aspects of the operation of the immigration department, some of which are reflected in this report, need to be taken note of. We have all had a fair go at talking about aspects relating to refugees and the like in the last few days, so I will steer clear of that—and particularly given the brief time I have available to speak at the moment—although that certainly does not indicate a lack of any ongoing interest on my part, because there are some critical issues there.

There are some matters that I think need to be emphasised. One such matter has just been drawn to my attention today—a matter which I will pursue further in estimates committee hearings next week—and has an impact on the community organisations that are funded by the Department of Immigration and Multicultural Affairs, as it was previously known, particularly migrant settlement services. The community services award for workers for migrant settlement services was altered in November of last year and a long overdue and appropriate significant increase in pay entitlements under that award was granted. But in relation to the federally funded component, the workers under that award have not received any increase in funding from the department to cover the increased pay costs due to higher pay entitlements—and more appropriate pay entitlements, I might add. That is having a significant and immediate impact on migrant settlement services throughout New South Wales. They are crucial services, as the department indicates in its report and as the minister highlights frequently. Many community services are already stretched to the limit and are significantly under-funded. New South Wales, and the Sydney basin in particular, gets the bulk of new migrants who come into Australia, whether long-term or permanent. The impact of this under-funding on the ability of those services to be adequately provided is very significant.

The government may say that they cannot provide any extra funding because it is an annual budget and their annual budget was set back when the funding was provided in July, that the fact that pay rates increased in November is not their problem, and that they will look at it again come July next year, in the next budget. Unfortunately, such a significant gap in service provision, either through a reduction in working hours or a reduction in the numbers of staff able to provide those services, cannot be just left hanging for seven months. The services are crucial, obviously, to the families and the people involved, but also to the community at large. These sorts of activities are some of the most vital work of the immigration department. Obviously, the work they do such as visa processing and assessment and the like is crucial, but the really vital work that impacts on the community as a whole, beyond just individual families, relates to the adequacy of settlement services. If you can get proper settlement services that assist people coming from other countries, other cultures, other backgrounds, other religions—if they are given adequate assistance when they first arrive—the added benefit to the whole community in new migrants being able to contribute effectively straight off is enormous. It benefits us economically, it benefits us socially and it benefits us in terms of the contribution to and participation in the community people can make. It leads to social cohesion. On the contrary, if we do not provide adequate services we are much more likely to get problems down the track such as a lack of social cohesion, problems that have occurred in the past, and some of which are occurring now. I would argue that those problems are in part due to a lack of assistance for migrants when they first arrive here. This service is crucial and the present funding threat, this funding gap, is one that the government must address.

Senator COONEY (Victoria) (6.35 p.m.)—I will make a few remarks on the matters taken up by Senator Bartlett, who has done outstanding work in this area. I take this opportunity to acknowledge that in this area of migration Senator Bartlett has done great work. As I listened to Senator Bartlett and as I consider the problems that have
been occurring in the department of immigration—that is not its proper title, but that is the title I would like to give it for the purposes of this exercise—I believe that problems have arisen which could well be resolved if the regulatory aspect of the department were hived off somewhere else. The department has a facilitative function, and it does magnificent work in that area—bringing people to Australia, making sure they are settled, giving them the opportunity to learn English and all the other such services they provide. The department does magnificent work in that area, but that work is infected, I think, by its regulatory function, which leads to the situation of the camps at Woomera, Port Hedland, Curtin and so on.

If the regulatory function of this department were taken away from it—I suggest that it be given to Attorney-General’s, but I am not fixed on that—and given to some other department, then I think the culture within the department would be much improved, the department being left with only its facilitative function. That is something I would like to put on the record now.

People smuggling, which has a lot to do with migration and with the asylum seekers, is dealt with by the Federal Police and like authorities. The Federal Police is a body that comes under the Attorney-General’s jurisdiction. My opinion is that we should not continue with these camps. You have been there yourself, Mr Acting Deputy President Ferguson, and you have your own thoughts about the camps, but in my view those camps are beyond the pale. They are certainly beyond the pale insofar as they are presently under the jurisdiction of the department of immigration. They should not be. My own view is that the camps should be, in large part, closed, but if we are going to have them, let us have them under the jurisdiction of a department that can properly look after them. I would have thought that would be the Attorney-General’s Department. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Australian Electoral Commission

Senator BARTLETT (Queensland) (6.41 p.m.)—I move:

That the Senate take note of the document.

This is probably a very apt time to be examining reports from the Australian Electoral Commission, as it is the first available opportunity in parliament after the conduct of a federal election. Firstly, as I often do when I get the chance, I would like to pay tribute to all the officers at the Electoral Commission with whom I had contact during the last election.

Senator Hogg—You got re-elected.

Senator BARTLETT—I managed to get elected. I do not know how they voted, but they certainly made the system run nice and smoothly, which always helps. As always, I found them incredibly helpful and very patient at a time when, obviously, a lot of people get a little bit stressed. With the enormity of the task they have and the enormous responsibility on their shoulders, which is ensuring that the selection of who governs this nation is conducted fairly and appropriately, I think they do a magnificent job—not to say that there may not be scope for improvement. One thing I have mentioned already is that I wish they would do better with their web site results in terms of the Senate count. It was a very frustrating exercise this year trying to keep up to date with the progress of the Senate count. Nonetheless, I think a good job was done.

There are important aspects in terms of the operations of the Australian Electoral Commission which do need some attention. Many of these are examined by the Joint Standing Committee on Electoral Matters, of which I have been a member for a few years and to which today I have been reappointed. The committee will conduct a full investigation into the last election, as it always does—and, as it always does, I am sure it will produce a lot of constructive comments. There are some important aspects in terms of the operations of the Electoral Commission as a whole that do need to have attention brought to them, and this is reflected in the report. That is particularly in terms of the Democrats’ very strong view that there must be more funding and more effective programs for public education about the operations of the electoral system.
The Joint Standing Committee on Electoral Matters has expressed concern for a couple of elections now, as has the Electoral Commission themselves, about the decision of the Howard government in its first term to abolish funding for indigenous programs in relation to the electoral system. That has made it incredibly difficult and I think it has had a detrimental impact, particularly with regard to indigenous people living in remote areas, most notably in sections of my state of Queensland, parts of Western Australia and, particularly, the Northern Territory and northern South Australia. It was a very valuable program, and its absence has had a significant impact. We are talking about something really fundamental here; that is, maximising the opportunities and ability for every citizen of this country to have their say on who forms government and who is in the Senate to keep an eye on the government. So it is pretty fundamental.

Similarly, there is still a great lack of understanding in the community about our voting systems, there is still confusion about preferential voting which enables the major parties to get away with continually spreading the fabrication that voting for a smaller party or an Independent is a wasted vote. If there were greater understanding of the preferential system then people would see that that was yet another fabrication to add to the growing list of falsehoods that governments like to spread around the place, particularly this government whose reputation for spreading falsehoods has now become legendary. So we need greater community education.

One area in which the Electoral Commission has done good work—but, as always, needs to work harder to improve—is updating the roll and ensuring that, when people shift from house to house, the opportunity for and probability of them changing and correcting their enrolment occurs as often and as quickly as possible. The work of getting people on the roll has frequently been highlighted by the Democrats, particularly in relation to young people. There are still huge numbers of 18-, 19- and 20-year-olds who are not enrolled to vote, as well as many homeless people. Extra effort needs to be made to ensure that they are able to have their voice counted in our system of government. It is a crucial area.

Often it seems like straightforward administration, but it is straightforward administration that has enormous impacts and, if it is not done properly, dangerous consequences can occur. Sometimes you can have bad consequences even if it is done properly, such as the coalition getting back into government, but we cannot blame the Electoral Commission for that. They have worked fairly and impartially, as they always do, and with reports like this and the operations of the committee, I am sure that they will continue to do a better job into the future.

Question agreed to.

Refugee Review Tribunal

Senator HOGG (Queensland) (6.48 p.m.)—I move:

That the Senate take note of the document.

Senator BARTLETT (Queensland) (6.49 p.m.)—I rise to speak to Senator Hogg’s motion to take note of the document, the Refugee Review Tribunal Report for 2000-01, which I fully support. Refugees are big in the news at the moment, not in relation to the actions of the Refugee Review Tribunal, although it is an important part of the process that has also come under significant scrutiny. It is just one more example, sadly, of the situation where this government has refused to listen to any number of constructive suggestions from people from all parts of the community and all parts of the parliament for positive ways to improve our system.

Recently, we have had the Prime Minister talking about the system he has put in place and saying that there are aspects of it that are not ideal or pleasant but that there is no alternative. I think we can put that one into the ever-growing category of prime ministerial falsehoods, because there is an alternative. There are plenty of alternatives; the only problem is that the government is not interested in looking at them. The key challenge now is for us to add to the pressure throughout the community for those alternatives to be examined in a constructive way.

The Refugee Review Tribunal was examined in detail by a Senate committee in an
inquiry which I initiated through a motion in this chamber a couple of years ago. It was a comprehensive and really constructive inquiry, I believe. It was chaired very ably by Senator McKiernan. The Liberal members of the committee, Senator Coonan and Senator Payne, both contributed very constructively. It was obviously, even then, a very touchy topic politically, but the committee worked well together to examine it in as objective and constructive a way as possible.

We produced a report which was almost completely unanimous. As it is with such things, where you are trying to be unanimous and trying to come to agreement, each of us probably gave ground a bit in what we would like as the ideal so that we could get unanimous outcomes, and we achieved that. People from across the parties—Democrats, Labor and Liberal—and Senator Harradine participated in that inquiry, all putting forward constructive options, many of which touched on the operations of the Refugee Review Tribunal and all of which were ignored by the government.

The key problem with the Refugee Review Tribunal that is becoming more and more critical is not the quality of its members, most of whom do a very difficult job ably and conscientiously. The problem is the political environment in which they have to operate. Whilst it is meant to be an independent administrative review, the fact that the members are appointed by the minister for short terms means that any member who seems to be stepping out of the appropriate line, in terms of being seen to be more accommodating to claims than others, knows that they do so at the peril of not being re-appointed and losing their job. That is a very significant impediment to people, even in a subconscious way, and that is human nature, it is not a criticism. It is natural for people to be affected by that sort of pressure. The other problem is that the actions of the Refugee Review Tribunal, because of the major changes to the migration act that have been made by this government and supported by the Labor Party each time, are not open to adequate scrutiny in terms of ensuring that there is remedy if they do not do their job properly.

People are probably not aware but there is no scope for appealing to the courts or to anywhere in relation to decisions of the Refugee Review Tribunal on the grounds of them not following natural justice. They are exempt from having to follow natural justice. There is a whole range of exemptions that are listed in the act where people cannot appeal a decision on a whole range of grounds. That severely restricts people's scope for accountability if the tribunal makes a ghastly mistake. Again, human nature being what it is, that can happen from time to time. That is always a problem, but in this area it is particularly a problem because you are literally talking about life and death issues. If you get it wrong, you send someone back to face serious persecution and then it is a bit late to say sorry. So it is a crucial area. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Department of Employment, Workplace Relations and Small Business

Senator HUTCHINS (New South Wales) (6.54 p.m.)—I move:

That the Senate take note of the document.

I seek leave to incorporate my speech.

Leave granted.

The speech read as follows—

I rise tonight to speak on a matter that is exceedingly important to every decent Australian. It goes to the heart of what we epitomise as the fair go for Australians and the belief that you will receive what you rightly deserve.

It is a matter that sadly, has slipped from the public agenda in recent times even though it should be of highest priority for this Parliament and the new Howard Government.

Madam President, tonight I would like to address the subject of workers entitlements. In particular, I would like to speak about the expectation that every worker will receive their full entitlements when they cease working for their employer.

All working Australians should be able to feel confident that when they walk out of their office, factory or yard for the last time, they will receive their entitlements in full and without delay.

It is an expectation that is epitomised in the Australian spirit, in the concept of a fair day’s pay for a fair day’s work, and until recently was an ex-
pectation held with confidence by most Austra-
lisans.
Regrettably, this confidence has become eroded
in recent times with several high profile and es-
tablished companies failing to make adequate
provisions for employee entitlements prior to
falling into receivership.
Oakdale, National Textiles and Ansett have all
scarred the Australian psyche and left an unsu-
pressable memory of how the workers are left to
suffer the most severe consequences of poor man-
agement when their employer goes bankrupt.
The working public now firmly understands that
it is the workers, not the directors, who through
no fault of their own are left socially and finan-
cially vulnerable when a business collapses and
they lose their superannuation, holiday pay, sick
leave and other entitlements.
The fear of losing not only your job but also your
entitlements is making workers feel more vulner-
able than ever before.
It is having a destructive influence on the Austra-
lian workforce that is already under immense
strain from our ultra-competitive economic envi-
ronment where every last dollar is squeezed out
of the backs and brains of workers by bosses
striving for a belligerent advantage over their
competitors.
Of course the harsh realities of company col-
lapses and the loss of entitlements are not only
felt by the workers—for without incomes and
entitlements to spend, workers cannot support
local business and purchase goods and services.
As a result, retailers and other suppliers suffer,
economic activity becomes suppressed and whole
communities suffer a fall in their standard of liv-
ing.
Madam President, we legislators cannot ignore
the lack of confidence that is permeating through
the Australian workforce, for it is our responsi-
bility to ensure workers, their entitlements and
their communities are protected.
Unfortunately it remains to the detriment of the
Australian community and a sad blight on past
Howard Governments that no serious protection
has been yet to be put in place to protect the
rights and entitlements of retrenched workers.
All we have at present is some pathetic scheme
that gives workers merely a proportion of what
they rightly deserve.
This situation was no more evident than when
Ansett collapsed last year. Who could have
thought that one of Australia’s oldest and biggest
companies could fall? But collapse it did and
overnight thousands of workers were wondering
if they would ever be paid all of what they had
earned.
The Ansett collapse could have been a catalyst for
the Howard Government to show some leader-
ship, to forge new ground on the entitlements
issue and give some real protection to workers
and their financial security.
But what did the Prime Minister and his bovver
boys do? They stood behind the dispatch box next
door and proclaimed that all Ansett workers
would receive their ‘statutory entitlements’, ie, a
few weeks pay and nothing else.
Mr Howard sought credit for his words, claiming
that he had stepped in to help the workers. In
reality, his statutory entitlement claims covered
barely a portion of the superannuation, holiday
leave, sick leave and other entitlements that were
owed.
Their statements and insults were a disgrace, not
only to the Ansett employees but also to the mil-
lions of Australian workers who now live with the
growing fear of losing their job and have nothing
to show for years of dedicated service.
In the case of the Ansett workers, it was fortunate
that the union movement and the Labor Party
stepped in and generated a public campaign to get
the employees paid their entitlements in full.
Under pressure, the Prime Minister and his col-
leagues reluctantly succumbed to the public out-
cry and set up an ad-hoc scheme to fund all the
entitlements to the Ansett employees.
Whilst the scheme is providing some relief to the
former Ansett employees, the episode explicitly
demonstrated the fact that we do not have a com-
prehensive system that guarantees workers will be
paid their full entitlements when companies go
bust.
The inadequacy of the current scheme is particu-
larly evident with examination of the case of the
former employees of Traveland, a company that
was owned by the Ansett Group, who are still
waiting for their entitlements.
After Ansett collapsed, Traveland was sold to
Internova Travel and Traveland employees had
their employment terminated on 4 December
2001. Subsequently, Internova Travel become
insolvent, leaving the former Traveland employ-
ees without their jobs and without their entitle-
ments.
Because of the structure of the scheme, the for-
mer employees of Traveland are unable to claim
their entitlements under the Special Entitlements
Scheme for Ansett Workers (SEESA) set up by
the Government.
Instead, they were told to submit entitlements claims under the General Employees Entitlements Scheme (GEERS) that was set up after the collapse of National Textiles.

At the first creditors meeting of the Internova Travel, former employees of Traveland were told that GEERS would begin processing payments by 7 January 2001.

Of the more than 500 ex-Traveland employees who are owed $7.9 million, not one person has received any payment.

I am advised that on 12 February 2002, the Australian Services Union (Services Branch) were informed by GEERS that the payment forms are yet to be processed and it will take another month for workers to receive their entitlements.

This means that at best they will be paid in mid-March, over 4 months since they last received wages from Traveland.

Madam President, this situation is completely unacceptable and is causing an immense amount of distress to these workers.

It also shows a complete lack of commitment from the Howard Government to the plight of workers. When introducing the Air Passenger Ticket Levy (Imposition) Bill 2001 into the House of Representatives on 20 September 2001, the then Minister for Employment, Workplace Relations and Small Business, said;

the government “must plan for every eventuality” and

“Ansett employees have the right to their entitlements, and these are needed to help them through these uncertain times”

The government has clearly failed to meet this intention and should be held accountable for its deplorable actions.

Before the last election, the Labor Party devised a policy to guarantee the entitlements of all workers. Regrettably, with the election now past, this policy will not have the opportunity to be implemented by us.

But that does not mean the issue is dead.

Workers’ entitlements should amongst the highest priorities for the new Howard Government, and the Labor Party will ensure the issue is not forgotten.

Disturbingly, the government has signalled its intention to continue its persecution of workers and unions by reviving its policy of watering down unfair dismissal laws and, again, eroding the protection workers have from unscrupulous bosses.

The lack of leadership being shown by the Government has fortunately not extended to every corner of the private sector. Some companies are filling the policy and social void left by the Government.

One plan in particular that I am pleased has been brought to my attention is the proposal by Collex Pty Ltd to pay the entitlements of the former Denehurst employees at its Woodlawn mine site who have been left unpaid since Denehurst went into receivership in 1997.

Collex’s plan to use the disused mine void at Woodlawn for a bioreactor that will convert Sydney’s waste into clean, green renewable energy will provide a salvation to the former employees of Denehurst and the nearby community of Targo.

The only sticking point at the moment is approval has not been received from the State Government for Collex’s plan to construct a transfer station in Sydney to transfer the waste from truck onto a train for transportation to Woodlawn.

For the sake of the Woodlawn mine workers who have been waiting more than 5 years to receive their entitlements, this approval will hopefully arrive in the very near future.

I strongly recommend to the Federal Government that it takes a close look at the strategy being put in place by Collex at Woodlawn.

Doing so will provide them with an instructive example of how job security and workers entitlements are not a luxury but a necessity of economic survival and the epitome of the fair go Australian spirit.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Consideration

The following orders of the day relating to government documents were considered:


Torres Strait Regional Authority—Report for 2000-01. Motion to take note of document moved by Senator Ludwig. Debate adjourned till Thursday at general business, Senator Ludwig in continuation.

Thursday at general business, Senator Ludwig in continuation.


Department of Reconciliation and Aboriginal and Torres Strait Islander Affairs—Report for the period 30 January to 30 June 2001. Motion to take note of document moved by Senator Ludwig. Debate adjourned till Thursday at general business, Senator Ludwig in continuation.


Department of Foreign Affairs and Trade—Reports for 2000-01—Volume 1—Department of Foreign Affairs and Trade. Motion to take note of document moved by Senator Cooney. Debate adjourned till Thursday at general business, Senator Cooney in continuation.


Office of Film and Literature Classification—Classification Board and Classification Review Board—Reports for 2000-01. Motion to take note of document moved by Senator Ludwig. Debate adjourned till Thursday at general business, Senator Ludwig in continuation.


Department of Family and Community Services—Report for 2000-01. Motion to take note of document moved by Senator West. Debate adjourned till Thursday at general business, Senator West in continuation.


Australia New Zealand Food Authority—Report for 2000-01. Motion to take note of document moved by Senator West. Debate adjourned till Thursday at general business, Senator West in continuation.


Fisheries Research and Development Corporation and Fisheries Research and Development Corporation Selection Committee—Reports for 2000-01. Motion to take note of document moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.


Social Security Appeals Tribunal—Report for 2000-01. Motion to take note of docu-
ment moved by Senator Bartlett. Debate adjourned till Thursday at general business, Senator Bartlett in continuation.


Australian Communications Authority—Report for 2000-01. Motion to take note of document moved by Senator Mackay. Debate adjourned till Thursday at general business, Senator Mackay in continuation.

General business orders of the day nos 2, 5-8, 11, 15, 17-20, 22, 25, 29-35, 38-42, 44, 45, 47-53, 57-59, 61-66, 69, 71-79, 82-84, 86, 87, 89-91, 93-96, 98-101, 103-105, 108-112, 115-118, 122, 123, 125-128, 130, 132, 133, 135-137, 139 and 140 relating to government documents were called on but no motion was moved.

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—The time allowed for the consideration of government documents has now expired.

COMMITTEES

Membership

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

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (6.59 p.m.)—by leave—I move:

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

Community Affairs Legislation Committee
Appointed, as a substitute member: Senator Calvert to replace Senator Herron till noon on 20 February 2002.

Economics Legislation Committee
Appointed, as a substitute member: Senator Mason to replace Senator Chapman from 5.30 pm on 21 February 2002, and 22 February 2002.

Employment, Workplace Relations and Education Legislation Committee
Appointed, as a substitute member: Senator Calvert to replace Senator Crane on 20 February 2002; Senator Calvert to replace Senator Brandis on 21 February 2002; Senator Herron to replace Senator Brandis on 22 February 2002.

Foreign Affairs, Defence and Trade Legislation Committee
Appointed, as a substitute member: Senator McGauran to replace Senator Sandy MacDonald on 22 February 2002.

Joint Committee on the Broadcasting of Parliamentary Proceedings
Appointed: Senator West.

Joint Committee of Public Accounts and Audit
Appointed: Senators Crowley and Hogg.

Parliamentary Joint Committee on ASIO, ASIS and DSD
Appointed: Senator Ray.

Parliamentary Standing Committee on Public Works
Appointed: Senator Forshaw.

Rural and Regional Affairs and Transport Legislation Committee
Appointed, as a substitute member: Senator Colbeck to replace Senator Crane on 18 and 19 February 2002.

Select Committee on a Certain Maritime Incident
Appointed: Senators Calvert, Ferguson and Payne.

Question agreed to.

Foreign Affairs, Defence and Trade References Committee

Report

Senator HOGG (Queensland) (7.00 p.m.)—I move:

That the Senate take note of the report.
This report of the Senate Foreign Affairs, Defence and Trade References Committee was brought down just before the election was called last year. It is a very important report. I happen to chair this committee which was responsible for this report. It is not just for that reason that it is an important report. It covers a very important issue that the committee chose to address—that is, the recruitment and retention of ADF personnel. It looks at the important role the Australian Defence Force plays in protecting our country.

The committee worked very diligently on this report. We made some 12 visits outside the Canberra region to take evidence. It was very much characterised by the fact that we got evidence from both senior and junior ranks. The people who attended the various hearings that were conducted right across Australia were very forthright in bringing their tales of woe to us about the difficulties that were being encountered in the area of retention and recruitment within the ADF. Part of the problem that has been experienced in this area is outlined in the background section of the report at page 1. Paragraph 1.2 highlights the problems that have been confronting Defence. It states:

Over the last 20 years, there has been an extensive range of reports on the Australian Defence Force (ADF) touching on personnel issues. In fact, internal reports on personnel issues, especially on recruiting, have been issued about every two years. This plethora of reports has had the unfortunate consequence of maintaining a state of turmoil; they have not allowed Defence to settle down and work through a serious of recommendations before the next report was issued.

This was made clear to the committee on its visit to the Tuggeranong headquarters of the Defence Force Recruiting Organisation. They lined up for us on the desk a number of reports that typified the statement that is made at the commencement of this report. They have never really got on top of the issue—never really been allowed to get on top of the issue, in one sense, but, by the same token, have never been very diligent in implementing the outcomes of any of the reports undertaken into recruitment and retention.

Chapter 7 of this report which is headed ‘The way ahead’ is really important. I will go briefly through some of the comments made in that chapter which show the importance of the Department of Defence picking up its game in respect of retaining those well trained personnel they already have and recruiting, in some cases, very selectively, to areas where there are very substantial shortages within the defence forces. One of the questions posed in the chapter ‘The way ahead’ was whether the current recruiting system is meeting and will continue to meet the needs of the ADF. In the report it is stated:

It has been assessed that the ADF will not be able to meet a target force of 53,555 by 2010.

The report goes on to say:

The first step to restoring the recruiting system must be the implementation of improvements to the recruiting organisation and process already identified by the Defence Force Recruiting Organisation.

We found the Defence Force Recruiting Organisation very cooperative and very forthright about the difficulties confronting them. The report goes on to say:

This step must be supported by the development of a strategic marketing and advertising plan that appeals to the real reasons for enlistment and is focussed particularly on critical trades and wider demographic groups.

The report then goes on to talk about the impact of the Defence reform program on retention levels and recruiting. There is an ANAO report listed on the Notice Paper which, I believe, will not be considered this evening. It is an audit of the Defence reform program. I believe the Defence reform program, and the evidence shows this, has impacted greatly on the issue of recruitment and retention. I notice that the Deputy Clerk looks worried, but I point out that I know it is on the Notice Paper but my concern is that I do not think time will allow us to get to it tonight. Paragraph 7.4 states:

The heart of the recruitment and retention problem lies in the fact that, during the 1990s, Defence initiated a number of efficiency and rationalisation measures in order to enhance the ADF’s operational capability. These measures were neither well communicated nor well implemented. They reduce the ADF’s strength by 27 per cent.
and established a workplace environment that undermined the principal values of service in the ADF.

The report goes on to say:

The Department of Defence must now reassess those reform measures that reduce the number of personnel in recruiting, removed respite postings for ADF combat personnel and reduced the quality of base support.

These were the issues that came out in the inquiry that was conducted by the committee. ‘The way ahead’ in chapter 7 looks at the impact of changes to ADF conditions of service, pay and allowances on retention, and recruitment of personnel—and I will not particularly address that. It also looks at the impact of current career management practices on the retention of personnel—and I think it would be fair to say that, at the very best, the management of career practices for defence personnel was poor. Another issue addressed in the course of the inquiry was the reserves.

But the key issue identified in ‘The way ahead’ is that of retention. The report clearly states that is the key: not so much recruiting, but retaining those who have been well trained, who have cost the taxpayer substantial amounts of money to get to the desired levels of skill they now have and who are leaving our Defence Force in ever-growing and ever-increasing numbers. The challenge confronting the defence department is to stop that and to make sure that we retain those people within our Defence Force—otherwise it is a much wasted resource that is going astray. The final two paragraphs of the committee’s report at 7.9 state:

The evidence gathered by the Committee during this inquiry was wide ranging.

That clearly can be seen by looking at the range of witnesses that appeared before us. Further:
The picture of recruitment and retention gleaned from this evidence depressed the Committee.

And the word ‘depressed’ is highlighted. It did not matter what side of the political fence people were on, the evidence that came before us was depressing indeed. The report goes on to state:

Unfortunately, the cold fact is that many of the conclusions from previous reports (as early as the Hamilton Report) remain valid.

The quote there is:

It is an excuse for doing nothing; it is paralysis by analysis. All of the inquiries come up with essentially the same thrust. The most recent recommendations of the Defence Action Plan for People were little different to the Cross inquiry’s recommendations.

That is a quote from Dr Nicholas Jans from the Hansard of 20 September. The committee report went on:

Everything the Committee discovered during the inquiry was already known to Defence. The evidence had been in front of them for quite some time. The conclusions and recommendations of previous reports have either been ignored or poorly implemented.

The report ends up by stating:

The time for action is now!

And I hope Defence takes note of that.

Senator WEST (New South Wales) (7.11 p.m.)—I would point out that the Senate Foreign Affairs, Defence and Trade Committee’s report Recruitment and retention of ADF personnel is a unanimous report. It is a report that the committee worked very well and very hard on—and I think, if the defence department and the minister ignore this report, they do so at their peril. The issue of recruiting and retention in the Defence Force is not a new problem, but it is getting very much worse.

Before I get too far into my remarks, I would like to say thank you to two people who were on the committee and who were very involved and very essential in the production of this report. They are Mr Paul Barsdell, secretary of the committee, who retired the day before this was tabled out of session; and Lieutenant Colonel Stuart Smith, who was on secondment from the ADF and who helped with this as well and who has now gone on to command 1RAR in Townsville. To those two gentlemen, we say a very great thank you on behalf of all of the committee. The work they put into this was immense and it certainly enabled us in a very short time frame to come up with a report that I think is a very good one.
When we went through and around the countryside, the report says that we got depressed. I got more than depressed: I got very sad. Back in 1988-89, I worked for Minister Kelly and Minister Simmons when they were Ministers for Defence Science and Personnel. I had responsibility for looking after the issue of families, and another person and I worked on such matters as schooling and spouse employment. In this country today, we still do not have a common age at which children start school; we do not have a common nomenclature for the classes that they start school in; we do not have a common length of schooling in high school. We have children commencing school at different ages. In 1988-89 we had the situation where there were twins in Victoria, children of ADF personnel. They had been a bit hyperactive, a little bit difficult and a handful for their mum—and they were not the only such children. They started school in Victoria in the late January/early February when they were four years and, I think, 10 months old; they had not quite turned five.

In the May of that year, the family had a posting to Enoggera and, because the Queensland starting age had to be five, these children were not allowed to go to school. Other children who moved from various states kept being told that they had to change their handwriting style, because each state said, ‘Our handwriting style is the best and it’s the only one our children will use.’ For me, if I can read it, I do not care what your handwriting style is. I thought we had sorted those problems out—that once a child had started school, the child stayed at school and that handwriting styles were recognised across the country. But we had reports 12 years later that these problems were still being encountered by families and by children. This made me more than depressed; it made me very sad, because I thought we had fixed the problem, but obviously we had not. Some of the states are still being difficult or, rather, to get to the point, some of the schools are being difficult about it. You can get an old fuddy-duddy principal who will not change and who says, ‘This is the style of handwriting they’ll have to have,’ and ‘No, we don’t want them in the school because they’re too young,’ despite the fact that the children have already started school.

There is a crying need for a common starting age and some common nomenclature. If you start school in New South Wales, the first year of schooling is kindergarten. If you start in Queensland, I think it is year 1. If you start in Victoria, it is pre-primary or something. If you start somewhere else, it is given a different name. There are names all over the place. That is not good for the children. They do not comprehend what they are being taught, what grade they have gone into or what they have done. In one area it is preschool, in another area it is kindergarten and in yet another area it is year 1. The poor little things get confused. When they go into high school in Queensland—they start in year 1 and go through to year 7 in primary school—year 8 is the first year of high school.

Senator Patterson interjecting—

Senator WEST—It is a similar problem. If you are in New South Wales or Victoria, your last year of primary school is year 6 and you go into high school in year 7. What happens to a child who is, say, in New South Wales and is finishing year 6 and expecting to go to high school the next year and dad or mum gets a transfer to Queensland? Suddenly they find they are not going into high school; they are going into year 7 but it is still primary school. In another situation, a child may feel that they have missed a year of schooling because they have gone from year 5 to year 7. It is just so confusing and it is still a problem.

Senator Hogg—It is causing difficulties in Defence.

Senator WEST—It is causing difficulties in Defence—and Defence is not the only organisation that has this problem. It is one of those sorts of pressures that add up on families, and it gets to the stage where a family member says, ‘I’m staying here while you go on a posting somewhere else.’ You get family separations. We know that Defence has a higher than normal marriage break-up rate.

Senator Ferris—Like politics.

Senator WEST—Like politics, yes. Families get separated and that is a problem.
We really do have to address these issues to make it easier for families to move around with their Defence spouses, as they have to move from state to state. And that is fine; they expect to be moving. As a result of the Cross report there were going to be three-yearly postings and back-to-back postings, which meant there would be a total of six years in a place. That seems to have gone by the board. We had so much evidence of people doing about 12 to 18 months in a posting and then getting moved at short notice that it was not funny.

In the Navy there is a critical problem and it is affecting the ship-to-shore ratio. People expect to do three years at sea and then come back for three years. But those in speciality areas—where there are some of the critical shortages—are finding that they are basically doing three years at sea, coming back for 12 months, if they are lucky, and then going back to sea again. There is a great deal of dissatisfaction in that particular area. Some of it is related to the commercial support program that has been introduced, where contractors are brought in to undertake the speciality work that the Defence Force personnel would normally do. For the sailors, it means they do the speciality work when they are on board the ships or submarines at sea. But, when they come back, they find themselves with a shore posting, and they get put into—we had excellent evidence on this at Stirling in Western Australia—what they call FIMA, which is an engineering area. But between FIMA and the vessel are demountables, and in the demountables are the contractors. All the exciting, complex and stimulating work ends up in the demountables, and they become what they call card jockeys—just changing the chips on particular pieces of equipment. That has certainly led to them feeling very dissatisfied and has led to greater separation because they are not getting job satisfaction. Because they are not getting job satisfaction and there is a shortage of these personnel, they are actually leaving in greater numbers, which exacerbates the problems. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Superannuation and Financial Services Committee Report

Senator SHERRY (Tasmania) (7.23 p.m.)—I move:

That the Senate take note of the report.

This is another impressive report by the Senate Select Committee on Superannuation and Financial Services. Before I go to some of the important elements of this report, listed in appendix 4 of the report is a list of the reports issued by this committee. In the years 1991 to 1998 there were 31 reports in respect of aspects of Australia’s superannuation system. In the years 1999 to 2001 there were some 23 reports. It is a very hard working committee. It focuses on a very important aspect of Australia’s retirement incomes; that is, superannuation. It also holds the record for the longest in the history of the Senate as a select committee. Despite the length of time it has been in existence, it has issued a number of very impressive reports.

The report I am speaking on tonight relates to the issue of early access to superannuation benefits. Many in the community are not aware that there are special provisions that allow persons with superannuation savings to have conditional access to those savings prior to what is known as preservation age—which is from age 55 to age 60, depending on when you were born. If you were born during the period 1960 through to 1964, the age of access preservation is increasing to 60. There are two broad provisions for accessing your superannuation early. One is known as the hardship provision.

The hardship provision is outlined in some detail on page 6 of the report. Under this provision, a person is required to have been in receipt of Commonwealth income support payments for a continuous period of at least 26 weeks and unable to meet reasonable and immediate family living expenses or having reached a preservation age—the age I referred to earlier—in receipt of Commonwealth income support payments for a cumulative period of at least 39 weeks and not gainfully employed. ‘Commonwealth income support payments’ includes a service or social security pension or social security
benefit other than Austudy or Youth Allowance and, as from 1 January 1998, drought relief payments and salary or wages under the Community Development Employment Project Scheme.

In addition to that there is a category that is known as compassionate grounds. This provision may be available on application to the regulator, the Australian Prudential Regulatory Authority, commonly known as APRA, where the money is to pay for prescribed expenses and he or she would not otherwise have the financial capacity to meet these expenses. Prescribed expenses are medical treatment or medical transport; palliative care in the case of the impending death of the person or the person’s dependant; expenses associated with a dependant’s funeral or burial; where the person is severely disabled, payments to modify the person’s home or vehicle; payment on a loan to prevent foreclosure of a mortgage on the person’s principal place of residence.

I must say the extent to which early superannuation moneys are being accessed under these two broad provisions was a shock to me and I think a shock to most members of the committee. It was very difficult to get the precise figures, but ultimately we were able to obtain those figures. Up until 1996-97 the old ISC, the Insurance and Superannuation Commission, administered early release applications. In 1996-97 some $254 million was released early. That had grown from a figure of just over $200 million in 1993-94. APRA, who were the successor of ISC, could not provide the committee with a breakdown of early payments in respect of hardship. I think that is something that should be remedied, because we do need accurate figures. We were able to rely on the advice from ASFA, the Australian Superannuation Funds Association, who estimated that in the year 2000-01 under the hardship provisions there was $350 million in early withdrawals from superannuation to approximately 83,000 applicants. In the area of compassionate grounds, for which you need APRA approval, there was some $27.3 million. That comes to a total of almost $380 million in 2000-01 in early release from superannuation. This is a staggering figure and a staggering number of applications. Interestingly, in the area of compassionate grounds mortgage assistance takes up some 60 per cent of the $27.3 million. If the bank or financial institution is threatening foreclosure, an individual is able to receive a payment from the superannuation fund of one year’s principal and three months’ interest.

These are truly staggering figures under these early access provisions, and they have been increasing dramatically over the last decade. Again, while it was hard to get some figures, it appears that applications for early release are overwhelmingly from low and middle-income earners. Obviously, with the provisions in respect of 26 weeks unemployment and the threat of foreclosure of mortgage, the majority of applicants are low and middle-income earners.

The committee was asked to examine an extension of the provisions. It was somewhat reluctant to do so, given the already extensive early withdrawal of superannuation benefits. Superannuation is its primary purpose. Its stated primary purpose is to provide additional retirement income, particularly given the problems faced in relation to the ageing population. However, the committee did make one specific recommendation in this area. We had evidence from the Motor Neurone Disease Association. I did not know anything about motor neurone disease, but apparently it is a disease from which death is inevitable. It is a matter of time rather than whether or not recovery is possible. We did recommend that, in circumstances where an individual, as certified by two medical practitioners, is facing death and there is no known cure for their disease, they should be able to access their superannuation moneys earlier.

There are a number of other recommendations. Importantly, the committee recommended that Centrelink would be the appropriate agency for coordinating the early release of payments. There was evidence that some people are able to abuse the early release system because, if they are a member of more than one fund—and that is quite common—they can go to one fund and claim up to $10,000 under the hardship provisions and then go to another fund and claim an-
other $10,000 if they have the money in the fund, and they can do that in one year. It is critical that an agency is coordinating these early release provisions.

The early release provisions also are a substantial problem for some superannuation funds, because the provisions in respect of hardship only apply where the fund has the early release provision written into its rules. The committee recommended that, if we are going to have early release, there should be a standard provision and a fund cannot deny the early release provision. What is happening is that, if the fund does not allow early release, some people shift their money out of that fund and into another superannuation fund so that they can gain access under the early release provisions. It is a very good report, and I recommend it to the Senate. I seek leave to continue my remarks later.

Leave granted.

Senator COONEY (Victoria) (7.33 p.m.)—As I was listening to Senator Sherry, I was moved to say something. Superannuation and pensions are things that one day even you, Madam Acting Deputy President Crowley, and I might become interested in. It does raise this issue of how we will provide for future generations as they age. I think this is one of the great policy issues for any government to take on and a matter to which this parliament ought and shall pay more attention. I think it will become a perennial issue—and there are a few of them such as industrial law, Corporations Law, family law and law relating to compensation for injury—because it deals with the very central issue of the way we go about our financial life and, following on from that, our social life.

I have been in this chamber for some years now, and I am now at the stage where I am reflecting on things from the past and making comments that I might not make if I was going to be here forever. I would like to take this opportunity to pay tribute to Senator Sherry, who, since I have been here—and I have been here longer than he has, so I have been here since he has been here—has persisted with this issue of superannuation and has forwarded the law relating to it and the approach taken towards it in a magnificent way. There are other people I should mention too. Senator Watson, also a Tasmanian, has done great work in this area. But I think it is appropriate having listened to Senator Sherry, and having listened to him on many previous occasions, to pay him this tribute. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Economics References Committee Report

Senator COONEY (Victoria) (7.35 p.m.)—I move:

That the Senate take note of the report.

I think you will agree with me that this is the sort of thing that the past member for Hawker Mr Ralph Jacobi would have been very interested in doing. In the way I was paying tribute to Senator Sherry, I want to pay tribute to Ralph Jacobi in this area. I think you will agree that back in the 1970s and 1980s he was the one who pressed these issues, and they are flowering now. The things that were not good but that he predicted would come good have now come to pass, and I think that should be mentioned on this occasion. I seek leave to continue my remarks.

Leave granted; debate adjourned.

Consideration

The following orders of the day relating to committee reports and government responses were considered:

Employment, Workplace Relations, Small Business and Education References Committee—Report—The education of gifted children. Motion to take note of report moved by Senator Tierney. Debate adjourned till the next day of sitting, Senator Tierney in continuation.

Community Affairs References Committee—Report—Healing our hospitals: Report on public hospital funding—Government response. Motion to take note of document moved by Senator West. Debate adjourned till the next day of sitting, Senator West in continuation.

Sandy Macdonald. Debate adjourned till the next day of sitting, Senator Sandy Macdonald in continuation.

Employment, Workplace Relations, Small Business and Education References Committee—Report—Universities in crisis: Report into the capacity of public university to meet Australia's higher education needs—Addendum. Motion to take note of document moved by Senator West. Debate adjourned till the next day of sitting, Senator West in continuation.

Orders of the day nos 3, 5, 7, 9 and 12 relating to committee reports and government responses were called on but no motion was moved.

DOCUMENTS
Auditor-General's Reports
Report No. 16 of 2001-02
Senator HOGG (Queensland) (7.37 p.m.)—I move:
That the Senate take note of the document.

In my time in this Senate I have been very supportive of the reports done by the Auditor-General; I think they have a real positive role in the conduct of the business of this parliament. In particular, I am pleased to see this report into the Defence Reform Program by the Australian National Audit Office. The Defence Reform Program was launched under the umbrella of the Defence Efficiency Review back in about 1997, if my memory serves me correctly. It was designed to bring about a number of savings in the Defence portfolio and shift those savings from the blunt end of defence to the sharp end. Of course, I was always very sceptical whether those savings would be achieved and transferred from the blunt end to the sharp end of defence. Suffice it to say that I have spent quite a substantial period of my time in the Senate estimates trawling over the figures supplied by Defence personnel trying to make sense of the personnel savings that were claimed under the initiatives being undertaken and the redirection of those monetary savings into other initiatives. Some of the Defence personnel and I spent hours at estimates trying to make sense of their figures. Fortunately, I won on a number of occasions and the people from the Department of Defence would go away and redo their figures and bring them back. But, through

the whole process, it was important to make the personnel from the defence department who were responsible for the implementation of the Defence Reform Program accountable for the program and to ensure that the program was delivering what it had promised to deliver.

I pressed the defence department for their own internal audit, and I am pleased to see that there has been an external audit by the Australian National Audit Office. I will read briefly from the conclusions in a synopsis of that report:

DRP was expected to achieve one-off savings in excess of $500 million and at least $770 million, and possibly $1 billion ...

The report goes on to say:

Whilst that is very pleasing indeed, it is certainly not going to deliver everything that was first flagged when the DRP was brought before this Senate. The savings have been reduced by a decision that was hurriedly taken in the DRP process which saw Defence revise the number of personnel in the Defence Force from 42,500 up to 50,000. That has absorbed quite an amount of the savings. The report of the ANAO shows that that is requiring now an annual reinvestment of $649 million from 2003-04 to just re-establish that magical number of 50,000 in the Australian Defence Force.

It is a fairly good report—the synopsis I have read—in that it confirms many of my beliefs about the DRP process. It confirms:

At the start of DRP there was inadequate planning and analysis in generating initiatives and savings targets ...

It confirms:

Inadequate involvement of the Defence Groups that were to be responsible for implementing the initiatives meant that initiatives and savings targets were developed without the benefit of detailed information from these Groups.

The coordination of the DRP is referred to later on. The synopsis of the report also says:

DRP encountered numerous problems as a change program because the major focus was on savings and not on the initiatives themselves and their successful implementation.
That was evident over a number of successive estimates and additional estimates when the officers of the Department of Defence were queried. The focus was on the savings rather than on the initiatives themselves and the successful implementation of the initiatives with the savings. I am not saying that all this was done badly. I am not saying that at all. I think some of it was done well, but there were elements that were done not so well indeed.

The report of the ANAO goes on to say that target savings were often taken from the groups’ budgets ahead of the initiatives that were to produce the savings. Further, the groups were not held directly responsible for ensuring implementation of specified initiatives. It goes on, and I think this sums it up: Defence has recognised that DRP could have been better managed.

I think that is true indeed; it could well have been better managed. The report further notes that DRP savings expectations were based on the maintenance of a steady state within Defence. However, the report notes that the actual situation has been significantly different and that goes to the fact that there was an upgrading of the ideal Defence Force number from 42,500 to 50,000, which I said had claimed that $649 million for 2003-04.

The report also noted that Defence, and consequently the ANAO, were unable to establish a direct relationship between DRP savings and reinvestment in military capability due to the inadequacy of DRP’s management information systems. With my trusty calculator and pen and a little bit of adding up, I was able to find a number of loopholes in the systems that had been put in place. To Defence’s credit—and one has to give credit where credit is due—Defence did get their act together in the end. I note that Senator Sandy Macdonald, who is the Chair of the Foreign Affairs, Defence and Trade Legislation Committee, is in the chamber now and knows quite well that towards the end of the process we were able to track both the savings initiatives in terms of money and personnel and the transfer of those savings and personnel from the blunt end of Defence to the sharp end.

The report goes on to talk about the planning, monitoring and reporting, and I just note there that many of the DRP initiatives cut across defence group responsibilities and reform categories. The report notes that as a result lines of accountability became blurred. Importantly, though, the report goes on to say:

Without good systems for tracking savings and initiatives and for reporting DRP’s progress, it was difficult to assess the DRP’s achievements. Taking money from budgets ahead of initiatives enforced savings targets but it also adversely affected staff morale.

That was one thing that concerned me greatly. As I mentioned in earlier comments tonight on the recruitment and retention report of the Senate Foreign Affairs, Defence and Trade References Committee, it came out in that inquiry that the morale of people was affected by the change. Sometimes it was change for change’s sake. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 24 of 2001-02—Performance audit—Status reporting of major Defence acquisition projects. Department of Defence. Motion to take note of document moved by Senator Hogg. Debate adjourned till the next day of sitting, Senator Hogg in continuation.


Auditor-General—Audit report no. 30 of 2001-02—Performance audit—Test and evaluation of major defence equipment acquisitions: Department of Defence. Motion to take note of document moved by Senator Hogg. Debate adjourned till the next day of sitting, Senator Cooney in continuation.

Orders of the day nos 1, 2, 4-11, 13 and 15-17 relating to reports of the Auditor-General were called on but no motion was moved.
ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Crowley)—Order! Consideration of committee reports and other documents having concluded, I propose the question:

That the Senate do now adjourn.

New South Wales: Bushfires

Senator TIERNEY (New South Wales) (7.51 p.m.)—I rise tonight to put on the Senate record the recent Black Christmas in New South Wales and to discuss its lesson for policymakers in the New South Wales government. We all recall vividly the rampant bushfires that faced New South Wales and its people for 24 days from Christmas Eve through to the middle of January. While in excess of 700,000 hectares of land were burnt out, volunteers and professional firefighters bravely managed to save 10,000 homes and other land from the flames, often putting their lives on the line. As I drove back from the South Coast to the Hunter during these fires, I passed through the charred ruins of the Royal National Park, south of Sydney. Driving through the town of Waterfall in this park, I saw a sign on the side of the road that caught my attention. The sign said:

Thank you Fire-fighters for saving our town.

The memories flooded back of a time when, as a terrified five-year-old, I watched a wall of flame race for the town of Eden, with the entire population retreating to the nearby Asling Beach on Twofold Bay. People on that day brought with them everything that they could gather. Those that had better transport even managed beds, wardrobes and other furniture, which now lay strewn along the beach as if dumped by some giant wave. That far-off day in 1951, when I was a small boy, is etched indelibly on my mind. Along with the smoke you could almost smell the fear as people saw that we were about to lose the entire town. That Christmas, massive bushfires had crossed the nearby Victorian border and raced at 60 kilometres an hour through the tops of a great eucalypt forest towards Eden. In those days, petrol was stored in 44-gallon drums, and there was a large concentration of these near the centre of the town. We were all on the beach because the town was about to explode as spot fires broke out in Eden ahead of the wall of flame.

Earlier that day I had stood in the backyard with my two brothers, holding wet hessian bags, waiting for any spot fires that started from the fire laden debris that rained down from the sky like paratroopers before an invasion. Eventually the police sounded the retreat and everyone moved to the nearby beach. Then a miracle: there was a sudden change of wind. The town was saved, but this was more by good luck than good management. My family were to go through a similar experience almost six years later in the Southern Highlands, near Bowral, and that time there was no beach to escape to; but we were again saved by a shift in the wind. With that, I came back to the present, and another miracle that was the town of Waterfall in the recent fires: sitting in the middle of the national park, defended by firefighters and completely intact, while everything around it was charred and ruined.

When are we going to learn to better manage our forests and the fires that threaten them? This should now be a top priority, as there are now over 5 million people on the New South Wales eastern seaboard, increasingly encroaching on our native forests. The first step is to better understand what we are dealing with. The most graphic way to describe the eucalypt or gum tree is as an incendiary bomb: it is actually built to burn. Indeed, fire in the gum tree cracks open the very tough seed casing, which is the way the gum tree propagates. The gum tree needs fire, and it spreads fire with the fuel it produces—the leaves, bark and branches that fall to the forest floor. The tree also contains oils which not only burn but also give off through the leaves a gas that makes the mountains around Katoomba look blue. This gas is a great conduit for the spread of fire.

How can the gum tree and people better coexist to minimise the terrible danger to life and property that eucalypt fires pose? After the terrible bushfires in the fifties and sixties, we almost got our policies right, with landholders and state governments carrying out prescribed burns in the cooler, winter months in fire prone areas. This still happens, but it...
is not on the scale that is required and it is often not in time. Current state environment policies in this area are doing more harm than good. The burning down of the Royal National Park twice in seven years is stark testimony to that.

The Premier, Bob Carr, quite rightly rails against fire bugs and speaks of harsher penalties, but let us accept that for the smoke-screen that it really is. Pyromaniacs are driven by deep, twisted, psychological forces and are obviously not deterred by the existing harsh penalties. Even if you could find and jail this summer’s 40 culprits, which is not likely, it does not provide the answer for the 60-plus fires that were started by nature’s conditions and by acts of human carelessness.

What is needed now is a comprehensive and properly funded preventative fire management policy. The New South Wales government decision to allow the Rural Fire Service crews to forcibly backburn forests, backyards and national parks in certain circumstances is certainly a step in the right direction, albeit too late for those who lost their homes and possessions this Christmas. But why did it take Bob Carr so long to stand up to the National Parks and Wildlife Service? Could it be that the so-called ‘environmental Premier’ has become a complete captive of the extreme green movement and has nobbled prescribed burning by landowners and government authorities by tying them up in environmental assessment red tape? Extreme green groups have successfully convinced our Premier that in bushfire prone districts extensive environmental studies, including risk assessment maps, inspections by remote bureaucrats and community presentations should all be mandatory. But this policy, which has been implemented over the last five years, has been done with inadequate budgets, endless fiddling with priority lists and lack of control by local fires who know best where and when to do these controls.

The result was a conflagration in New South Wales this summer that was far more intense and extensive than it would have been in earlier times when more realistic policies prevailed. We all read and saw on TV after Christmas the story of the woman whose house was burnt down because the prescribed burning was delayed by an environmental report into the danger posed to the giant burrowing frog in the forest behind her home. Sadly, the house is now gone. The frogs, as well as a lot of other precious wildlife and bushland, have also been incinerated. Bob Carr’s chief environmental officer—

The PRESIDENT—Senator, you should refer to the Premier correctly.

Senator TIERNEY—The Premier, the Hon. Bob Carr’s chief environmental officer recently admitted that if such a delay prevents prescribed burns this winter it can be done next winter. That is a bit late for everyone who lost things this summer. The Premier must, for the sake of those who have recently watched their homes and mementos burn to the ground, put an end to the pampering of extreme environmental green groups who have had far too much say in forest policy and decision making. The fact is that prescribed burning is by far our best tool in preventing fires, and endless surveys and postponements will only cause more heartache and loss. Extreme green groups will no doubt rail against touching any bush with fire, but local residents and businesses will rejoice in the knowledge that their homes and businesses will be safer come the next Black Christmas.

As soon as state parliament resumes, the Carr government should move to authorise a comprehensive series of prescribed burns in the cooler, low growth, winter months. State environmental agencies should be given until 30 June to complete their assessments. If they are not finished, fire prevention groups should have the power to go ahead. This would be far preferable to the current extensive backburning that occurs around the clock in high summer heatwave and windy conditions, as our brave firefighters continue to risk their lives to save the lives and property of others.

Booker Prize: Peter Carey

Senator COONEY (Victoria) (8.00 p.m.)—Since we were last here, the winner of last year’s Booker Prize has been an-
nounced. It was Peter Carey, and I would like to acknowledge his greatness as an author. He won it for the novel *True History of the Kelly Gang*. The prize is given for fiction, but I think this book is very close to the mood, the culture and the feel of that time in north-eastern Victoria. Ned Kelly was born in Beveridge.

**Senator Schacht**—The Irish always stick together, Senator Cooney.

**Senator COONEY**—It is said that we Irish stick together; it is true. Kelly’s parents were married in St Francis’ Church in Melbourne, and that ought to be acknowledged. Peter Carey has won the Booker Prize for the second time for this work; his first one was won in 1988 for the novel *Oscar and Lucinda*, which has since been made into a film. It is a matter of pride not only for Victoria but for Australia generally that a person of Peter Carey’s brilliance should be given the Booker Prize. He has written about a man who stands tall in the folklore of Australia. Ned Kelly is a person who has a considerable influence on the culture—at least the culture that I am part of—in Australia. If I could read part of the citation for the award:

Australian-born Peter Carey was tonight named the winner of the 2001 Booker Prize for Fiction with *True History of the Kelly Gang*, "the song of Australia", published by Faber and Faber.

... Tonight Kenneth Baker commented: The judges chose Peter Carey’s True History of the Kelly Gang because it is a magnificent story of the early settler days in Australia, expressed through the unforgettable voice of a vilified man who came to stand for more than he knew.

That is correct. Ned Kelly was a vilified man, and that resonates through Australia today. People have been vilified and people are being vilified today because they may be pensioners, unionists, workers in ordinary jobs or asylum seekers. The way to get over that vilification is to look at the true facts that surround a particular case. Following the execution of Ned Kelly on 11 November 1880, there was a royal commission into the police force in Victoria. As a result of that, a lot of changes were made.

The Ned Kelly figure has presented itself in a lot of the art, literature and painting of Australia. The great painter of Ned Kelly was Sir Sidney Nolan—a great Victorian, which ought to be put on record in this context. Lots of other people have written about Ned Kelly, and one I like to refer to is Philip Jacobs. Jacobs wrote not a story but an account of Kelly’s trial in *Famous Australian Trials And Memories Of The Law*, which he published in 1943. He was a member of the Victorian bar and wrote about the trial from that point of view. The address that Philip Jacobs gave for himself in his book was Selborne Chambers. I have some affection for that place because it was there that I began my reading. Unfortunately Selborne Chambers has now gone, but it was a place which was quite famous for the people there—not myself, but other people. An example is the person I read with, Jim Forrest, who later became a judge and was an eminent jurist and, more importantly, a truly great man. He has two sons now at the bar, Jack Forrest and Terry Forrest. Sticking to the theme of the bar, the Chief Justice of the Victorian Supreme Court, The Hon. Chief Justice John H. Phillips—

**Senator Robert Ray**—A great Collingwood supporter.

**Senator COONEY**—A great Collingwood supporter. He wrote about the trial of Ned Kelly and pointed out a defence that should have been run and may have been if time had been available to Henry Bindon, who was required to defend Kelly on very short notice. Had he been properly instructed and equipped with the proper legal knowledge, Bindon would have run a defence of self-defence, which may well have led to Kelly’s acquittal.

The story that Peter Carey wrote is quite brilliant. It picks up the cadence of the *Jerilderie Letter*. I would recommend that all Australians read it—indeed, that everyone read it. The Booker Prize is not confined to Australian works; it is open to works throughout the world. I think the only other person to have won the Booker Prize twice is JM Coetzee, who is a South African.

The events that surround the Kelly activity took place in north-east Victoria. I will quickly go through the names, which will resonate with those who know about it.
There is Greta, where the house was; Beechworth, a great historic town in north-east Victoria—a beautiful place to go; Glenrowan, of course; and Benalla. But he did not confine himself to there; he went across to Jerilderie, where he wrote that great letter.

**Senator Schacht**—Don’t forget Stringybark Creek.

**Senator COONEY**—As Senator Schacht has reminded me, he went to Stringybark Creek, where the gun battle took place. Recently there has been a memorial set up there commemorating the deaths of Sergeant Kennedy, Constable Lonigan and Constable Scanlon—all Irishmen. The only one who got away was a Scotsman, McIntyre, who hid in the log and got away. When the monument was put up in Stringybark Creek, a descendant of Sergeant Kennedy and a representative from the Kelly family were present. It is interesting to note that Ned Kelly’s mother, Ellen Kelly, lived right into the 20th century and had the sad experience of having a grandson killed in the First World War.

The interesting thing that I want to finish with is that the expression used in the granting of the Booker Prize was that Kelly was a ‘vilified man’. That is going to be subject to all sorts of contention. But what I want to emphasise is that, given the sorts of things that we are looking at today, with more ‘law and order’ coming forward, every person should be judged on his or her merits and his or her merits ought to be judged on the facts as they really exist and not as people would want them to exist.

**National Service Day**

**60th Anniversary of the Fall of Singapore**

**Senator SANDY MACDONALD** (New South Wales) (8.10 p.m.)—Tonight I want to remind the Senate of two military matters of particular significance to our veterans community. Last Sunday, 10 February, was National Service Day. That is a day of recognition of our national servicemen. In the first intake of national service, between 1951 and 1959, more than 227,000 young Australians undertook a period of full-time or part-time service under the first of our postwar national service schemes. From January 1965 through until December 1972, a further 63,000 national servicemen gave between 18 months and two years of full-time or part-time service. In addition, more than 30,000 young Australian men elected to complete their national service obligation as members of the CMF, or what subsequently became the Army Reserve. National servicemen saw service during the mid-1960s in Malaysia in the Malayan Emergency and in Borneo during the Indonesian confrontation and some 17,400 served with distinction in South Vietnam. During the 21-year period that covered the two postwar national service schemes, 187 national servicemen were killed, with an additional 1,500 wounded during their service. This is very powerful evidence of the debt that present day Australians owe to these over-300,000 national servicemen.

As a consequence of this record of service and the need to recognise this service, the government announced late last year that it was awarding an Anniversary of National Service 1951-1972 Medal, and last Sunday the first of these medals were presented. More than 300,000 national servicemen are eligible and are expected to apply for the medal.

**Senator Schacht**—How many?

**Senator SANDY MACDONALD**—More than 300,000 and the next of kin are eligible as well. I am delighted that the government has seen fit to make this medal available. I particularly commend the Hon. Bruce Scott, the former Minister for Veterans’ Affairs, who pushed this agenda on behalf of the national servicemen of Australia. I see Senator Schacht in the chamber, and I know that he was very keen that that medal be awarded. It is very appropriate that it has been awarded. It is good news for the veterans community.

The other matter I wish to bring to the Senate’s notice tonight is that this week is the 60th anniversary of the fall of Singapore. A group of 22 veterans of the Malaysia and Singapore campaign are presently in Singapore to be in situ, so to speak, for tomorrow’s anniversary, 15 February. Few events have shocked Australians more than the fall of Singapore in 1942. For two decades Australians had understood that the island, with its naval base, was an impregnable fortress and the key to the defence of Australia. But the
fortress fell and more than 16,000 Australian service men and women were missing in action. The campaign that led to the fall of Singapore began on 8 December 1941, just after Pearl Harbour, when the Japanese invaded north-east Malaysia. RAAF Hudson bombers attacked the enemy ships. Australians served in other Australian and British squadrons. Around Singapore itself, the Royal Australian Navy conducted mine-sweeping and convoy escorts.

By mid-January 1942, the Japanese had pushed Allied ground forces down to the southern part of the Malayan peninsula. The swift advance was temporarily halted by Australian troops at Gemas on 14 to 16 January, Bakri and Parit Sulong on 18 to 22 January and Jemaluang on 27 January. On 31 January, British Empire forces retreated onto the island of Singapore. During the fighting in Malaya, Indian and British forces had suffered most, but in fact there were at least 649 Australian soldiers, 26 airmen and one sailor killed before the retreat onto the island of Singapore was completed.

The invasion of Singapore began on 8 February and the Australians bore the brunt of the Japanese attack, being pushed back to the southern side of the island alongside British, Indian, Singaporean and Malay troops. By 15 February—and of course tomorrow is the anniversary—only a small area around the city remained unoccupied and the enemy had captured the island’s water supply, which was something we all learned about as children. The troops were prepared to keep fighting, but the British commander General Percival ordered a surrender to stop the slaughter of civilians and troops. At least 1,125 Australians died defending Singapore. Some 15,000 became prisoners of war. In fact, the entire 8th Division became prisoners of war, one-third of whom later died in the appalling conditions of the labour camps. The true story of their courage in combat and captivity became known only when the survivors returned home at the end of the war. I wish the group of veterans well on their historic visit and note that this is an opportunity to remind all of us, particularly younger Australians, of the significance of this important military milestone.

**National Service Medal**

Reith, Mr Peter

Senator SCHACHT (South Australia) (8.16 p.m.)—Before I get to the main topic I want to talk about, I acknowledge, as a former veterans’ affairs shadow minister, the remarks made by Senator Sandy Macdonald about the government’s announcement on issuing the national service medal. We supported it when it was announced. We believe it is an appropriate award to give to recognise all of those who were called up to serve Australia between 1951 and 1972.

I want to talk tonight, in the minutes I have available, about the extraordinary political career of the former Minister for Defence, Mr Peter Reith, and the contribution he has made, unfortunately, to reduce the honour of this country and the honour of parliamentarians in the range of things he did. I know most of us here from time to time will make mistakes or will do something that we would regret later on, and we learn from them. Overwhelmingly, on both sides of politics, people are here with a generous heart and a generous mind to put their case on what they think is best for Australia. Very few politicians come in here and consistently do it the wrong way. Consistently, in the end they go to the bottom, not to the top. Unfortunately, Mr Peter Reith was one of those who always took politics to the bottom. If he had done it only once or twice, you could have forgiven him, but his career is an endless list of always either shaving the edge for his personal benefit or shaving the edge for his political benefit.

We know that Peter Reith was the head in the maritime dispute, deliberately provoking, deliberately wanting to create division, deliberately wanting to create industrial anarchy in this country for a political outcome. He lost overwhelmingly in what he tried to do and we all congratulate the Maritime Union, the workers and the majority of the Australian people who supported them in getting a fair go. What did we notice when the people he had recruited—many of them ex-servicemen—in conjunction with the pri-
vate companies were sent off to Dubai to be trained to come onto the wharf to bust open the union? When all that failed as a result of court decisions and those people were left lamenting, left hanging out to dry, did Mr Reith offer them any assistance? He walked away from them; he left them. As a result, a number of them have taken legal action and a number have publicly complained, but it did not concern Mr Reith one little bit that he had encouraged them to go and be part of it. He offered them money but, when it all collapsed, they were left high and dry. That was just typical of the attitude he had—using people and then leaving them.

Then we had the famous telecard affair. In one sense, if it was not so sad for what it did to the reputations of all members of parliament and this parliament, the telecard affair would have been a hilarious story. He openly admits he gave his telecard to his son, contrary to the rules and the arrangements laid down by his own government and by previous governments. He really did wrong, but he never offered his resignation, despite the fact that $50,000 was illegally spent on that card. It took several weeks of the most extraordinary public controversy before he finally agreed to pay back not only the $9,000 of the $50,000 but the whole $50,000. And then he said, ‘Poor me, I have to take a bank mortgage to pay off the $50,000.’ As a member of the public in Melbourne once said to me, ‘If I had misused a telecard belonging to my employer and spent $50,000, I would have been sacked on the spot, I would have been forced to pay for it, and I would have been charged by the police for fraud.’ But what did the minister do? He kept his job. Later on he was promoted, you might say, to the Defence portfolio. He was going to be the macho Minister for Defence. He busted all the arrangements and the style of a bipartisan approach to many defence issues that both sides have had for many years.

First of all, he centralised all the PR into one arrangement that all had to be checked with him. Nobody from the Department of Defence could say anything. We now have the scandal that developed as a result of what he did with the *Tampa* affair and the asylum seekers. My colleagues in this chamber and in the other house today and yesterday, because of the scandal, have forced the government to table the reports which show that Mr Reith lied. There are no other words for it—he lied. He deliberately lied during the election campaign to create hysteria against the asylum seekers. He was aided and abetted by the then Minister for Immigration and Multicultural Affairs and the Prime Minister. I admit that it served the other side’s purpose well. It was probably the deciding factor in winning the election for the government. Now it is all a lie.

He sat there for a month knowing that what he had said was wrong, was a lie. He let it stand because he did not want it to affect the electoral chances of the government. Since the time we knew he was retiring there has been no apology, He just says, ‘No, I thought this was that,’ and so on. That is the most extraordinary obfuscation. What does he do when he leaves the parliament? We find that he is already on the make again. What does he do? He accepts a job with Tenix, which is a company I have great respect for, as a defence consultant. I have to say that I think the Salteri family, a great Australian family committed to Australian defence manufacturing, has made a terrible mistake in employing him.

**Senator Faulkner**—Do you reckon they know they have made a blunder?

**Senator SCHACHT**—I suspect in the last three days they have probably recognised that it is a mistake to have him. In the United States it is a criminal offence to leave an administration and immediately get a job as a lobbyist in the area in which you were working in government. In America, with what he has done, he would be charged and if found guilty he would go to jail. While we have sleazes like Mr Reith, we ought to have that law in Australia. You cannot leave—

**Senator Ferris**—Madam President, I raise a point of order. The words that are being used by Senator Schacht to describe former minister Peter Reith are unparliamentary, and I would ask that you ask him to withdraw the word ‘sleaze’.

**The President**—Mr Reith is no longer a member.
Senator SCHACHT—In America, this sleaze would now be charged and, if found guilty, would go to jail for what he did in taking that job with Tenix. What do we know about Mr Reith? We would not put it past him now. Did he take a bagful of defence department documents about acquisition and about new contracts? Even if he did not take a bag of documents with him, he has it up here in his memory; he knows what the discussions have been. That is why in America they have the law that stops that from happening.

In opposition and in government, we have been bipartisan in many of these areas of defence acquisition. So at some stage in the near future when, quite rightly, the Tenix company is bidding for a contract its representatives will come to the parliament and speak to both sides to explain why its bid for a particular project is very good. Won’t it be amazing to see Mr Peter Reith come wandering into this place to go to the Liberal Party room? There they might give him a bit of a clap, but I suspect most will disappear. But can you imagine him on behalf of Tenix coming to the ALP caucus defence subcommittee to discuss acquisitions? I would have to say to my friend Paul Salteri, ‘Don’t bother sending him because it would be a conflict of interest and it would be a disgrace to have him come along.’

As I said at the start, we all make mistakes from time to time in this place. But the career of this man is a consistent ‘going down to the bottom’ for his own self-interest or for the political interests of the Liberal Party. In summing up my remarks—I have not said this about anybody else who has been in this parliament but I will say it about Peter Reith—he is a Liberal liar, he is a Liberal cheat and he is a dishonest Liberal. (Time expired)

Senate adjourned at 8.27 p.m.

Tabling

The following documents were tabled by the Clerk:


Lands Acquisition Act—Statement describing property acquired by agreement under sections 40 and 125 of the Act for specified public purposes [2].