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The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 9.30 a.m., and read prayers.

GOVERNOR-GENERAL’S SPEECH

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.31 a.m.)—I move:

That—

(a) the address-in-reply be presented to His Excellency the Governor-General by the President and such senators as may desire to accompany him; and

(b) on Wednesday, 28 August 2002, the Senate adjourn at 6.10 pm without any question being put, for the purposes of presenting the address-in-reply to the Governor-General.

Question agreed to.

The PRESIDENT—I inform honourable senators that His Excellency the Governor-General will be pleased to receive the address-in-reply to his opening speech at Government House on Wednesday, 28 August 2002 at 6.30 p.m. I extend an invitation to all honourable senators to accompany me on the occasion of its presentation.

WORKPLACE RELATIONS AMENDMENT (PROHIBITION OF COMPULSORY UNION FEES) BILL 2002

Second Reading

Debate resumed from 20 August, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator FORSHAW (New South Wales) (9.31 a.m.)—I take this opportunity to congratulate you, Mr President, on your election to the position.

Senator McGauran—You were going to talk about me when you finished!

Senator FORSHAW—Obviously Senator McGauran cannot wait for the retort that I was going to make as a response to his interjection at the conclusion of my speech last night.

The PRESIDENT—If Senator McGauran is going to continue to interject, he will have to do that from his own position.

Senator FORSHAW—In the very short time that I understand I have available, I would draw attention to the fact that Senator McGauran has in the past been a strong advocate for human rights. For instance, I am aware that on previous occasions he has strongly supported the efforts of the Solidarity trade union movement in Poland, which was fundamental to the restoration of democracy in that country and throughout eastern Europe. This demonstrates the hypocrisy and the two-faced nature of this government when it comes to industrial relations issues: they are happy to support the trade union movement in other countries where it is struggling for democracy and human rights. Historically, that is a role that the trade union movement has had around the world. It is one of the organisations that is essential to the maintenance of free and democratic societies.

The hypocrisy of this government continues with this legislation. That is nowhere more evident than it is in the title of the bill. This bill is known as the Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002. This legislation is not about compulsory unionism at all. That is a complete furphy. It is an attempt by this government to whip up some support amongst the ranks of its employer supporters against the concept of compulsory unionism. This bill is seeking to outlaw a legal practice in this country where trade unions and employers can enter into agreements for the payment of bargaining fees by employees in return for union services. To title this bill to suggest that it is an attempt to outlaw compulsory unionism is totally misleading. That, as I said, just demonstrates once again that this government has no shame when it comes to its attacks upon the trade union movement. (Time expired)

The PRESIDENT—I call Senator Hogg, and may I take this opportunity to congratulate you on your election as Deputy President.

Senator HOGG (Queensland) (9.34 a.m.)—Thank you, Mr President. Following
on from my colleague’s very illuminating speech on this issue, I think it is important to say that this is a very important issue to the trade union movement. I have a past steeped in the trade union movement, as everyone in this chamber knows. I participated in the trade union movement through the period of time when we went from a centralised wage fixation system to enterprise bargaining. With the emergence of enterprise bargaining we found that there were indeed a number of people on whose behalf we were bargaining at the workplace who, for reasons better known to themselves, refused to join the union but who, nonetheless, were always prepared to accept the benefits that flowed from the actions that were performed by the union. That, to me, is very un-Australian and it is an unfortunate trait in a number of people—they all want to get on the gravy train and they all want to accept the benefits that may flow, but they do not want to pay the price for achieving those benefits.

Contrary to what is being said by the government, bargaining agents fees are not compulsory union fees; they are fees for service. Contrary to what is in the explanatory memorandum to the Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002, we have now evolved from a centralised wage fixation system to a system which is basically user pays. The fee that the unions seek is to reimburse their costs of bargaining for and on behalf of all employees. I will come to why this is necessary in a few moments. I have been involved directly in negotiations where we have bargained for and on behalf of all employees. I will come to why this is necessary in a few moments. I have been involved directly in negotiations where we have bargained for and on behalf of all employees. All employees have had a role and a part to play in the bargaining process and all of those employees, at the end of the day, have benefited from that process. Indeed, they have willingly accepted those benefits.

We are dealing with a changed system to that which we knew in the trade union movement over a long period of time. As the president of the Queensland branch of the Shop, Distributive and Allied Employees Association, I am still reasonably close to what is happening in the enterprise bargaining area. I have the pleasure of being the chair of the executive on a monthly basis and I see reports passing across the meeting about the number of enterprise bargaining agreements that the union is actively involved in. These are numerous indeed. There are many loyal unionists who are being actively bargained for by the union, but there are also non-unionists who are gaining the benefit of the time, effort, energy and resources that the union puts into those bargaining exercises. It is only reasonable—and any person with a half degree of moderation in this would agree—that there should be recompense paid to the union for the activity that it has undertaken in this difficult exercise of enterprise bargaining.

One should be under no illusion that enterprise bargaining takes place and can be achieved in a relatively short period of time or that there is no skill involved. Enterprise bargaining can be a protracted process. Not only is it a protracted process, but it can be complex, given the arguments that the employers are likely to throw up in any enterprise bargaining exchange. There is a need for a degree of expertise and competency on the part of the employee representatives to match that which is put up by the employers. That is achieved and can be achieved in the real world only by union participation in the enterprise bargaining process. The structure of this is terribly important. I will quote briefly from the submission on this from my national union, the SDA, to the Senate:

The structure of the Workplace Relations Act makes very clear that a Certified Agreement made under either Division 2 or Division 3 of part VIB of the Workplace Relations Act, can be made between an employer and a registered organisation of employees. These agreements, once certified, apply to and bind all persons whose employment is covered by the agreement. This means that members and nonmembers alike gain the benefits of the agreement. Clearly there is a binding relationship which is bestowed by the act upon the employers and all employees. It only makes sense that, if that is the system that is in place—and that is not necessarily a system that was eagerly sought by the trade union movement when we moved from centralised wage fixation—we would see those people who are gaining the benefits of the system paying their legitimate part of the expense that has been
raised in gaining those agreements. The submission also says:

Employees of employers who are bound to either a Division 2 or a Division 3 agreement will receive the benefits of the agreement whether or not they are members of the union.

Union membership is not the qualification. It is the act that puts in place division 2 and division 3 certified agreements. With those certified agreements in place, all employees covered by them receive the benefit, whether they are union members or not. It follows then that workers who make no contribution to the union will gain the benefit of the work undertaken by the union in negotiating and bargaining and concluding an agreement with an employer and having such an agreement certified under the Workplace Relations Act. This submission was made by a union which is involved almost continuously in enterprise bargaining agreements. Literally thousands of agreements across this nation, at both the national and the state level, are made as a result of negotiating with employers. The submission also says:

Not only do the provisions of Section 170M and 170MA ensure that certified agreements made with registered organisations have application to non members but the Workplace Relations Act goes significantly further in Part XA by making it clear that it is an offence for an employer to treat a union member and a non union member differently.

If employees have a right to receive any benefit negotiated by a union with an employer then there should be a corresponding obligation on the employee to assist in funding the cost of the bargaining negotiation and representation process necessary to obtain and maintain those benefits.

In that submission by the SDA there arises the issue of obligation. ‘Mutual obligation’ is bandied around as being a fairly important concept in our society today. This government has pushed the issue of mutual obligation in a number of areas, particularly social security areas. Here we find that there is really an obligation to pay on the part of those people who have benefited, but the government is seeking through this bill to remove any obligation on their part. It just does not make sense.

What we have is a system where there really and truly has been established—not because of the desire of the trade union movement, but in part because of the move from the centralised wage fixation system to the current system—a position where there is a quite understated obligation on the part of people who benefit to contribute to the union which has undertaken the negotiation. Of course there is a lot of rhetoric, and of course a lot of hype is put out about the bargaining agent fee. None of that rings true of what happens in the real world. The bargaining agent fee is not designed to be a union fee. It is not designed to make these people members of the union. People who stand outside the union still have the right not to be members of the union, but it is like anything in this world—if you are a participant in the process, you cannot wash your hands of the process and say, ‘I will take what I like that is good out of the process but deny what I do not like in the process.’
When I was reading through their submission it was interesting to look at what the national SDA had to say about the overseas approach. Whilst we are not exactly similar to the United States and Canada, there is a system there based on enterprise bargaining agreements. Entrained and enshrined in the legislation of the United States and Canada are the rights of unions to bargaining agent fees. The SDA submission states:

In those two jurisdictions—that is, the United States and Canada—the concept of bargaining agent fees are well entrenched within the legislative framework of bargaining.

One does not need to look for a more anti-union, anti-worker environment than that in the United States, particularly, but even in that very capitalist environment one finds—entrenched in their legislation—that they have recognised that unions have a bona fide right to claim a bargaining agent fee. The submission goes on:

Both the United States and Canadian industrial relations system recognise the absolute right of unions to recover a bargaining agent fee, where the union has bargained an agreement, which provides benefits to all employees in a workplace.

Our government is seeking to be out of sync and out of step with international practice, with no cause or reason whatsoever. It is interesting that further on in the SDA submission the word ‘obligation’ comes up again in respect of the Canadian and United States systems. Again, I quote:

Both the Canadian and United States systems are based upon the concept of recognition of mutual obligations. If a worker is to have access to the benefits negotiated by a union, then the worker has an obligation to pay a portion of the cost incurred by the union in negotiating an enterprise agreement.

The submission goes on to what I think really gets to the nub of this bill. In looking at the Canadian situation, the submission referred to a decision of the Supreme Court of Canada in Lavigne v. Ontario Public Service Employees Union (1991), and the references are cited. Madam Justice McLachlin, part of the majority in this case, said most succinctly:

The whole purpose of the (Rand) formula is to permit a person who does not wish to associate himself or herself with the union to desist from doing so. The individual does this by declining to become a member of the union. The individual thereby dissociates himself or herself from the activities of the union. Fairness dictates that those who benefit from the union’s endeavours must provide funds for the maintenance of the union. But the payment is by the very nature of the formula bereft of any connotation that the payor supports the particular purposes to which the money is put. By the analogy with government, the payor is paying by reason of an assumed or imposed obligation arising from this employment, just as a taxpayer pays taxes by reason of an assumed or imposed obligation arising from living in this country.

That is on pages 345 to 346. The submission by the SDA goes on to draw this conclusion: The exact same logic compels the total rejection of the current Bill.

So here we have people operating in a woolly environment—not in the real world, not dealing with the day-to-day machinations of the enterprise bargaining process, not dealing with the votes that are taken or the consultation that is undertaken by the trade union movement through the enterprise bargaining process. We have people trying to inflict a regime which says, ‘We want enterprise bargaining; we know that the union is part of the process but we don’t want the union to be properly remunerated where it represents the interests of those non-members.’ The bill should be defeated.

Senator GEORGE CAMPBELL (New South Wales) (9.54 a.m.)—The Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002 is another fine example of the use by this government of Orwellian doublespeak in industrial relations. We have seen a series of bills introduced into this chamber, into this parliament, all with titles that have implied one thing and with content that has implied the exact opposite. Whether the Minister for Employment and Workplace Relations, in taking this approach, thinks he can con the Australian people into believing he is trying to do rational things in the area of industrial relations is one thing but whether he thinks he can con us into supporting draconian style legislation simply because it has a high-sounding title is
another. I condemn the government for the misleading title of this bill. It is not a bill about compulsory union fees. If that were the case, that phrase would be used at least once in the text. It is not referred to at all in the text of the legislation. The bill refers only to bargaining service fees, which are defined to specifically exclude union membership dues, and that is another transparent attack on unions and the millions of workers they represent.

This is an issue pursued by the current minister with all the fervour of a zealot. He has turned this into an ideological issue. He has turned every industrial relations issue this government has dealt with during his period as minister and during the period of his predecessor into an ideological issue. One has to pose the question: is this minister serious about promoting industrial relations reform in this country that will benefit the participants in the system or is he simply about putting forward legislation in this chamber to build a bank of bills that potentially can be used down the track to promote a double dissolution, to create the environment that maximises the political options available to this government? While, on the one hand, he has said a lot in the public arena about the necessity of some of this legislation, he has had an opportunity on other bills to pick up amendments that would have made those bills more rational and more able to be worked within the industrial relations community, but on all occasions he has rejected them simply because he has not been able to get his own way. One wonders in fact whether he wants the legislation to be passed by the parliament at all.

The government’s rhetoric in support of this bill is intended to promote the myth that bargaining fees in enterprise agreements are being forced on employees without their consent. This is not correct and would not be possible under the relevant legal framework. The Workplace Relations Act 1996 requires that all employees who will be subject to an enterprise agreement must have ready access to a proposed agreement for at least 14 days beforehand, that employers must take reasonable steps to ensure that the terms are explained to employees and that a valid majority of employees voting have genuinely agreed to the agreement. The commission has specified that genuine agreement requires both informed consent and an absence of coercion.

The approach taken to the matter of bargaining fees in certified agreements is also inconsistent with the government’s approach to negotiation of AWAs. An employee can appoint their union as their bargaining agent in relation to an AWA and nothing precludes the union from charging a fee in respect of such an arrangement. And yet the government would seek to prevent employees from agreeing by a majority vote to a collective agreement that includes such bargaining fees. The minister argues that employees should not be liable to pay a fee that they have not, individually, agreed to prior to the service being provided. This might carry some weight if employees were in a position to reject the service, with the consequence of being excluded from the benefits of a collective agreement negotiated by a union.

However, that is not the case under the current act. The government opposes unions striking agreements that restrict the benefits of their negotiated agreements to financial members of the union. In early 2002, the Employment Advocate applied to the Federal Court for the removal from several certified agreements of a clause providing insurance for union members. He argued that the clause is contrary to the act because it extends a benefit of insurance cover to employees who are union members instead of extending it to all employees.

The minister has made it clear that he expects unions to represent nonmembers, as in his criticism of unions for failing to insert a redundancy pay provision into the award covering OneTel employees. It might surprise the minister and some people on that side of the chamber that historically, since 1905, unions have consistently represented non-union members in the industrial relations system. They have consistently argued on behalf of non-union employees. Every award struck in the federal Industrial Relations Commission since 1905 has provided not only for wages and working conditions for union members but also for the extension
of those wages and working conditions to non-union members.

But we are living in a different environment in the year 2002. We have enterprise bargaining as the central focus of our industrial relations system. By its very nature, that is a system that requires considerable use of resources in order to promote the system effectively. Because the government has also tried to outlaw pattern bargaining, it requires unions to visit virtually every workshop, workplace and employer, serve logs of claims on every individual employer in this country and sit down with each individual employer and go through a process of negotiation to achieve an outcome. That consumes enormous resources from the point of view of the union, and over the period that bargaining has been in place unions have had to put additional people into the field in order to cope with the demand and the requirements of their membership. In those circumstances, why shouldn’t they seek some recompense for the effort that they put into securing improved wages and working conditions for employees and workplaces? Union members pay for it by virtue of being members of the organisation, and why shouldn’t those other employees in those enterprises, who get the benefit of the effort put in on their behalf by other employees, also make a contribution to the achievements that are made on their behalf?

This government, in fact, are strongly wedded to the concept of user pays and individual responsibility. If that is the case, why won’t they also apply that to union members and non-union members? Why can’t they see that those persons achieving a benefit as non-unionists should also make a contribution to that achievement, as is the reasoning they would apply in other areas? In his minority report resulting from the committee’s inquiry into the Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2001, Senator Murray, from the Democrats, stated:

It is hard to see how provisions for bargaining fees should be against the spirit of the WRA and its object of facilitating agreement making. Agreement making is desirable, and if fee-for-service contributes to that, it is to the good. There is also the issue of ‘free-riders’, by employers on the backs of employer organisations, and employees on the backs of unions.

It is interesting that in the inquiry held into this particular piece of legislation we had the employer unions, such as the AIG, coming along and arguing very strenuously that nothing should be put in this legislation that would prevent them from collecting their fee for service when they represent individual employers, because not every employer represented by the AIG or by other employer unions is necessarily a member of those organisations. But they all operate very substantially on charging fees for service to those employers who, from time to time, they may get a brief to represent. While on the one hand they were arguing that unions should not have access to such a provision, on the other hand they were very keen to ensure that whatever was done did not operate in such a way as to preclude them from being able to collect those fees for service.

As Senator Murray has pointed out, if the 2002 bill is intended to deal with compulsory unionism, this is already comprehensively prohibited under the act. The government argues that bargaining fees are inconsistent with freedom of association. If this were correct, bargaining fees would be prohibited by the International Labour Organisation principles and standards, which are founded core principles such as freedom of association. No such limit exists. In contrast, bargaining fees are permitted by the ILO and in countries such as the United States, Canada, Switzerland, Israel and South Africa, which are also known for their adherence to principles of freedom of association.

The ILO views bargaining fees as a valid issue for collective bargaining, with its freedom of association committee holding:

When legislation admits trade union security clauses such as the withholding of trade union dues from the wages of non-members benefiting from the conclusion of a collective agreement, those clauses should only take effect through collective agreements.

The ILO’s general survey explicitly states that bargaining fee provisions, when negotiated between unions and employers, are consistent with freedom of association principles. It says:
[Clauses in collective agreements] may also require all workers, whether or not they are members of trade unions, to pay union dues, or contributions, without making union membership a condition of employment ... or oblige the employer, in accordance with the principle of preferential treatment, to give preference to unionized workers in respect of recruitment and other matters. These clauses are compatible with the Convention provided, however, that they are the result of free negotiation between workers’ organizations and employers.

In conclusion, the Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002 is nothing but a blatant attack on unions and their legal efforts to recover some of the costs of negotiating agreements that benefit nonmembers. Some points need to be reinforced. The behaviour this amendment seeks to outlaw is not compulsory unionism. Compulsory unionism is already outlawed under the Workplace Relations Act. Nor is the bargaining agents fee undemocratic. It requires the consent of the majority of the workforce before it can be included in an enterprise agreement. If it is good enough for workers to vote before going on strike, as the minister desires, then why is it not good enough for them to vote to have a bargaining agents fee that is enforceable. It is only fair that workers who enjoy the benefits of union enterprise agreements and cannot be excluded under the Workplace Relations Act pay for some of the costs of those negotiations. The government does not support free-riders in other spheres of our society, and it should not here. Bargaining agents fees are consistent with International Labour Organisation principles and are observed by many countries with economies as advanced as ours.

The point here is that unions, by negotiating freely and fairly with employers, set benchmark remuneration and conditions of level benefits for union members. That sets the market rate, to put it in economic terms. That is the rate that non-union members obtain as a free good if they are not members paying a fee, and that is the rate that non-union members negotiate from if they are involved in direct individual bargaining to try to improve their situation and justify why in their particular case—a case I do not necessarily agree with, but nonetheless they are entitled to this view—an individual work agreement is a better deal. Once the market rate is set, that is the benchmark. To bias the playing field so that that market rate cannot be fairly set is not in the economic interests of this nation. It is certainly not in the domestic interests of individual families who have to survive on the income they receive. If the industrial relations system is palpably unfair it will inevitably break down, because if it is unfair Australians are such a robust
group of people that they will not cop it. If they do not cop it we will have industrial disputation in this country, which we do not want to see. If there is industrial disputation the people who will be hurt worst are the workers who withdraw their services and lose their incomes. As a Labor person, I do not want to see families suffer in that way, but it will occur in this country if the injustices visited on them, or the lack of fairness delivered to them, means that the outrage is greater than the pain suffered to try to correct it.

Therefore, we as legislators in this place have an obligation to ensure, above everything else, that the playing field is fair—that it is not unfair—that it is seen to be fair and that people can fairly engage in negotiations on it. This bill denies that opportunity. This bill, therefore, should be rejected. The words ‘mean and tricky’ come to mind.

Senator Jacinta Collins—You refer to Peter Reith!

Senator COOK—No, Senator Collins. That is not a quote from the ex-minister for industrial relations, Peter Reith. The words ‘mean and tricky’ are a quote from the President of the Liberal Party of Australia, Mr Shane Stone, in a letter to the Prime Minister in March last year in which he said that the Prime Minister was perceived as being ‘mean and tricky’ in the conduct of his office. We know that this letter exists and that this is a truthful quotation because it was published in full in the Bulletin magazine. That is, in fact, a very good description of what this bill is: it is mean and tricky.

Let us take the title of this bill. It uses what in the normal course of events would be regarded as agreeable language—a language to which ordinary Australians would take no exception. But that agreeable language covers a devious purpose. The title of this bill absolutely misrepresents what this bill is about, but ordinary Australians looking at the title would say, ‘What is wrong with it?’ The title of this bill says ‘Prohibition of Compulsory Union Fees’. There is no definition and no repeat of that phrase anywhere at all in this bill. That title does not say what this bill is about. This bill is about—because the bill itself defines what it is about—bargaining services and payment for bargaining services. There is a universe of difference between the two concepts.

Let me illustrate that. Where a workplace has decided to negotiate a collective agreement, where the bargaining agent is the union and where most but not all members of that workplace are members of a union, the union as the agent and on behalf of all workers in that workplace negotiates with the employer, and eventually—and, hopefully, peacefully—a deal is struck. In order for that deal to have validity and to be certified as binding, there has to be a vote in the workplace and all workers who will benefit from that deal, whether or not they are union members, vote. All of those beneficiaries, if it is an affirmative vote, pocket the advantage, whether or not they are union members. Union members, by virtue of being union members, pay a fee to their union to provide that service, but non-union members do not. The proposition here is that those that benefit should pay a service fee—that is to say, they should not be required to join the union, but if they take advantage of the service that is being rendered they should pay a small contribution towards the cost of providing that service.

The government elsewhere in its legislation refers to this as ‘mutual obligation’. It says to welfare beneficiaries, ‘You have a mutual obligation to put some contribution back into the system, if you are a beneficiary of the system.’ I have no difficulty with that general concept. Sometimes it is applied unjustly, but the concept itself is not remarkable; it is a fair concept. The concept here is that beneficiaries should make a contribution to the cost of achieving the benefit. This is lawful in Australia. It is also lawful in the United States of America, which is the home of much of the ideological attitude that this government brings to industrial relations. It is also lawful in Canada, Switzerland, Israel and a range of other countries. This is not an exceptional idea.

It is so lawful in Australia that an appeal as to whether or not this should apply has been taken to the Industrial Relations Commission, and the umpire has ruled that it should apply, that it is fair. The government
has an opportunity through the High Court to appeal that decision of the umpire if it disagrees with it—and, incidentally, I understand that the government has lodged an appeal. The big questions hanging over this debate are: why won’t the government allow the umpire to make a fair decision based on the merit of this case and why is it reaching over the court system to tie the hands of the umpire and prevent it from making a decision? They are the big questions that hang over this case, because the door is open, the appeal is lodged and the process can proceed. The only conclusion one can fairly draw is that the government is afraid that the courts will uphold this process as legal, as it is in the United States of America, Canada and a range of other countries where this type of bargaining—the system that we have now adopted in Australia—applies.

The economic term for a group or an individual that takes an advantage without making a contribution to it—and it applies in the economy in general—is a ‘free-rider’. That person without making a contribution takes the ride at no cost. The behaviour that the government is wishing to enshrine in this legislation is to encourage a proliferation of free-riders. In looking at all the economic texts, we see that that is regarded as something that should not be encouraged and that in the interests of good government free-riding should be eliminated. Yet, in reverse of the economic line that this government preaches, in this particular set of circumstances encouragement of free-riding is being proposed.

One does not have to be very bright to work out why all of this is taking place. One does not have to be very bright to go to motive, because Mr Tony Abbott and Mr John Howard frequently tell us what their motive is. We are bound, given that they repeat this, to believe them when they say what their motive is. Their motive is to break down the bargaining power of unions in Australia. They are anti-unionists. I do not take exception to that; they are entitled to have that view. But they are not entitled to abuse high office by removing the rights of ordinary Australians to protect their employment interests if they choose to be members of unions—where workplaces in Australia vote through a collectively bargained arrangement, with the union as the agent, in order to break down the power of the union and bias and skew the bargaining outcomes against ordinary workers. While they are entitled to be non-unionists, they are not entitled in the national interest to abuse their elective office by implementing a regime that works against ordinary working people.

There are a number of things that can be said about this which in the government’s own terms need to be considered. People listening to this broadcast may remember that back in 1996 when the government was first elected it said two things about industrial relations. The first was that we should keep third parties out of the workplace, that we should allow the people in the workplace to make the decisions that govern that workplace. That was the main platform upon which the government based its argument. This process places the government squarely in the workplace and says to the parties in the workplace, ‘There are things that you can do, but there are things that we will prevent you from doing.’ Government has intruded into the workplace, into the partnership that occurs between workers, employers and their agents in that workplace. Based on the government’s own electoral mandate—it claims that every detailed point of its complicated manifesto was voted for and endorsed, which is a concept I find somewhat odd—the first point I make is that this is against what the government promised the Australian electors.

The second justification is even more bizarre and goes back to the mean and tricky concept that the President of the Liberal Party, Shane Stone, accused the Prime Minister of in his letter that was leaked in March of last year. The justification advanced by the government for this legislation is that it is somehow consistent with the international convention Australia has signed up to on freedom of association. I know about the freedom of association legislation and the freedom of association convention, because I had the good fortune to participate in a renegotiation of it at the International Labour Organisation. The ILO is a United Nations
agency representing employer groups, worker groups and government groups in a tripartite international commission to reach agreement on what the basic international rules should be for fair industrial relations. This is all governments of all types of countries—workers, employers and governments—represented fairly and equally. When a body like this speaks, it speaks with some force, some power and, dare I say, with some dignity. It has defined what freedom of association means, and it does not mean this—it does not mean this, and it has said so.

In another realm this government is faced with the conflicting situation of rejecting United Nations advice when it comes to refugees but clothing itself in the protective arguments of the United Nations when it comes to other issues of international affairs, particularly in the current debate about a war with Iraq—we know that. The ILO is an agency in which Australia has had a long and proud tradition. It was founded after the First World War. Australia was one of the very first countries to be associated with it and is a proud member. To claim that what the government has put forward is freedom of association is complete nonsense. The only body that can define freedom of association is the International Labour Organisation in which all interests are represented, and it has specifically said that this is not freedom of association. Yet most Australians do not know that. Going back to the mean and tricky approach that this government has made its theme and motif, this government uses those words to cover a mean purpose with a benign or appealing slogan.

The third point I wish to make, which in some respects is related to an earlier point I made, is keeping the government out of the workplace. This is something that the government says, but it is not what the government does. The most dramatic recent example of this is in the automotive industry. In the automotive industry there is a history of a strong union movement, a strong employer group and robust negotiations that reach agreements which by and large work for the benefit of both. Where that happens you would have thought it was in the national interest to preserve a system that actually works. If it ain’t broke, don’t fix it, and this ain’t broke, so why intervene?

In the government’s recent submission to the Productivity Commission, the government made these observations about the automotive industry. They said that the automotive industry do not apply the government’s industrial relations policies. No, and under the act they do not have to. They are free to choose what industrial relations policies they apply in order to get the productivity and cooperation that they want from their work force. But the government object to this and say, ‘This industry’—if you like, the heartland of Australian manufacturing—‘should apply the policies that we as a government are ideologically committed to. So if they don’t come into line when we crack the whip and do as we ask we will remove from the automotive companies in Australia’—these are Toyota, General Motors Holden, Ford and Mitsubishi—‘contributions we make on an industry policy basis to encourage those companies to export and other commitments we make that encourage those companies to engage in research and development and other issues to make them more competitive.’

In other words, the government are so barefaced about their ideological agenda in industrial relations that they can threaten a major employer body that is the heartland of Australian manufacturing: ‘Comply with our ideological agenda. Change your ways or we will bring your industry down and render it less competitive, and then you will be out of business.’ This is not something that has achieved very much notoriety in recent weeks, but this is a total outrage, this is a threat to bring a manufacturing sector to its knees unless the ideological agenda of the government is adhered to. This is a very good reason why this chamber should say to the government: ‘Enough is enough. No more.’ The principles upon which we want to see industrial relations conducted in this country involve a fair and level playing field in which working people that want to protect their rights and choose to be union members can do so with dignity and respect and can conduct their affairs honourably, and employers should be able to do the same. There
should not be one set of rules for one lot and another set of rules to make victims of the other lot. *(Time expired)*

Debate interrupted.

**FIRST SPEECH**

The PRESIDENT—Before I call Senator Nettle, I remind the honourable senators that this is her first speech. I therefore ask that the usual courtesies be extended to her.

Senator NETTLE (New South Wales) (10.31 a.m.)—I revel in the opportunity to deliver my first speech during a debate about bargaining fees, where people on this side of the chamber rise to speak in the defence of Australian workers being able to organise collectively in the workplace. I start by paying my respects to the Ngun(n)awal people, the traditional owners of this land. I acknowledge the pain and the suffering that so many Indigenous Australians have suffered as a result of the European invasion of this country. I acknowledge that the price for the prosperity and the peace that we enjoy today has been overwhelmingly borne by the first Australians. On behalf of the people that I represent in this parliament, I say sorry for these past injustices. The Greens look forward to working with Indigenous Australians to address both past and current discrimination. Only when Indigenous and non-Indigenous Australians work together can the true potential of our multicultural society be realised.

The Greens bring a vision to politics in Australia and around the world that is based on four core principles: social and economic justice, ecological sustainability, peace and nonviolence, and grassroots democracy. Communities in Australia and overseas are increasingly turning towards the Greens because we offer an optimistic and caring vision for the future. People are sick of a lack of choice at election time. They are sick of an emphasis on self-interest and the predictable surrender to the power of profit. Increasingly, there is a need to restate the fact that we are not simply a collection of individuals but people who live in a society where a sense of community strengthens our connection with humanity and the environment on which we depend.

As a young activist concerned about issues such as public transport and proposals to extend the tragedy of uranium mining in Kakadu National Park, I became interested in the Greens, because I saw the Greens as a political party that was made up of community activists—people who were interested in the same sorts of issues as I was and who brought an activist approach to the work that they did in parliament and also in the community. I define this activist approach as a belief that progressive social change is not only possible but vitally necessary. I see this approach reflected in the work of Greens MPs in chambers across this country and on every continent. Greens MPs are community activists first, before they enter this chamber, and they bring that energy, passion and commitment to their parliamentary work.

History shows us that social change does not start in chambers like this; it starts in the hearts and the minds of committed and passionate individuals. It builds strength on the streets and in the community and only then can it enter this chamber. I recognise and I celebrate the symbiotic relationship between activism inside and outside parliament, and I look forward to playing my part in achieving progressive social change through the work that I do in this chamber with other Greens MPs and the work that I continue to do in the community.

The enormous array of community activists that I have had the opportunity to work with over the last few years has been a constant inspiration to me. The commitment of individuals working in local resident action groups across the country truly reaffirms one’s belief in community spirit. Every weekend, countless Australians engage in activities in their local areas, and people daily in the management of their land show that they care and recognise the need to live sustainably with the planet. The dedication from grassroots communities on environmental issues is not in question, but we are yet to see genuine commitment from the government and corporations to addressing the environmental crises that we all face.

I would like to draw this chamber’s attention to the shameful fact that Australia has the highest land clearing rate of any devel-
oped nation. Over 500,000 hectares of native vegetation are destroyed in Queensland each year. In my home state of New South Wales, agribusiness is bulldozing rare woodlands and wetlands with no intention of complying with federal or state legislation. This archaic approach to environmental management must be stopped, and the government must play a key role in ensuring that this happens. For every tree that community or government programs plant, 100 more are bulldozed.

The community cannot respond to this unprecedented disaster alone. We need national legislation to end land clearing, especially in key areas such as the Murray-Darling Basin. But we must not stop there. We need to go further and embark on a program of land rehabilitation. This means financial incentives to assist farmers in making the transition to sustainable agricultural practices. The ecological vandalism that is inherent in our current land clearing patterns is part of a phenomenon that is becoming increasingly familiar to all of us. It is part of the economic fundamentalism that has blighted much of Australian society and rages now at a global level through the destructive policies of the World Trade Organisation, the International Monetary Fund and the World Bank.

Again, it is the tireless work of community activists who are attempting to halt this ever increasing drive towards the corporate free-for-all that has misleadingly been dubbed ‘globalisation’. This process is, in fact, not globalisation but centralisation—the centralisation of power into the hands of a small group of corporate elites. There is nothing inherently global about this transfer of economic and cultural power. A diverse multitude of people have taken to the streets to raise their voices against this corporate takeover and they look on as vitally important decisions are taken out of the hands of representatives, democratically elected parliaments and placed into the hands of unaccountable, unelected bureaucrats and CEOs of transnational corporations. Many people are outraged about this loss of democratic control over decisions that affect their lives. This is an issue about which parliament should be ecstatic. People are actually jumping up and down about the importance of parliament and yet our legislatures are complicit in the silencing of the elector’s voice.

The rise of corporate globalisation is the greatest threat to our current democratic systems, and the increasing role of corporations in our governments and our democratic institutions amounts to nothing less than a creeping coup d’etat. At the moment on the horizon sits the General Agreement on Trade in Services. The neo-liberal ideologues have repackaged and expanded the Multilateral Agreement on Investment, which was defeated by community pressure in 1998. The new brand name is ‘General Agreement on Trade in Services’. It is back on the international trade negotiating table, to which you and I are not invited. The Greens are a part of that same international community movement that defeated the MAI in 1998 and we are back preparing to defeat those same ideas as they appear in the General Agreement on Trade in Services. GATS is a treaty which seeks to bind national governments to deregulating and privatising their public services.

Public ownership has historically proven to be the only way to ensure that essential services are provided to all citizens in an equitable way. This is done by providing the service on the basis of social need rather than trying to pursue private profits. The Greens recognise that the seemingly endless pursuit of privatisation is a form of social theft on a grand scale, with the transferring of wealth from the citizen to the already rich. Decisions that are made on trade issues have a very real effect on people’s everyday lives. Yet this government continues to shroud these decisions in secrecy. The Australian government is going to the next round of negotiations at the World Trade Organisation behind an absolute veil of secrecy. It will not allow this parliament or the Australian people to know which of our public services it intends to trade away. Final decisions that affect our basic services will be made in the cabinet room—or perhaps in the corporate boxes—but not in this parliament.
We already know that the government intends to sacrifice Telstra at enormous cost to the bush. And from leaked EU documents we know that it is under pressure to trade away Australia Post and our water services. But we do not know at the moment whether health and education are also at the top of the government’s hit list. We know that this government favours private education and private health over the provision of these public services, but does this government intend to make public funding of schools and hospitals effectively illegal by labelling it as an unfair subsidy under WTO trade rules? GATS is designed also to remove the rights of nation states to set environmental, labour, local content or human rights standards. This will lead us to a situation where it becomes impossible for Australia not to accept an international nuclear waste dump.

Australia has the opportunity to take a progressive role, to show some leadership and some courage as a responsible global citizen not only on trade issues but also in relation to international conflicts. Right now, more than at any time in our recent history, it is vitally important that we speak out in the name of peace and that we articulate a message of true global justice that is based on equity and not on power. It is nearly a year since we were all horrified by the attacks on Washington and New York. The time immediately after September 11 could have been, and still can be, an opportunity to reflect calmly and rationally on the reasons behind the attacks on the World Trade Centre. We need an international effort that recognises the growing inequities between the haves and the have-nots of this world and then seeks to redress these imbalances. Instead, we have seen an arrogant unilateralism from the United States through their so-called war on terrorism and the response of the Australian government has been sycophantic. In trying to out-swagger the cowboys in Washington, we have only succeeded in making ourselves look foolish at a time when we could have and should have been a calming voice in our ally’s ear.

A war on Iraq cannot be justified. The hypocrisies and the inconsistencies of such an aggressive policy are obvious for all to see. We do not live in George Bush’s comic book world of goodies and baddies. Trading with oppressive regimes is commonplace, and more weapons of mass destruction are developed and held illegally in Western countries than in any axis of evil. A war would also be blatantly naive in a political sense. It would be tantamount to throwing a Molotov cocktail into the Middle East peace process. On a practical level, armed intervention simply will not achieve its stated aim of establishing democracy, and it is even more unlikely to achieve its strategic aim of ensuring total US dominance in the region. It is certainly not going to win any peace, love and freedom for the people of the US or the people of Iraq.

A war on Iraq would be illegal under international law; it would also be blatantly inhumane. The Greens will continue to fight any extension of this so-called war on terrorism. We recognise that we need a program for peace, not a rush to war. The first step in this program for peace is for John Howard, Alexander Downer and George Bush to step back from their war-mongering rhetoric. There is a place for weapons inspections in all countries that develop weapons of mass destruction, but there will be no lasting solution in Iraq or similar countries until we restore their dignity and their autonomy so that their people can pursue democracy and prosperity like any other nation.

The Iraqi people must be given back not only the right but also the capacity to decide their own rulers, without intervention from the United States, who firstly armed and supported Saddam Hussein and who are now only interested in controlling oil supplies, not in achieving democracy in Iraq. We need an international effort to rebuild Iraqi society and infrastructure, which was deliberately destroyed to undermine the civilian population. Sanctions that have caused immeasurable suffering must be lifted. Peaceful solutions will always seem more complex than a simple attack, but it is only through peaceful solutions that we can achieve long-term success.

Of course, these solutions do not apply only to Iraq. It is our responsibility to address the appalling inequalities wherever
they occur around the world, and the way to do so is through support for local communities and their organisations so that they can determine their visions of democracy for their country. I had the honour recently of meeting a 24-year-old Afghan woman by the name of Tahmina. Tahmina and her organisation travel around the world speaking about the need to liberate the women of Afghanistan. They have the solutions to the problems that affect their everyday lives. They suggest a range of measures, including ending the international financing of fundamentalist schools on the border of Afghanistan and Pakistan. I have not met the Tahminas of Iraq, but these are the voices that we should be listening to in the current debate—the local voices that have the solutions to the problems in their community.

I find it constantly inspiring to be around so many people, Greens and others, who believe that progressive social change is not only necessary but is possible and who work so hard to achieve that end. I would like to say thank you to all of the Greens’ campaigners and supporters who have made it possible for me to be part of striveing for this change, not only in the community but now also in the parliament. Social change has always happened because of committed and hardworking individuals, working together to achieve change. That is how we will achieve change now. Together with my colleagues, inside and outside parliaments around the world, I am proud to be part of a movement that is about so much more than opposing the self-interested and profit-oriented views of the major parties. Our movement is about vision, responsibility and an optimism for the future. I look forward to working with Bob Brown to present the Greens’ vision in this parliament and to building a movement that strives for a more just, equitable and sustainable society here in Australia and around the world.

**WORKPLACE RELATIONS AMENDMENT (PROHIBITION OF COMPULSORY UNION FEES) BILL 2002**

Second Reading
Debate resumed.
Senator Kemp understands this, and in fact he is arguing my case for me because he would be a supporter of the H.R. Nicholls Society, whose views are that we should not have an industrial relations system. So, really, the government is seeking to destroy our system by stealth. What is that stealth? This stealth starts with the very title of the bill: the Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002. As Senator Cook said not long ago, nowhere in the bill do we talk about union fees. The bill is actually about bargaining fees. It does not address compulsory union fees and it is not, as the government seeks to argue, about the principal issue here: it is not about compulsory unionism. I think I should go back to when the Senate Employment, Workplace Relations and Education Committee addressed this bill during an inquiry—

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Excuse me, Senator Collins, please be seated for a moment. Would honourable senators on my right please keep quiet. It is disorderly to be constantly talking at such a loud volume and interrupting a speaker.

Senator JACINTA COLLINS—I was saying a moment ago that it is important to go back and look at the report produced by the committee that inquired into this bill during the last parliament. I understand that there has not been an inquiry into the bill in its current form, and over the last couple of days I have found it difficult to trace some of the changes that appear in this current bill as opposed to the bill that was considered by the committee on the last occasion. As I mentioned a moment ago, some of the issues that are relevant here go to stealth and I will get back to that in a moment. In the broader context, I would like to take the Senate to the opening comments in the Labor senators’ dissenting report on this bill, where we highlight that this particular report was the sixth report made by this committee in the last parliament on proposed amendments to the Workplace Relations Act. We state:

The view of Labor senators in regard to this bill is consistent with earlier dissenting reports. The legislation currently before the Parliament is yet another attempt to marginalise union involvement in workplace relations and in negotiations on wages and conditions to the point of irrelevancy.

Senator Kemp seeks to say no, we are just bringing down big union bosses, but anyone who understands the day-to-day mechanics of how our bargaining system operates would understand the free-rider principle and understands that if we want to have a sustainable bargaining system this is a matter we need to address seriously. On that point, following the report of the dissenting Labor senators was a report by the Australian Democrats that equally understood very clearly those very issues. I understand that some amendments have been circulated by the Democrats that seek, essentially, to do that. To deal with this matter in a legitimate way to try to ensure that we can address the free-rider issue so that, unlike the government’s intention, we will not have a proliferation of free-riders in the bargaining system that we have moved towards.

One area in which Senator Kemp and I would agree is that in Australia in industrial relations we have moved down the path of bargaining. It was a step made by the Labor government at the time, and it was followed further by the current government. We can have arguments about the extent to which we have travelled down the path and about several quite inappropriate and misdirected measures that I would argue this current government has sought to take. However, the point remains that Australia has moved towards a bargaining system but, in making that movement, we have not dealt with some other systemic problems that this bill does not seriously address.

For the government to argue that what we are really dealing with here is compulsory union fees or compulsory unionism is, to pick up Senator Cook’s phrase, mean and tricky. I thought he was actually referring to the conduct of Mr Reith and the pattern of behaviour he had established as minister. At the time I continually referred to Mr Reith as the ‘Minister for Misinformation’. But, as Senator Cook highlighted, the problems go much higher than that. The Liberal Party itself acknowledges that the problem is that we no longer have ‘Honest John’. Do sena-
tors actually recall the stage in time in our political history when media and others referred to our Prime Minister as ‘Honest John’? I cannot recall the last time I heard that reference. As Senator Cook said, this is another example of ‘mean and tricky’.

The other evidence for the government’s real agenda is easily highlighted—that is, in the first bill the government simply went too far. I am pleased to see that that has been acknowledged, very quietly, in the current version of the bill. The problem highlighted by Labor senators in their dissenting report on the last occasion seems to have quietly slid away in this current bill. In fact, I am disappointed that Mr Smythe from the department is not present so that I could clarify for the Senate exactly when, why and how these concerns were addressed and rectified. The fact that the government had gone too far is an example of what we have highlighted as ‘mean and tricky’. The government had gone beyond its stated intent with this bill. It had designed a bill that, in relation to bargaining fees, would have precluded new employees from voluntarily contributing to the cost of a union negotiated agreement. It did this through the very strange argument that new employees could not pay such fees as it was impossible for them to consent to services that were delivered before they started with their employer.

When we raised this in committee with the department, the response at that point in time was quite astounding. Let me take senators to the area in our report where this issue is highlighted. Labor senators noted that the problem with the definition of bargaining services in the bill was that, on our reading, it would preclude new employees from voluntarily contributing to the cost of a union negotiated agreement. It did this through the very strange argument that new employees could not pay such fees as it was impossible for them to consent to services that were delivered before they started with their employer.

So, if an employer and workers want to characterise something in their agreement as a service fee and if they want to allow new employees who enter into that agreement under requirements in the act to make a contribution voluntarily to that fee, this would be precluded by the way this bill was first drafted. Mr Smythe said:

... the government’s position is that because at the time the negotiation occurred the new employee was not there and therefore could not be consulted about or have any input into that negotiation, no services could be provided to them. The difference between us, Senator—

Mr Smythe suggests—

—is that you equate the services with the outcome whereas what I am doing is equating the services with the process.

The point here is that the government had contained the notion of what a bargaining service fee might relate to to just the narrow issue of the process of the actual negotiation of the agreement. It became illogical to the stage where, through this provision, the government was going to preclude a new employee from joining into an agreement and voluntarily seeking to make a contribution with respect to how that agreement had been bargained because they were not there at the time. I highlighted that point by saying:

An extension of this argument, if applied to other areas of economic activity, would preclude the likes of road tolls, building levies or any other usage charge associated with the creation of infrastructure. One possible perverse outcome of this logic, if followed to its natural conclusion, would be that, by simply renaming a bargaining fee an outcome fee, union parties to an agreement would still be able to recover compensation from non-union members for negotiating an agreement. Regardless, though, the scope for legal wrangling to resolve these issues was great.

From the current definition in the bill it looks as if the government has taken note of those comments and has redefined the bargaining service fee to provide for those requirements. I look forward to hearing more on that issue, because I have been trying to trace when and where that amendment was made and I have not got to the bottom of that aspect of the situation. I look forward to that being dealt with, hopefully in the committee stage of this debate.
Getting back to my central point, this requirement that new workers coming under an enterprise agreement would be precluded from even consensually contributing a bargaining fee was an example of the fact that, in drafting this bill, the government was going beyond its stated intent. It was going to be proscribing behaviour that everybody would agree was acceptable, because its real agenda was to encourage the proliferation of free-riders and, going one step further, to practise sabotage of the industrial relations system. That problem was highlighted. When I get to the bottom of how these changes were made, hopefully it was because the government was embarrassed and rectified that error. Still, the fundamental agenda of trying to proscribe employers and unions from establishing bargained service fees in their agreements remains.

Most of the other issues and problems that we highlighted in our report and that many other senators have mentioned today also remain. For example, we described it as ‘pre-emptive and knee-jerk’. Despite the fact that we now have a commission decision on this matter, the legislation being here before us now is still jumping ahead of the judicial process. I understand that an appeal has been lodged with the High Court in relation to the earlier decision that would have allowed bargaining service fees to continue to be accepted as a valid component of an enterprise agreement. Since an appeal has been filed, we should be waiting on the result of that process. I do not see the immediacy or the urgency of this issue. I can think of countless other matters on our legislative agenda that require serious and immediate attention. We have a process to deal with the legality of this issue and we are once again being pre-emptive. Why are we being pre-emptive? We are being pre-emptive because the government has a broader agenda. The mean and tricky side of this is that it is just one component of a much broader, larger agenda to sabotage the industrial relations system. Senator Kemp said earlier, ‘No, it is to pick on those big union bosses.’ No, it is about sabotage of our industrial relations system. People such as Senator Cook and others, who understand the International Labour Organisation’s approach to this issue and many others and many of the challenges that have occurred in relation to this government’s agenda in industrial relations, understand that issue.

Perhaps you might be able to accept that there were some components of the reform package that had some validity if you did not understand that the agenda of many of the members of the government and their associations with the H.R. Nicholls Society is to dismember, to dismantle, the industrial relations system. This is but one cog in that overall machinery. In the case of this legislation, it helps if senators, and particularly new senators, understand that we have a new trend to find very creative titles for legislation. A new senator looking at this legislation would see the title, open the bill and say, ‘Where is a compulsory union fee? Where is a definition of a compulsory union fee?’ There is not one, because that is not what it is really about. Titles such as ‘A fair go all round’, ‘More jobs, better pay’ and the title of this one very rarely properly relate to the content of the bill.

The other evidence for my assertion here about the real intention is that the bill is riddled with inconsistencies with respect to what the government purports to be its agenda. Take its agenda about freedom of association, for instance. If the government were serious about freedom of association, then—as Senator Cook highlighted—there would be no reason for it seeking to intrude into the relationship between the employer and the employees in relation to an enterprise agreement. But it is doing that and it is doing that because its agenda is really elsewhere.

Let me conclude by highlighting the relevance of our conclusion last time we addressed this bill in committee: It is the opinion of Labor senators that the proposed bill is inconsistent with the spirit of the WRA. It seeks to close loopholes which may not exist and is biased on the very shaky grounds of violation of the principle of freedom of association. As knee-jerk legislation, it is highly vulnerable to being struck down by the courts and as such represents not only a waste of taxpayers money, but also brings regulation of workplace relations further into disrepute.

That remains the case now.
Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.12 a.m.)—We have had a pretty exhaustive debate on the Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002 and the battlelines are drawn, but let me just underline the principles. If there is one area in which you will never modernise, it is this. We very much appreciate that, I might say. For as long as you continue to be wholly owned subsidiaries, then I think the Australian public—

Senator Sherry—Of the Law Society, Richard?

Senator ALSTON—That is only for solicitors, Nick. They did not trouble me.

Senator Jacinta Collins—Of the H.R. Nicholls Society? Are you a member of H.R. Nicholls?

Senator ALSTON—No, I am not. The principles of freedom of choice and association of course underpin the freedom of association provisions of the act. The principles seek to ensure that individual employers and employees are free from discrimination and victimisation, irrespective of the choice they make. This bill reflects the government’s continuing commitment to the principles of freedom of association by ensuring that workers are not coerced, either directly or indirectly, into joining industry associations.

Another argument that has been put forward is that the bill is trying to create the impression that unions are imposing fees against the will of employees—although an agreement cannot be certified unless a valid majority of employees to be covered by the agreement vote in favour of it. It would be inconsistent with the principles underlying the Workplace Relations Act to allow individual freedom of association rights to be overridden by a majority vote. Under the act, every individual has the right to choose whether or not to join a union and cannot be penalised for the choice they make. The act already gives necessary protection to this right, preventing the commission from certifying an agreement that contains provisions which are discriminatory or contravene the freedom of association principles, even if a valid majority has voted for the agreement. The bill appropriately extends that principle.

Will the bill allow voluntary contributions? Despite the views expressed by some, this bill will not prevent an industrial association and a nonmember from entering into agreements and arrangements for the provision of bargaining services, provided no coercion or misrepresentation is involved. Nor will it stop any nonmember from offering a voluntary contribution for bargaining services, provided there is no coercion or misrepresentation. Are CUF clauses inconsistent with the ILO standards on freedom of association? Critics of the bill argue that compulsory bargaining service fee clauses are in line with ILO standards, but this is not the whole story. The ILO also accepts that prohibition of bargaining service fees is consistent with its principles. Paragraph 323 of the ILO’s freedom of association digest states:

Problems related to union security clauses should be resolved at the national level, in conformity with national practice and the industrial relations system in each country. In other words, both
situations where union security clauses are authorized and those where these are prohibited can be considered to be in conformity with ILO principles and standards on freedom of association.

In addition, paragraph 100 of the ILO’s 1994 general survey on freedom of association relevantly states:

... systems which prohibit union security practices in order to guarantee the right not to join an organization, as well as systems which authorize such practices, are compatible with the Convention.

An attempted justification for compulsory union fees is that they are in accordance with the familiar user-pays principle. This argument is a distortion of that principle. Compulsory fees for an unsolicited and often unsubstantiated service do not constitute user pays. User pays involves an exchange that is freely entered into by willing and properly informed parties. Trade practices legislation prevents ordinary businesses from providing someone with an unrequested service and then demanding payment for it. The same principle should apply to union and employer associations. It has also been asserted that, because nonmembers receive the benefit of certified agreements negotiated by unions, they are free-riders who should be required to pay for the service they receive. It is claimed that this is consistent with the government’s approach to the provision of services in accordance with mutual obligation principles. Such arguments fail to recognise the key difference, which is that people to whom the government applies mutual obligation asked for the benefit.

In conclusion, bargaining service fees create a financial incentive for employees to join unions and may act to coerce individuals to take out or retain union membership. Such clauses in certified agreements clearly represent a serious threat to freedom of association and freedom of choice. The bill will protect those fundamental rights. I thank all senators for their contribution and urge them to support the bill.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

(Quorum formed)

Senator HARRIS (Queensland) (11.21 a.m.)—by leave—I move One Nation’s amendments (1) to (8) on sheet 2586:

(1) Schedule 1, item 4, page 3 (after line 24), after the definition of bargainings services fee, insert:

endorsedbargaining services fee is:

(a) a bargaining services fee which according to the terms of a certified agreement may be payable by every employee and contractor that is not a member of the industrial association if the levy of that fee is approved by the majority of combined employees and independent contractors prior to the provision of the bargaining services;

Note: The approval of a majority of employees and independent contractors is to be established through a formal vote.

(b) subject to paragraph (c), an amount equivalent to the proportionate share of an individual employee’s or independent contractor’s share of an industrial association’s expenditures that are incurred to support solely representational activities in the provision of bargaining services;

Note: This amount is to be calculated only by reference to the disclosed accounting records of the industrial association that demands the payment of the endorsed bargaining services fee.

(c) an amount which (together with any other endorsed bargaining services fees payable in respect of the same year) does not exceed the membership dues that would be payable to the industrial association if the individual employee or contractor were instead a member for that year.

(2) Schedule 1, item 6, page 4 (line 4), at the end of paragraph (o), add “other than an endorsed bargaining services fee”.

(3) Schedule 1, item 7, page 4 (line 17), at the end of subsection (2), add “other than an endorsed bargaining services fee”.
(4) Schedule 1, item 8, page 4 (line 33), at the end of subsection (4), add “other than an endorsed bargaining services fee”.

(5) Schedule 1, item 9, page 5 (line 5), at the end of subsection (1), insert “other than an endorsed bargaining services fee”.

(6) Schedule 1, item 9, page 5 (line 19), at the end of section 298SB, add “other than an endorsed bargaining services fee”.

(7) Schedule 1, item 11, page 6 (line 10), at the end of subsection (2), add “other than an endorsed bargaining services fee”.

(8) Schedule 1, item 12, page 6 (line 20), at the end of paragraph (5)(b), add “other than an endorsed bargaining services fee”.

In moving these amendments to the Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002, I would like to convey to the chamber the reason for proposing these amendments to the government’s bill. The government’s bill, in its present form, would ban an agreement that has been established within a workplace for not only union members but also non-union members to pay a bargaining fee. Provided there is agreement from the majority of the people who are within that workplace, that that majority is established by a formal vote of the people within the workplace and that that majority agrees to pay a bargaining fee for the services the union provides, I believe these amendments will alter the bill in such a way as to give those people within that workplace the ability to exercise their own right of choice. Item (1)(b) says clearly:

(b) subject to paragraph (c), an amount equivalent to the proportionate share of an individual employee or independent contractor’s share of an industrial association’s expenditures that are incurred to support solely representational activities in the provision of bargaining services;

So there would be accountability to the union to prove that the figures they are putting forward are explicitly for progressing that particular enterprise bargaining agreement. Item (1)(c) goes further and says:

(c) an amount which (together with any other endorsed bargaining services fees payable in respect of the same year) ...

So, if there happens to be more than one round of bargaining in a year within a single workplace, the collective bargaining fees agreed to by the majority of people within that workplace could not exceed the union fees for that year. Because of the complexities of the bargaining in relation to an agreed outcome, we have a situation where at times it may take more than 12 months to achieve. So the purpose of (c) is that, if the agreement is concluded within one year, the cost of the bargaining fee for that particular enterprise agreement cannot be greater than the union fees paid by the union members in that one year. If the bargaining process takes more than one fiscal year, again the amount payable for the total bargaining period should not be greater than the union fees for any one year.

I believe that this is an essential amendment to the legislation. Senator Alston made the comment that, if people are willing to enter into an agreement, they can do it and that they should be informed of what the cost of that would be prior to the agreement commencing. One Nation’s amendments achieve both of those things. But, rather than leaving it in the realms of uncertainty, the amendments clarify very well the intention that, if a group of people agree, that group of people would be required to pay a bargaining fee provided it was not greater than the union fees for that year.

Let us look at a practical application of a union entering into an enterprise bargaining agreement for, say, the fire services in Queensland. If there were a group of people employed in the Brisbane metropolitan area and a majority of them agreed that they would contribute to a bargaining fee established prior to the commencement of bargaining, that centre would contribute to the bargaining fee. On the other hand, if there were not a majority in support of that bargaining fee in Rockhampton, those people ought not to be required to pay that fee. I use that explanation to clarify the amendments I am putting forward.

If we look at the figures that I mentioned in my speech in the second reading debate in relation to the number of agreements that the unions are facing—and I will just go back to that—the Australian Manufacturing Workers Union, for example, is party to 1,600 certified agreements expiring between 1 April
and 31 August 2001. So the union would either have concluded those or be in the negotiation process for them. The Construction, Forestry, Mining and Energy Union estimates that, in the 15 months from March 2001, approximately 3,800 agreements have been concluded. So there is a substantial cost to the unions in actually achieving those agreements. This amendment will not assist those agreements that have been started or concluded, but in the future it would allow the people within a workplace to decide prior to the enterprise bargaining agreement commencing, providing it was agreed to by a formal vote, whether a bargaining fee would be applied. I reiterate that Senator Alston indicated that people could do this if they were willing and if they were informed. These amendments achieve both of those things but they also, with clarity, set out the way to actually achieve them. I commend One Nation’s amendments to the chamber.

Senator SHERRY (Tasmania) (11.31 a.m.)—I will deal with the Labor Party’s response to the positive contribution that Senator Harris, on behalf of One Nation, has made to this debate, as exemplified by the speech and also by the amendments we have got before the chair at the present time. Senator Harris has taken a very positive interest in this issue, which we welcome. Obviously they have done a good deal of work on this issue, as demonstrated in his speech in the second reading debate and the data that he has just outlined in respect of the number of certified agreements.

Of the amendments that Senator Harris has just spoken to, the core of One Nation’s issues are contained in the first amendment, which has three paragraphs, (a), (b) and (c). The rest of the amendments are obviously a consequence to amendment (1), which is the core of the suggestions being made by One Nation. I will say again that this is a very positive approach to establishing a workable arrangement in this area.

Firstly, I make the point that the amendments were circulated this morning. That is not a criticism, Senator Harris, because I know the constraints we all work under in having to circulate amendments under often minimal time constraints. The Democrat amendments, which we will be considering shortly, were circulated on Monday, and we were able to—

Senator Harris—Our amendments were circulated last week.

Senator SHERRY—I apologise, Senator Harris. We have had a chance to look at your amendments, and there are, in particular, a couple of concerns that I would like to raise. In the first amendment, paragraph (a), we believe that it would require two votes as part of that suggested process. We think that that would be creating significant difficulties for both employees and employer participants.

In respect of paragraph (b), I understand where you are coming from, Senator Harris, but we see significant practical difficulties in calculating the costs of specific negotiations. Expenditures are variable, depending on the negotiations. Some negotiations can be very simple and take a minimal amount of time; others can be very complex and take place over a very long period of time. So there is a practical issue of calculating the cost of the negotiations in question, because they do vary so widely between each particular set of negotiations. I think paragraph (c) in amendment (1) is effectively a cap, and that issue is dealt with in the Democrat amendments. As I have said, the other amendments are subsidiary to amendment (1), which contains the core of the One Nation suggestions. Our preference is to support the Democrat amendments and the positive approach they have taken. We acknowledge the positive approach of Senator Harris, but we will not support those amendments for the reasons I have outlined.

Senator MURRAY (Western Australia) (11.35 a.m.)—I indicate that the Democrats will not be supporting Senator Harris’s amendments. I agree with and in fact welcome and commend Senator Harris for the initiative he and his party have taken. I think they are on the right track and I think they recognise that this is an area which does need positive resolution whilst trying to fit in with the very important principle of freedom of association. As you would have identified from the running sheet, Senator Harris, the difficulty is that your amendments are in
conflict with a number of mine and, without reflecting upon the nature of drafting, mine differ a fair bit. So, without opposing your intent, I regret that I must oppose the amendments.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.36 a.m.)—I certainly understand what Senator Harris is trying to achieve. Quite clearly, he has given a fair bit of thought to it and, at first glance, I suppose the principle of a majority outcome is superficially attractive. I am puzzled, however, that the Labor Party seems to only have an objection on process regarding two votes rather than one. Presumably, that is an argument about cost or inconvenience, when this is really all about a huge financial grab on the part of the Labor Party to try and put many millions of dollars into the coffers of unions by effectively forcing people to pay money for what, in many instances, will be a spurious bargaining fee and certainly not consideration for services rendered.

I also find it very puzzling that the Labor Party can say they are opposed to Senator Harris but they support the Democrats, because Democrat amendment (1) seems to me virtually identical to Senator Harris’s amendment. In other words, both Senator Murray and Senator Harris are in favour of a majority deciding on whether the workplace should pay the bargaining services fee. Our in-principle objection to that—and Labor do not seem to have many principles on any of these issues—is that that would still involve a tyranny of the minority. If a majority in the workplace feel that they would like to pay a bargaining services fee, there is absolutely nothing stopping them from doing that. If only 40 per cent were in favour of it and it went to a vote and the vote was lost, presumably those 40 per cent would not have to contribute. They probably would not do so, because they would abide by the outcome of the majority vote, yet they are people who were at first in favour of paying the fee. So it gets quite anomalous in that situation.

I would have thought that the simple way out is not to force people to pay for services that they have not sought—in other words, if this is successful, the minority, and it may be a very substantial minority. The way to handle it in the most democratic fashion is to allow all those who believe that a service is being provided for which they should pay to enter into voluntary arrangements; otherwise, you are simply imposing your will on people in the workplace who are not seeking it. That is at the heart of all the objections. Indeed, the converse is at the heart of why the Labor Party are so keen on compulsory fees, because it enables them to collect money from people who do not want to pay and thereby confront them with the ‘least worst’ alternative of simply joining the union. If they do not join, of course, the union has all the money and does not even have to render the services that presumably unions still sometimes offer to their members, so it is a very unsatisfactory outcome on either front.

If people think they are going to get value for services, they will join the unions—and they are doing that in record low numbers these days. If, however, they think that in a particular situation they would like to pay a bargaining fee for an outcome that they believe would not otherwise have occurred, they are entitled to make that contribution. But there is no reason at all why employees cannot bargain directly with the employer and take the view that they have achieved a wage increase because of the persuasiveness of their own arguments or because the employer accepted the merit in the argument—in other words, it had nothing to do with union intervention. In those circumstances, those who want to pay ought to be allowed to pay and those who do not should not, and they should not be forced by a majority vote. So, whilst I understand Senator Harris’s preference for a majority outcome—which in many circumstances ends up giving you rough justice, because the minority have to go along with it—where you have fundamental principles of freedom of choice and freedom of association which are essentially corrupted by this latest union tactic we believe those fundamental principles have to prevail and that if people want to meet the union need they can do so voluntarily. We oppose this amendment in the same way that we will be opposing all the Democrat amendments.
Question put:
That the amendments (Senator Harris’s) be
agreed to.

Question negatived.

Senator MURRAY (Western Australia)
(11.41 a.m.)—I move Democrat amendment
(1) on sheet 2585:
(1) Schedule 1, item 9, page 5 (lines 2 to 14),
omit section 298SA, substitute:

298SA Permissible bargaining fees

(1) An organisation may charge a per-
missible bargaining fee:

(a) in connection with an agree-
ment certified under section
170LJ or Division 3 where:

(i) the agreement’s benefici-
aries include those who
have not made a contri-
bution to the costs of
reaching the agreement
by means of paying a
union membership fee;

and

(ii) this permissible bargain-
ing fee is explained in
clear language, and in
writing, to all employees
in advance of the vote on
the agreement; and

(iii) details of the permissible
bargaining fee, and the
services for which it is
payable, are set out in the
agreement; and

(iv) all employees affected by
the agreement are ad-
vised, prior to bargaining
commencing, whether it
is proposed to include a
permissible bargaining
services fee in the agree-
ment, and that they may
make submissions to the
AIRC under subpara-
graph (vii) below in rela-
tion to this fee; and

(v) in addition to the re-
quirement in subsection
170LT(5), a valid major-
ity of persons employed
at the time, whose em-
ployment would be sub-
ject to the agreement,
have genuinely agreed to
the provision; and

(vi) the agreement provides
for the method and tim-
ing of the fee to be paid; and

(vii) the AIRC is satisfied that
the fee is fair and reason-
able; and

(viii) the agreement provides
that new employees pay
the fee only for the pro-
rata period of the agree-
ment from the time that
their employment com-
ences; or

(b) in connection with an agree-
ment certified under section
170LK where:

(i) the employee has agreed
to pay for the provision
of bargaining services in
respect of the certified
agreement; and

(ii) the employee has agreed
to the total amount to be
paid and this total amount
covers all the bargaining
services that may be pro-
vided in relation to the
employee in respect of
the certified agreement;

and

(iii) the agreement was en-
tered into before the bar-
gaining services were
provided.

(2) An organisation of employers may
charge a bargaining services fee in
connection with an agreement certified
under section 170LJ or 170LK or Di-

vision 3 where:

(a) the employer has agreed to pay
for the provision of bargaining
services in respect of the certi-

fied agreement; and

(b) the employer has agreed to the
total amount to be paid and this
total amount covers all the bar-
gaining services that may be
provided in relation to the em-
ployer in respect of the certi-

fied agreement; and

(c) the agreement was entered into
before the bargaining services
were provided.
I addressed the issues that surround the 
Workplace Relations Amendment (Prohibi-
tion of Compulsory Union Fees) Bill 2002 at 
some length in my speech at the second 
reading stage. I think it is important to rec-
ognise that the government’s efforts to 
strengthen the enforcement or application of 
freedom of association provisions are not 
opposed by us. In fact, I will be moving to 
reinforce them slightly myself. The real point 
of departure between the government and the 
Democrats concerns the ability to charge a 
permissible bargaining fee. As I and other 
speakers clearly outlined in the second 
reading debate, permissible bargaining fees 
under my proposed amendment only address 
certified agreements which are to be gener-
ated on an enterprise bargaining basis under 
federal law. The figure I gave was that 37 per 
cent of all employees are covered by both 
federal and state registered enterprise agree-
ments. So those employees who either wish 
or do not wish to enter into contractual ar-
rangements for permissible bargaining 
fees—which, I should stress, are not contrary 
to the law—will continue to do so.

My amendment suggests that an organisa-
tion which is, of course, a registered organi-
sation—and note the use of the word ‘or-
ganisation’; it does not automatically mean a 
union—may charge a permissible bargaining 
fee in connection with an agreement certified 
under section 170LJ or division 3. It then 
gives some qualifiers as to when that could 
occur.

The minister quite properly addresses the 
problems we all face when entering this field 
in relation to the circumstances when some-
body would be required to be a participant in 
an agreement. The act—and I remind you 
that it is a coalition act which was supported 
by the Democrats, but I think it is a principle 
that Labor support—already says that when a 
certified agreement is put to employees, the 
majority view prevails. That is exactly what 
happens. That is a principle well established 
in industrial relations law, and I suspect it 
goes back 100 years. Labor people would 
know that better than I would. I am not im-
plying that you are all old, of course; it is just 
that you are more in the picture.

In our industrial relations law the principle 
has long been established that majority pro-
visions apply to the entire work force. That is 
for very genuine and very practical reasons. 
We also apply that to our own democracy. 
For instance, the government, and I think all 
parties and independents in the parliament, 
support the issue of compulsory attendance 
at the ballot box. We support the democratic 
outcomes which result from elections, where 
essentially a majority, and sometimes a mi-
nority, end up running the country. We all 
agree that, in terms of democratic principles, 
that is entirely proper, and we observe the 
rule of law that is consequent on it. Whilst I 
accept and recognise problems people have 
when minorities are pulled into it, it is a 
principle well established in many parts of 
our law.

Returning to the particular amendment 
that is before us, a few main points are out-
lined in it, and I will pick some of them out. 
The permissible bargaining fee has to be ex-
plained in clear language and in writing, so 
you cannot have someone misrepresenting 
what it means. Also, all employees must re-
ceive it in advance of a vote on the agree-
ment. The details have to be set out. Em-
ployees must be advised whether the pro-
sposal is to include a permissible bargaining 
services fee. It is not an obligation that a 
permissible bargaining services fee be part of 
a certified agreement; it is up to those who 
are negotiating that outcome. The amend-
ment says that a valid majority must genu-
iney agree to the provision. Note the use of 
the word ‘genuinely’, which has precise and 
specific meaning in workplace relations law. 
It also says that the agreement provides for 
the method and timing of the fee to be paid, 
so there can be no misunderstanding or as-
sertions in that regard. Also, the Industrial 
Relations Commission, if they have had 
submissions made to them, have to be satis-
fied that the fee is fair and reasonable. If you 
return to my proposed amendment to omit 
section 298SA, you will see, under subpara-
graph (iv), that employees affected may 
make submissions to the AIRC under sub-
paragraph (vii). In case somebody thinks 
they can work employees over or force a fee 
on them that they would not otherwise will-
ingly accept, they do have the opportunity to go to the Industrial Relations Commission.

The question of new employees has to be addressed. Most enterprise bargaining agreements that I am aware of have a life of about three years. Someone who comes in for part of the life of that agreement would have a pro rata obligation. The employee has to agree through the certified agreement vote that the matter will be dealt with in such a way. You will note that clause 2 of item 1 refers to an organisation of employers who can pursue the same direction. This is a bit of a Rubicon for people to cross. My own opinion is that, without the outstanding service provided to workplaces in this country by organisations of employees and organisations of employers, this country would not have the characteristics it has of First World productivity and First World democratic standards. It is quite possible that we might see the day when unions are actually vastly reduced in numbers. It has happened in Europe and, indeed, it happened in New Zealand for a while. However, I think their ability to offer fee-for-service provisions would be a service to the community overall. This is an attitude that I and the Democrats have had over many years, and I personally have been campaigning on this issue for five years. This is my opportunity to make an attempt to provide a bargaining services fee in circumstances where compulsory unionism, or any idea of compulsion, apart from through the certified agreement process, is specifically outlawed.

Senator SHERRY (Tasmania) (11.51 a.m.)—As I indicated in my speech on the second reading, and on behalf of the Labor Party, we have taken the view that the issue of bargaining fees would be most effectively dealt with when their status as an industrial matter or as a matter pertaining to the relationship of the employer and the employee has been settled by the courts. As I indicated in my speech, we may be passing legislation that we are now required to deal with in this chamber.

The Australian Democrats have proposed amendments that would enable bargaining fees to be included in a section 170LJ or division 3 certified agreement if specified conditions are met. In summary form these conditions are: firstly, the bargaining fee is clearly explained in writing—the details must include the amount payable, the frequency and timing of the payments and the services for which the BAF is payable; secondly, before bargaining starts, employees are advised that a bargaining fee will be sought in the agreement; thirdly, an employee affected may take submissions to the Australian Industrial Relations Commission on whether the bargaining fee is fair and reasonable—this would pertain to the amount; fourthly, the bargaining fee must be approved separately and in addition to the other terms in the agreement by a valid majority of employees; and, finally, for new employees the bargaining fee would apply on a pro rata basis.

In connection with a section 170LK, a bargaining fee could be charged by either a union or an employer association—and I would emphasise that it could be charged by an employer association—under an individual agency agreement entered before the bargaining services are provided. Labor considers that these proposals represent a genuine and constructive attempt by the Australian Democrats to engage with the issues surrounding bargaining fees. The amendments have merit in that they are intended to ensure that there is accountability, transparency and consultation in the reaching of collective agreements about bargaining fees and that any fees that are set are done so at a reasonable level and do not infringe freedom of association principles.

The positive approach of the Australian Democrats stands in stark contrast to the Liberal government’s approach. We have just had another diatribe from the minister of anti-union rhetoric, which is a hallmark of this government. Destroy unions and destroy an independent industrial relations commission is the approach in a highly belligerent, aggressive and proactive manner of this gov-
ernment, as exemplified by the behaviour and approach of the current minister, Mr Abbott, and his predecessor, Mr Reith. Labor considers that this amendment will achieve a helpful focus on the real issues surrounding bargaining fees. Accordingly, the Labor caucus has resolved to support them.

In conclusion, Senator Murray also made a number of general thematic remarks about the importance of both employee organisations—in this case, unions—and employer organisations in a functioning democracy and a democracy that ensures at least a relatively equitable outcome of the social and economic cake. I endorse those remarks, Senator Murray; I think they are important. We will disagree about some of the detail from time to time, as Senator Murray knows. We have exchanged often sharp views, but as to your thematic remarks I could not agree with you more, Senator Murray. We will be supporting the first amendment.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.55 a.m.)—Firstly, I address the point that Senator Murray put that it was an accepted principle of industrial law that the will of the majority prevails in workplace relations matters, a principle which he says is enshrined in the act which both the Democrats and the government supported. It should also be pointed out that the act specifically provides that the majority cannot impose on the minority agreements that contain clauses requiring discrimination in various manifestations.

Principles of freedom of association and freedom to join or not join an association in particular are matters which are equally as important as those discriminations that we quite rightly deplore. You therefore come back to the fundamental proposition that if there are people in the workplace who do not want to pay a bargaining fee for whatever reason—it does not have to be because they do not like unions; they may simply think they are not getting any value for money, that they would have achieved it by direct negotiation or by any other means—then it is not acceptable as a discrimination against them to force them to pay that fee. It is quite clear how this originates: it originates because the union movement has been in long-term decline, because they have not been seen to be delivering to their membership.

Back in the good old days when the money just rolled in the unions were not talking about bargaining fees. They were quite happy to take the money and to render the services they render. What has happened is that the great majority of the Australian population, certainly in the private sector, no longer see them as particularly relevant. As a result, they feel that the only way they can get back into the game in a money sense—which is what union power is all about—is to force some people to pay a fee that they do not want to pay. Quite simply, they could collect it from those who want to pay by direct discussions. If there are such people around, they will pay it.

We cannot accept the proposition. It is not acceptable in any circumstances for the majority of employees to impose a bargaining services fee on a minority who do not wish to pay it. It is not a limitation on bargaining powers. The act already gives necessary protections to individual freedoms in bargaining. The bill appropriately extends the principle of freedom of association to compulsory bargaining services fees. It is an important measure to prevent employees being harassed or coerced into paying fees by industrial associations. We are very much opposed to the Democrats' amendment (1).

Question put:

That the amendment (Senator Murray's) be agreed to.

The committee divided. [12.03 p.m.]

(The Chairman—Senator J. Hogg)

Ayes............ 38
Noes............. 33
Majority........ 5

AYES

Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Bolkus, N.
Brown, B.J. Campbell, G.
Carr, K.J. Cherry, J.C.
Collins, J.M.A. Conroy, S.M.
Cook, P.F.S. Crossin, P.M. *
Denman, K.J. Faulkner, J.P.
Forshaw, M.G. Greig, B.

DENIES
The CHAIRMAN—The question is that schedule 1, items 11, 12, 14 and 15 stand as printed.

Question negatived.

Senator MURRAY (Western Australia) (12.07 p.m.)—I move Democrat amendment (2) on sheet 2585:

(2) Schedule 1, item 10, page 6 (lines 1 to 6), omit Division 5A, substitute:

Division 5A—False or misleading representations about bargaining services fees etc.

298SC False or misleading representations about bargaining services fees etc.

A person must not make a false or misleading representation about:

(a) another person’s liability to pay a bargaining services fee; or

(b) another person’s obligation to enter into an agreement to pay a bargaining services fee; or

(c) another person’s obligation to join an industrial association.

This relates to the other side of the bill which addresses the issue of freedom of association. You will note that the government’s items 6, 7, 8 and 10 have not been opposed. What they are trying to do there is reinforce the issue of freedom of association. I should make it clear through the chair that, in my discussions with employer groups and employee groups—particularly the ACTU—they have made it clear to me that they do not in any sense support an industrial association or officer, or a member of an industrial association, threatening anyone or misrepresenting anything. If there are members within the broad union movement or within any other movement that do so, they dissociate themselves from those. I regard the government’s amendments on the freedom of association side as reinforcing principles which all responsible sides of employee-employer industrial relations support.

At present, schedule 1, item 10 reads:

A person must not make a false or misleading representation about another person’s liability to pay a bargaining services fee.

In case anyone is missing the debate, those items are consequent to the passage of Democrats’ amendment (1) and, therefore, would have to be opposed.

The question is that schedule 1, items 11, 12, 14 and 15 stand as printed.

Question negatived.

Senator MURRAY (Western Australia) (12.07 p.m.)—I move Democrat amendment (2) on sheet 2585:

(2) Schedule 1, item 10, page 6 (lines 1 to 6), omit Division 5A, substitute:

Division 5A—False or misleading representations about bargaining services fees etc.

298SC False or misleading representations about bargaining services fees etc.

A person must not make a false or misleading representation about:

(a) another person’s liability to pay a bargaining services fee; or

(b) another person’s obligation to enter into an agreement to pay a bargaining services fee; or

(c) another person’s obligation to join an industrial association.

This relates to the other side of the bill which addresses the issue of freedom of association. You will note that the government’s items 6, 7, 8 and 10 have not been opposed. What they are trying to do there is reinforce the issue of freedom of association. I should make it clear through the chair that, in my discussions with employer groups and employee groups—particularly the ACTU—they have made it clear to me that they do not in any sense support an industrial association or officer, or a member of an industrial association, threatening anyone or misrepresenting anything. If there are members within the broad union movement or within any other movement that do so, they dissociate themselves from those. I regard the government’s amendments on the freedom of association side as reinforcing principles which all responsible sides of employee-employer industrial relations support.

At present, schedule 1, item 10 reads:

A person must not make a false or misleading representation about another person’s liability to pay a bargaining services fee.

In case anyone is missing the debate, those items are consequent to the passage of Democrats’ amendment (1) and, therefore, would have to be opposed.
tions which are possible with other forms of industrial agreements, including individual agreements—and I felt that the government amendment failed to cover the field. There is my proposed additional amendment in (a):

A person must not make a false or misleading representation about:

(a) another person’s liability to pay a bargaining services fee

—that is what the government said. Then I have added:

(b) another person’s obligation to enter into an agreement to pay a bargaining services fee; or

(c) another person’s obligation to join an industrial association.

I have expanded the field to ensure that there is no misapprehension whatsoever about what can or cannot be done with regard to false or misleading representations. That is the purpose of moving that amendment, and I commend it to the Senate.

Senator SHERRY (Tasmania) (12.11 p.m.)—This amendment will ensure that false or misleading representations are not made about a person’s liability to pay a bargaining fee or their obligation to join an industrial association. Labor assumes this measure is targeted at government statements on bargaining fees and is happy to support the amendment as moved by the Democrats.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.11 p.m.)—We oppose the amendments on the grounds, firstly, that the terms of item 10 are sufficiently broad to encompass contractual or any other form of agreement to pay a bargaining fee and, secondly, that the further prohibitions sought by the amendment are already catered for by provisions in the bill. I direct the Senate’s attention explicitly to items 6, 9 and 10—which cover the field sufficiently for Senator Murray’s purpose—and the provisions of the Workplace Relations Act, sections 298K, 298L and 298P3, which already prohibit the conduct complained of. For those reasons we do not see the need to go to the point that Senator Murray is going to. But we understand that he is in heated agreement with the general approach, and we welcome that.

Question agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.14 p.m.)—I move:

That this bill be now read a third time.

Question put.

The Senate divided. [12.18 p.m.]

(The Deputy President—Senator J.J. Hogg)

Ayes............ 37

Noes............ 32

Majority........ 5

AYES

Abetz, E.  Alston, R.K.R.
Barnett, G.  Boswell, R.L.D.
Brandis, G.H.  Campbell, I.G.
Chapman, H.G.P.  Colbeck, R.
Cooman, H.L.  Eggleston, A.
Ellison, C.M.  Ferguson, A.B.
Ferris, J.M.  Heffernan, W.
Herron, J.J.  Johnston, D.
Kemp, C.R.  Knowles, S.C.
Lightfoot, P.R.  Macdonald, L.
Macdonald, J.A.L.  Mason, B.J.
McGauran, J.J.J. *  Minchin, N.H.
Patterson, K.C.  Payne, M.A.

NOES

Allison, L.F.  Bishop, T.M.
Brown, B.J.  Campbell, G.
Carr, K.J.  Cherry, J.C.
Collins, J.M.A.  Conroy, S.M.
Cook, P.F.S.  Crossin, P.M. *
Denman, K.J.  Faulkner, J.P.
Greig, B.  Harradine, B.
Harris, L.  Hogg, J.J.
Hutchins, S.P.  Kirk, L.
Lees, M.H.  Ludwig, J.W.
Lundy, K.A.  Mackay, S.M.
Marshall, G.  McLucas, J.E.
Moore, C.  Murray, A.J.M.
Nettle, K.  O’Brien, K.W.K.
Ray, R.F.  Ridgeway, A.D.
Sherry, N.J.  Stephens, U.
Stott Despoja, N.  Webber, R.
Wong, P.
Debate resumed from 15 May, on motion by Senator Abetz:

That this bill be now read a second time.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.22 p.m.)—The opposition do not support the Commonwealth Electoral Amendment Bill (No. 1) 2002. Not only do we not support the bill; we go further and say that we think it is a disgrace that this bill is even before the parliament. The stated purpose of this bill is to amend the Commonwealth Electoral Act 1918 so that the agent of the Liberal Party’s federal secretariat can determine the distribution of public funding between the federal secretariat and the state and territory divisions of the Liberal Party. The real purpose of this bill is far more sinister, far sleazier and much more about the internal power struggles within the Liberal Party than the glib words of the government reveal. This bill is really about the Liberal Party’s federal secretariat’s desperate dash for cash and the fact that the federal office of the Liberal Party does not have any faith in its state divisions. In particular it does not trust its Queensland division. I suppose that is something, as Senator Brandis would acknowledge, we would all understand. Let me make it absolutely clear to the chamber that this bill specifically addresses Liberal Party matters, Liberal Party internal affairs. It imposes on the Liberal Party a resolution to its incessant internal bickering about the disbursement of public funding within their party. This bill has nothing whatsoever to do with anything other than the Liberal Party or anyone else other than Liberal Party members.

The bill is very instructive about how the Liberal Party manages its internal disputes and what it thinks this parliament is really for. Clearly it cannot manage any internal disputes. Clearly the Liberal Party thinks the parliament is here to serve the Liberal Party rather than vice versa. You would hope that the Liberal Party would believe that its obligations were to serve the parliament. What will we have next? If a Liberal Party minister is having a family dispute, would there be an attempt to amend the Family Law Act to bind the person’s spouse by name? Or if someone like a John Moore or a Warwick Parer were involved in a corporate dispute, would the Liberal Party try to swing an amendment to the Corporations Law, telling a private company how to run its internal affairs?

This bill is exactly the same in its intent and nature. By this legislation, Mr Howard and Mr Lynton Crosby of the Liberal Party are debauching the role of the parliament, and it is a disgrace. The Liberal Party is using the federal parliament to sort out its own internal problems. Mr Howard is saying to the Labor Party, to the Democrats and to other parties in the Senate, ‘We want your votes—

The ACTING DEPUTY PRESIDENT (Senator Watson)—Order! I think you made an unparliamentary remark against the Prime Minister when you referred to Mr Howard and Mr Crosby, or Mr Crosby and Mr Howard.

Senator FAULKNER—I did not make any unparliamentary remarks. What were they, Mr Acting Deputy President?

The ACTING DEPUTY PRESIDENT—I understood there was a comment in relation to debauchery in which you linked the two names. You can name people outside the parliament but you cannot name the Prime Minister. If you named the Prime Minister, I ask you to withdraw it; if you did not, I am in error.

Senator FAULKNER—I do not think I made an unparliamentary remark but let us
be absolutely clear: Mr Lynton Crosby is debauching the role of parliament. I will also make it very clear a little later on as to what Mr Howard is up to. What Mr Howard is actually saying—

Senator Abetz—I raise a point of order, Mr Acting Deputy President. You requested Senator Faulkner, the leader of the Labor Party in this place, to withdraw a comment. He has his speech right in front of him. It would be very easy for him to go through his notes and determine whether or not he read out the words that you assert. If he did, they ought be withdrawn.

Senator Faulkner—I have indicated, Mr Acting Deputy President, what my approach to this is. You do not even know what I said.

The Acting Deputy President—I do, yes.

Senator Faulkner—What did I say?

The Acting Deputy President—You linked the two names together.

Senator Abetz—with the word debauchery—you know that.

Senator Faulkner—I do not think I have said anything unparliamentary, Mr Acting Deputy President, as I have indicated to you. But if I have said anything unparliamentary, again I say I withdraw it. I have said that twice now.

The Acting Deputy President—I will accept that.

Senator Faulkner—Do you want me to say it three times?

The Acting Deputy President—No, I will accept that.

Senator Faulkner—Thank you. As I was saying, Mr Howard, the Prime Minister, is saying to people in this chamber is for us to see if we can use our best efforts to get the Liberal Party’s act into gear. The fact is that Mr Howard and Mr Crosby need this bill, because the Liberal Party is in deep organisational trouble. There are so many manifestations of these sorts of problems right around the country. The Liberal Party leadership have basically given up trying to fix anything using their own internal mechanisms. You have all the Liberal Party state divisions in disrepair. As reported on Crikey.com in 1995, Mr Howard’s Liberal Party at that time held six state and territory governments and 332 supporting MPs. In 2002, as we speak now, this has shrunk to zero state and territory governments and just 220 MPs. They are interesting statistics: more than one in three conservative MPs in state and territory governments have disappeared since January 1995.

Around the country the Liberal Party in its state and territory divisions is in complete disarray. In Queensland we have the Caltabiano and Quinn factions at each other’s throats. The Australian reported last week that the Queensland Liberal Party executive considered 800 new membership applications on Friday 2 August: 500 were recruited by the Caltabiano faction and 300 were recruited by the hapless state leader, Mr Bob Quinn. Very embarrassingly for Mr Quinn, it turns out that he was calling for reforms to wipe out branch stacking while he was actually engaged in branch stacking himself. Mr Quinn should practise what he preaches. We acknowledge that branch stacking is a curse for any political party, but Mr Crosby is doing nothing about it. Mr Crosby is laughing off the Queensland branch stacking as recruitment.

Senator Abetz—Why don’t you study the Hawke-Wran era!

Senator Faulkner—I suppose that you could compare the problems of Queensland with those of Tasmania, which Senator Abetz is not only well aware of but also largely responsible for. We have the swift exit of Senator Abetz’s mate Mr Cheek and his deputy as well in the recent state election. That has led Mr Crosby to accuse the Tasmanian branch of the Liberal Party of cannibalism. Frankly, you would want an official taster if you practise cannibalism in the Liberal Party. Look at the report from Mr Crosby on the performance of the Liberal Party in the 2002 Tasmanian election. He made 92 recommendations to reform the branch. I suspect there are not even 92 members left in the Liberal Party in Tasmania.

Senator Abetz—Keep your daytime job!

Senator Faulkner—Senator Abetz, who is interjecting, has basically applied the
Draino to anyone at all down there who has a whiff of moderation about them. They have all been rubbed out and removed. The report was presented by Mr Crosby and a copy of it has been provided to us. We appreciate that.

Senator Abetz—It’s been publicly released!

Senator Faulkner—Thank you. That is right—we appreciate it. It reads like an autopsy of a dying political carcass. You are responsible for it, Senator Abetz. It is so damming of you, of the Liberal Party’s Tasmanian division and of those who lead it.

Senator Abetz—No it’s not—not at all. You haven’t read it!

Senator Faulkner—I have, actually. Let me quote from it. On page 4 it says:

The result was not simply the culmination of an ill-judged election campaign; rather it reflected entrenched structural problems, poor decisions and a deficient organisation which dated back years.

I will read another quote:

The general feeling of party members is that the election result was regrettably inevitable—the product in part of flawed processes which were themselves a product of a flawed culture.

On page 11, Mr Crosby bemoans the anarchic approach within the Tasmanian division of the Liberal Party and the ‘culture of self-interest that permeates the division’. On page 15 of this report, commenting on the Tasmanian Liberal Party’s strategy, Mr Crosby states the same conclusion that many Tasmanians appear to have reached, which was that ‘there was no real Liberal campaign strategy’. That was followed by an absolute gem of campaigning advice—that ‘policies don’t win elections’. On page 23, in what is perhaps a piece of personal advice to poor old Senator Abetz, Mr Crosby states:

The Tasmanian Liberal Party must take the middle course on policy and not be seen to be driven by ideology at the expense of relevance.

On page 25 of the report, Mr Crosby states:

There has been a consistent chorus since the election that most voters did not know what the Tasmanian Liberals stood for. And people add, when voters found out, they did not like what they saw.

Mr Acting Deputy President, you would know about what was happening in Tasmania.

As if that was not enough, retribution is on the way in the Western Australian Liberal Party division following Mr Keirath’s failed challenge for party president. The faction that was run by that old hand and master puppeteer Mr Noel Crichton-Browne is mobilising for another grudge match over there. We hear that a lot of membership driving is happening in the southern suburbs of Perth. So it is business as usual in the Western Australian division of the Liberal Party.

I do not want to mention the Victorian division of the Liberal Party, of course, because that has suffered yet another undignifying leadership spill. The Herald Sun of 12 August reported that the top end of town in Melbourne were unhappy with Dr Naphthe and, importantly, that the donations were drying up. The fundraising bodies in the Liberal Party—and you have to understand that is where the real power lies in the Victorian Liberal Party—were talking about bringing Mr Jeff Kennett back from the political dead, according to the Herald Sun. We would have been very pleased. That would have been a masterstroke. Apparently, a member of the Baillieu family—young Ted—offered his seat of Hawthorn to Mr Kennett if he wanted to return to the fold. I thought that was a most magnanimous gesture from young Ted. So much for Ted’s constituents—I do not think he cares much about them.

There is real reform going on down there, because yesterday the Victorian Liberal Party churned their leaders once again. They now have Mr Robert Doyle as leader. Mr Kennett was quick to jump on the bandwagon on his radio show. He said this about Mr Doyle:

He is not leadership material now and he is certainly not leadership material in the future. He’s been in Parliament a short time. He’s terribly ambitious and those who back him inside the Parliament and out must accept responsibility for what I consider to be a gross act of disloyalty so close to an election.

Last night on the 7.30 Report Mr Morris, who is a very close confidant of the Prime Minister, summed up the state of the Liberal
Party divisions better than any of us on this side of the chamber could. Let me quote Mr Morris. I do not normally quote him, but on this occasion I will:

I think at the moment in State Parliament we’ve got the most boring batch of boofheads you’ve ever seen. They tend to be lazy and they tend to be lacking in passion and I think it’s the batch of people that we have in Parliament. I do not often agree with him, but on this occasion I think that is wise counsel indeed.

The Liberal Party, like all other political parties in this country, has its internal problems. Fair dinkum political leaders and fair dinkum political parties sort out their own problems. They do the hard yards. They take on the vested interests. They solve their own problems internally without using the parliament to impose some external fix-it mechanism for internal problems. That is certainly the approach that Simon Crean is taking in relation to issues that he sees of concern in the Labor Party. But what is Mr Howard doing? Mr Howard is trying to stitch up a sleazy amendment to the Commonwealth Electoral Act to try and fix up a problem that he cannot solve internally in the Liberal Party.

This bill has a most innocuous title. It is called the Commonwealth Electoral Amendment Bill (No. 1) 2002. That sounds straightforward enough to any person who might read it or hear it, but we have always said that the bill should be retitled and called what it really is: the Liberal Party Central Office Dash for Cash Bill. We have been able to identify and expose what the Liberal Party is on about in this appalling legislation. The Liberal Party is mentioned no fewer than 30 times in the bill. Nearly every paragraph of this bill has the Liberal Party mentioned in it. This bill is for one purpose only: to fix the Liberal Party’s internal headaches. The bill has no other purpose at all. It shows how weak the Prime Minister really is when it comes to the crunch within the Liberal Party. It is very instructive indeed about the government’s legislative priorities in the area of electoral law to have this bill before us. We recently had a parliamentary committee—the Joint Standing Committee on Electoral Matters—hold an inquiry into electoral funding and disclosure laws. That inquiry was deferred in August 2000 while the government prioritised its discredited inquiry into the integrity of the electoral roll. But the inquiry into electoral funding and disclosure laws was resuscitated in the dying days of the last parliament. At public hearings, all parties agreed that changes to the laws governing other aspects of funding and disclosure are important. The AEC is so concerned over the significant problems of the current electoral funding and disclosure laws that it has made two lengthy submissions to that inquiry on those issues. Submissions have been received from all the political parties. It may come as a shock to the Senate to know that the distribution of the Liberal Party’s internal finances has never been raised by the coalition before that committee. It has not been raised by coalition members or senators. It has not been raised by the Liberal Party’s federal secretariat in any submission. There has never been one mention of this issue at any of those inquiries before JSCEM over the last 10 years. The Liberal Party has appeared before that committee many, many times. There has never been a squeak out of the Liberal Party on this matter. After all, why would you say it there if you can try and put the fix in in the parliament?

In that context, it is extraordinary that the government could bring forward such a bill for debate in this chamber. There are so many more significant and important electoral funding and disclosure issues that ought to be dealt with by this parliament. With some political will from the government, I believe consensus could be reached on those issues. But the government’s prioritisation of its disgraceful piece of legislation over matters such as secret donations and fundraising for political parties by commercial organisations really demonstrates what the priorities of the government are.

This bill has no policy benefits at all. The only beneficiary here is the federal secretar-
iat of the Liberal Party of Australia. They will be benefiting through an improper use of the Australian parliament. As such, I believe this bill should not even be before this chamber. The Commonwealth Electoral Act currently provides that public funding is paid to the agent of the state branch of a party for which the candidate stood. The parliament has provided a mechanism for the Liberal Party, and for every other political party, to sort out how it organises its internal finances. That is absolutely clear. A state branch can lodge a notice with the AEC requesting payments be made to the agent of another party. That is the simple mechanism in the Commonwealth Electoral Act for parties to resolve how public funding is organised. It is up to the parties to sort out how they do that. In the case of the ALP, our national secretariat reached agreement with all the state ALP branches that the national secretariat receives public funding at federal elections. The Liberal Party could do the same thing. Senator Ray offered to provide a stamp so the letter could be sent. I will go further. I think the Liberal Party should accept Senator Ray’s offer of a stamp. I will offer to draft the simple letter and provide a draft to you which will mean this legislation does not have to be brought before this parliament, that we do not have to see this abuse of the parliament, that we do not have to see this parliament used for the basest political party advantage that we have ever seen. This bill is a disgrace. It will not be supported by the opposition.

Debate interrupted.

MATTERS OF PUBLIC INTEREST

The ACTING DEPUTY PRESIDENT (Senator Bartlett)—Order! It being 12.45 p.m., I call on matters of public interest.

Western Australia: North West Shelf

Senator EGGLESTON (Western Australia) (12.45 p.m.)—I would like to talk today about the stunning proposal to develop further trains on the North West Shelf in Karratha and Dampier, and the contract which has recently been signed for Western Australia to provide gas to the Chinese market. This is an enormous achievement for Australia, and it means that we are going to see enormous development on the Burrup Peninsula. This will benefit not only the people of Karratha and Dampier in terms of employment and the development of industry there but the people of Western Australia as a whole and in fact the people of Australia.

The plan to develop North West Shelf gas was first proposed by Sir Charles Court way back in the 1970s and 1980s. The North West Shelf project was originally his concept, and he brought it to fruition. More recently, Richard Court, who was the Premier of Western Australia in the last Liberal government, worked very hard to obtain this contract to provide gas to the Chinese market. In the end the Australian government worked very hard in lobbying the Chinese government to give this first contract for gas to Western Australia. I understand that it seemed the contract was going to go to Indonesia but, because of the enormous lobbying effort by the Prime Minister, John Howard, and his ministers, that decision was changed, and now Australia has the first contract to provide gas to the Chinese market.

That is very important because it is a threshold decision. The Chinese are moving from the use of coal to the use of gas as a means of generating power. They also, of course, use large amounts of oil from the Middle East. It means that the Chinese are sourcing energy for electricity generation from Australia, whose political climate is much more reliable and stable than that of the Middle East. The United States Department of Energy’s International energy outlook 2002 has estimated that natural gas consumption in China will increase by 10.1 per cent annually until 2020. The implication of this is that the Chinese market is one of great potential for the further expansion of the Australian liquefied natural gas industry.

The new LNG trade deal with China will create thousands of jobs in the construction phase in the Karratha-Dampier area and will necessitate the construction of a fifth LNG train on the Burrup Peninsula. That is going to involve additional capital expenditure of more than $1 billion over three years. Even before the announcement of this new deal, the North West Shelf venture was going through a major process of expansion. The
processing facility on the Burrup Peninsula near Dampier and Karratha currently has three LNG processing trains, and in late 2001 the construction of a fourth train commenced in order to meet further demand for LNG from the Japanese market. This in itself involves capital expenditure of some $1.6 billion, and this new train is scheduled to come on-line in mid-2004. It will have an annual capacity of 4.2 million tonnes of LNG and will be the largest LNG train to have been built anywhere in the world when it is up and running.

According to Woodside, the operator of the North West Shelf venture, it is expected that the fourth LNG train will add a further $2 billion annually in export revenues for Australia, as well as contribute some $6.7 billion in extra taxes and royalties over the life of the project. The new train will be a showcase of Australian engineering expertise and will provide a lot of opportunities for Australian business. Indeed, according to Manfred Henze, Woodside’s general manager of onshore expansion projects:

This is the first time such a plant has been designed and built in its country of origin ... our aim is to develop a world-class project, using Australian engineers, contractors and supporting staff wherever competitive so that we maintain and build the Australian skills base to service the industry in future.

That is a very good thing for Woodside to be doing, because we do need to develop engineering skills in Australia and maintain those skills. What all of this translates to is more jobs both for Western Australia and Australia generally. During its construction phase, the fourth LNG train is expected to directly and indirectly support no less than 9,000 jobs across Australia. In general terms, the North West Shelf venture has been a great Australian success story. It currently supplies about 70 per cent of Western Australia’s natural gas needs, as well as supplying LNG to Japan and condensate, crude oil and liquefied petroleum gas, or LPG, to international markets.

Commercial development of the North West Shelf began in 1980. In 1984, what was then the world’s largest capacity offshore gas production platform, North Rankin A, began producing natural gas, initially for use in the domestic market and then later for the Japanese market. From 1989 on, the Japanese market became a recipient of LNG from the North West Shelf, and today the North West Shelf provides gas which is used to generate electricity for some 73 per cent of the Japanese population. As I said, the North West Shelf has contributed markedly to the economic prosperity of Dampier and Karratha, the wider Pilbara region, the state of Western Australia and Australia as a whole. It is a major export earner, bringing annual export revenue of around $3 billion to this country. Overall it has involved capital expenditure of $13.2 billion as of November 2001. More than $9.5 billion has been spent on the purchase of Australian goods and services. The North West Shelf has created no less than 80,000 jobs estimated on the basis of the multiplier effect around Australia and is a source of annual royalty payments to the government of Western Australia and the Commonwealth running into millions of dollars.

The new contract with China and the expansion of the North West Shelf venture is especially good news for Karratha and Dampier but, as I said, it is going to have a broader effect throughout this country. One of the most important things it is going to do is lead to the development of secondary downstream processing. Australia is a great commodity exporting nation. We export many commodities, from agricultural commodities to minerals and gas, but many people feel we really ought to be into secondary downstream processing and developing industries which use our natural resources rather than sending them to other countries. I must say that the Pilbara gas industry looks like being the first really important success story in the development of secondary downstream processing from an Australian commodity.

According to the Pilbara Development Commission, the Pilbara region is on the cusp of an exciting new phase of industrial growth, with existing industries expanding and new ones emerging. At the Pilbara Industry Conference in 2000, Colin Barnett,
the Minister for Resources Development in a former state Liberal government, said:

In the next few years, Karratha will witness the birth of a significant chemical industry based on the downstream processing of natural gas into products such as ammonia, ammonium nitrate, synthetic hydrocarbons, methanol, urea and other petrochemicals. Collectively, these new industries will be much bigger than anything on Australia's eastern seaboard.

So Karratha-Dampier is going to develop into a major industrial area. Some of the companies which are considering the Burrup Peninsula as the site for downstream processing projects include the Syntroleum Corporation, with the Sweetwater gas-to-liquids plant; Burrup Fertilisers Pty Ltd, who are developing an ammonia plant which will annually export around 759,000 tonnes of ammonia to India for the manufacture of fertilisers; the Dampier Nitrogen Project, which involves a group of companies who are considering the construction of a $900 million world-scale ammonia and urea plant on the Burrup; and Japan DME Ltd, who have a dimethyl ether project. Japan DME is a consortium of a number of Japanese corporations, and they are considering the investment of $1 billion to develop a dimethyl ether plant on the Burrup. Another company, Methanex, are developing a methanol plant and are already on the Burrup and proceeding with the early site works for the development of their plant. They will be constructing the world's largest methanol plant and, again, this plant represents an investment of $1 billion. Then there is GTL Resources, who have another methanol project proposed for the Burrup Peninsula. What we are seeing happening in the north-west of Western Australia is secondary downstream processing, which I am sure everybody in the Senate and those listening around Australia will regard as a very worthy outcome. It is time that we stopped just exporting minerals and began secondary downstream processing.

The one thing that I would like to say as a caution, however, is that the Burrup Peninsula. There are literally thousands and thousands of Aboriginal rock carvings or petroglyphs on the Burrup, and concern has recently been expressed that, with further development of chemical plants on the Burrup, these rock carvings may be endangered by the effects of chemical emissions. I think that is a legitimate concern, and I hope that consideration will be given to preserving those petroglyphs, preserving and protecting the general amenity of the beaches on the Burrup Peninsula and protecting the people of Karratha from noxious emissions from petrochemical plants.

As it happens, the state government has developed a potential industrial estate, known as the Maitland Estate, about 20 kilometres south of the Burrup on flat land which would need to have a gas pipeline and infrastructure put into it. I think that is the site on which further industrial development on the Burrup Peninsula should go. The site costs of developing plants on the Burrup are very high because it is a very rocky area, but at Maitland there is flat land and, once the initial infrastructure were put in place in terms of roads, electricity, gas pipelines and perhaps the development of new port facilities, there would be endless potential for expanding that site as further petrochemical projects were proposed.

The amount of land free on the Burrup Peninsula for further development is very small and, as I said, there is a potential for endangering the petroglyphs on the Burrup and also, possibly, a danger to the people of Karratha-Dampier from noxious emissions from petrochemical plants. So I do hope that the current Western Australia government will listen carefully to the public views expressed by the people of Karratha that they would prefer to see development placed on the Maitland Estate and not on the Burrup Peninsula.

I recently attended a rally on the Burrup Peninsula, where there was a cross-party group in support of the Maitland Estate being the site for further development. I attended for the Liberal Party, and the group also included the Greens, One Nation and the shire
president, who belongs to the ALP. Of course the ALP itself did not support the proposal.

Environment: Ningaloo Reef

Senator COOK (Western Australia) (12.59 p.m.)—Before I turn to my substantive remarks, I acknowledge the last speech and say that the success in winning this contract was a joint national effort. I sometimes think it is a failure in this chamber that we do not acknowledge the bipartisan nature of that support. Certainly Premier Geoff Gallop played a decisive role—

Senator Ian Macdonald—He acknowledged Richard Court.

Senator COOK—That is right. But then to assume that the Labor government of Western Australia played no role is, in fact, not to objectively present the reality. As someone who lobbied in Beijing in support of that project, I say it was a worthy success.

All of us played our part and I think the unsung hero of this lobbying exercise was David Irvine, the Australian Ambassador to China, to whom I now pay tribute and who played an on-the-ground, critical role in pulling together all of the interests to make sure that Australia, as a national entity, was properly represented.

Most Australians have heard of the Ningaloo Reef but very few have visited it. That is not surprising; it is among the most isolated natural wonders of the world. It is 1,200 kilometres north of Perth in a region of very low population. About 3,000 people live along its 260-kilometre length, almost all of them in Exmouth, with a small population at Coral Bay and a scattering of people at ecotourism facilities and cattle stations on what is one of Australia’s most remote coastlines. The reef is magnificent. It presents as a broken line of coral beginning in Exmouth Gulf, hooking around the headland of the North West Cape then running parallel to the coast down to Gnarraloo Station. The Ningaloo Marine Park covers nearly all of this area, stopping at Amherst Point some 50 kilometres south of Coral Bay.

From the shore, the reef appears as a line of white water and breaking surf out to sea and close in to the beach. Waters of startling clarity, whale sharks, dugongs, all manner and colour of tropical fish and the brilliant light display that occurs annually when the coral spawns are features of the reef.

It is Labor policy that the reef should be a World Heritage site—and so it should be. Around Perth these days, the most common bumper sticker one will encounter is a sticker that bears the legend ‘Save Ningaloo: stop the resort’. Today, I want to speak to both of those propositions: how to protect the reef and how to manage the mounting pressures for tourist development. The geographic isolation of Ningaloo is probably the greatest single reason why it continues to be in relatively pristine condition today. If it were located closer to a larger centre of population, it would now be home to a thriving tourist industry. But that isolation is less and less true now than it ever was. Over recent decades, distance has shrunk, population pressure has grown and the infrastructure in the region has improved—it includes Australia’s largest airport at Learmonth, an airport that can land any type of aircraft up to but not including the space shuttle.

Tourism underpins the economy of a lot of the regions of Australia and is beginning to develop in this remote locality as well. As baby boomers near retirement, an increasing number of superannuants are wintering in the near north. Exmouth’s population, for example, goes from a base year-round population of 2,800 to 7,000 residents when it gets cold and wet in southern Australia. The most common vehicle encountered on the road to Coral Bay is a gleaming new four-wheel drive with a superannuitant at the wheel, aluminium tinnie on the roof rack, towing a caravan with a couple of bikes attached to the rear of the caravan. It is a destination of choice for a lot of retiring Australians.

If you add to those agents of change the human, understandable, insatiable desire and curiosity that we have to marvel at the wonders of nature, it is clear that the relatively untouched nature of Ningaloo will come under mounting pressure to change in the near future. Indeed, to some extent, an unintended consequence of the campaign against the Mauds Landing proposition makes this point. No doubt the sponsors of the campaign are driven by high-minded ideals. Their ap-
proach has been to advertise the magnificence of Ningaloo and then link that magnificence to the claim that the resort will degrade these rare ecological values. That tactic has resulted in the best advertising campaign the reef has ever had, an advertising campaign that is a tourism promoter’s dream and which makes Paul Hogan’s ‘Put a shrimp on the barbie’ pale in significance and impact.

Against this background, the public policy question to consider here is: do we have in place an appropriate structure to protect the reef and manage the pressures inevitably mounting for greater access and more development? I think that is, front and centre, the public policy question we need to face. I agree with the first proposition on that bumper sticker: ‘Save Ningaloo’. That, I believe, is the predominant public sentiment in Western Australia and elsewhere in Australia. Ningaloo Reef has to be managed to protect its values and to preserve its uniqueness. The question is: how do we best do that? At present, the key agency for doing it is the Western Australian Department of Conservation and Land Management under the marine park authorities act, but it is not alone. Other portfolios directly engaged are the Department of the Environment and Heritage, which administers the WA Marine Parks and Reserves Authority, the Department of Fisheries, the Department for Planning and Infrastructure—which contains the Pastoral Lands Board—the Water Corporation, and, at a further remove, Main Roads Western Australia and possibly, at a stretch, the Department of Minerals and Petroleum Resources.

The marine parks act has jurisdiction up to the high watermark. The land based activities contiguous with the reef are the responsibility of the planning department and other departments, as well as of the Shire of Gascoyne. The Commonwealth is in the act too but in a passive way. The Commonwealth has a marine parks reserve, which appears as a duplicate of the state reserve, although the Commonwealth does not, as I understand it, make a financial contribution to the upkeep and policing of the values of the reef.

To ‘save’ Ningaloo, I think it is desirable to create one single authority with overarching power for all activities related to the reef and the belt of land that parallels it. A model for such an authority could be the Great Barrier Reef Marine Park Authority, which applies to our most outstanding natural wonder, the Great Barrier Reef. Let me be clear: I am not suggesting yet another regulatory authority which will add to the confusion and duplication that exists; rather, a one-stop shop that discharges all responsibilities with all agencies and which operates under a clear charter of principles that the community can support and that uphold the value and importance of the reef—a charter that reassures the public that the interests of the reef, in all its manifestations, are paramount. If World Heritage listing, as Labor wants, is achieved, that body is ready-made to protect its essential values and to be the agency that reports to the World Heritage List. I put forward this idea as a constructive suggestion to meet the community’s desire to protect the reef and the community’s understandable desire to see the reef. If there are better suggestions, I would be pleased to fold my argument in favour of them, but I think that this matter is now becoming a central matter of some importance in Western Australia.

I now turn to the second part of the bumper sticker: ‘stop the resort’. The nature of the campaign that we are seeing to stop the resort is orthodox from an environmental point of view. It is notable that it is a well-funded, slick campaign. It links the reef’s beauty, natural wonder, whale sharks and fish life to a specific development. From my point of view, it lacks conviction when you compare the 260 kilometres of basically uninhabited coastline with the small size of the reef development that is being proposed. The reef development is not on the shoreline; it is behind the line of sandhills that act as a buffer between the proposed resort and the watermark.

In this speech I do not intend to make a case for or against the resort, but I make this point: the proposal is undergoing an environmental impact study by the relevant state agency charged with doing such studies to objectively assess whether there are envi-
ronmental difficulties with the proposal. I think we should await the outcome of that study and, when the facts are before us, then draw conclusions. Having said that, I want to make some points. Firstly, if there is a case against the Mauds Landing project, by the same criteria there is no case for the Coral Bay development. The Coral Bay development exists; it is a development in which you can step from the beach right onto the reef. Mauds Landing, as I have said, is behind a line of sandhills, and the reef is four kilometres offshore from where the development is proposed.

The Coral Bay community has grown up with a freebooting, outback entrepreneurship as its guiding light. It has grown up over the years without much regulation and as a consequence there is over it a number of significant environmental questions. It is imperative to answer those questions directly and honestly. I note that the state government has under way a process in which it expects to do that, and I hope that it resolves those questions. But if there are problems with Coral Bay—and that needs to be addressed—that of itself does not justify other developments on the coast. The campaign sticker that I referred to would be better if it said, ‘Save Ningaloo: clean up Coral Bay.’

The second point is that the campaign against this development is an expensive one. There is a well-founded rumour—I cannot vouch for it but I repeat it, qualified because I cannot establish it; nonetheless, it is well founded—that $500,000 of that campaign has been contributed by a body called the Australian Wildlife Conservancy. That body is a high-minded, idealistic operation and it requires great community support and approval, but it is not a disinterested spectator; it is also a developer and it favours an ecotourist type development. While it is clear, I think, that the Mauds Landing project is opposed by the celebrated Western Australian author Tim Winton, he seems to support that type of ecotourism development.

The debate we are having is not about whether there is development or no development; it is about what sort of development should occur. That is a sensible debate to have and we should engage in it. It puts the whole issue of the future of Ningaloo into some perspective and it realistically recognises the pressure from the public to view and to have access, in some guarded form, to the reef. It is why there ought to be a clear set of principles governing the management of the reef which can be proclaimed and affirmed bipartisanly and by a large majority of Western Australians by saying, ‘These are the values we want to protect under such an authority.’ It is why there ought to be an identifiable authority in place to enforce and police those values—an authority which is accountable through ministers to the parliament, but a one-stop shop to clear all access and development issues.

Let me conclude on this point: the argument about what type of development. I favour ecotourism development, but the high cost of access to remote ecotourism resorts means that it is the privilege of the wealthy, not ordinary families—mums and dads with kids on school holidays—in the state of Western Australia. There is a place for that development, but the overriding question is: how do we manage to meet the needs of ordinary families who cannot afford the high prices for those remote retreats but do want to meet the aspirations of their children to see the natural wonders and beauties of this magnificent country?

**Australian Democrats: Leadership**

**Senator STOTT DESPOJA (South Australia—Leader of the Australian Democrats) (1.14 p.m.)—**Today I was due to speak on the issue of Erskineville School but unfolding events mean that I must turn my attention instead to the Australian Democrats. I am proud to belong to a member driven and democratic party. I owe a huge debt to the membership. My mantra has always been: trust the members. In fact, I heard that acknowledged in first speeches on both sides yesterday. In the Australian Democrats it is the members, not the party room, that determine the leadership. In fact, I have served under different leaders—as a staff member, as an adviser and indeed as a senator—supporting whomever the members chose, because I know that a party cannot function without supporting its leader.
The democratic membership of our party determines our leader and the senators owe loyalty to that leader. I am not suggesting blind loyalty; obviously, if there are issues with the leader they should be considered through the parliamentary and party channels that we have at our disposal. If there is outright dissent, however, then declared opponents should challenge through the ballot. Four of my Senate colleagues today have made some demands. I do not think demands have ever been a part of the previous leader’s role and responsibilities in the Australian Democrats but unfortunately I cannot, in all good conscience, accept the demands that have been placed on me today.

It is hard to define your role as leader of a political party without the full support of your party room. Of course there will be occasional differences of opinion. Our party, I think more so than others, can accommodate those differences but continual public criticism and continual commentary in the media and elsewhere can only seek to destabilise the leadership and ultimately, with it, the party. On every occasion that the Australian Democrats have had policy wins under my leadership or have risen in the polls, internal criticisms have been released to the media and overridden our success in the public mind. This torpedo effect I have seen many times. It was evident through the by-election in Aston, after the federal election, when we had our successful MLA Roslyn Dundas elected to the ACT legislature, and even after our effective response to the budget. It has been evident again in the last 24 hours, after we had some success not only in the polls going up a little bit but also in the way that we responded to the idea of a potential first strike against Iraq.

Much has been made of poll slumps with the Australian Democrats recently. Senator Murray called it ‘flat lining’. He did not use that terminology when we were on three per cent 14 times under the previous leader. He did not talk about it when we were on two per cent under the previous leader. I am disappointed that a colleague, Senator Cherry, went before the television cameras this morning and gave the worst possible assessment of the polls under my leadership and then said, ‘I want to be re-elected.’ When, under my leadership, the Newspoll hit a seven-year high of nine per cent—before the events of Tampa and September 11—the critics did not talk about polls. Nor did they talk about them yesterday, when we should have been capitalising on an increase in the polls for the Australian Democrats.

While I preferred not to take on the leadership prior to the last election, the Democrats’ national executive and our general membership made something very clear, as is their right: that they would be generating a ballot on the issue. I was proud to offer myself as a candidate and proud to represent my party and enjoy the overwhelming support in two elections of the rank and file Democrat members. In fact, I am very pleased to see the 80 per cent increase in membership of my party when I became leader.

It was probably too much to ask, though, that a change in leadership would entirely restore our party, particularly after the GST debacle—its pitiful and sometimes undelivered gains and breach of promise. We have been fighting a perception since 1999 that the Australian Democrats do not keep promises. We went into the last election knowing that there would be a strong backlash. Key commentators—some of the same ones who have called for me to resign—acknowledged early last year that we would probably have difficulty holding all Senate seats. In fact, they predicted that only my seat in South Australia would be returned. But we went to the election and against the odds—the backdrop of September 11, Tampa and a backlash against the Democrats’ role in the GST deal—we got four Senate seats back: the same result as 1998 and an increase in our lower house vote nationally.

I did not support the preference deal that was perceived to support the Australian Labor Party but I do recognise that our preference review group in the Australian Democrats is entitled to make such decisions. But I also note that some of those preference deals in some states that got my colleagues across the line could not have occurred under the previous leader, because key minor parties would not have dealt with us. I hope that one day history reflects the realities—both the
challenges and the achievements—of that election campaign under my leadership.

We are a small party. We have always struggled for our share of media attention—perhaps not in recent weeks—for our legislative achievements, for our policy work and for an understanding of our unique participatory and democratic nature. The Australian Democrats cannot afford to expose our conflicts or flaunt our disunity, and again and again our recent wins have been overshadowed. I have kept the discussion of internal party matters in the party room. I have kept them in members’ meetings where they belong. As people in this place know so well—because this is not new to my party—these things happen and it is how you and your colleagues choose to deal with them that really measures you as a party. The senators and the members have been in no doubt—they have never been in any doubt—that I was willing to listen to their views and take on board their concerns. They know my willingness to debate these issues and open the party’s processes to debate and discussion. That is why I initiated the first national strategic review of the party. That is not an easy thing to do; it is fraught with potential conflicting outcomes. I was the first leader to say, ‘Let’s engage and talk about the good and the bad.’ Our party processes were all up for discussion.

Colleagues have spoken of their so-called reasonable list of reforms. I dispute the definition of ‘reasonable’ in relation to a number of their proposals. I went in with my own reasonable response this morning and colleagues went in with their reasonable responses too. But I regret that in this morning’s meeting—and this has certainly had an impact on my decision today—a majority of my colleagues were unable to support a motion that formally expressed support for the party’s constitution and its national executive. They were not prepared to support a motion that supported the right of staff—all staff—not to be vilified publicly by senators in the media or to oppose public denigration of our membership. Motions to this effect were actually voted down at this morning’s meeting. I could have retained support for my leadership by supporting such motions—but by ignoring the membership. However, it was the membership who, under our constitution, elected me as leader and I am not going to sell them out.

One colleague, Senator Murray, has said that he does not believe in ultimatums, yet one of his earliest communiques to the public and to me was to ‘shape up or ship out’. Some commentators have mistaken my relative public silence for weak leadership—my refusal to strike back aggressively, particularly in the public domain, as weakness. But I still believe that politics can be a civil discourse, and I choose not to inflame with returned invective. There are many policy examples under my leadership of which I am proud. I lament that many of these were clouded by conflict. I am happy to table many of those if senators would like to discuss them further. But the public could have seen the Democrat policies in action instead of our focus on internal battles.

Our critics have seized on this notion of left versus right in our party, this dichotomy which seems to be serving a useful purpose for some colleagues or some commentators. But there is no such stand-off in our party. We are a progressive party committed to human rights, to social justice and to sustainable development. And, yes, we do have some cherished small ‘l’ liberal principles of which I am proud—freedom of the press and freedom of speech, for example. But the Democrats deserve to be leaders of all debates on public policy, and especially when it comes to social justice. Is it any wonder the coalition is sitting back watching our internal difficulties with glee, looking at what is going on in the balance of power party when they put so much pressure on us and others in relation to issues like Telstra’s privatisation or media ownership or the budget proposals, to name a few? But a party that embraces progressive views and activism shapes society for the better. That is what I joined.

The Democrats may well fail progressivism through a party that has conservative alliances. I have repeatedly asked colleagues to play as a team, to stop criticising the party in public and to stop leaking to the media. Of course, that happens in all parties—I accept
that. But you have to say that the Democrats have been particularly impressive in the last 16 months. We have a small party, a party which has always struggled for its fair share of media attention as well as public attention for our unique constitution and our legislative achievements. But we have exposed ourselves so rudely and stupidly to the worst kind of publicity—we have been flaunting our disunity.

The reason I can question the motives of some who are calling for reform is that their concerns will, if they are serious, be considered among all the other submissions to the strategic review that I initiated earlier this year. These people are not only pre-empting the review but also destroying its chances of success along with the chances for the party to recover from the blows that have been inflicted upon it, particularly in recent weeks but in recent months as well.

In the short term, to preserve what voter appeal the actions of some have left us with in the last few weeks, I am offering my resignation—not from the party, not from the party room, but from the leadership. This must be one of the first times in history that a leader with a democratic support base—democratically elected with the support of more than 70 per cent of the members—is actually offering their seat. Nor will I be stealing a seat that belongs to the party. I have earned it well and truly for the party and for my colleagues and members in South Australia, and my voice will be heard in that party room so long as I am representative of my party and the people of South Australia. I am not taking my seat. It is clear to me and to any objective observer—and, I am sure, to all of you in this place and maybe to the media as well—that my remaining as leader with a non-supportive party room will lead to continuing and I think potentially irreversible damage to the party that I love and support. If I cannot do it as leader—and plainly the numbers in the party room indicate that I cannot—then I will do it as a plain senator—very much a Democrat senator and still very much committed to the best interests of the party.

However, I put those who have disregarded our constitution, our proper proce-
I have a very great deal of sympathy for the government’s position on this. I do not think the government, in any other context, would have ever had the courage to say that more of these people should be given benefits. If the government was ever going to do this, it would have had to be because it was prepared to break through a virtual wall of opposition to the process. However, as I said, it is not only a question of the government’s position on this, but also of how the government has handled this issue. The government has taken a very broad view of this, giving a few immediate problems to find a quick fix for in isolation from a virtual morass of other issues brought up by the veterans community and without any guidance except that whatever is recommended must be cost free. So, in short, it is mission impossible.

However, may I from the outset compliment Mr Justice Clarke and his committee for the way they have approached their task. Veterans and the ex-service community have taken the government at its word and have responded in force to the invitation to make their views known. Over 2,500 submissions have been made to the review. To the committee’s great credit they have responded in kind and have travelled extensively around Australia giving a large number of those persons an opportunity in five minutes to speak to their submission. This is truly a very democratic process at work. To that extent, then, it can truly be said that veterans and ex-service people alike have had an excellent opportunity to be heard—something which governments have probably not done for a long time.

It is clear from the voluminous transcript available to everyone that those speaking have presented themselves with great dignity and heartfelt sincerity in everything they have said. Similarly, they have been extended every courtesy. This is very gratifying, and I again congratulate His Honour for the way in which the exercise has been approached. As the committee well knows, its activities are being closely watched, hence the strict discipline on its part not to discuss any matters openly. Inscrutability is the operative word.

By way of comment on the very earnest contributions made by so many, confirmation has been provided in enormous quantity of the whole range of inequitable and unfair policies which afflict veterans and particularly their widows. Their contributions are not the result of any policy analysis but are simply the expressions of enormous frustration—and, I must say, some misunderstanding. What is abundantly clear in many cases is that we in this parliament do little to better inform our constituents of policies and programs for veterans, and at times ministers are dishonest to the extent that they defer and procrastinate without giving any understanding to any one veteran of a particular entitlement. It seems kinder to fob them off with empty undertakings and half promises that one day their boat will come in.

What is worse perhaps is that the extension of additional benefits is seen as a prize, which often only serves to widen the gap between those whose fate took them overseas and those whose fate did not. To be blunt, access to veterans’ benefits is one enormous lottery with arbitrary lines drawn for no other reason than budget necessity. Hence we see the most unnecessary anomalies being created which are, in fact, straight-out discrimination.

The two classic anomalies created recently by the Howard government—they keep boasting of their record in removing them—must be the discrimination against ex-POWs from World War II and Korea who have not been paid the $25,000 grant and those war widows who remarried before 1984 but who could not have their pension restored because they never had one in the first place. Why? Because they had already remarried. Just how stupid is that!

Without reopening all the issues which veterans themselves have correctly identified, let me return to the issue of context and perspective of veterans policy, which for some apparent reason does not seem to be understood by many, including the minister who has commissioned this review, to tell her. Fundamentally, in Australia we have two types of compensation schemes for the military. One is for operational service overseas in times of international strife, within which there is a higher category of qualifying service, where either the British Empire has been threatened, or our homeland itself is threatened—or so it seemed—or where there was a military involvement of a kind where it was foreseen that life would be seriously threatened by an enemy armed with an intention to kill. World War I, World War II, Korea, some service in South East Asia, Vietnam, Timor
and Afghanistan have all fitted that mould though not necessarily with much consistency. Such service was undertaken by a mix of volunteers, conscripts and regular forces, such that a conventional workers compensation scheme might not have been appropriate in the circumstances, partly due to that mix but also because of the cost to a young nation in its formative stages.

Then there is workers compensation for the regular defence forces for peacetime service, which has essentially been the Commonwealth Employees Compensation Scheme, its antecedents and successors, with the grand exception of the period 1972 to 1994 when those with three years service could access the Veterans’ Entitlements Act. This dual eligibility in itself causes great confusion, but for the sake of the traditional approach it might be best left as an unfortunate aberration—an exception to the rule which should not be worsened by repetition to other periods.

Yet there is enormous pressure from some to do just that, and the reason of course is that the Veterans’ Entitlements Act is so much more generous than the alternative schemes. To begin with it was designed specifically for wartime service. It is, in fact, a repatriation act established to aid the return of forces from overseas, care for them, and restore them to life in a grateful society. It was never intended to be a workers compensation act. It was also an act of public recognition, honouring the promise that on return people and their families would be cared for by our community. The fact that it is more generous than the alternative peacetime scheme is then a feature of history which has never been questioned, though understandably many who did not so serve cannot help but make comparisons with their own service and conclude that they too ought to be so entitled. Quite frankly, that is a serious misunderstanding, and it has not been helped by the actions of the Howard government in particular which have diluted the status of qualifying service through their unquestioning acceptance of the Mohr report and their administration of the Repatriation Commission which has for many years had a coastal waters policy, which for some time has been contrary to law and has been now quietly dropped. Both these acts have greatly diminished the status of qualifying service and its danger test to a level where ex-service people can be forgiven their aspiration of getting coverage under the Veterans’ Entitlements Act whether they served overseas or not. So, in essence, this review is a problem of the government’s own making.

What is more, the benefits of qualifying service now substantially exceed those attached to other service simply because of the gold card. In fact, I think it would be a fair estimate to say that up to 90 per cent of the submissions to Justice Clarke are motivated by the desire to gain access to it. Everyone in World War II volunteered to go wherever they were sent. They all worked hard and all took risks and were all exposed to danger of varying degrees—in fact or potentially. They see no difference because they made the same commitment. The arguments are known to us all and are difficult to refute.

The gold card has become the goal not just for all veterans but also for a lot of ex-service people who draw no distinction between their service and that of veterans. Civilians too feel equally aggrieved where they served abroad as well in similar circumstances. The government by its generosity has, and I say this advisedly, in fact created a monster in that, where once there was always a small gap in value of benefits and access to benefits by returned people limited to the service pension, in large part it has now become a wide chasm. At the very heart of all this, though, is the issue of risk, and how it should be recognised, if at all, within a military compensation scheme.

Had it not been for the Howard government’s dilution of the meaning of qualifying service and the long-standing incorrect guidelines of the Repatriation Commission on coastal service, which in themselves have resulted in endless contradictions and confusion, there perhaps might not have been an issue of nearly the same intensity. But let me remind the Senate that the definition of qualifying service in the act in section 7 is quite clear: to be eligible you must have been subject to actual threat from a hostile enemy. That is a risk that has no equal. It simply
cannot be compared with any other risk faced by the forces. That is not to say there is no other risk in military service. It is risky by nature and everyone who serves is trained to assess and manage that risk. It is endemic to service, especially in simulated operational conditions but also in a lot of routine activity.

The risks in teaching people to fly are obvious, as it is with clearance diving, bomb disposal, parachuting and a whole range of services. None of it, though, compares with being shot at by someone whose sole task is to kill you, and in that you have no say at all. Of course, allowances are paid for that exposure. No doubt there will be those who will continue to challenge the simple logic of what I have just said and will continue to argue against the arbitrariness of the system. That is the lottery that everyone experiences, but of course it always seems worse and more unfair in hindsight—especially when there have been so many glaring exceptions caused by policy failure or administrative ineptitude. Nor will such an explanation deter those who currently have no entitlement under the VEA to press for coverage. Nor will it deter those who are covered but do not have qualifying service.

For those who use exposure to danger as a rationale, it is simply impossible to objectively distinguish in advance the degree of risk to be faced. Timor is a perfect example. It is also impossible to distinguish degrees of risk, that one activity is more dangerous than another one. I know there has been a view put to the review that some past service should be brought into the VEA under the VHA to press for coverage. Nor will it deter those who are covered but do not have qualifying service.

Having set out that perspective and context as I understand it, it is my hope that the Clarke review will also conclude along these lines and determine the matters put before it accordingly, especially for those with ambitions to be covered by the Veterans’ Entitlements Act. Should they find an unrecognised need then there may be other solutions to be examined, or it may be that remedies already exist that are not now being exercised.

With respect to those issues which go to the adequacy of current entitlement rather than access to those entitlements, there is an endless list, including the benefits paid to TPI veterans and to widows. There is no doubt that answers can be found but must be subject to budget consideration. The key to that—the review already seems to be implying it is a given—is the exemption of veterans’ disability pension from the means test at Centrelink. The government has already promised this as long ago as 1996 but continues to stonewall. If there is money to be found for veterans in need, this must be a first priority. But then we did not need a review to tell us that either.

In conclusion, the review of veterans’ entitlements has almost concluded its public hearings and must now come to grips with the policy issues. I wish it well, and I hope that the views I have put forward here today might help in setting some of the baselines in place. What is clear though is that the clock is ticking and by the end of November veterans and ex-service people alike will await the report and the government’s response with great anticipation.

Sitting suspended from 1.43 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Taxation: Family Payments

Senator MARK BISHOP (2.00 p.m.)—My question is to the Minister for Family and Community Services, Senator Vanstone. Can the minister explain why a family, where one parent earns $20,000 for half of a financial year while the other stays home to care for their children full time and where they then swap roles for the second half of the year, would be eligible for family tax benefit B for the first six months but incur a year-end debt at the end of the financial year, even when they have immediately notified Centrelink of their changed financial arrangements? Does the minister acknowledge that a family with one parent earning the
equivalent of $40,000 a year and the other earning nothing should qualify for family payments? Minister, wouldn’t a family in these circumstances be unable to avoid incurring an overpayment, even if they played by the rules and updated their estimates at all times?

**Senator VANSTONE**—I thank the senator for his question. Senator, I was listening fairly carefully to your question, but I will take the opportunity to get you some detailed advice on that family. I would, of course, appreciate it if you could give me an example of the situation that you raise. I say that because yesterday the cases of two families were raised in this place and, as you know, both you and the other senator who raised this issue received a fax from my office indicating that we were happy to pursue these matters but asking whether we could have the details of the families.

We asked this because it is often the case—and I understand this—that a family who feels they have been wronged in one way or another comes to a senator or lower house member and puts their case. Of course, whenever you are advocating a case you advocate it as best you can, and you do not necessarily mention the other points which might not augment your position terribly effectively. So I indicated—and senators will have heard me do this before—that I am very reluctant to respond to individual circumstances. I have yet to have a response. I have had an indication from either you, Senator Bishop, or Senator Lundy, that this request, in which I said, ‘Who are these families? We will have a look at the files and we will have a debate,’ has been passed on to Mr Swan. The silence from Mr Swan’s office has been quite deafening.

I have had the opportunity to have a look at a family that I believe to be one of the families concerned. I will give you the example, because if this is one of the families concerned—and they certainly fit the bill—the clear indication yesterday was that this family had done everything by the book, always notified Centrelink of their income changes and yet had been saddled with a debt. This family indicated at the beginning of the year that they expected to have a $20,000 income for one partner and no income for the other. Then for one period of time they decided to say that the income would actually be closer to $40,000 for the main breadwinner and $17,000 for the second income earner. That family did that for one month and then, surprisingly, went back down to indicating an income of $13,000 for one partner and just over $16,000 for the other.

The last estimate from that family, on 23 January, was that they would have a $26,000 income for the year. I ask you to consider this, Senator Bishop: that family, at that point, must have earned $13,000, because that is half of an income. So they were going to earn another $13,000 in the remainder of the year. But guess what, Senator? They ended up with an income of almost $42,000, which means you had to earn nearly $29,000 in the remaining six months, which means that a family that was on a $26,000 income suddenly found a $56,000 job.

**Senator Hutchins**—And your point is?

**Senator VANSTONE**—I am sorry, I thought it was pretty obvious: a family tells us they have a $26,000 income and they end up with a $41,000 or $42,000 income. I think the point is obvious, Senator.

**Senator MARK BISHOP**—I am not so sure it is obvious. Mr President, I ask a supplementary question to the Minister for Family and Community Services arising from the original question. Is the minister aware that a Canberra family, whose accountant lodged their 2000-01 tax return three days after the government’s top-up deadline of 30 June this year, missed out on $2,000 worth of family payments? Is the minister aware of any other payments available through the tax system that have such short cut-off dates? And how does such an inflexible application of a deadline fit with this government’s generous provision of corporate welfare to the big end of town?

**Senator VANSTONE**—I will leave aside your version of ‘corporate welfare to the top end of town’, Senator Bishop—you can tell other people what you mean by that. The simple fact is, Senator, that the family tax benefit is an extremely generous payment.
We have families getting $30,000 and $40,000 tax free, with a lot more, I admit, getting around $20,000. If they want us to rely on their estimates to keep paying them, all we require is that they put in a tax return so that we can do the reconciliation, and they have 12 months to do that. Families that do it late do not get a top-up; you can hardly complain about that—your previous government never gave top-ups. We will give top-ups to families but, of course, within 12 months you have to get around to putting in your tax return. In exchange for a terribly generous benefit, one we will pay you on your estimate and reconcile at the end of the year, we do not believe it is too much to ask that you put in your tax return within 12 months.

**DISTINGUISHED VISITORS**

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from Tonga, led by Hon. Ma’atu. On behalf of honourable senators, I have pleasure in welcoming you to the Senate and trust that your visit will be both informative and enjoyable.

Honourable senators—Hear, hear!

**QUESTIONS WITHOUT NOTICE**

**Telstra: Privatisation**

Senator EGGLESTON (2.07 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. What is the Howard government’s position on the possible further sale of Telstra? Has this position gained further support and, if so, what does this increased support indicate about any alternative positions on the ownership of Telstra?

Senator ALSTON—Mr President, my congratulations. That is a very important question from Senator Eggleston, because our position has always been 100 per cent clear and up-front. In other words, we went to the last election saying that we would only proceed further with privatisation after we were satisfied that service levels were adequate. Of course, since that time we have progressed the various recommendations—17 in all—from the Besley inquiry and have now made very big strides forward in terms of fast repairs and installation times, Internet access and mobile phones in every farmer’s back paddock. It is all happening out there, and certainly for those who need high-speed access to education and medical services, again, we have a national communications fund to address those issues.

It is a pretty clear position: when service levels are adequate, we can move forward. That is why I was delighted that we got some assistance, as Senator Eggleston adverted to, from one Bob Carr on 27 July last, when he told Dubbo radio that he was ‘strongly opposed to the further privatisation of Telstra until we can get a decent level of rural service’. Well, there you are—singing from the same song book. He has not resiled from it. Compared to you blokes, he is a policy wonk. What you have leading you, of course, is a policy flake. It is a very sad state of affairs, because Mr Crean is more and more isolated. You have got Bob Carr out there saying, ‘The main game is not this phoney modernisation of your union links; it’s getting your policies right.’

Mr McMullan, we remember, quietly buried the GST opposition because they had not won two elections on it. They have been to the last three elections opposing Telstra. ‘Just say no’—no new policies—they have been running that for six years and it has got them nowhere. So why on earth would this be the one policy on which you are not prepared to make any change—particularly when you have Mr McMullan saying, as recently as last Sunday on Meet the Press, when asked about competition in the telecommunications sector, ‘Very good question. The key issue is not who owns Telstra but what is the competition in the telecommunications sector’?

What do you have here? You have Mr McMullan walking away from the leader and you have Mr Tanner out there with all sorts of loopy proposals that he denies in private. The fact is that every man and his dog, including the Labor Party, knows their policy position is untenable. That is what that silly discussion paper that Mr Tanner put out was all about: your current position is untenable. So how on earth can you pretend that you are throwing off the union shackles when, on the other hand, you are allowing them to call the
tune on your policy on privatisation? It just does not make sense. You are not going anywhere unless you face up to the fact that service levels are what it is all about.

I remember Senator Ray some years ago describing, I think, the left wing of the Labor Party in Victoria as ‘the Albania of the south’.

Senator Robert Ray interjecting—

Senator ALSTON—Not quite?

The PRESIDENT—Minister, would you make your remarks through the chair.

Senator ALSTON—I thought it was a famous expression, Mr President, because it came fairly close to categorising the Labor Party. Now, of course, on privatisation of telecommunications they are the North Korea of the south, because it is about the only country left in the world that still opposes the privatisation of telecommunications. Where does this leave the federal Labor Party?

Senator Robert Ray interjecting—

Senator ALSTON—Kim Il Carr has got his deserved promotion, rising up through that huge load of talent that they have on the front bench. I am sure his position will remain intractable.

The PRESIDENT—Senator Alston, would you address your remarks through the chair.

Senator ALSTON—I stand admonished, Mr President. I will try not to transgress again. The fact is that we have Mr McMullan on our team and we have Bob Carr on our team. (Time expired)

Senator EGGLESTON—Mr President, I ask a supplementary question. Minister Alston, you have alluded to services in regional areas. How important is the quality of telecommunications services in regional Australia to the Howard government, and what steps has the Howard government taken to ensure that people living in regional areas enjoy good telecommunications services?

Senator ALSTON—In fact, we have spent over $1 billion in the last five years on providing regional and rural infrastructure for telecommunications services. That, of course, is the platform for everything else that needs to occur, so we have already done huge amounts. You can always do more—I am sure Senator Boswell and his colleagues will find some other things we need to do—but the reality is that we are well on the way to implementing $160 million worth of Besley recommendations. It is all happening out there, but the Labor Party have not said ‘boo’ on quality of service. When they were in government there was no customer service guarantee, Telstra fixed your phone when they were good and ready and there was never a moment’s concern about ensuring that people in the bush got adequate levels of service. They were second-class citizens, they did not vote Labor and they were not on the radar screen. We have a fundamentally different approach. We regard quality of service, as Senator Eggleston would know from the north-west of Western Australia, as a critically important element. Now people are able to get all the services they want. They will only get them from one side of parliament. (Time expired)

Taxation: Family Payments

Senator HUTCHINS (2.14 p.m.)—My question is to Senator Vanstone, the Minister for Family and Community Services. Can the minister confirm that she has received a letter from a coalition backbencher from New South Wales on behalf of one of the backbencher’s constituents from Coolamon in relation to, as the constituent states:...

... the recent confiscation of her tax return to pay off her outstanding family tax benefit debt without her consent.

Can the minister confirm that the backbencher’s letter details the woman’s shock and surprise at the confiscation? Can the minister confirm that the backbencher argues:

... many families on lower incomes wait in anticipation of their tax return to ... provide extra necessities for their children ... I do believe that to take this money from families who are not even aware of their debts puts them at a great and unfair disadvantage.

Can the minister confirm that the backbencher’s letter details the woman’s shock and surprise at the confiscation? Can the minister confirm that the backbencher argues:

... many families on lower incomes wait in anticipation of their tax return to ... provide extra necessities for their children ... I do believe that to take this money from families who are not even aware of their debts puts them at a great and unfair disadvantage.

When even the minister’s backbench can see that it is unfair to strip tax returns without warning from hardworking families— (Time expired)
Senator VANSTONE—Senator, I do not think we need to play games about how you have not got your question out; I think the drift of your question is perfectly clear. I was listening to what you said, but I wish some of your colleagues had been listening to the answer to the last question. They might have caught the drift that, if you tell the Commonwealth that you are earning $26,000 but earn $41,000, you cannot complain that you have to give some of your welfare payments back. It is pretty obvious: ‘I earnt $41,000, but I got paid as though I earnt only $26,000. Gee, I got overpaid. Why don’t I complain about having to give the welfare back?’

I have received lots of letters from colleagues from both your side of the chamber and this side of the chamber. I am sure all the House of Representatives members and the senators do their very best to advocate positions on behalf of the people they represent. I do not know which specific letter you are referring to. There may be such a letter. I would expect my coalition colleagues to, of course, advocate a position on behalf of a constituent. When I reply to this letter—assuming that I do have it—I will be explaining to whoever has written it that the family tax benefit is a terribly generous tax benefit and that it is reconciled at the end of the year. When the legislation was passed in 1999, it was clear that, if you got an underpayment, you would be topped up—unlike with the previous government—but, if you got an overpayment, you would have to give it back. It is the same with the tax system: if you have not paid enough, the tax department send you a bill; if you pay too much, they send you back a cheque. This was going to be reconciled through the tax system. I will explain to members who write to me in relation to this matter that, where a family have been paid welfare as though they were earning only $26,000 and in fact they earned $41,000, the rest of Australia expects us to ask for that money back. If it is a tax benefit, it will come out of their tax refund.

Senator HUTCHINS—Mr President, I ask a supplementary question. Does the minister agree with the following suggestion in the letter from one of her own backbenchers in relation to tax return stripping? They said:

I sincerely believe that this system and the relevant legislation needs to be altered to allow clients the opportunity to receive their notification and contact Centrelink to arrange a system of payment more suitable to their financial situation.

Senator VANSTONE—I might start the practice of going through correspondence I receive from various members and I might trail out some of that. We will see some of the very unusual things that senators and members write to me about, hoping like hell that their letters will never be released. But if you want me to break that silence, Senator, that is fine. I will go back through a few files, and we will have a good old look in them and see what we can find.

This is a tax benefit, and if people have been overpaid they must expect to pay it back through the tax system. That is perfectly fair. It is not fair to say to one family on $26,000, ‘You received the right amount; you told us what you were doing,’ and then say to another family who got a whole lot more money, ‘You earnt $41,000. That other family earnt $26,000, but we are going to give you the same. We’re not going to ask for it back.’ There would be families who, rather than pay their tax debt back, would like to pay it back interest free over the years. That is not an option; I am sorry. (Time expired)

Small Business: Secondary Boycotts

Senator TIERNEY (2.19 p.m.)—My question is to the Minister representing the Minister for Small Business and Tourism, Senator Abetz. Will the minister inform the Senate whether the spectre of secondary boycotts continues to threaten Australia’s small business sector? If so, will the minister outline the government’s plans to address that threat?

Senator ABETZ—I thank Senator Tierney for his question on an issue of great concern to Australia’s one million small businesses, especially those in the Hunter Valley. Small businesses cannot always afford to defend themselves when they are the innocent victims of a secondary boycott. As a result, we as a government wanted to give the ACCC the ability to defend small busi-
nesses against these unlawful restrictions of trade. It is to be regretted that the spectre of secondary boycotts continues to threaten Australia’s small business sector because of the actions taken in this place by Labor.

The Howard government tried to ensure that Australia’s small businesses would no longer be without protection from secondary boycotts by giving the ACCC authority to take representative action on their behalf. Unfortunately, Labor yet again succumbed to the union’s influence and rejected the government’s proposals. That is the reason why Australia’s small businesses are still at risk of having illegal restrictions of trade imposed on them by the unions. Labor has failed small business. In that failure it has failed all the Australian workers engaged by small business. The coalition backs small business; Labor opposes them. However, given the views being expressed by Nick Lewocki, New South Wales Secretary of the Public Transport Union, it is not surprising that Labor is opposed to small business.

Senator George Campbell interjecting—

Senator ABETZ—I invite Senator Campbell to listen to this quote from Mr Lewocki:

How many small business people stood at polling booths or letterboxed for the ALP? How many small businesses pay a percentage of profit to the ALP? Not many.

That gives us the insider’s view of why Labor is so dismissive and demeaning of the needs of small business and their workers. It is no wonder that workers in small businesses refuse to join unions.

While the Labor Party is having its internal debate about the 60-40 rule and whether it ought to be a 50-50 rule, the simple fact is that the Australian people know that, when it comes to policy in relation to the trade union movement, the trade union movement does not have 60 per cent of the say—they have 100 per cent of the say. Just in case people are wondering why that is, the Hawke-Wran review into the Labor Party is of great assistance. The chapter on Labor and the union movement in this report tells us that it is not possible to have a Labor Party without the unions. Those opposite know it is impossible to have endorsement without the unions, and that is what motivates them. Mr Wran and Mr Hawke tell us that the way ahead is to renew and reinvigorate the partnership between the trade union movement and the Labor Party. How do they propose to do this? To further encourage union members to join, the party should implement significant discounts for affiliated union members. In other words, you reduce the impact of trade unions on the Labor Party to 50-50, but you give them a discount to stack out the branches so they can get more than a 60-40 say in the running of the Australian Labor Party. (Time expired)

Taxation: Family Payments

Senator FORSHAW (2.24 p.m.)—My question is directed to Senator Vanstone, the Minister for Family and Community Services. Can the minister explain to a constituent of mine from Sydney why she has had $412 stripped from her $1,150 tax return? This constituent is so angry about the unfairness of her treatment by the government’s family benefit system that she has personally requested her individual circumstances be raised in parliament. Given that this constituent updated her income estimate when she returned to work in November last year, and both she and her husband consistently updated their income estimates throughout the year, why did she still get a debt courtesy of the Howard government? Why has the minister spent millions of dollars on print, radio and television advertising telling families that they can avoid a debt by updating their estimates only for them to then get their tax returns stripped when they do play by the rules?

Senator VANSTONE—Senator Forshaw, we are in the same situation, aren’t we? You nominate a family, you say they have given permission for their circumstances to be raised, but you do not tell me who they are at all. I have no way at all of checking whether the assertion you make is correct. I do not impugn your motives. I am sure you have been told to read out what was put in front of you on a piece of paper. But, as I indicated earlier by way of an example, it is possible for people to say to you, ‘I did the right thing; I updated my income estimates,’ but to forget to say, ‘I did it on 31 May near the end
of the financial year so that I could collect a higher payment for most of the year and then I would have an overpayment of welfare, and then I want to say to Centrelink, “I want to borrow this, but I want to pay it back slowly over time; I want an advantage that other people on my income haven’t got.” I am not saying that is the case with this family, but you do not give me the opportunity to check those details at all. The family have not given you permission to raise their circumstances.

Senator Jacinta Collins—How do you know that?

Senator Vanstone—Because you have not raised their circumstances. You have not given me the opportunity to make an issue of the policy associated with this family. I am sorry, Senator, you could stand there and drum up any number of sets of figures that you say relate to a particular family, but if I cannot check the family I cannot help you by giving you a decent response. I must have misheard you, because I thought you said the person had a $412 welfare overpayment taken out of a $150 tax return.

Senator Forshaw—It was $1,150.

Senator Vanstone—Here is someone getting a $1,150 tax return, they have $412 overpayment in a tax benefit, and they are seriously complaining to you that it had to come out of their tax return. Help me, Senator! Some of the people I deal with would love to have a situation where they got any tax return; some of the people I deal with would love to have a job! They are grateful we have a government that is getting people jobs, unlike the last hopeless lot that were in. If they had a job where they got an $1,150 tax return and they got a welfare overpayment because they had once been on a welfare payment or a tax benefit, they would be happy to take the right amount and pay any extra back.

Senator Forshaw—I ask a supplementary question, Mr President. In response to the minister’s comment, I am happy to name the constituent in this chamber if the standing orders allow.

Senator Vanstone—Of course they do.

Senator Forshaw—Let us hear about that a little bit later. This is a real person. This is not some fictitious family like the Wright family, Minister. My supplementary question is: if the minister is given the contact details of families who have played by the rules, who have updated their income estimates yet still had their tax stripped, contact details the minister claims to be keen to follow up, is the minister actually prepared to assure these families that the government will make a permanent change to the family payments system to ensure that they do not incur end of year debts?

Senator Vanstone—I have indicated a number of times that I have been looking at ways to try and minimise the opportunity or risk—whichever way you put it— for people to get overpayments. There will be people who look at it as an opportunity, and there will be other people who look at it as a risk. When I finalise some ways to do that I will come back to you. But, in the meantime, people who get an overpayment of a tax benefit expect to pay it back; people who get an overpayment of welfare expect to pay it back. It is the ones who earn more who should get less, and no-one who earns more should claim some entitlement to somehow keep their overpayment for longer when people who have earned less and got the right amount do not get that extra money. What is wrong with this country when people who earn more and get an overpayment expect to be able to keep it? (Time expired)

Immigration: Refugee Review Tribunal

Senator Bartlett (2.29 p.m.)—My question is to the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs. I draw the minister’s attention to the recent High Court decision that unanimously found that procedural fairness was not followed by the Refugee Review Tribunal. Given that the government has now dramatically reduced the potential for judicial scrutiny of tribunal decisions and has just successfully passed legislation with the support of the Labor Party ruling out the right of people to appeal against failures of procedural matters, what steps will the government now take to ensure that past tribunal
decisions and, more importantly, future tribunal decisions are made in a fair way?

Senator ELLISON—I am aware of the case recently in the High Court—the Muin and Lie case—which dealt with the procedural aspects of the Refugee Review Tribunal. As the chief justice commented in that case, nothing turns upon the representative nature of the proceedings; argument has been confined to the cases of the applicants concerned. I would remind the Senate of those comments. The decision of the High Court effectively means that the Refugee Review Tribunal decisions affecting Mr Muin and Ms Lie will be set aside and their matters remitted to that tribunal for reconsideration. What application, if any, the High Court decision has in these two cases for associated cases, or indeed any other Refugee Review Tribunal decisions, is a matter that would need to be assessed on a case-by-case basis, hence the comments by the chief justice.

Decisions of the Refugee Review Tribunal, like other administrative decisions, are valid unless and until they are set aside by a court. All the associated cases, and indeed all other decisions by the tribunal, are therefore valid unless and until they are set aside by the court. In this particular case, the court found breaches of procedural fairness because correspondence from the tribunal gave the applicants an inaccurate impression that the tribunal had obtained and considered all of the material that was before the department. The majority of High Court judges saw fit to infer that the material that was before the department was not considered by the Refugee Review Tribunal, despite facts being presented that ordinarily the onus of proof is on the person who seeks to assert that a tribunal did not have regard to particular documents and that the material was not particular to the applicant but in the nature of background country information.

As well, facts were put forward that the tribunal is a specialist tribunal with broad knowledge of country information acquired over the course of dealing with many cases relating to particular countries. As well as that, it was asserted that it makes good administrative sense to have material available to the tribunal in electronic form as it saves unnecessary manual duplication of documents. One can appreciate the volume of work that is dealt with by the Refugee Review Tribunal, and these days electronic information is no stranger to the courts. It was also put forward that, in any case, much of the material put forward before the delegate was outdated by the time that the tribunal dealt with the application afresh. Finally, it was asserted that in each of the decisions the tribunal had made reference to at least some of the material. So I would bring to the Senate’s attention those important factors of the case.

The Minister for Immigration and Multicultural and Indigenous Affairs, Mr Ruddock, has expressed his confidence in the tribunal. I have no reason to doubt that whatsoever. He has every confidence that the tribunal has met and will continue to meet its charter to provide a mechanism of review that is fair, just, economical, informal and quick. I am sure that all senators would agree that such a charter is an appropriate one for the Refugee Review Tribunal to have. Since its inception in 1993, the Refugee Review Tribunal has been very successful in handling cases substantively on their merits. (Time expired)

Senator BARTLETT—Mr President, I ask a supplementary question. Minister, how can the government possibly have full confidence in the Refugee Review Tribunal’s procedures when the High Court has unanimously found that they failed to follow procedural fairness, also known as natural justice? Given, as well, we have had recent Federal Court decisions in separate cases that have found that tribunal members have acted in one case with actual bias and in another case with bad faith, surely the government must acknowledge that there are problems in the way the tribunal makes its crucial, potentially life and death decisions? Will the government undertake a full review of the tribunal’s procedures and processes to make sure that fairness and justice are delivered on such crucial matters, or will the government continue to ignore the strong signals sent by repeated court judgments that there are flaws and problems in the process?
Senator ELLISON—Senator Bartlett says that it was a unanimous decision. Of course, it was, but if you read the judgments you will see that they differed in varying respects in relation to this matter. And often these cases are decided on technical points; there were technical points raised in these particular cases. And, as I have said previously, the chief justice did make those remarks that this decision was not representative and that argument was confined to the particular facts of the two applicants concerned. I think that for Senator Bartlett to say that broadly this was a condemnation of the Refugee Review Tribunal is in fact wrong and misleading.

Taxation: Family Payments

Senator McLUCAS (2.36 p.m.)—My question is to Senator Vanstone, the Minister for Family and Community Services. Does the minister recall her statement at the Senate estimates hearings of 21 February this year when she admitted: There are some circumstances ... where people can end up having an overpayment even though they have told us as they go along what their circumstances are.

Precisely in what circumstances does the government’s system deliver overpayments to families who have done everything asked of them and who continually updated their income estimates?

Senator VANSTONE—I do not recall the specific statement but that is a correct one and I would have made it had someone asked me—I quite happily endorse it and repeat it now. I can think of one circumstance immediately, but bear in mind there are hundreds of thousands of families on this benefit and their circumstances will all vary so there may be others. The most obvious circumstance concerns the fact that there are two family tax benefits: family tax benefit A and family tax benefit B. One of those benefits goes only to single income families. It does not matter if you are a sole parent or whether you are a partnered couple: if you have a single income you get this additional benefit in recognition of your only having a single income.

There are various discussions about the policy behind this. The basic thrust of it is that if you have one income you only get one tax-free zone, whereas if there are two incomes you get two tax-free zones. Some people on one income say, ‘Look, if there were two of us earning this, we would both get that benefit.’ A relevant circumstance is where a family says, ‘We are going to be a single income family all year,’ and then at some point during the year one of them—usually the female—decides to return to work and earns, say, $12,000. In doing so, that person would have received the second tax-free zone that two-income families get and so would need to pay back the other family tax benefit they had claimed—on the basis they were going to be a single income family—because they changed their mind, became a dual income family and got two tax-free zones. So we have not set up a system that allows a family to have, in effect, three tax-free zones, because that would be unfair. We say that if you are in a single income family you can have roughly the equivalent of two tax-free zones through this other family tax benefit, but if you change your mind and decide to go back to work you will lose it. It is income tested in a way that welfare payments and a lot of tax benefits have been for a long time. Someone needs to pay the money back where they are quite genuine and honest with us and say, ‘I think I will stay out of the workforce for 12 months,’ and they simply change their mind and access the other tax-free zone; they have to give the first one back.

Senator McLUCAS—Mr President, I ask a supplementary question. Can the minister detail how many families who received family tax benefit B in the financial year 2000-01 changed their income estimate for the parent whose income determined that they were eligible for this payment? Can the minister provide the number of these families who incurred a year-end debt, and the average amount of that debt?

Senator VANSTONE—It may be possible to do a computer run and give you that information; I certainly do not carry it around in my head and I cannot tell you when I can get it for you. As for information on whether they incurred a debt because of that: that might be a bit more difficult—I will
get it for you if I can—because some families choose to take these payments fortnightly, some take them at the end of the year and some have child-care benefit rolled in as well; there are many circumstances that come into the end of year reconciliation. I do not think it is possible for me, out of the number that I think I can get for you, to isolate which of them have an overpayment simply because of that. But I do not know of any dual income family that expects to have the benefit of a payment that is there for single income families.

Environment: Murray-Darling River System

Senator LEES (2.41 p.m.)—Mr President, I congratulate you on your election. My question is to Senator Hill, as minister representing the Minister for the Environment and Heritage, and it relates to the Murray Darling Basin and the imminent closure of the mouth of the Murray River. As the minister knows, the reports show that the ramifications for the health of the Coorong are disastrous if the mouth stays closed for any time. Minister, what is the federal government planning to do specifically, under its obligations to the Ramsar convention, to protect the Coorong wetlands? Does the minister believe that the Murray mouth must be kept open and, if so, what activities is the federal government planning to implement on the ground to ensure that it stays open?

Senator HILL.—It is true that the Coorong is listed under the Ramsar convention and is recognised as a wetland of international significance. Whether or not it is listed, all Australians obviously would want to conserve its unique values. It is also true that it is significantly threatened basically by the volume of water flowing down the Murray. The problems it faces, and other problems that are going to result from a closure of the Murray mouth, are illustrative of the total challenge we face in relation to fresh water management in this country. We have utilised our precious water resources for a range of worthwhile causes, whether they be to sustain our cities, our agriculture, our industry, our recreation or for other reasons, but we have done so without paying heed to what was necessary to be retained to protect the health of the natural system.

Having done that, the challenge now is to determine more accurately what volume of water is necessary to sustain the natural system and then to determine the sort of wind-back required and how it should be achieved: which stakeholders lose, how you can restrict the overexploitation that has occurred in the past and how you can compensate those who should be compensated. The result in the end will be a more sustainable system, having been brought about by changes that are fair to all immediate stakeholders and the broader community. This government has sought to do that through the Murray Darling Basin process and the environmental flows that were agreed that came out of the Snowy River reform process are starting to play a part. The better irrigation processes and the like that have been implemented by a number of states as part of that process are also playing a part. The audit that is being done of the health of that system will also be useful in determining the correct quantity of water. When the caps that have been put in place—which all states except Queensland are implementing, even though New South Wales has not implemented them totally effectively—are in place across south-eastern Australia, and being fully implemented, that will help as well.

What I am saying to the honourable senator is that there is no simple, single answer to this national challenge. It requires a whole range of policies to be implemented and for the nation as a whole to realise that they cannot be implemented without significant cost and that all stakeholders—including the farmers, the community at large, the industrialists et cetera and particularly state governments—have to recognise that they have to share a reasonable proportion of that cost. Progress is being made, but the challenge, of course, is to make sufficient progress, not only to have policies that are better for the future but to regain the ground that has been lost in the past, and that is proving to be a most demanding task.

Senator LEES—Mr President, I ask a supplementary question. I ask the minister again: what can be done in the short term by
the Commonwealth? The consultation and the audit processes are now going to take at least another 12 months, if not several years. In the short term, will the Commonwealth support the dredging of the Murray mouth, both in practice and financially, and will the Commonwealth support the dropping of the levels of Lakes Alexandrina and Albert as part of the process of helping the dredging actually be effective?

Senator HILL—The suggestion to dredge the mouth, which has been done before, at first blush seems a reasonable idea. But the problem, as the honourable senator knows, is that the mouth naturally closes very quickly. They are shifting sands, and you are not going to get anything but a short-term benefit from that bandaid remedy. On the basis of the information that I have at the moment, I would prefer to be working step by step towards a long-term solution rather than be expending the limited capital available on a short-term benefit that will not last.

Business: Corporate Governance

Senator FAULKNER (2.47 p.m.)—My question is directed to Senator Coonan, representing the Treasurer. Can the minister confirm that ASIC recently announced a new accounting surveillance project directed at monitoring compliance with certain accounting standards? Isn’t this in fact the same program ASIC conducted on a regular basis only a few years ago? Can the minister advise whether that program was suspended due to ASIC having insufficient funds to resource the program or did the government not want the shonky accounting practices of corporate mates revealed?

Senator COONAN—Thank you, Senator Faulkner, for the question. The situation with ASIC is that it has a role to enforce the Corporations Law and, as part of that process, to enforce the application of accounting standards, and it has never stopped doing that. Its activities leading to the restatement of company accounts, whether through consultation or litigation, demonstrate that it is doing its job effectively and efficiently and protecting Australian investors from misleading financial statements. ASIC has a history of targeting abuse of accounting standards. In 1999, it caused restatements of reported accounts in the listed sector of $1.4 billion and has carried out targeted surveillance each year since. ASIC is currently conducting a surveillance project targeted at accounting issues of the type recently uncovered in the United States. The government has every confidence in ASIC that it will continue to perform at its current high level in this matter.

On the issue of enforcement, we in Australia have laws that provide for jail terms of up to five years for breaches of directors’ duties and for insolvent trading. Quite apart from casting any slurs on ASIC’s ability to conduct its surveillance effectively, I would have thought that the opposition would be commending ASIC for the way in which it has conducted its enforcement. In the last three years, 69 corporate criminals have been jailed for a total maximum of 227 years, 111 defendants are currently facing criminal charges and 20 more are facing civil penalties. Labor is talking tough about sentences while the government is actually getting on with putting criminals behind bars and funding ASIC. Labor took a policy to the last election promising something in the order of $6 million, which was $86 million less than the coalition not only took to the election but introduced into the budget—

Senator Faulkner—Mr President, I rise on a point of order. You would be aware that I asked the minister whether ASIC’s recently announced new accounting surveillance project was in fact the same program that ASIC was conducting on a regular basis only a few years ago. Could you please direct the minister to answer the question I asked. If she does not have an answer, and she seems to depend mainly on question time briefs, could she take it on notice.

Senator Ian Campbell—Mr President, on the point of order: I listened very carefully to Senator Faulkner’s question, and it did relate to the surveillance program, which was addressed by the minister. Senator Faulkner may have forgotten the question, because he probably did not write the question which he had to ask. If he reads the question that probably the shadow spokesman or some adviser in the shadow spokesman’s office wrote for him, he will see that he asked
about ASIC’s resourcing. As Senator Faulkner jumped to his feet to interrupt the minister answering that question, the minister was drawing the attention of the Senate to the fact that the government has provided tenfold more than Labor promised before the election to resource ASIC. The minister’s answer is totally in order, and Senator Faulkner should allow her to give the answer.

The President—Senator Campbell, you are now debating the point of order and I would ask you to resume your seat.

Opposition senators interjecting—

The President—I would like some order on my left. The answer was very difficult to hear because Senator Conroy kept interjecting. There are 1½ minutes left for the minister to complete her answer and I am sure she will attempt to answer the questions that you raised, Senator Faulkner.

Senator Coonan—It is extraordinary that Senator Faulkner now seems to be worried about the resourcing of ASIC when, at the last election, the Labor Party offered $6 million for the resourcing of ASIC and this government offered $90 million for the resourcing of ASIC. That underscores perfectly Labor’s sham response to this whole issue of corporate governance. While this government has actually implemented and got on with anticipating some of the needs for corporate regulation with its CLERP program, the Labor Party seems to have discovered it yesterday. Only yesterday Senator Conroy did not know which minister to ask about corporate governance. No-one opposite ever thought about corporate governance until they suddenly thought it would be an issue of some interest. The government is consulting and working at implementing change but Labor is simply carping and whining about it, scrounging around for the next political football. If you are going to score points on corporate governance, please remember that on your watch we saw Alan Bond, we saw Abe Goldberg and Lintner—

Opposition senators interjecting—

The President—Order!

Senator Coonan—It was the Labor Party taking care of corporate governance when Alan Bond took—(Time expired)

Senator Faulkner—Mr President, I ask a supplementary question. Minister, given that in your nonanswer to my question you raised the role of ASIC in 1999, can you confirm that in the 1998-99 annual report ASIC said:

We may have too few staff on the ground to achieve the outcomes we and the government want.

Minister, is it not a fact that, until this financial year, the government had starved ASIC of necessary funding, leaving it unresourced during the time of the HIH, Ansett, OneTel and Harris Scarfe corporate collapses? Minister, they all happened on your watch.

Senator Coonan—I have already answered the question about ASIC, I have answered the question about its resourcing and I have answered the question about its continued surveillance. But I would like to take this brief opportunity to remind Labor of what happened on its watch, because two can play the game of scoring on corporate governance. The Labor Party was looking after corporate governance when Alan Bond was taking hundreds of millions of dollars. The Labor Party was on watch when Abe Goldberg took hundreds of millions of dollars from Lintner. The Labor Party was in office when Laurie Connell was running amok. And wasn’t it Labor who was overseeing corporate governance when Brian Yuill took hundreds of millions of dollars from the shareholders of Spedley?

Honourable senators interjecting—

The President—Before I call for the next question, I remind honourable senators on both sides of the chamber that continual interjecting is disorderly.

Law Enforcement: Australian Crime Commission

Senator Ferris (2.56 p.m.)—My question is to the Minister for Justice and Customs. Will the minister advise the Senate of the implications of the recent agreement between the Commonwealth and the states and territories to establish the Australian Crime Commission? Can the minister please tell the Senate how this new body will enhance the fight against organised and serious crime in Australia?
Senator ELLISON—That is a very good question from Senator Ferris, who has had a longstanding involvement with the parliamentary Joint Committee on the National Crime Authority. This is a very important question in relation to fighting organised crime in Australia today. At the last election, it was part of the Howard government’s platform to have a leaders summit and to carry out a review of the NCA. This was done and, in April this year, the Prime Minister agreed with premiers and chief ministers that there should be a new Australian Crime Commission and that it should replace the current NCA.

On 9 August we agreed with the states and territories to have a new national crime-fighting body that for the first time will bring together law enforcement agencies at the Commonwealth level, such as ASIO, ASIC, Customs, the AFP and the Attorney-General’s Department, and all the police commissioners from the states and territories. This is a very important initiative because it brings together for the first time those major law enforcement stakeholders in the nation to fight organised and transnational crime. As well as that, this new body will have the same coercive powers as the NCA. We will ensure, though, that those same safeguards are in the legislation to protect the exercise of those coercive powers and that they will not be exercised by policemen. The commission will also have a chief executive officer, something the NCA did not have. This new body will be more streamlined and will not have the cumbersome reference system that the NCA had.

As a first initiative, this new body will have a task force set up to look into the supply of illegal hand guns in Australia. That is of great concern particularly in New South Wales and the Commonwealth government will play its part in relation to that very important issue. We are seeing a new federal approach to law enforcement at the national level. We have a more streamlined body that will be devoted to intelligence gathering and intelligence analysis and that will have its own in-house task force capability of investigations. As well as that the Commonwealth, in partnership with the states and territories, will agree to having task forces for any new references that this body deems appropriate.

This body will determine those national priorities for intelligence gathering and investigation because we will have on that board the police commissioners from all the states and territories, and the Commissioner of the Australian Federal Police will chair the board. We will have ASIC there to deal with corporate governance, which we hear the opposition talking about so much. We will have the Australian Customs Service, which does a very good job looking after Australia’s borders, and we will also have security interests being looked after by ASIO. We have learned the lessons from last year, where in America the left hand needed to know more about what the right hand was doing. We will have that in place with this new body.

As a result of the leaders summit that was called by the Prime Minister, laws will be agreed to within a year in relation to police powers. We will have a mutual recognition so that, when police are investigating a matter in another state, it will not be a case of the sheriff getting to the border and waving the baddie goodbye. We will have mutual recognition of police powers. We will also have model laws in relation to money laundering and DNA. This will lead to a truly national approach to fighting organised crime and transnational crime. This new Australian Crime Commission will be the body to lead that fight. It is a result of the initiative of the Howard government.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Business: Corporate Governance

Senator MINCHIN (South Australia—Minister for Finance and Administration) (3.01 p.m.)—Yesterday, Senator Conroy asked me a question about corporate governance. I seek leave to incorporate the answer to his question in Hansard.

Leave granted.

The answer read as follows—
The Australian Securities and Investment Commission (ASIC) has advised that ASIC has asked two listed companies to disclose option values under section 300A of the Corporation Act and both complied with the request. In a third case, the company was required to reissue its directors' report and advise all of its members.

Senator Faulkner—Mr President, I raise a point of order. It is in relation to the question that Senator Minchin has answered. It is a technical point and I would like it to be cleared up. Senator Minchin mentioned in the chamber yesterday—and Senator Coonan has mentioned again today—that questions in relation to ASIC are properly directed in this chamber to Senator Coonan. The opposition and other senators, if so informed, are more than happy to deal with that. I respectfully suggest that the list tabled in the chamber by the Leader of the Government in the Senate on 19 August does not reflect that, and it should, if that is the case.

This is a question of making sure that the level of advice given to senators in the chamber is appropriate. This list indicates that the Treasurer, the Hon. Peter Costello, is represented on all matters by the Minister for Finance and Administration, Senator Minchin. We do not mind, and I am sure other senators do not mind, if there is a change to those arrangements. The only point that I make in relation to the list tabled on 19 August is that, if reflections are going to be cast on senators who ask questions, that listed documentation should reflect any chamber arrangements in relation to representational duties. It is a very fair point and I am sure that, on reflection, both Senator Minchin and Senator Coonan would acknowledge that the criticism they made of senators was inappropriate in that circumstance and the tabled documentation should be clarified.

Senator MINCHIN—On the point of order, Mr President: far be it from us to criticise the opposition, but I thought that the arrangements had been made clear to the opposition. If that is not the case, then we are happy to ensure that those arrangements are clarified. In this case, we have in the Senate the minister assisting the Treasurer, Senator Coonan, and the parliamentary secretary assisting the Treasurer, Senator Campbell. I am here as Minister for Finance and Administration representing the Treasurer on all things that are not the responsibility of Senator Coonan and Senator Campbell. We will clarify that for the sake of the opposition.

The PRESIDENT—Senator Faulkner, I will have the matter attended to and I will report back tomorrow.

Immigration: Refugee Review Tribunal

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.03 p.m.)—In the answer I gave to Senator Bartlett I agreed with him that the High Court decision was unanimous. It was unanimous in the Muin case; however, in the Lie case it was a majority decision. I point that out to the Senate.

STANDING ORDER 73

The PRESIDENT (3.03 p.m.)—Yesterday, 20 August, Senator Abetz drew attention to the provision in standing order 73 relating to questions, whereby questions must not contain 'statements of fact or names of persons unless they are strictly necessary to render the question intelligible and can be authenticated' and asked me to consider whether questions which set out the circumstances and entitlements of particular named persons are in order under this provision. Although these types of questions have been commonly used in recent times, they are strictly not in accordance with the provision in the standing order, because it is not necessary to name particular persons in order to make the questions intelligible. The questions could be asked without naming the persons to whom the circumstances apply. I expect that senators will in future frame their questions so as not to infringe this provision. I note that today that did not happen.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.05 p.m.)—by leave—I move:

That the Senate take note of the statement.

Mr President, I listened carefully to the ruling that you have just made in relation to standing order 73. I note that you have indicated in your statement that in recent times names have been commonly used. I think that is accurate as far as it goes. I think it would have been more accurate to say that
they had been commonly used in this chamber not only in recent times but also over a very long period of time. But I acknowledge the point that you made and strictly your statement was not inaccurate. You went on to make a point in relation to standing order 73(1)(a), which says:

(1) The following rules shall apply to questions: questions shall not contain:

(a) statements of fact or names of persons unless they are strictly necessary to render the question intelligible and can be authenticated ...

As I have indicated, and as I think it is fair to say that you indicated in your statement, this has happened very regularly over a long period of time. I think that what is proposed here by you is an important and considerable change from the way this standing order has been applied in the past. What you are saying in relation to standing order 73(1)(a) is that you intend to take a narrower interpretation of that standing order than has been the case previously.

It is important that we stress here that it has long been acceptable to raise particular examples by reference to the name of a person or persons who might be involved. I do note, however, Mr President—and you did not mention this in your statement, as I heard it—that there is an important qualification here that senators need to take account of, and that is that the person or persons involved give permission for their names to be used. There are, amongst other things, some quite significant ethical issues involved in relation to the use of persons’ names.

In question time today, Senator Vanstone, in answer to a question directed to her by an opposition senator, indicated that it was difficult for her to answer a question about a specific case without identifying the person involved. That was Senator Vanstone’s contribution when an opposition senator deliberately used language in their question that did not identify an individual. The response of the minister was to say, ‘It is very difficult to give an answer in that circumstance, because the name has not been mentioned.’ But the real issue here—and I think you, Mr President, and the senators in the chamber need to take account of this—is that the whole of standing order 73, ‘Rules for questions’, has been broadly interpreted historically in this chamber. It has always been broadly interpreted. For example, standing order 73(2) reads:

Questions shall not anticipate discussion on an order of the day or other matter which appears on the Notice Paper.

That has always been broadly interpreted by the President when presiding in question time. Standing order 73(1)(h) says that questions shall not contain an expression of opinion. Standing order 73(1)(i) says that questions shall not ask for a statement of the government’s policy. Are these standing orders also to be as narrowly interpreted as we now hear that standing order 73(1)(a) is to be? These are real issues for you to give consideration to. I believe that many of the questions framed by government senators in this place, and some of the questions from opposition senators and other non-government senators, would fall foul of a strict interpretation of those standing orders. That is the risk in saying that you, as President, will narrowly interpret one of those rules for questions, namely standing order 73(1)(a), which relates to questions not containing the names of persons unless they are strictly necessary to render the question intelligible and can be authenticated. Of course ‘and can be authenticated’ is a key point in relation not only to credibility but to the point I was making about the probity of names being used in this chamber, which I am sure you would accept is an important issue.

Mr President, I make the point to you strongly in relation to this matter that, if you intend to have a narrower interpretation of standing order 73(1)(a), then you should not be surprised if other senators insist on a narrower interpretation of some of the other standing orders that relate to the rules for questions. This comes back to a principle that I have long argued in this place: broad interpretations of our standing orders—but particularly this one and some others that affect the day-to-day operations of this chamber—are essential for the smooth running of this place. I respectfully put that point to you because I think it is important.
I also respectfully say to you—and this is not really a point to you as President; it is more through you to government senators—that, if we are to have narrower, stricter interpretations of standing order 73, many of the Dorothy Dix questions that are asked by government senators would be ruled out of order. That is a fact of life. If I were the government, I would give some consideration to that.

I accept the spirit with which you have put forward your ruling and I appreciate that you have drawn on advice from the clerks in relation to that, but I make my points in relation to that interpretation very seriously. It is not just a ruling or an interpretation of the standing orders; it is a change to the way we have operated in this place. While, if you are able to take one element of the standing orders in isolation and make such a ruling, it may seem reasonable to some, we do not just have one section of one part of a standing order dealing with rules for questions and questions without notice; we have a set of standing orders that apply to all questions without notice. We have a chamber where, at times, good sense and flexibility and broad interpretation of the standing orders, which has historically been the case, leads to better outcomes. As I say, I make those points strongly, but I make them to you respectfully. I make those points about the other elements of standing order 73 not only to you but also to government senators, because, as I am sure you will be pointing out to all of us, Mr President, these standing orders apply to every senator in the chamber, to all questions and to all business before us. For the good running of the chamber, I strongly support a broad interpretation of those standing orders, and I have very consistently supported a broad interpretation of those standing orders whether I have happened to sit on this side of the chamber or that side of the chamber.

Senator ROBERT RAY (Victoria) (3.15 p.m.)—Mr President, every new President who comes along puts their mark on the chamber; we did not expect any different of you. But I ask you, as your first step, to get rid of that ballot box over there. Having a ballot box for internal party elections left in the Senate chamber hardly adds to the decorum of the place. Going to your statement: you have interpreted standing orders but I do not know that you have assisted us. I say that with respect, because it will still be your interpretation of standing order 73(1)(a). The framer of a question mostly uses an individual’s name to make it, as the standing orders would say, intelligible. In terms of the ‘authentication’, that is really the potential counterattack if you were ever so crass as to invent an individual’s name and put it in a question—something like ‘the Wright family’, for example. I think we would agree on that. That would be a horrible crime, you would agree, Mr President. It would be a shocking crime of deception if we were to do something like that.

Mr President, you may have heard ministers in the past stand up and say, ‘I can’t accept as fact the question put by the opposition because I do not trust them. They are just inventing this.’ You have heard minister after minister say that. Not all ministers, to give them the credit; probably only two or three, but that is their constant refrain. Therefore, there is a temptation on the part of the opposition and the minor parties to quote real cases. That is where the ‘intelligible’ part comes in—giving credibility to the questions rather than just having them dismissed as an invention of the opposition. Whilst there is nothing particularly wrong with your ruling today, it still falls back to you to make those judgments time and time again. If what you are saying, as a broad hint, is that you would prefer this to be a more rare occurrence, the opposition of course will take notice of that guidance. Where we can we will avoid stepping over that and leaving you in the awkward position of having to interpret it.

But Senator Faulkner has made a very good point: if there is a silly standing order in this whole book it is No. 73. For instance, I absolutely know that there would not be a post middle-aged Victorian minister, slightly balding, who lives in Kew—but I do not want to identify him! He would never use ironical expressions at question time, would he? He would never use imputations or inferences, would he? Even today and yesterday, we were told that our views on Telstra are because of what our union bosses have
told us. If that is not an inference or an imputation, I do not know what is. It happens to be false, in my case, and I suspect false in all my colleagues’ cases.

The trouble is that once we start dabbling with one of these standing orders we have to enforce them all. ‘Questions shall not ask for a statement of the government’s policy’—that is one of the things you are not allowed to do, but questions asking for a government’s policy on a particular area happen time and time again. It is true that, when asked for a legal opinion, you and your predecessors would always rule that out. That has been well enforced and has quite a history. ‘Hypothetical matters’—they are constantly dealt with in this chamber. ‘Epithets’—those are constantly thrown around. ‘Arguments’—those are constantly put. This is the difficulty once we get into the one area which Senator Abetz raised as an objection—he should have raised the others. But of course he does not; he is looking for partisan advantage in the ebb and flow of the chamber.

Your duty, Mr President, is to keep that balance, and I am sure you will. Most presidents rule 60 per cent in favour of their own party and 40 per cent in favour of oppositions. Frankly, that is what we accept. It is better than the 100 to nil rate in the House of Representatives, isn’t it? That is what makes a good President. I do not expect you to rule our way 100 per cent of the time—or you will not be President for much longer. A 60-40 split may not be suitable in the Labor Party but it is very suitable in this chamber. I am sure you will do it. In conclusion, there is no question that these are difficult issues for you to handle. I do not envy you in that. You just have to leave a little scope and you will have to discipline us.

Senator COOK (Western Australia) (3.20 p.m.)—Mr President, this is the first occasion where I have had an opportunity to rise when you are in the chair, so let me sincerely congratulate you on your elevation to the position of President. I want to speak to the motion before the chamber that your statement be noted. In a similar vein to my colleagues, I go back to standing order 73 on the rules for questions, but I go to subsection (4), a subsection that has not been commented on yet. For the sake of the Senate let me read it: In answering a question, a senator shall not debate it.

I note and support the remarks of Senator Faulkner and Senator Ray about narrowly interpreting these rules. Perhaps the most common point of order taken by the opposition during question time is that the answer to a question is not relevant to the question itself. The point of order is a point of order on relevance. Perhaps if Senator Faulkner’s point of order today had been that the minister was debating the question, and perhaps had we known that your interpretation would be to the letter of what the standing orders say, then Senator Faulkner’s point of order would have been upheld. It is frequently the case in this chamber that questions to ministers result in the ministers frankly, openly and blatantly debating the question—turning what the framers of the standing orders conceived as an opportunity for the parliament to question the executive by asking pointed questions and receiving frank answers into an opportunity for political argument and political one-upmanship.

I am not one of those people who think that that is not going to occur in a political chamber. It does. It is a facet of parliamentary life. It adds part of the colour and movement of parliamentary life to this chamber, and I do not particularly want to constrain that, but there are occasions on which, without any pretence to actually go to the words of the question, a question is excessively leaped on—and this is particularly true when ministers are not sure of what their answer should be—and a tirade of invective and abuse or attack upon political parties is substituted for an answer. On a plain, straightforward reading, I do not think that can be said to be anything other than debating the question. So, in considering—as I am sure you will—the remarks being made from this side of the chamber in response to your statement, all I ask is that, in making that consideration, you consider standing order 73(4) and the nature of answers as well as
the types of questions that are given. I am sure we would have more questions and better answers if the debate element was at least contained within reasonable limits and not conducted in the excessive way in which question time seems, unfortunately, to be abused now—and held up for ridicule in the media, at least—in this chamber.

Question agreed to.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Business: Corporate Governance

Taxation: Family Payments

Senator MARK BISHOP (Western Australia) (3.24 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Family and Community Services (Senator Vanstone) and the Minister for Revenue and Assistant Treasurer (Senator Coonan) to questions without notice asked today relating to family tax benefits and corporate governance, respectively.

Yesterday and today debate in this place and media comment has concentrated on issues relating to corporate governance and the reaction of the current government to problems deriving from a string of corporate collapses and corporate abuses. Those companies are well known: large, well-funded public entities—Ansett, One.Tel and HIH. The reasons for their collapses are equally well known: fraud, forgery, poor or non-existent management supervision, poor, inadequate or nonexistent board oversight, director negligence, director culpability and poor inadequate or nonexistent regulatory oversight by various agencies of the Commonwealth. The reaction of the current government is equally on the public record. The government has indicated there will be shift only on the margins; by and large it is satisfied with the status quo. There is no intent to have a radical shift or change in policy. Policy is marked by inattention, lack of adequate regulation, lack of accountability, refusal to enforce the law and refusal to fund properly regulatory agencies, and there are no enforceable rules that affect the big end of town—those large companies that I have identified. The government appears to be more than satisfied with corporate collapses, shareholders losing their interests, superan-

nuants losing their futures, employees losing their jobs and service providers and suppliers and a myriad companies losing their contracts and the consideration therein.

You contrast that approach of doing little, of doing nothing, with the approach to recipients of benefits under the family tax package, the subject of several questions to Senator Vanstone. Details of that package are well known. The government, in introducing the package some years ago, said the changes were going to mean more money, greater benefits and more simplicity for families. The design features of the scheme are equally well known. Proposed recipients advise Centrelink of their anticipated income and then advise Centrelink of actual variations to the proposed income that occur from time to time in an economy such as ours. The recipients receive family tax payments based on the information provided, as amended, to Centrelink, and at the end of the financial year there is a balancing activity. Overpayments are recovered as debts; underpayments are paid out. And the overpayments are, by and large, stripped back through the taxation system.

It is an apparently simple system, designed to assist families in financial need, that has resulted in chaos and a total mess. The figure is not in the thousands or the tens of thousands but in the hundreds of thousands—650,000 last year. One-third of all Australia’s recipient families received an incorrect payment. They received either an underpayment or an overpayment. Either way, there had to be an adjustment, and it had to be done through the taxation system. Of the two million families who received the payment, 650,000 families received it in error. By being in error, those families are characterised as being welfare cheats, as being potential criminals. All of this is a direct consequence of the design features in the family tax payment system.

Last year the government was well aware of this. It was raised in estimates, and the opposition warned of it before it became a fact. There was a large amount of correspondence from families, and the government became particularly aware of the problems. And what did it do? It gave a waiver of up to
$1,000 for each family to recover the debt. The debt of those who owed up to $1,000 was waived. Last year was an election year, and that was a one-off gesture which went down very well. This year, the financial year has just ended and we have another 600,000 families in debt but there is no magic pudding. Even if families do as they are supposed to do and report changes to their income, the flawed family payment system does not adjust their payments correctly, leaving them with a massive debt which the government strips out by way of repayment via the tax system. So families sign up, they provide variations, they provide amendments, debt continues to accrue and they have to repay it. And then, out of a relatively modest refund that most families gain of between $500 and $1,500 per year, it is taken back by surprise, and plans that were made cannot be put into effect. (Time expired)

Senator KNOWLES (Western Australia) (3.29 p.m.)—Mr Deputy President, firstly I congratulate you on being elected to the position of Deputy President. I wish to comment on the issue on which Senator Bishop has just concluded. I find it quite amazing that the Labor Party are now criticising a system which is far more generous than one ever even contemplated under 13 years of Labor. It is a system that relies on people informing the department about their incomes. I find it equally amazing that the Labor Party would somehow suggest that those who receive a benefit from their fellow taxpayers to which they are not entitled should somehow be entitled to just pocket it and walk away. I think that is pretty unfair, and I would have thought that the old, traditional Labor Party would have equally believed that that was unfair, that someone who got a benefit to which they were not entitled should not be allowed to keep it at the expense of another taxpayer. That is what this is all about.

There have been examples quoted this week, and in various sections of the media and so forth, about people having to repay certain amounts out of their tax. Once again, if the Labor Party believe that asking people to repay something which they have been illegally given, at the end of the day, is unfair, then I suggest that they put up an alternative proposal. Because if they are saying that all the taxpayers can fork out money to anyone who wishes to make an estimate of their income, whether it be right or wrong, with that person not given any compulsion to repay the money that they have been given to which they are not entitled, then that is a new lead in politics today.

I would like to know what alternative the Labor Party has to this system. It is interesting—I have looked at some cases, and I was looking at some cases with Senator Vanstone only yesterday morning, where some people had estimated to Centrelink that they were going to earn $30,000 a year. Therefore, they were given virtually the maximum amount of family tax benefit. Later on, at pretty close to the year, they adjusted their estimated income and I think it went up to the mid-seventies—from $30,000 to the mid-seventies and they did not know? Come on, really! Then, of course, when the tax return was put in, this person, who had estimated an income of $30,000, had in fact earned $85,000. You can imagine the family tax benefit that that individual had received and now they were grizzling that because they had earned $85,000 they had to pay back the overpayment that was based on their estimate. I think anyone in their right mind would say that that overpayment should be reclaimed.

Equally, there are many people out there who are on marginal incomes who reduce the amount that they give to the department in the hope that they will get the maximum benefit. Those people should not now be surprised that, after quite some time of this being in place, they will be forced to repay if they are not giving accurate estimates. So they should not just go and spend money if they know that it is likely that they will have to repay. But, unfortunately, the people in the cases that the Labor Party consistently quote seem to think that this is some sort of lottery win at the expense of other taxpayers and that they can just go and splash it up against the wall and never be held accountable for it.

There is no such thing as a lottery win at the expense of your fellow taxpayers and fellow Australians, and there should not be
any expectation by the Labor Party that that should be so. I am horrified, Mr Deputy President, to hear day after day that the Labor Party believes people should be able to keep other taxpayers’ money to which they are not entitled.

Senator McLucas—You gave it to them.

Senator KNOWLES—It is interesting—I hear an interjection which says, ‘You gave it to them.’ Yes, it was given to them based on that individual’s estimate of their income. If they give an incorrect estimate, then you cannot blame the other taxpayers and other Australians. Therefore, it is reliant on those people who have got something to which they are not entitled not to bleed from fellow Australians. They owe it back to their fellow Australians so that that money can be given to those most in need. Mr Deputy President, I would be very interested to hear what alternative the Labor Party has for dealing with those overpayments that were based on individuals stating their income.

Senator HUTCHINS (New South Wales) (3.34 p.m.)—Mr Deputy President, I take this opportunity to congratulate you on your election to this august post. As you would have heard in my question to Senator Vanstone, Mr Deputy President, one of the gutless wonders in the coalition wrote some sort of mealy-mouthed letter to one of their constituents, saying that the constituent was right about the fact that they should not have had their tax benefit taken away from them. Of course, that was one of these gutless wonders who do not think that people keep hold of documents and have them distributed. As Senator Faulkner outlined today, we had the name of the person who had been so harshly dealt with by the government and who was quite prepared to be identified, but the President advised that that should not occur.

Senator Knowles was quite interested in what the Labor position is in relation to the predicament some working families find themselves in when they are in the position of recovering. We have had an opportunity in the inquiry that Senator Knowles is conducting, along with me and Senators McLucas and Moore, to see how a lot of these families—particularly sole parent families—struggle to get back on their feet. They look forward to some sort of opportunity at the end of the taxation year to get an additional few dollars—to get that little boost in their incomes—to buy those things that they may have had to do without prior to being able to collect it. I was surprised this afternoon to hear Senator Knowles, who has always struck me as a fairly compassionate person, saying the usual sort of right-wing Liberal stuff that Senator Lightfoot and Senator Mason—the master race—are about to enunciate here. This is surprising to me, because it is blaming the victim.

I repeat: our position is similar to the one the government took to the election last year. However, that is not their position now. Once again, they want to blame the victims. They want to tax battling families, they want to attack struggling families—they want to blame the victim. I found it absolutely reprehensible to listen this afternoon to someone—Senator Knowles—whom, as I have said, I believe to be a compassionate person and who has heard the heartfelt stories of a number of people put to the committee that we are sitting on. Young people in particular can be put in some terrible predicaments which sometimes lead to their being forced...
to do without any sort of income, which leads to homelessness and sometimes to crime. It is a terrible thing that this government has done. It is absolutely reprehensible on its part and very uncompassionate. I think the government has its priorities wrong, particularly in attacking working, battling families.

**Senator Faulkner**—Mr Deputy President, I raise a point of order that I think the acting government whip, Senator Mason, will need to address. There has been no minister on duty for the last five minutes. I know Senator Mason is new to the job, but he has to lift his game.

**The DEPUTY PRESIDENT**—There is no point of order.

**Senator LIGHTFOOT** (Western Australia) (3.40 p.m.)—Mr Deputy President, I congratulate you in this chamber on your elevation to the position of Deputy President of the Senate and Chairman of Committees. For the Hansard record, I thought the minister was always in the chamber but perhaps not in his seat. The minister is certainly juxtaposed with, adjacent to, contiguous to or abutting his seat at the moment. For the benefit of the chamber and those senators who are here, it is not a matter of whether there is compassion or whether there is a lack of compassion here; it is a matter of what is right and what is wrong.

I would have thought that the Labor Party over the years, particularly with those like Brian Burke in Western Australia, John Cain and Joan Kirner in Victoria and John Bannon in South Australia, would have learned a lesson about fiscal responsibility and what is proper—not abandoning what is proper and right and what you do with the government coffers on the grounds of being compassionate. That is not right. We on this side are, to a person, compassionate conservatives. I am in that category and I know that my colleague Senator Brett Mason amply fulfils that description as well. But to say that we should abandon our fiscal responsibility for the return of overpayments on the grounds of compassion would be dishonest.

There are of course people who got overpayments and found difficulty in paying them back, but this is what the government implemented. A reconciliation of overpayments or underpayments of family and tax benefit and child-care benefit is the process of matching actual taxable income to that estimated by a family during the year. Customers who choose to receive family tax benefits as a regular fortnightly payment or a tax deduction, or child-care benefit as fee reductions through their service, need to estimate their taxable income for the current year to determine their fortnightly payments. There is no limit on how many times customers can adjust their estimate. Customers can choose to estimate their income towards the top of its potential range if they wish to reduce the risk of overpayment. This is strictly a customer choice: it is not a direction of this government. At the end of the financial year the estimate is compared to their actual taxable income. They are entitled to a top-up if they received less than they are entitled to, or required to make a repayment if they received more than they are entitled to, given their actual income for the year.

The government’s family assistance arrangements are fairer and simpler than the previous system of the Labor government. Around $2 billion a year, for example, is made available to two million Australian families—that is, $2 billion extra. Families receive their exact entitlement, and at the end of the year payments recognised as underpayments are topped up and overpayments are recovered. It is a simple system. Over $400,000 in family tax benefit and child-care benefit top-ups of entitlements were paid for 2000-01. No families received top-ups under the old Labor Party system. This government has made it decent, fair and proper, all within the proper perimeters of the fiscal responsibility governments have when they look after taxpayers’ money. It is not a matter of largesse. It is not a matter of saying, ‘Mistakes have been made. We’ll let you go. We’ll forget it this time.’

I do not know who directed that there should be a moratorium on repayments of those overpayments of under $1,000. I believe that was wrong. I believe there are some cases for compassion and those cases should perhaps have been looked at indi-
vidually. However, the cost of recovering those in terms of the number of people necessary to administer that recovery process would have been quite wrong. I do not have time to go into the top end of town, but I want to talk about the CFMEU and go into some detail when I next have the opportunity. Senator Bishop brought up the top end of town, and I want to tell the Senate about the top end of the union movement and the interests of the CFMEU—(Time expired)

Senator McLUCAS (Queensland) (3.45 p.m.)—Mr Deputy President, I also congratulate you on your election to the office of Deputy President. I also rise to take note of answers from Senator Vanstone in respect of the family tax benefit debacle. This is a debacle that has seen over 650,000 families—most of whom got a pretty rude surprise—receive an average bill of $850, which came along with their tax reconciliation for 2001-02. It is important that we remember the history of the delivery of this payment. In July last year, Senator Vanstone gave the following undertaking in a press release:

The Government has also decided that it would be easier for any family who still had an excess payment to have it recovered by adjusting their future payments, rather than taking it from their tax refund. This is because people may have earmarked their refund to use for specific things. Senator Vanstone said that it was reasonable for families to earmark tax refund cheques for specific things. I agree with that. I agreed with it then and I still agree with it now. Working families use their tax refund for all sorts of regular payments. They often buy whitegoods that have to be replaced or make other major purchases or they pay off the Bankcard. It is reasonable for families to use their tax refund for specific things. It was reasonable in 2001 but, interestingly, it is not reasonable now. I find that very interesting because between July last year and now we happen to have had an election. The reality is that the government had a major problem in the lead-up to the last election. They had large numbers of families with an unexpected debt—an unexpected clawback from their tax refund to the government—who were going to have to turn up at a polling booth in just a few months time. They had a major problem and they had to do something about it. The reality is that the government responded by changing the rules to ensure their own electoral advantage, allowing the debt to be recovered from future payments rather than removing it from the tax refund. It was all right to do it then, but it is certainly not all right to do it now.

We also need to remember that the government waived up to $1,000 from each individual debt incurred in 2000-01, in recognition apparently—if you believe the government—of the problems in delivering the program. I have to say to Senator Vanstone: ‘Sorry, nothing has really changed. We still have large numbers of families incurring unforeseen debts who are now going to have that money withdrawn from their tax refund.’ It is not going to be waived as it was last year—not $1,000 waived out of their payment—and it will not be able to be recouped from future payments. There are still problems in delivering the family tax benefit, but there is no election in the offing, so there will not be any waiving of or recouping from future payments.

Senator Vanstone’s answers show little understanding of the work patterns of average families in Australia. Those most at risk of receiving the clawback from their tax return are mothers who have decided to return to work, either part time or full time, midway through the financial year. The system actually claws back the benefits that those mothers were entitled to for the part of the year that they were at home full time. Like many senators and members, I have had many constituents contact my office. Commonly, they tell me that, firstly, they did not know that there would be a reconciliation at the end of the year and that there is no information; secondly, they have mentally estimated their expected tax cheque and planned what they are going to do with it; thirdly, they have continually advised Centrelink of changes to their income and are in disbelief that, even after all the advice and all the contact with Centrelink, they still have an overestimate of income; and, fourthly, they are all angry. The system of delivery of the family tax benefit is flawed. It is a system that needs revision to ensure that payments are made in a fair and sensible matter. (Time expired)
The DEPUTY PRESIDENT—Order!
The time for the debate has expired.
Question agreed to.

NOTICES

Presentation

Senator Mason to move on the next day of sitting:
That the time for the presentation of the report of the Finance and Public Administration Legislation Committee on the provisions of the Members of Parliament (Life Gold Pass) Bill 2002 be extended to 19 September 2002.

Senator Payne to move on the next day of sitting:
That the time for the presentation of the report of the Legal and Constitutional Legislation Committee on statutory powers and functions of the Australian Law Reform Commission be extended to 19 September 2002.

Senator Ludwig to move on the next day of sitting:
That the Senate—
(a) condemns the Howard Government’s decision to strip, without warning, the tax returns of Australian families who have been overpaid family payments as callous and unfair to parents trying to survive under increasing financial pressures;

(b) notes that this is not consistent with the statement of the Minister for Family and Community Services (Senator Vanstone) in July 2001 in which she assured families that, ’The Government has also decided that it would be easier for any family who still had an excess payment to have it recovered by adjusting their future payments, rather than taking it from their tax refund. This is because people may have earmarked their refund for use for specific things’;

(c) considers that the Government’s 2-year-old family payments system is deeply flawed, given that it delivered average debts of $850 to 650 000 Australian families in the 2001-02 financial year and continues to punish families who play by the rules; and

(d) condemns the Howard Government and its contemptible attack on Australian families.

COMMITTEES

Selection of Bills Committee

Report

Senator MASON (Queensland) (3.50 p.m.)—On behalf of Senator Ferris, I present the sixth report of 2002 of the Selection of Bills Committee and move:
That the report be adopted.

Senator MASON—I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 6 OF 2002

1. The committee met on Tuesday, 20 August 2002.
2. The committee resolved to recommend—
(a) the provisions of the following bills be referred immediately to committees:

<table>
<thead>
<tr>
<th>Bill title</th>
<th>Committee</th>
<th>Reporting date</th>
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<tr>
<td>(see appendix 1 for statement of reasons for referral)</td>
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<tr>
<td>Superannuation (Government Co-contribution for Low Income Earners) Bill 2002</td>
<td>Select Committee on Superannuation</td>
<td>26 September 2002</td>
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<tr>
<td>Superannuation Legislation Amendment Bill 2002 (see appendix 2 for statement of reasons for referral)</td>
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<tr>
<td>Superannuation Legislation Amendment (Choice of Superannuation Funds) Bill 2002 (see appendix 3 for statement of reasons for referral)</td>
<td>Select Committee on Superannuation</td>
<td>26 September 2002</td>
</tr>
</tbody>
</table>
(b) the following bills not be referred to committees:
- Communications Legislation Amendment Bill (No. 1) 2002
- Customs Legislation Amendment Bill (No. 1) 2002
- Import Processing Charges (Amendment and Repeal) Bill 2002
- Family and Community Services Legislation Amendment (Disability Reform) Bill (No. 2) 2002
- Family Law Amendment (Joint Residency) Bill 2002
- Family Law Legislation Amendment (Superannuation) (Consequential Provisions) Bill 2002
- Health Legislation Amendment (Private Health Industry Measures) Bill 2002
- Industry, Tourism and Resources Legislation Amendment Bill 2002
- Intellectual Property Laws Amendment Bill 2002
- National Environment Protection Council Amendment Bill 2002
- Plant Health Australia (Plant Industries) Funding Bill 2002
- Sex Discrimination Amendment Bill 2002
- Taxation Laws Amendment Bill (No. 5) 2002
- Trade Practices Amendment (Liability for Recreational Services) Bill 2002
- Veterans’ Affairs Legislation Amendment Bill (No. 2) 2002
- Veterans’ Affairs Legislation Amendment (2002 Budget Measures) Bill 2002
- Workplace Relations Amendment (Improved Remedies for Unprotected Action) Bill 2002
- Workplace Relations Amendment (Simplifying Agreement-making) Bill 2002.

The committee recommends accordingly.

3. The committee deferred consideration of the following bills to the next meeting:

Bill deferred from meeting of 19 March 2002
- Aviation Legislation Amendment Bill 2002

Bill deferred from meeting of 14 May 2002
- Great Barrier Reef Marine Park (Boundary Extension) Amendment Bill 2002

Bills deferred from meeting of 18 June 2002
- Australian Broadcasting Corporation (Scrutiny of Board Appointments) Amendment Bill 2002
- Taxation Laws Amendment (Structured Settlements) Bill 2002

Bills deferred from meeting of 25 June 2002
- Transport Safety Investigation Bill 2002
- Transport Safety Investigation (Consequential Amendments) Bill 2002

Bills deferred from meeting of 20 August 2002
- Environment and Heritage Legislation Amendment Bill (No. 1) 2002
- Australian Heritage Council Bill 2002
- Australian Heritage Council (Consequential and Transitional Provisions) Bill 2002
- Financial Sector Legislation Amendment Bill (No. 2) 2002
- Health Insurance Amendment (Professional Services Review and Other Matters) Bill 2002
- Medical Indemnity Agreement (Financial Assistance—Binding Commonwealth Obligations) Bill 2002
- New Business Tax System (Consolidation, Value Shifting, Demergers and Other Measures) Bill 2002
- Occupational Health and Safety (Commonwealth Employment) Amendment (Employee Involvement and Compliance) Bill 2002
- Renewable Energy (Electricity) Amendment Bill 2002
- Therapeutic Goods Amendment Bill (No. 2) 2002

(Jeanne Ferris)
Acting Chair
21 August 2002
Appendix 1

Proposal to refer a bill to a committee

Name of bill(s):
Research Involving Embryos and Prohibition of Human Cloning Bill 2002

Reasons for referral/principal issues for consideration
To consult widely with various stakeholders in the community to inform the Senate in its deliberations on the bill. The Senate last considered embryo and cloning issues in 1986.

Possible submissions or evidence from:
Representatives from the medical science research community (domestic and international, private and public), patient and other health care groups; ethics groups and other community stakeholders.

Committee to which bill is referred:
Community Affairs Legislation Committee

Possible hearing date:
To be determined by the committee.

Possible reporting date(s):
14 November 2002

(Signed)
Senator Ron Boswell

Appendix 2

Proposal to refer a bill to a committee

Name of bill(s):
Superannuation (Government Co-contribution for Low Income Earners) Bill 2002
Superannuation Legislation Amendment Bill 2002

Reasons for referral/principal issues for consideration
These bills involve a significant revenue expense. The co-contribution is anticipated to cost $270 million over three years (revised down from $337 million in the government’s electoral package). There has been some public criticism of the measures so it is important that the Senate has the opportunity to take evidence on the measures.

Possible submissions or evidence from:
Treasury, Australian Taxation Office, Association of Superannuation Funds of Australia (ASFA), Investment and Finance Association (IFSA), Australian Institute of Superannuation Trustees (AIST), ACTU, Financial Planning Association, Corporate Superannuation Association.

Committee to which bill is referred:
Select Committee on Superannuation

Possible hearing date:
30 August 2002 (Canberra), 2, 3 and 11 September 2002

Possible reporting date(s):
26 September 2002

(Signed)
Senator Sue Mackay

Appendix 3

Proposal to refer a bill to a committee

Name of bill(s):
Superannuation Legislation Amendment (Choice of Superannuation Funds) Bill 2002

Reasons for referral/principal issues for consideration
This bill proposes a substantial change to the existing regulated superannuation industry and in its current form may result in vastly different retirement incomes for many Australians. The claims made in the EM to the bill must be tested against evidence to the contrary.

Possible submissions or evidence from:
Treasury, Australian Taxation Office, Association of Superannuation Funds of Australia (ASFA), Investment and Finance Association (IFSA), Australian Institute of Superannuation Trustees (AIST), NFF, ACTU, Financial Planning Association, Corporate Superannuation Association.

Committee to which bill is referred:
Select Committee on Superannuation

Possible hearing date:
30 August 2002 (Canberra), 2, 3 and 11 September 2002

Possible reporting date(s):
26 September 2002

(Signed)
Senator Sue Mackay

Senator HARRADINE (Tasmania) (3.51 p.m.)—I notice a recommendation in the Selection of Bills Committee report is that ‘the provisions of the following bills be referred immediately to committees’. The Research Involving Embryos and Prohibition of Human Cloning Bill 2002 is to be referred to the Community Affairs Committee and the reporting date is 24 October 2002. I think it is important on a major piece of legislation like this which goes to the heart of society that there should be a thorough examination of the provisions of the legislation. If we are
going to have a conscience vote on this matter, surely it would be helpful if we had an informed conscience and we were able to see the evidence that was coming in to us and what recommendations might be made by the committee. It is 18 years since a Senate select committee on a similar topic was established. That was on the human embryo experimentation bill. Some very interesting things came out of that examination. I feel that we should have waited until we had the bill before us before referring it to a committee, but if it gives a little more time to us or to the people who may wish to examine that particular matter and give the committee submissions—I am not a member of the committee, though I am a participating member of all committees—then so be it.

Senator Carr—We all are participating members.

Senator HARRADINE—Yes, that is true. I have had a look at what was said in the House of Representatives. It is a pity that the information is not coming through to them. I want to highlight one aspect of the discussion last night where the member for Leichhardt, the Parliamentary Secretary to the Minister for Industry, Tourism and Resources, was talking about a person who had been diagnosed with Alzheimer’s and was under the care of an imminent Australian Alzheimer’s researcher, Professor Colin Masters. Mr Entsch went on at the end of that to say:

Alzheimer’s will eventually kill him—
that is, the patient—
Tom’s only hope for a full recovery lies with further research into embryonic stem cells.

I suggest that honourable senators look at that and see whether there is an implication that somehow or other Alzheimer’s will be cured by stem cell research. Have a look at what Professor Colin Masters, a neuroscientist at the University of Melbourne, says. He compared the idea of putting a bunch of cells into someone’s brain to cure Alzheimer’s or Parkinson’s disease to 1930s experiments in which the testicles of a bull and monkey were injected into people with the aim of stopping ageing. And this is from an Alzheimer’s expert! You also had Professor Rathjen saying: ‘It is ... nonsense that stem cells might be able to cure Alzheimer’s.’ We do not even know the cause of Alzheimer’s, yet almost every speaker in the House of Representatives was promoting this idea. We need to look at the truth and to get the truth. Though somewhat reluctantly at this particular juncture, I support the recommendation of the Selection of Bills Committee.

Question agreed to.

TRADE: LIVE CATTLE EXPORTS

Return to Order

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (3.56 p.m.)—by leave—I refer to the order of the Senate of 20 August directing the tabling of two documents relating to live cattle exports. The first document sought under the order—moved successfully by Senator Bartlett from the Australian Democrats—is a livestock officer’s report for the Jordanian vessel the Maysora, which, it was claimed, departed Australia on 28 February 2001. The Minister for Transport and Regional Services has advised that no Jordanian flagged vessel named the Maysora travelled from Australia on 28 February 2001. The Minister for Transport and Regional Services has advised that no Jordanian flagged vessel named the Maysora travelled from Australia on 28 February 2001. It may help the Senate to know that a Bahamas registered vessel—the Maysora—arrived in Jordan on 28 February 2001.

Any livestock officer’s report is a private document provided to Livecorp, the body which oversees Australia’s live export industry. The report is not provided to the government; therefore, the government is unable to provide the document to the Senate. If the Senate would like a copy of the report it will have to make an approach to Livecorp. The second document sought is the master’s report from that voyage. The minister is unable to agree to the publication of the master’s report from that voyage. It includes commercial information which he is advised could unreasonably damage the vessel owners’ business if disclosed.

NOTICES

Postponement

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Bartlett for
today, relating to the reference of a matter to the Foreign Affairs, Defence and Trade References Committee, postponed till 26 August 2002.

General business notice of motion no. 109 standing in the name of Senator Sherry for today, relating to the reference of matters to the Select Committee on Superannuation, postponed till 26 August 2002.

General business notice of motion no. 126 standing in the name of Senator Sherry for today, proposing an order for the production of documents relating to superannuation, postponed till 26 August 2002.

General business notice of motion no. 127 standing in the name of Senator Sherry for today, proposing an order for the production of a report by the Superannuation Working Group, postponed till 26 August 2002.

FOREIGN AFFAIRS: IRAQ

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.58 p.m.)—On behalf of Senator Stott Despoja and me, I move:

That the Senate calls upon the Government to define the circumstances under which Australia would consider diplomatic or military support for a United States led attack on Iraq, in particular, to outline the evidence linking Iraq to international terrorism or evidence of a significant expansion in the threat from Iraq’s nuclear, chemical or biological weapons programs.

Question agreed to.

Senator Ian Campbell—Mr Deputy President, I ask that the government ‘no’ vote on that last motion be recorded.

The DEPUTY PRESIDENT—Is leave granted?

Senator Faulkner—We will grant leave, but the normal way of doing this is by division. In the unusual circumstances of trying to progress the program, leave is granted.

The DEPUTY PRESIDENT—Leave has been granted; therefore that will be recorded.

ENVIRONMENT: MARALINGA TEST SITE

Senator ALLISON (Victoria) (4.00 p.m.)—I move:

That the Senate—
(a) notes:

(i) that the clean up of the Maralinga atomic test site resulted in highly plutonium-contaminated debris being buried in shallow earth trenches and covered with just one to two metres of soil,

(ii) that large quantities of radioactive soil were blown away during the removal and relocation of that soil into the Taranaki burial trenches, so much so that the contaminated airborne dust caused the work to be stopped on many occasions and forward area facilities to be evacuated on at least one occasion, and

(iii) that americium and uranium waste products are proposed to be stored in an intermediate waste repository and that both these contaminants are buried in the Maralinga trenches;

(b) rejects the assertion by the Minister for Science (Mr McGauran) on 14 August 2002 that this solution to dealing with radioactive material exceeds world’s best practice;

(c) contrasts the Maralinga method of disposal of long-lived, highly radioactive material with the Government’s proposals to store low-level waste in purpose-built lined trenches 20 metres deep and to store intermediate waste in a deep geological facility;

(d) calls on the Government to acknowledge that long-lived radioactive material is not suitable for near surface disposal; and

(e) urges the Government to exhume the debris at Maralinga, sort it and use a safer, more long-lasting method of storing this material.

Question agreed to.

EDUCATION: FINANCIAL INFORMATION

Senator CARR (Victoria) (4.01 p.m.)—I move:

That—

(1) There be laid on the table, not later than the conclusion of question time on Monday, 26 August 2002, the documents described in paragraph (2), relating to financial information and forward financial projections and actuals, routinely prepared by the Department of Education, Science and Training pursuant to ministerial determination
under section 14 of the Higher Education Funding Act 1988, for the higher education institutions listed on Table A, section four, of the Act (as amended).

(2) The documents to be provided must include those containing information on the financial health of the Commonwealth-funded university system, in the form of charts and text, presenting details as follows:

(a) the 4-page report showing the summary position, including graphs, sent by the department to each university pursuant to section 14 of the Act to assist in the discussion of the agenda item ‘Resource management’ in the profile discussions of late 2001;

(b) in the case of each university, a copy of the formal minutes of the 2001 profile discussions;

(c) the summary report prepared by the department, pursuant to section 14 of the Act, in advance of the visit to each university as part of the profiles process relating to funding under the Act; in particular, a sector overview of the financial performance and financial position of the institutions for 2000, including total and non-government revenue, revenue analysis by source, total and non-government revenue including projections to 2004, operating result, cash and investments and external debt, current ratio, debt-equity ratio, net capital expenditure, capital funding, comparative enrolment profile, comparative enrolment profile, comparative research performance (share of research performance measures), and a commentary on the financial standing of the sector as a whole including forward projections to 2004;

(d) the operating result of all listed institutions for 2000;

(e) changes in the year 2000 operating result from the average for the previous 4-year average of all institutions; and

(f) for each listed institution, separately, as prepared pursuant to section 14 of the Act, a revenue analysis by source for 2000, total and non-government revenue including projections to 2004, operating margin, cash and investments and external debt, current ratio, debt-equity ratio, net capital expenditure, capital funding, comparative enrolment profile, research performance including research income (compared to sector average and relevant group average), research load and completions (compared to sector average and relevant group average) and a commentary on the financial standing of the institution including forward projections to 2004.

Question agreed to.

COMMITTEES

Employment, Workplace Relations and Education Legislation Committee

Meeting

Senator McGauran (Victoria) (4.01 p.m.)—At the request of Senator Tierney, I move:

That the Employment, Workplace Relations and Education Legislation Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 22 August 2002, from 3.30 pm to 5 pm, to take evidence for the committee’s inquiry into the Workplace Relations Amendment (Paid Maternity Leave) Bill 2002.

Question agreed to.

Legal and Constitutional References Committee

Meeting

Senator Mackay (Tasmania) (4.02 p.m.)—as amended, by leave—At the request of Senator Bolkus, I move the motion as amended:

That the Legal and Constitutional References Committee be authorised to hold a private meeting otherwise than in accordance with standing order 33(1) during the sitting of the Senate on Thursday, 22 August 2002, from 3.30 pm till 4.45 pm, to take evidence for the committee’s inquiry into the Migration Legislation Amendment (Further Border Protection Measures) Bill 2002 and related issues.

Question, as amended, agreed to.

AVIATION: DISABILITY SERVICES

Senator Allison (Victoria) (4.02 p.m.)—I move:
That the Senate—

(a) notes that:

(i) wheelchair passengers currently experience an ongoing and unresolved issue in relation to carriage of wheelchairs on Qantas flights,

(ii) people who use wheelchairs are required to have their chairs loaded and stowed as general cargo on Qantas flights,

(iii) this frequently results in damage to wheelchairs, which cost thousands of dollars, and the inability to use the chair at the point of arrival, and

(iv) for persons who are dependent on wheelchairs, the chair represents their sole mobility and its safe transport, free from damage, is essential for travel; and

(b) urges Qantas to develop or acquire a special container to provide safe and secure transport of wheelchairs to ensure peace of mind for travellers with disabilities.

Question agreed to.

ENVIRONMENT: NATIONAL LANDCARE WEEK

Senator O’BRIEN (Tasmania) (4.03 p.m.)—I move:

That the Senate—

(a) notes that:

(i) 19 August to 25 August 2002 is National Landcare Week,

(ii) Labor established Landcare in 1989,

(iii) Landcare is a program of community-based land care projects directed by landholders, community groups and individuals who contribute to grass roots conservation activity,

(iv) according to Landcare Australia, 43 per cent of Australian farmers are now involved in Landcare initiatives to help improve our environmental health,

(v) Landcare has made an invaluable contribution to tackling the decline in Australia’s land and water quality, but significant challenges remain, and

(vi) the 2002 National Landcare Awards recognise organisations and individuals making an outstanding contribution to the protection and rehabilitation of Australia’s land and waterways, and

(b) congratulates finalists in the 2002 National Landcare Awards and thanks all Landcare volunteers for their magnificent contribution to our environment.

Question agreed to.

MATTERS OF PUBLIC IMPORTANCE

Howard Government: Policy

The DEPUTY PRESIDENT—The President has received a letter from Senator Conroy proposing that a definite matter of public importance be submitted to the Senate for discussion, namely:

The failure of the Government to protect ordinary Australians—investors, employees and creditors—and respond in a timely or adequate manner to:

(a) the series of high profile corporate collapses in Australia;

(b) the awarding of often extravagant and unjustified remuneration packages and other perks to corporate executives;

(c) the failure of many companies to fully comply with the requirement to disclose details of executive remuneration;

(d) the restatement of various company accounts by ASIC;

(e) public questions about the independence of brokers;

(f) funding shortages for the Australian Securities and Investments Commission, the corporate regulator; and

(g) the recommendations of the Ministerial Council of Corporations and Professor Ramsay on auditor independence, while punishing struggling Australian families who do the right thing in regard to their family benefit payments.

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 DEPUTY 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 clock accordingly.
Senator CONROY (Victoria) (4.05 p.m.)—Mr Deputy President, I take this opportunity to congratulate you on your elevation to that position and to thank you on behalf of all of us on this side who are looking forward to your hospitality, which we understand you are freely offering.

Senator George Campbell—Sooner rather than later.

Senator CONROY—Yes. This matter of corporate governance is a very serious issue. Given the high number of Australians who now own shares either directly or indirectly through their super fund, it is essential that we get it right. This government has for too long not got it right. The government faces a conflict of interest and has shown itself unwilling to act against its mates at the big end of town. It has concentrated on the wrong priorities—unfairly punishing families who incur family payment debt even when they properly inform Centrelink of changes in circumstances—and not on protecting Australian retirement incomes.

This government and its Prime Minister have introduced mutual obligations for certain social security recipients and promised to penalise those who breach those obligations. The Prime Minister certainly has not said he will be relying on self-regulation for those that are beneficiaries of the abuses to show a willingness to play their part. No, he sets a different standard for those entrusted with the very serious obligations to investors, employees and business creditors—and that is not right and it is not fair. The Chairman of ASIC spoke recently of the need not to be complacent about corporate governance. He said:

What we underestimated, I think, was some quite pernicious and endemic factors at play—a new outbreak of management greed, the failure of boards to put a brake on excessive and structurally unsound remuneration practices and the many commercial pressures that influence management and boards to focus on short-term pay-offs.

John Howard’s message to Australians is: greed is good. He just wants to stand back. In the face of that stinging attack on corporate ethics and corporate behaviour in the last few years, the Prime Minister stands there and says, ‘She’ll be right; no problems; greed is good.’ This government has refused to acknowledge these factors and it has put at risk the retirement savings of ordinary Australians.

On a number of occasions, ASIC officers have spoken of key corporate governance failures by some Australian companies. These have included: a dominant director having undue control over the company’s affairs; non-executive directors failing to carry out diligently their duty to ensure that directors and management are accountable; senior executives not reporting improper behaviour; ineffective internal controls; auditors not maintaining an independent outlook; inadequate reporting to shareholders of company strategies; and the use of optimistic and aggressive accounting treatments which can disguise the true performance of the business. These are failures identified by ASIC in various investigations. They are real; they are happening in this country, not in the US. We have seen some of these corporate governance failures in the recent high-profile corporate collapses. These collapses have had serious consequences for the shareholders, employees and creditors of these companies. In the US, we have seen the repercussions of a loss of confidence in the market. We need to avoid that here in Australia. This requires that we act now.

Australia is not without problems and it is unwise to pretend that this is not the case. For example, an ASIC study on auditor independence released earlier this year found that the provision of non-audit services by audit firms to their Australian clients is widespread, at least in respect of major corporates. Audit firms are earning substantial fees for non-audit services. Processes for dealing with potential conflicts of interest require attention. The rotation of audit partners remains inconsistent and the rotation of firms is almost non-existent. We are also aware that ASIC has forced restatements in company accounts of more than $3 billion over the last three to four years. The government may assert, like they have in relation to the number of people who face criminal sanctions, that this is evidence of the effectiveness of our law and of the regulator.
However, it is also evidence of the existence of the problems in corporate governance that this is being allowed to happen in the first place.

Another issue frequently raised is that of executive remuneration. The Prime Minister has refused to act on this issue. When you get him on talk-back radio and people call in, Mr Howard, the Prime Minister, is all sympathy to them. He is prepared to say, ‘Oh yes, look, it’s quite worrying. The corporates have got to have a good look in the mirror and, if they don’t do something, I’ll do something soon.’ When he was questioned recently about the $13.2 million payment to George Trumble at AMP, the Prime Minister said, ‘It’s indefensible. That is a matter—I don’t control that and I don’t want to control that.’ So what is it? Just empty platitudes once again. This is despite findings by the Australian Financial Review, in its survey last year on executive remuneration, showing that the salaries of Australia’s top chief executives rose by 13.4 per cent in 2001, despite slowing corporate profit growth and shares going down. That is not to even talk about the options, which I will come to. It was the same period in which superannuation fund members were being told they should be happy if their fund managed a positive rate of return.

Organisations like the Australian Shareholders Association have been campaigning on the issue of executive remuneration for years. Unfortunately, they are finding that too many corporates will not tell them the full details of executive remuneration and too many remuneration packages are issuing options with performance hurdles that encourage mediocrity. The ASA also talks about companies lowering exercise prices for options, often in cases where the company has manifestly failed to perform. That is right—believe it or not, they do not want just one bite of the cherry by getting options with almost no hurdles; even when they fail the pitiful options, some of them come sneaking back to the boards and try and get the boards to agree to reprice them and take away the pitiful options that they had in the first place. That is unacceptable.

I have also spoken on questions regarding broker independence, which is something this government has just discovered, despite my raising it in this chamber over one year ago. There has been no word on this from the government in the last few years, until the last month or so from Senator Campbell, who, to give him his due, is someone who does follow these issues. Investors rely heavily on broker reports to make their investment decisions. They need to be assured that the advice contained in those reports is accurate and has not been biased because of the work being done in other sections of the financial institution for which the broker works.

The problem in Australia has not been quantified but there is anecdotal evidence to support these suspicions. These are global companies with global cultures. To dismiss what has gone on in the US on Wall Street as a US aberration, when all the practices that those firms have employed are here, is not good enough. There is the story of one analyst, who made an accurate, but unpopular, sell recommendation on one of Australia’s largest bluechip companies, being driven out of the research industry after being ostracised by the company. There are other reports of firms, having tendered for or obtained corporate advisory work, producing favourable broker reports. This is happening here in Australia and it has to be addressed.

The government have been lax. What have the government done on these issues? What are they doing to protect ordinary investors? They have avoided doing anything where possible, when they could have conducted a review. I am sure that when Senator Campbell follows me in this debate you will hear him talking about more reviews. Senator Minchin yesterday, in question time, was quick to ensure that he was not required to answer questions on corporate governance, despite representing the Treasurer. Senator Coonan went for the review option yesterday: ‘It will all be revealed in a discussion paper—CLERP 9—to be released later this month.’ She parroted Senator Campbell—he slipped her a note and she read it out dutifully. It was good to see, but we will have the
actual organ grinder rather than the monkey today.

The Treasurer and the Prime Minister are quick to say that more regulation is not needed. That is the Prime Minister: ‘I don’t want to burden those hardworking executives; we don’t want any more regulation.’ Labor says: now is not the time for less regulation; instead, we need strong and effective regulation to protect Australian investors. But we should take a closer look at what this government has done in a number of relevant areas. Firstly, there is executive remuneration. In 1998, Labor moved an amendment to the Corporations Act to require the disclosure of the detail of executive remuneration in a company’s annual report. The government clearly did not want this amendment. They clearly did not want transparency in the arrangements surrounding executive remuneration. In relation to that amendment, Senator Campbell, who had carriage of the bill in this chamber—the same Senator Campbell who will be following me in this debate—said: ‘We will be not supporting the Labor amendments.’ His preference—wait for it!—was for a committee of review, to review and then not act. begrudgingly, he then offered not to oppose the amendments when, with the help of Senator Murray, the numbers were clearly here in the chamber. Senator Murray will remember that debate, I am sure. Labor has always worked very closely on these issues with Senator Murray, and he deserves credit for that.

This was an amendment to empower shareholders, and the best the government would do was to not oppose it. They have continued to not oppose it by ignoring the level of noncompliance with its requirements. Thanks to research commissioned by the Australian Council of Superannuation Investors, we now know that 52 per cent of the top 100 listed companies that issue options to executives do not fully disclose the details of executive remuneration. They refuse to disclose the value of the options, despite an amendment in 1998 requiring them to. What did the Treasurer say yesterday when he was asked about this? The Treasurer said, ‘Refer to me any information of any company that is not complying with Corporations Law.’ We whipped out a few names for him today. We referred him to the 52 per cent of companies. We took him through a few names and what did he say? He said that, oh no, it was not his job to refer anything to ASIC. We asked him to refer it to ASIC, to direct ASIC to investigate these breaches of the Corporations Law—and what was the Treasurer’s response? He took a hands-off approach as usual, missing in action.

ASIC, for which the Treasurer is the responsible minister, has said that it cannot enforce this provision. That is a very important thing, because it is waiting—and this is what it said in answer to questions at Senate estimates—for the government to clarify the provisions. Senator Murray, when we moved it, you and I thought it was pretty basic, pretty straightforward and pretty clear; but the corporate sector all of a sudden found that they could not understand it, and they have told ASIC they do not understand it. The government knows what needs to be done, because in 1999 the Joint Parliamentary Committee on Corporations and Securities recommended the necessary changes. Even government members accepted the arguments of Senator Murray and me, saying, ‘Yes, if there is uncertainty, this is what the government should do to clear it up.’ On 6 February 2001—yes, that is two years later, for anybody who did not do the maths—the government tabled its response to this committee’s report, accepting the committee’s recommendations. So even the government was shamed into accepting the committee’s recommendations. But what has happened in the 18 months since? Nothing—only more reviews. Senator Campbell will talk about more reviews. The government does not want the disclosure of executive remuneration. Let us be clear about this. It does not want to bring sunlight into the cosy deals done, whereby executives are paid huge packages without any reference to their performance or that of the company. But the shareholders pay these packages. It is their money which has been expended, and too often they are not told about it.

I was lucky enough last week to attend the speech of Sir David Tweedie, the head of the
International Accounting Standards Board, in Sydney. He is in charge of implementing international accounting standards across most of the world, bar the US, in the next few years. He said, ‘The time has come.’ ‘We all know,’ he said to a round full of accountants, ‘that these options are an expense to the company, and we have voted 13-0 to expense options.’ They will be releasing a draft standard. It was voted 13-0 to make this happen. Unfortunately, it is not going to happen here until 2005.

Senator Ian Campbell—Rubbish!

Senator CONROY—Then you stand up in the debate and say that you will introduce legislation and make it mandatory straight-away.

Senator Ian Campbell—I say I won’t do that, for good reason.

Senator CONROY—What did David Tweedie go on to say? He said, ‘Look, I have companies coming to me and saying, “What are you doing? Why are you doing this?”’ He said, ‘It happens to be the fact of the matter.’ They said, ‘But you can’t do that!’ and he said, ‘Why not?’ David Tweedie, the head of the International Accounting Standards Board, said, ‘Do you know what they say to me? They say, “If we told shareholders the value of these options they would never agree to them.”’ And he said, ‘That is exactly why we are going to do it.’ At least somebody in this debate around the world is being honest. At least some companies are taking the lead in the US. In the US, we have seen some of the biggest companies in the world finally fess up to this—and what does this government do? It sits there and says, ‘Oh no, we can wait until 2005; it’ll be fine.’ In relation to Macquarie Bank, it says, ‘Yes, we agree they’re an expense and, yes, they should be expensed but we’re not going to until we are made to.’ Make them, Senator Campbell! (Time expired)

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (4.20 p.m.)—Senator Conroy has sought to mislead the Senate in relation to a number of key issues. I would like to address them first. In a desperate grasp for relevance in this debate, Senator Conroy has shown in recent weeks that he is prepared to undermine the credibility of the regulator at a time when the credibility of the regulator is crucial. He has tried to misrepresent ASIC’s enforcement role and he has also, for the first time in Australian corporate and political history, sought on three occasions to interfere in the accounting standard setting process. Today we have seen him back up threats made outside the parliament to interfere in the accounting standard setting process by saying, ‘Why wait until you have an international standard on the treatment of share options? Why not legislate instead?’ It shows a fundamental disregard and lack of knowledge of the importance of having an independent accounting standards setter.

One of the great problems that was the cause of the Enron debacle in the United States was that politicians like Senator Conroy chose to interfere in the accounting standards setting process. Big business people went up to Capitol Hill and said, ‘We want this accounting standard.’ In this place only a few years ago, Senator Conroy, with the support of a majority, disallowed an accounting standard for the first time in Australian history. Senator Conroy has now said that he wants to pre-empt the international accounting standards process to come up with thorough international accounting standards in relation to options and legislate. In other words, he wants to supplant the international accounting standards setting process and the role of the independent expert—the Australian Accounting Standards Board—and substitute a Labor politician, with the support of some people on the crossbenches.

I put it to you, Mr Deputy President, that you could not have a greater recipe for a disaster in corporate affairs than having politicians writing accounting standards. You would have corporate people coming up the hill to take Labor people out to lunch, give campaign donations and say, ‘This is how we want to treat things within our accounts.’ It is the sort of corruption of process which led to the collapse of the Enron Corporation in the United States of America; it was because politicians were involved in the process. Can I make one plea to the Australian Democrats and to people in the Australian Labor Party
who think carefully about policy—and that clearly does not include the shadow spokes-
man—that when we address accounting standards reforms, as we will later this year
under the CLERP 9 process, we work very hard to ensure politicians cannot interfere in
the process. It is a crucial part of good corpo-
rate regulatory policy.

In Australia we have had a government
that has been more active in the past six
years on improving corporate governance
and building a sound regulatory framework
than any other at any time in Australian his-
tory. Through the corporate law economic
reform process, we have brought the most
significant reforms to virtually every area of
the Corporations Law. There is only one
group in the entire corporate world across the
globe that seeks to undermine the corporate
regulatory work of building a better law,
built a better regulator and funding a
stronger regulator that has been built up by
this parliament, and that is the Australian
Labor Party who, for cheap political pur-
poses, seek to undermine people’s faith in
the corporate regulatory system.

Mr Deputy President, you know very well
that in the wake of the Enron collapse, the
WorldCom collapse and the Global Crossing
collapse the marketplace scoured the details
of corporations in Australia thoroughly to
find similar accounting treatments. If those
analysts and investors and institutions had
been able to find even a sniff of what went
on in the United States of America, then the
Australian market would have suffered a
similar fate to what happened on the New
York Stock Exchange. Of course, that did not
happen here because the law in Australia has
been reformed by this government, and the
regulator has been given the resources it
needs by the parliament—repeated oft by
successive chairmen of the Australian Secu-
rities and Investments Commission.

What is Labor’s response? For the past
four years, Senator Conroy has been saying,
‘You are underfunding the regulator. You
need to give them more.’ Do you know
what? Last October, we had an election and,
under the charter of budget honesty, the
Australian Labor Party was able to put their
money on the table. They could not just
come to an estimates hearing or to the Senate
and make glib statements about the under-
funding of the Australian Securities and In-
vestments Commission. They had to come
up with a policy. Senator Conroy just had 15
minutes to come up with a policy on corpo-
rate governance. He again failed to do so.
There is no new policy. I think because we
have repeated so often over the last few days
how we have responded to ASIC’s re-
sourcing needs that he has given up criticis-
ing on that. But last October they had to go
to the people and put down a document
which had to be costed by Treasury on where
a future Beazley government would spend
money on corporate regulation. Do you
know what Labor promised? An increase of
$1.5 million a year. I think that is roughly
less than one per cent.

Within a few weeks of coming back into
government, this government increased
ASIC’s funding by some millions to resource
them for their involvement in the HIH royal
commission and other investigations. In the
current budget, we increased their annual
funding by a further $23 million; in fact, we
increased it by over $90 million over the
next four years. When Labor had the oppor-
tunity to put their money where their mouth
was and to act instead of talking, they failed.
They have had the opportunity every day
since the election to give to the Australian
people some alternative proposal for Corpo-
rations Law reform in this country, and they
have not done it. What they have done is
fallen into the trap of successive Labor gov-
ernments—that is, to ignore Corporations
Law as an ongoing part of economic policy
in this country until there is a failure.

I commend an article by Professor Bob
Baxt—the former head of the ACCC’s
predecessor—in a book called Collapse In-
corporated, published by CCH, as a fine
history of corporate regulation in Australia.
To paraphrase Professor Baxt, Corporations
Law in this country has tended to be a reac-
tion by politicians to the political heat cre-
ated by collapses. He eloquently describes
the course of previous company collapses in
Australia as being akin to Shakespearean
tragedies, except that the players involved
are usually less skilled.
The Labor Party has done it again this time. Instead of looking at policy in a coherent way and asking, 'What are the fundamentals we are trying to achieve? How do we build a better company law? How do we ensure shareholders get quality information?' they say, 'Let’s have a knee-jerk reaction to the latest headline.' The government has an alternative approach. That is the approach shown under the Corporations Law Economic Reform Program, where we have consulted shareholders, investment groups and the institutions who manage the money of the mums and dads—the money on which they will rely in their retirement. We have developed reforms in a cohesive way, and that is how we will respond to the challenges facing the corporate world at the moment. We will not be rushed into a knee-jerk reaction. We will come up with sound policy that serves Australia for the decades ahead and not the short-term political requirements of an opposition without policy, direction or, most importantly, any philosophical framework.

We will ensure that Australia has improved auditor independence laws, that analyst independence is promoted by the law, and that the modern technology of information transfer through the Internet will enable investors to be more involved in their companies and receive better information in real time, and we will do so in a way that involves the business community. We will not slam through a piece of black-letter law and then have to wait two years for the Australian Accounting Standards Board to come up with an accounting standard.

The government support executive remuneration disclosure, but you need to do it in a way that is going to create good disclosure, not throw a new clause into the law and then say, ‘We will leave it to someone else to enforce it.’ You do it in a considered way, and, if it means that you have to have a review to do it, then you should do so. You should involve the community in discussions about how you build a better Corporations Law in Australia. The government make no apologies for that. We will continue with our current stance on corporate law reform in this country. (Time expired)

Senator MURRAY (Western Australia) (4.30 p.m.)—Without casting any aspersions—because I do not do so—on the last two speakers, may I say that we are favoured in this debate by the first four speakers all having had extensive interaction on the Corporate Law Economic Reform Program and, indeed, on corporate law matters over the last six years. I think it is well worth having this debate at this time. Although Senators Conroy and Campbell may be seen to be adversaries in this matter, I should comment in a spirit of perspective that over the last six years the coalition, the Labor Party and the Democrats have between them introduced some far-sighted and very effective contributory laws on the corporations side.

Nevertheless, it is quite apparent that the laws we have are not sufficient for the problems we have, and that is why this debate about greater regulation and more intense action is necessary. All politicians know that the two things you have to deal with are perception and reality, and, for politicians, those apply almost with equal force. The difficulty for the coalition is that there is a fairly common perception out in Australia that they are soft on big business but hard on the little guy. Nowhere is that better shown than in their crackdown on unemployed Australians, which has seen the number of breach penalties increase from 120,000-plus in 1997-98 to 260,000 in the last financial year. They might well argue that there are good grounds for such activity but the same sense of intense activity is not apparent where business failures apply.

The reality—and that is what we must attend to; I think there is some other point behind the thrust of remarks made by many people in this area—is that, while many companies, company directors and members of management will be fine and upstanding people, far too many companies are operating badly under poor governance activity. The Australian Democrats have a strong commitment to the application of democratic principles, openness and accountability in business. We believe Australian company law is in need of further reform to advance corporate governance and corporate democracy. The participants in this debate know
that we have pursued these themes over the last six years. The greatest need for improved corporate practice is with companies that have the greatest impact on our society: public companies. The fundamental issue is that public companies should be fully accountable to not only their largest shareholders but their individual and small shareholders—and that issue divides us from the coalition.

Those companies must also be accountable for their actions if they affect society and the environment. The way in which this corporate accountability is advanced and enforced is the responsibility of every democratic government. There is currently a great disparity between the principles of corporate democracy and the rules set out in the Corporations Act governing the internal operations of companies. For example, the existing method of electing company directors on a limited re-election basis allows dominance by control groups and inhibits the likelihood of support being expressed for particular directors or independent directors.

The law does not enable minority interests to be heard through more accessible internal procedures, forcing them to rely on expensive and time-consuming formal procedures like the legal system and ASIC. Unacceptable discriminatory practices still apply and women are still in a small minority as directors. The Democrats believe that, if the ASX and ASIC do not soon insist on best practice election processes for directors, then election procedures for companies would need to be legislated. Why do I put the emphasis there? Ultimately, the emphasis for good corporate governance rests with the board.

Whenever the issues of good corporate governance and external auditors are addressed, the question of independence comes to the fore. Our great difficulty is that the Corporations Law does not define what independence does. I have seen no report from the government—or any Senate or other committee—which starts with a definition of what independence should be with respect to corporations and their boards. Our difficulty is that, by and large, boards are the creature—or a captive—of the controlling or dominant management or shareholding interests. The result is that the audit committees that are talked about are creatures of a board which is in turn controlled by the controlling financial interest, or the dominant management interests, as they were in HIH. At some stage, we have to address the issue of what is a truly independent, non-executive director, what is a truly independent auditor and what is a truly independent audit committee.

When we look at things the government can constructively do to address the current spate of corporate collapses, there may be three sets of issues that we can outline. The first—this is where I find myself in agreement with Senator Ian Campbell—is that many of the lapses involve the violation of existing laws and regulations. I expect that the HIH directors and management and the One.Tel directors and management will find themselves in court under the existing laws. They will be found to have breached laws that already apply. Therefore, it is a matter of whether the effective enforcement and application of laws is occurring rather than a matter of whether those laws exist. That is an important point to recognise. If you look at that point, you then have to return to the focus of the debate between Senator Conroy and Senator Ian Campbell, and that was the resourcing of ASIC. Therefore, the funding levels of ASIC matter, and the focus and direction of ASIC matter.

The second set of issues is that where companies failed to meet widely accepted standards of good corporate governance, why was the whistle not blown? What other mechanisms are needed? ASIC, the ASX, financial journalists and politicians are interested in this area. Why was the whistle not blown? In that respect, I return to the remarks I made earlier about the need for genuine independence and genuine separation of powers within the institutional mechanisms of companies. To me, that means you need to explore the issues of independent non-executive board members, truly independent auditors, truly independent audit committees and, of course, a mechanism I have outlined a number of times in a number of forums: a corporate governance board. I will not explore that matter further today but those are material areas to discuss.
The third set of issues relates to accounting standards, accounting methods and the way in which auditors look to apply them. I cannot say much about that matter right now because I am bound by the work I am doing on the Joint Committee of Public Accounts and Audit, which is examining these issues. But it is true that, unless auditors are given true independence and the ability within that independence to exercise fearless judgment about the way in which assets and liabilities and financial statements are presented, we will continue to have problems because the true state of affairs of a company are disguised. We have to accept and acknowledge what the people who head accounting standards organisations worldwide are saying: we need a far better accounting standards regime. We have to accept that; they are far more expert in this area than we are.

As I draw to the end of my allotted time, I will correct Senator Ian Campbell on the record. The accounting standard that was disallowed was specifically disallowed because the board that recommended it was split. The point was made that if you are going to come forward with an accounting standard, it must be one which the experts can agree on. It should not be up to us as politicians to fall on the side of five when four oppose or vice versa. That is a legitimate point to make.

Senator CHAPMAN (South Australia) (4.40 p.m.)—We have to give Labor one thing: they might be misguided but they are certainly persistent. They have failed to raise a blip on the radar with regard to the matter that they raised in question time yesterday and today and in the debate on taking note of answers yesterday afternoon, yet they are back here today raising the same issue as a matter of public importance.

Senator McGauran—They have nothing else to do.

Senator CHAPMAN—They probably have nothing else to do, Senator McGauran, but it is no wonder they have raised this issue today because the reality is that it is a pathetic attempt to divert attention from the rorting that their union masters have been undertaking in the construction industry, as identified in the report that the Cole royal commission released yesterday. That royal commission identified widespread corruption, including breaches of industrial law involving the widespread application of and surrender to inappropriate industrial pressure on the part of trade unions. The government’s pre-emptive strike against that corruption—a task force to police the industry—was described as obnoxious by John Sutton, the construction division secretary of the CFMEU, who said:

It’s a stark contrast with the Government’s attitude to regulating the corporate sector—John Howard’s attitude on corporate crooks is just inertia.

It is quite easy to see, in this matter of public importance this afternoon, from whose hymn sheet Senator Conroy and his Labor colleagues are singing. Labor’s subjection to their union masters is just pathetic. The fact is that the Howard government’s action with regard to shortcomings under the Corporations Law has been prompt on all occasions. We have acted promptly with regard to Corporations Law reform, just as in the last 24 hours, with the publication of that royal commission report, we have acted promptly in dealing with union thugs.

Senator Crossin—you weren’t quick to bring in legislation when HIH collapsed.

Senator CHAPMAN—The fact is that the Howard government instituted the Corporate Law Economic Reform Program virtually immediately after we won the 1996 election. We have had a consistent program of reform of the Corporations Law. We have had the Corporate Law Economic Reform Program—CLERP, as it is known. CLERPs 1 to 6 are a series of reforms of the corporations and financial services law that have enhanced the Corporations Law and investor protection over the six years that the government have been in office. We now have CLERP 7, which follows CLERPs 1 to 6, which, as I have said, have been achieved over the last six years. CLERP 7 will be incorporated in legislation which will be introduced into this parliament within the next few weeks. We now have CLERP 8. As Senator Ian Campbell, the parliamentary secretary, has already mentioned, CLERP 9 is in the policy discussion paper process and will
be released within a couple of weeks. CLERP 9 builds on the earlier reforms of CLERP 1 to 6 in addressing the very issues that have been raised by Senator Conroy in this matter of public importance today. When you look around the world—Senator Conroy knows this only too well, as a member of the Joint Committee on Corporations and Financial Services and as a shadow minister with responsibility for this area, and I know it as chairman of that committee—and compare Australia’s system of Corporations Law, corporate regulation and investor protection, which were developed under the CLERP process over the last six years, you are left in no doubt that Australia has world’s best practice in corporate regulation.

We have a national structure of corporate regulation which we have achieved by cooperative discussions with the states which contrasts markedly with the situation in the United States of America, where a lot of the corporate regulation still remains in the hands of the states. We have been able to avoid the worst effects of the Asian financial crisis of the late nineties and the recent financial crisis in the United States as a result of this government’s approach to corporate regulation. The fact is that the government has been working on those more recent CLERP 9 proposals since November of last year, not just in the wash up of the recent events in the United States and the HIH collapse, which I heard an interjection about a few moments ago. Since November last year the government and in particular Senator Campbell, who has responsibility as the parliamentary secretary, have been working through reforms which are known as CLERP 9.

Let there be no doubt: this government is adamant that anyone who cheats—shareholders on the one hand or taxpayers on the other—should suffer the full consequences of their actions. As far as the government is concerned there is no difference between corporate cheats and welfare cheats—they should all suffer the full consequences of the law. The fact that the government has acted against corporate cheats is shown by the number of prosecutions that have been embarked upon over the last few years by the Australian Securities and Investments Commission, the regulator under our corporate law.

As I said, CLERP 9 addresses the issues that have been raised. Its having been in gestation since November last year, the government announced in late June a review of audit regulation and the wider corporate disclosure framework, under the title of CLERP 9, as the next phase in our reform program. CLERP 9 provides a response to the Ramsay report and addresses a wide range of issues of corporate disclosure. The policy paper, which Senator Campbell has indicated will be released in a couple of weeks, considers a range of issues relating to quality of audit, including a review of oversight structures for the profession and for audit standards. It will also examine the adequacy of the current framework for continuous disclosure by corporations. It will seek to maximise investor access to price sensitive information and ensure that the framework is supported by appropriate penalties to deter any contravention of the law.

Another important area that CLERP 9 addresses is that of analyst independence—another hobbyhorse of Senator Conroy’s. The aim there is to ensure that investors have access to accurate and unbiased information in relation to listed companies. The key issue is the extent to which the conduct and disclosure framework, which we have already introduced in the Financial Services Reform Act—it was known by the shorthand term ‘CLERP 6’ and subsequently became, in its legislative form, the Financial Services Reform Act—applies appropriately to general advice provided by share analysts as well as to the other range of advice and information which is dealt with under that financial services reform legislation.

The adequacy of the current framework of fundraising disclosure, including whether shares and debentures should be regulated under chapter 7 rather than section 6D of the Corporations Act, will also be subject to the CLERP 9 consideration. As Senator Campbell said, that policy paper will be released within the next couple of weeks. That will then allow the full consultation process to
occur so that legislation can be introduced into parliament in 2003.

Sensor George Campbell—Mr Acting Deputy President, I rise on a point of order. The speaker’s time has expired.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order! The honourable senator’s time has expired.

Sensor CROSSIN (Northern Territory) (4.48 p.m.)—I rise this afternoon to provide some input on this debate in relation to standing order 75. It highlights the extraordinary contrast in the government’s attitude to corporate law—and the lack of regulation by this government of what happens in the corporate world—and its embarking on policies and activities, through its various departments, that are hell-bent on punishing struggling families who try to do the right thing by abiding by the new regulations and policies.

This government continues to sit on its hands when it comes to corporate governance. It is soft on tightening corporate regulation but it is as tough as nails on families. I hope the families who are listening who have been affected by this flawed family payment system: a system that does not recognise in any way the changing situations that families undergo in our society these days.

As a background to this, families may have a changed income estimation system. Senators are well aware that the government has seen fit to change the way in which income is estimated for the purpose of family payments—that is, the family tax benefits and the child-care benefit. Instead of using the previous year’s income to calculate the entitlement to family payments this government now requires families to gaze into a crystal ball and predict what their family income will be over the coming year.

Despite the answers we have heard continually this week from Senator Vanstone in question time—a senator who continually wants to hang the blame on families—where she refers constantly to their tax income and tax return, that is not the return that these families have to provide to Centrelink for the next year’s calculations. That is the previous year’s income. These families are asked to predict what the coming year’s income is going to be. Anyone can see that there is a problem with this system. Women having babies are commonly undecided about the timing of their return to work and whether they will return on a full-time or a part-time basis. How can you possibly predict in those situations when you will work or what your income will be on a week-by-week basis, let alone for a total year? These are not extraordinary circumstances; they are situations in which hundreds of thousands of families in this country find themselves each year.

What we have seen is that last year over 600 families incurred debts. The massive debts arising from this unfair and unworkable system became apparent in January this year, when families received their first debt notices in respect of the 2000-01 financial year. In a blatantly political move this government held over family debt payments un-
till after the election. There was no intent by this government to ensure that this payback—or debt to the government, as Senator Vanstone harps on and on about—was brought to the attention of these families and these people prior to the last election. Oh no, this was held over until well after the election was over. But the pain did not end there. Over 100,000 families got a Christmas present from this Prime Minister—an average debt of $750 for overpayment of family benefits.

This year will be no different. This government has refused to act on any of the suggestions made by this party to fix this flawed system—and that is a problem here. We have a minister in this chamber who, day after day—and despite example after example from people in this party showing that it is not working—continues to defend this system and continues to defend the actions and intent of her policy instead of standing up and admitting that there is a flaw in the system, that it is not working and that families are being punished unjustly. It really adds insult to injury for every Australian family hit with a family debt payment when the Minister for Family and Community Services insists, as she did today, that this system is fair and, when questioned about the flaws in the system, continues to characterise those incurring debts as being dishonest. There is an emphasis by this minister that those people, despite the fact that they have willingly and honestly and as best as they can advised Centrelink of their changed situation and projected income, which for some reason or another is not being picked up by this system, are somehow being dishonest, mischievous or almost criminal in intent in having somehow gained this money that was not duly and honestly paid to them.

The reassurances given by the minister that if families report changes to their incomes they will not incur debts are simply wrong. Even this week in the Northern Territory we have had two examples of that. In fact, one example was sent to us from the office of Mr David Tollner, who happens to be the member for Solomon. One woman marched into his office with an overpayment of nearly $3,000—a family debt payment. He simply said to her, ‘We don’t deal with those sorts of street issues here. You had better go off and see either Mr Warren Snowdon, the member for Lingiari, or Senator Crossin.’ So we have government members in electorates who are not even interested in assisting people who are being caught in the trap of this government’s policies. Mr David Tollner would have this person believe it was a street issue. They are not interested in that sort of stuff—not interested in the bread-and-butter issues that affect families on a day-to-day basis.

At one point the minister even suggested that families should lie and overestimate their income. Families in this country do not do that, and do not want to do that. They have tried to operate effectively and honestly within this system. Families who play by the rules and advise of changes in income should not be slugged with debts. Families who have a parent return to the work force after caring for children should not be slugged with debts either. And families should not be put in the position of having to lie, as the minister would suggest, about their earnings to Centrelink and have their fortnightly payments deliberately reduced in order to avoid debts. The reason this is happening is that, while this government pretends to be concerned about assisting families, you cannot do that if you develop policy without talking and taking care of the reality of families in this country—without knowing how families function and without knowing that the situation in families in this country can, on a day-to-day and a week-by-week basis, change. This policy does not recognise this, and this system is not set up to recognise this. This is a flawed system. The Prime Minister himself has demonstrated how out of touch he is with ordinary families in the current debate around paid maternity leave. The Prime Minister says that he is lukewarm on it because he is unconvinced that it would make any difference for many women.

Recently Senator Vanstone has defended these draconian debt recovery processes by arguing that families have the option of avoiding debt by claiming their benefits at the end of the financial year. If I suggested to most families in my electorate that they take
that option they would think I lived in another world. Family payments are meant to help families with the day-to-day expenses of raising children, and you do not get an account for those costs at the end of the year. You need that assistance every fortnight. 

(Time expired)

Debate interrupted.

FIRST SPEECH

The PRESIDENT—Before I call Senator Marshall, I remind the honourable senators that this is his first speech. I therefore ask that the usual courtesies be extended to him.

Senator MARSHALL (Victoria) (4.59 p.m.)—Through you, Mr President, I would like to thank the Senate for this opportunity to make my first speech. Firstly, I wish to acknowledge that we stand on the land of the Ngunnawal people. It is appropriate that I, we as a parliament and the nation as a whole acknowledge and pay respect to over 20,000 years of custodianship.

I am privileged to represent the people of Victoria, and I express my sincere gratitude to its voters for allowing me the opportunity to represent them in this parliament. I will seek to do this with much vigour and passion over my time here. My election to the Senate has been the result of a great deal of hard work, loyalty and support on behalf of a number of individuals and organisations around me, many of whom are in the gallery here today. To each and all of you, I am immensely grateful, as my presence here would not have been possible without you all.

Like many senators and members at the last sitting of our parliament, I would like to pay special respect to my predecessor, former Senator Barney Cooney. Barney’s commitment to humanitarianism and civil liberties in this parliament is worthy of great praise. Barney served the people of Victoria and Australia in this place with great dignity and respect, something unusually noted by both sides of this house. His dedication to the rights of all people from all lands as well as promoting Australia’s responsibilities in an ever-changing world by upholding its various international treaties and conventions was unwavering. Barney has been an inspiration to many in our party, including myself, and I am sure that he will continue to remain so. I congratulate him on his 18-year Senate term, thank him for his sound advice and wish him every success with his future endeavours.

I would also like to thank the Victorian branch of the Australian Labor Party for its support. I am honoured to represent and promote Labor principles in this place, as society’s need for equity has never been more important than now. The Australian Labor Party’s long and esteemed history has stoutly advocated the needs of the less privileged in our society for over 100 years. My commitment to Labor’s principles has been shaped by my life’s experiences. My political socialisation began, like most, in the family home. I was born and raised in Melbourne’s northern suburb of Reservoir and joined the Labor Party in 1977 as a young and inspired son of working class parents, who instilled within me a strong value system based on fairness, honesty and hard work. My ALP membership, like that of many of my colleagues, was fundamentally motivated by Gough Whitlam’s progressive agenda and his government’s commitment to social equity and providing opportunities for all.

During my electrical apprenticeship at the Victorian Railways I became active as a trade unionist and involved with the union movement’s constant struggle to bring about a fairer deal for all workers. The people of this movement strengthened my belief in the fundamental principles of Labor: fairness, equity and social justice for all. The Australian Labor Party’s inherent relationship with the trade union movement is a connection I am proud to recognise and promote. Our shared values are fundamentally democratic and collective. We stand for the right of ordinary people, those who have neither wealth nor power, to a fair go, to be treated with dignity and respect and for each and every Australian to be valued as a member of our community.

Having been an active unionist throughout my career as an A-grade electrician, I was elected as a Victorian branch official with the Electrical Trades Union in 1991—a position I am proud and honoured to have held. I would like to take this opportunity to thank
the ETU and its many fine members who I had pleasure to work with during my tenure there. Particularly I must make mention of the officials that work passionately to educate, advocate and negotiate on behalf of our union’s 18,000 strong membership.

Unions are not fortresses for their officials—as this government chooses to perpetuate. They are democratic organisations that, through collective participation, strive for collective gains for Australian workers. They only exist with the active participation of workers and their families. This is why they have survived conservative attacks over the last 150 years and why they will thrive and adjust to the next 150 years.

Amid the current economic rationalist tide it is so easy to forget just how important trade unions have been, and are, to Australia. Australian unionists built the living standards most Australians enjoy today including wage levels, weekends, holidays, safety regulations, superannuation and much more. Even more significant, Australian unions and Australian unionists ingrained a fair go into the Australian lexicon, something every Australian accepts is now part of our national character. It is that fundamental value promoted by union members that gives Australians pride, the strength to stand up for themselves and a confidence that their opinion matters. In short, I believe Australian unions and unionists are part of the moral bedrock of this country and I think it is high time that this was acknowledged.

I would now like to comment on the current royal commission being undertaken into the building industry, which I believe is a politically motivated witchhunt and a remarkable drain on the nation’s resources. This particular royal commission has a budget of $60 million to use in the course of its investigation of which $660,000 has been allocated to the salary of Commissioner Cole alone—more than double that entitled annually to the Prime Minister himself. To put $60 million into perspective, it is more than twice the amount allocated to the inquiry into the HIH collapse, more than three times this year’s funding of the National Occupational Health and Safety Commission, and it is equivalent to the funding of over 5,200 university placements based on the government’s current higher education funding model.

Since August last year the commission has purported to be investigating all issues of concern within the building industry. Yet it seems quite apparent to me it has almost exclusively wasted time and an exorbitant amount of taxpayer funds desperately trying to uncover non-existent union corruption in the building industry. As a consequence, the No. 1 issue affecting construction workers themselves, their workplace safety, has been de-prioritised and hardly seems to be of any concern to the commission at all.

Over the 1999-2000 financial year compensation was claimed for 28 construction workers who lost their lives at work. Non-fatal injuries within the construction industry totalled just under 12,000 cases and at least 132,000 working weeks were lost to workplace injury in that year alone. Therefore the building industry’s occupational health and safety record, I believe, should have been the No. 1 matter for investigation on the commission’s agenda. While we know the royal commission has failed to adequately attend to the issues of workplace death and injury, the Bracks Labor government ought to be congratulated on its attempts to legislate around these issues in Victoria.

Its introduction of a host of stringent workplace safety bills into the Victorian parliament, including sensible industrial manslaughter legislation, articulates Labor’s commitment to workplace safety and the bold nature of that government in this field. In contrast, the Liberal-National coalition in Victoria has reconfirmed its indifference to the safety of ordinary working Australians by defeating these legislative measures in the Victorian upper house. Conservative political parties in this country ignore the issues identified by Australian workers as needing redress and, instead, seek to dismantle structures that protect and afford workers rights.

While some in our communities have prospered and will continue to prosper, it must be recognised that not all Australians and regions have shared equally in the benefits delivered by the technological and economic expansion of the past two decades.
While many companies and their executives make huge annual profits, the divide between rich and poor in our communities constantly widens. The ever increasing flexibility required of workers in the labour force today means many people are struggling to balance work and family life. This issue—the effect of work on the lives of Australians—has been a focal point of national discourse over the parliamentary winter recess. Paid maternity leave and the effect of excessive working hours on family life have been the central themes.

At present, Australia lags behind most countries in the developed world in its support for working families, particularly with respect to the provision of paid maternity leave for working mothers. In fact, Australia and the USA are the only two OECD countries that do not have a paid maternity leave system in operation. Paid maternity leave recognises the social significance of maternity as well as the loss of income sustained by women that take on family responsibilities. It protects the significant capital invested by society in the education and training of women and supports the health and welfare of mothers and newborn children. Australian women, and moreover the country, need supportive maternity policies that recognise the evolving nature of the Australian work force and the needs of Australian families. I look forward to working towards the adoption of a national paid maternity leave scheme as part of Labor’s agenda for this term of parliament.

While such a scheme would offer support for families with new babies, the issue of excessive working hours must also be addressed with a family friendly focus. Over the past two decades, the number of Australians working excessive hours has increased significantly. Over 2½ million people work overtime on a regular basis and, of these people, around one-third are working more than 60 hours per week. In comparison with other OECD countries, Australia has more people working more hours than any other member country except for South Korea, and even in South Korea that rate is declining whereas in Australia it continues to rise. Australia’s average working hours have increased since 1982 by a rate of 3.7 hours a week, which is equivalent to over half a million full-time jobs. Australia’s unemployment rate, which currently stands at 620,000, could be significantly improved if the government regulated overtime hours and encouraged a system that enabled a greater number of workers to more fairly share the work burden.

Over the last decade, several initiatives addressing extended working hours have been implemented overseas. One of the most significant initiatives implemented has been the European Community Directive on Working Time. This legislation limits hours of work to an average of 48 hours per week and in France that threshold has been lowered to 35 hours per week. Might I say, Mr President, that when this change was first mooted in France there was a gaggle of vested interests who claimed that the sky would fall in, that unemployment would shoot up and that the economy would be devastated. But what has happened so far in actual fact? In the four years from 1997 to 2000, 1.6 million civilian jobs were created in France, including half a million in the year 2000 alone. The unemployment rate has steadily declined there by about one per cent per year since it peaked in June 1997 and the result in 2000 was its most outstanding of the 20th century. The 35-hour week accounted for between 150,000 to 200,000 new jobs created during this time, and it is expected that this will continue. Australia should follow Europe’s lead in trading excessive working hours for more jobs and a greater ability for more individuals to maximise their time in their communities and for families to maximise their time together.

There is little doubt that the social fabric of our communities is eroded by excessive working hours and that it is the responsibility of people like us in this place to introduce legislative measures that will protect local communities and their identities and enable greater participation within them. This is one of the great achievable social goals within our reach. Such a change will do more to promote a sense of community and family value than any other initiative before us. I look forward to playing a role in establishing
restrictions on hours of work and in turn working to reduce the excessive work burden that far too many Australians currently undertake. In doing this, I look even further down the track to our nation prospering from a more socially fulfilled and productive workforce. I look forward to a Labor government that will actively pursue this goal.

In speaking about policies that seek to set in place the long-term prosperity of the nation, it would be foolish of me to fail to comment on the current review being undertaken in the country’s higher education sector. As a parent myself, I join with all fair-minded people that hold a genuine concern about the future direction of this country and in fearing an education system and a society that embraces the notion that students or their families should pay up to $100,000 or more to obtain a degree from an Australian university. I reject a system that rewards class, privilege and wealth over ability, opportunity and equality. As a socialist, I believe education is a fundamental right that all people should have the opportunity to receive. It is an ingredient that all in our society are richer for and, in turn, it is the responsibility of all in our society to fund and control it. It is the basis for all invention, innovation, research development and leading social theory in our society. It is the key to equality, opportunity and prosperity.

It is symptomatic of a system gone wrong that, in an advanced Western country, Australia fails to have one single university recognised in the world’s top 100. This is a statistic that must be improved or the social and economic wellbeing of our country will severely suffer. The course down which this government wants to take higher education is a dangerous one and frightening for those with a genuine concern for the future of this country. If the government chooses to subject education to open market forces, I fear our society will pay deeply for it many times over into the future. Now is the time for Australians to seriously consider what sort of future we want for this country. Do we want a highly skilled, highly prosperous nation that is innovative, productive and tolerant or do we want one that is ignorant, fearful and poor? There is little doubt in my mind that the future of higher education is fundamental to the answer to this question.

In closing this afternoon, I would like to congratulate my fellow colleagues who, like myself, began their Senate terms on 1 July. I wish you all the very best with your parliametary careers and I look forward to working closely with you all as we strive to build a better Australia. I say this hoping that during the time we are here our people have, and seize, another opportunity to take the next natural step in the evolution of our democracy so that Australia finally becomes a republic and an Australian rightfully assumes the role of head of state. I look forward to this monumental occasion.

I would like to thank the staff of the parliament, particularly the Senate staff, for their help over the past months. I look forward to working with them into the future. I would also like to thank my electorate staff, Nathan Murphy, Helen McMurtry and Chris McDermott, for their support and I look forward to the many challenges that lie ahead of us.

Finally this afternoon I need to acknowledge the love, support and tolerance I share with my family: Bronwyn, who is not only my wife but also my best friend; my two beautiful boys—Caelum, who is six, and Kynan, who is two; Ron and Mavis, my parents; and my mother-in-law, Kathleen. They are all here today and it is with the greatest of family pride that I stand here in the Senate before them. Thank you, Mr President, and thank you, fellow senators.

Honourable senators—Hear, hear!

FIRST SPEECH

The PRESIDENT—Pursuant to order, I now call Senator Wong to make her first speech and ask honourable senators that the usual courtesies be extended to her.

Senator WONG (South Australia) (5.18 p.m.)—It is an extraordinary privilege and honour to stand here today in this place and to have the opportunity to speak in this chamber. To be a member of the parliament of this country is almost beyond my comprehension.

I start by acknowledging the Indigenous peoples of Australia and the fact that we
I stand on their land. I congratulate you, Mr President, on your election as our President and I also congratulate those newly elected senators with whom I take office. At the outset, I wish to acknowledge the contribution of the two outgoing South Australian senators, Rosemary Crowley and Chris Schacht. Both have made enormous contributions as Labor representatives. I particularly want to thank former Senator Rosemary Crowley for her support of me over the years and when I sought preselection as her replacement.

My thoughts this morning were of my late paternal grandmother or Poh Poh, as I called her in her language. She was a diminutive woman with an indomitable spirit. A Chinese woman of the Hakka or guest people, she was my grandfather’s second wife. When the war came to Malaysia, she and the rest of the family were in Sandakan, a name that many who fought in Australia’s defence will be familiar with. Most of the family died during the war and she was left alone to care for my father and his siblings in unspeakable circumstances, which she did through extraordinary determination and a will to survive. She was barely literate; she was humble and compassionate but the strongest person I have ever known. Her name was Madam Lai Fung Shim and that her grand-daughter is here today would have been a source of pride but also probably some consternation to her. How much the world can change in two generations.

Perhaps this family history is why I place such an emphasis on the need for compassion. What lies at the heart of any truly civilised society? Surely it must be compassion. Compassion must be that underlying principle, that core value at the heart of our collective consciousness. If not compassion, then what? Economic efficiency? Or the imposition of some subjective moral code, defined by some and imposed on the many?

To call for compassion is not a plea for some bleeding-heart view of the world or a retreat to weak or populist government. Nor is it to shirk the responsibility of leadership to make hard decisions when these are called for. But it is to assert that those with power should act with compassion for those who have less, and that the experience of those who are marginalised cannot be bypassed, ignored or minimised as it so often is. Compassion is what underscores our relationships with one another, and it is compassion which enables us to come to a place of community even in our diversity. Yet this country in recent times has been sadly lacking in compassion.

Let us reclaim the phrase ‘one nation’. I seek a nation that is truly one nation, one in which all Australians can share regardless of race or gender, or other attribute, and regardless of where they live, and where difference is not a basis for exclusion. We do not live in such a country. We are not yet truly one nation. But it is the task of political leaders to build one.

We are a nation in which where you live determines your likelihood of success, where disadvantage has become more entrenched, where the poor are getting poorer and where this government fails to act to bring real opportunities to those who have few. The shared dream of an egalitarian Australia is increasingly becoming a myth. Income distribution over the last decade is characterised by a disappearing middle, but there are increasing numbers of low- and high-income earners.

There is a widening gap between poor and rich Australia. There are many reasons for this phenomenon. One driving force is the increasing openness of our economy to the world. Much has been written and said about globalisation. We are part of a globalised economy, for better or for worse, and that will not change. This presents us with both enormous opportunities and enormous challenges. The shape of our country in the decades to come will be largely determined by how we deal with the changes brought by globalisation. We must ensure that the benefits are shared. We must equip Australians better for this new world. Allowing the marketplace to determine the outcome will simply entrench disadvantage and exacerbate existing inequalities. This will undermine the fabric of the Australian community.

One thing my father always told me was this: ‘They can take everything away from you but they can’t take your education.’ For him the opportunity that he was given to
study defined his life—particularly under the Colombo Plan scholarship to Australia. It gave him opportunities he would never otherwise have had and enabled him to climb out of the poverty he experienced as a child in Malaysia. It is a large part of how I come to be here today.

We know that, when a child is born in this country, that child’s access to learning opportunities and how much schooling his or her parents have are factors that will have an enormous impact on the child’s future. Why, then, do we find it acceptable as a community to remove resources from our public schools and give them to wealthier private schools?

Another dimension of the increasing inequality in this country is a spatial one. Inequality can be increasingly described on a regional basis. By ‘regions’ I do not only mean rural areas; I am also referring to metropolitan areas—those areas in our cities and outer metropolitan areas which are vulnerable and disadvantaged. One commentator has described these areas as ‘islands largely outside the main traffic routes of economic growth’. I say government has to redirect the traffic.

Look to my own state of South Australia. Over 70 per cent of the labour force in certain suburbs to the north and north-west of Adelaide have no post-school qualifications. Many of these areas have disproportionately high levels of low-income families, and in some areas youth unemployment is in excess of 30 per cent. Why do we think that this is acceptable? We must bring a regional focus to our work. We must look to better ways of providing support to communities that are struggling. An adequate social welfare system is a baseline policy only—something we must have to provide a social and financial floor, a level below which we consider it is unacceptable to allow people to slide. It is not a substitute for policies of opportunity.

At the last election Labor enunciated a plan for education priority zones. This targeted particular areas of educational disadvantage, recognising that educational opportunities are so important to future outcomes. We must build on this initiative. We must develop ways of delivering economic assistance with a regional dimension. Let us not forget that one of the early acts of this government was to scrap the bulk of the Commonwealth’s regional development responsibilities. The then minister, Mr Sharp, justified this decision on the basis that there was no ‘clear rationale or constitutional basis for Commonwealth involvement’ in this area. I say that there is.

It is the responsibility of the national government to truly govern for all Australians regardless of where they live. We should identify economic priority zones—communities which are vulnerable or struggling, in which the opportunities for work and education are unacceptably limited. It is not enough simply to dismiss these communities as ‘lazy’ or criticise the number of families on welfare. We should provide additional resources to these communities, their schools and their young people. And we should ensure that there is a regional dimension to our industry development policies.

Our cities are not homogenous, nor is there equality of opportunity between different metropolitan areas. You cannot govern with a ‘one size fits all’ approach. Bringing a more regionally focused dimension to economic policy is fundamentally an issue of equity. It is a Labor agenda.

I seek a nation that is truly one nation, one in which all Australians can share, regardless of race. Instead, I believe we are in danger of being swamped by prejudice. Let us speak openly and honestly about race in this country, about what last year’s election signified and about where we are now. Let us speak openly about the damage that has been done and let us do it without being subject to the dismissive and disrespectful taunts about political correctness. In recent years there has been much preaching from the current Prime Minister about political correctness—that we have had too much of it. Instead, now we have a climate in which someone who speaks out about injustice, prejudice or discrimination is dismissed as simply being politically correct. Compassion has been delegitimised—instead it is seen as elitism. It is as if we have developed a new orthodoxy, one in which it is correct to defend racism.
but incorrect to defend tolerance. We have a new political correctness.

When I and many others speak of the way this government engenders division and not unity, we do not do so because it is politically correct. We do so because we believe it, because we see it and because it saddens us. We say that what has been done and said is wrong, not because we ascribe to some obscure elitist moral code but because we believe it is harmful to our community. Prejudice and distrust cannot build a community but they can tear one apart.

Australia is a country of vast distances and open spaces and many different environments. It is no less diverse in its peoples than in its landscape. This diversity can be an aspect of our shared identity or it can be the fault line around which our community fractures.

In the decades since the arrival of Europeans to this land, race has been a rather uncomfortable topic for us—first, in the subjugation of the Aboriginal peoples of this land, and later in how we dealt with the various waves of migrants to our shores. We all know that we had the White Australia Policy until the late 1960s, with bipartisan support.

We have also had a rather uneasy relationship with Asia for much of the postwar period. Phrases such as ‘the yellow peril’ and ‘two Wongs don’t make a white’ exemplify the darker tendencies of our history. Over the years this relationship has matured as our selfperception has broadened, but this aspect of our history can still resonate today.

My mother’s family can trace its origins back to my ancestor Samuel Chapman, one of the original settlers in South Australia, who arrived on the Cygnet in 1836. However, I came here from Malaysia as a child in 1977. It was a hard time to leave a familiar place and come to somewhere where you and your family were seen as so different. Racial abuse was not unusual. It used to lead me to wonder, ‘How long do you have to be here and how much do you have to love this country before you are accepted?’

Over the years since that time, we saw our community move forward and come together and start to engender a national identity that was truly inclusive. Critical to this was the articulation of our place in the Asia-Pacific region by the then Prime Minister, Paul Keating. Equally powerful were his discussions of Kokoda and the fall of Singapore as being among the defining moments in our nation’s history—moments when we came to realise the limitations of the protection offered by the mother country, Britain; historical moments which remind us how inextricably linked we are with the region in which we live.

I remember returning from Malaysia after visiting my family there during this time. When the aeroplane wheels hit the tarmac, I recall feeling like this really was my country—not just in my heart, but that I was included and that our national identity was for me as well. Nationhood is so much about a shared history and a belief in a shared future.

How different Australia is today. Never forget that it was this current Prime Minister who called for a reduction in Asian immigration in 1988. He said that the pace of Asian immigration was a cause for concern. You might take that to mean that those Asians who were here in 1988 are welcome, but not necessarily all of those who have arrived since. The Prime Minister premised his arguments on the grounds of social cohesion. You have to ask what effect his own comments had on social cohesion. I know how it felt for me and my family and many like us during this time.

Then there was Pauline Hanson, who said we were in danger of being overrun by Asians. And what did the Prime Minister do? Did he, as the Prime Minister, show that moral leadership which was called for? When asked to comment on whether Aboriginal and Asian Australians should be protected from people like Pauline Hanson, the Prime Minister said:

Well, are you saying that somebody shouldn’t be allowed to say what she said? I would say in a country such as Australia people should be allowed to say that.

What sort of message does this send to our community? That it is acceptable to rail against people who look different? That these sorts of comments are no different from any other sort of political commentary?
Leadership was called for, not to deny freedom of speech but to assert the harm in what she said. Leadership was called for, but it was not provided.

Then there was the Wik legislation and the government’s claims that people’s backyards and homes could be threatened by native title. We saw our Prime Minister on national television, holding up a map of Australia to show just how much of Australia the Aboriginal people already had rights over. And then there was the *Tampa*. Who can forget that most enduring image of last year’s election campaign, that photograph of the Prime Minister, in sober black and white, attempting to look statesmanlike, with the slogan: ‘We will decide who comes to this country and the circumstances in which they come.’ This is the statement which epitomises Prime Minister Howard’s vision for this country. This is the core of what he offered us at the last election. It is a statement of self-evident fact. It is not a policy statement. Of course we decide who comes to this country. So why say it? The only reason that you would is if you wanted to strike a chord of discord or if you wanted to foster division.

Then there is the ‘children overboard’ affair, where the Australian people were lied to about the actions of asylum seekers. Despite the relevant minister being informed that the reports of children being thrown overboard were incorrect, this government failed to correct the record. What motivates a government to do such a thing? What underlies this litany of divisive politicking is a lack of compassion, a lack of compassion for the other, for those who might be adversely affected.

There may be some who will say I am being too critical. I ask them this: when has your Prime Minister, John Howard, done or said something that made you feel proud to be Australian? When can you point to a time when he exercised his leadership to bring Australians together? Contrast this with what we saw at the opening ceremony of the Olympic Games in Sydney—the black elder and the young girl, the sense of optimism and togetherness felt by all, how it felt in our hearts when we sang, ‘I am, you are, we are Australian.’

I believe that the vast majority of Australians are good-hearted people. We have a sense of fairness and a commonsense approach to the world. This keeps us grounded. I also believe the factors which most weigh on social cohesion are economic hardship and political leadership. People do not share if they do not have their fair share. Nor do they listen if they are not listened to. So we must work to create a nation where there is a fair share for all. We must listen and discuss, not lecture. But we must never again go down the path that was shown to us last year, where the fault lines within our community were opened up for base political purposes. Let us hold on to that shared belief, that common purpose that arises at certain moments in our history. Let us truly be one nation.

As I said at the outset, it is an extraordinary honour to be in this place. You only get here with the support of many. The first acknowledgment I make is of course to those people in South Australia who chose to support the Labor Party at the last election. They put me here, and it is them I represent. I thank the members of the South Australian branch of the party who saw fit to preselect me. I am grateful for and humbled by their support. I hope I can justify the faith they have shown in me. I want to make special mention of a few: Mark Butler, Ian Hunter, Patrick Conlon, Jay Weatherill, Stephanie Key, Senator Nick Bolkus, Susan Close, Steve Georganas and Steven May. I also thank the many trade unions that chose to support me. It might be unfashionable to be a trade unionist these days, but I wear that badge with pride. I especially thank the Liquor, Hospitality and Miscellaneous Workers Union; the Australian Workers Union; the Construction, Forestry, Mining and Energy Union; the Australian Services Union; and the United Firefighters Union for their support. I am honoured that unions representing working Australians in such a diverse range of occupations chose to support me.

My family and friends have always been a great source of support to me. Many are here today to share this experience. I thank them for being here, for their love and support until now and in the future. To my father, I
wish you could have been here, but know that you taught me many things that I can draw on, now and tomorrow. To my mother, your intellect, mischievousness, sense of humour and unfailing love sustain me. I want to make special mention of my younger brother Toby, who turned 30 on the day I was elected to this place, and died 10 days later. Your life and death ensure that I shall never forget what it is like for those who are truly marginalised. Finally, I thank Dascia, Courtney and Rohan, without whose love and support I would never have considered standing for preselection, and without whom I would not be here today. Thank you, fellow senators, and thank you, Mr President.

MATTERS OF PUBLIC IMPORTANCE
Howard Government: Policy
Consideration resumed.

Senator BRANDIS (Queensland) (5.38 p.m.)—The motion in the name of Senator Conroy provides the Senate with the opportunity to consider the reforms for which the Howard government has been responsible in the field of financial reporting and also to address future proposals, which are on the table as we speak. This is an important issue. It is an issue of great concern, beyond politicians, beyond government, throughout the commercial community. It is an issue which affects every Australian in one way or another, whether they be an employee, a small shareholder or the man or the woman in the street.

The Howard government is proud of its record of ensuring that the highest standards of corporate governance are observed in this country—a record much more proud, I must say, than that to which the Hawke or Keating governments could point, under whose period of office corporate governance in Australia, particularly in the late 1980s, was an expression of mockery. The keystone to the Howard government’s reform of corporate governance is the Corporate Law Economic Reform Program Act 1999—the CLERP Act, as it is known by its acronym—which commenced on 13 March 2000. That legislation amended the provisions of the Corporations Act relating to takeovers and fundraising. The takeover provisions were streamlined. Most importantly, the Corporations and Securities Panel, now the Takeovers Panel, replaced the courts as the primary body for resolving takeover disputes. This peer review body may also review ASIC exemption and modification decisions and make rules that are not inconsistent with chapter 6. It is widely acknowledged now that the Takeovers Panel is operating successfully. The CLERP Act also introduced new fundraising provisions governing shares, debentures and interests in managed investment schemes. These reforms aim to improve the quality of disclosure to investors while reducing transaction costs, especially in relation to small business.

As well as the CLERP Act, the government has restructured the accounting standard setting process to strengthen the independent standard setters and balance the influence of the accounting bodies with broader stakeholder input. The Australian Accounting Standards Board and its oversight body, the Financial Reporting Council, are operating effectively under these new arrangements. Australian accounting standards are recognised internationally as being of high quality. Particularly under the leadership of the parliamentary secretary, my friend Senator the Hon. Ian Campbell, Australia has led the world in the reform of accounting standards and the adoption of new accounting standards with a higher level of transparency. ASIC has a history of targeting abuse of accounting standards. In 1999, it caused restatements of reported accounts in the listed sector of $1.4 billion and has carried out targeted surveillance each year since. ASIC is currently conducting a surveillance project targeted at accounting issues of the type recently uncovered in the United States.

The government’s CLERP initiatives have included a number of specific measures to enhance corporate governance in other ways. Among them is the statutory derivative action—which enables shareholders of a company to bring an action on its behalf, including against the company’s directors, for a wrong done to the company where the company is unwilling or unable to bring that action—and enhanced disclosure of director
conflicts. The CLERP Act amendments to the Corporations Act 1999 introduced comprehensive disclosure requirements for directors regarding disclosure and voting on matters involving personal interests. The amendments also reformed the requirements for disclosure and shareholder approval for related party transactions.

I turn to CLERP 6. The Financial Services Reform Act commenced on 11 March 2002. As you know, Mr Acting Deputy President, it introduced a new and harmonised licensing and disclosure regime for financial markets, clearing and settlement facilities, and financial services providers. It also introduced a new financial products disclosure regime for financial products other than shares and debentures. From the time the act commenced operation, investors will be provided with greater disclosure in relation to conflicts of interest that might affect personal advice that they are being provided. A new product disclosure framework aims to ensure that investors receive consistent and comparable information which will enable them to understand and compare different financial products. Market licensees, as well as CS facility licensees, are required to adopt specific measures to address potential conflicts of interest between their commercial interests and regulatory responsibilities. ASIC will review these measures on an annual basis. The FSR Act also introduced civil penalties in relation to continuous disclosure, insider trading and market manipulation. ASIC is now able to apply to the court for a financial penalty of up to $200,000 in relation to contraventions of these provisions.

But the work of reform goes on, and it will proceed with the legislation in contemplation, known as CLERP 9. On 27 June, the government announced a review of audit regulations and the wider corporate disclosure framework as the next phase of the corporate law economic reform program. CLERP 9 will provide a government response to the Ramsay report and address other issues in corporate disclosure. It will consider a range of issues relating to the quality of audit, including a review of oversight structures for the profession and for audit standards. Government senators acknowledge the importance of the issue which Senator Conroy’s notice of motion identifies. But we maintain that this government has been alert and astute in addressing these policy issues through the most comprehensive and continuing program of reform of corporate governance and the enhancement of the transparency of accounting and reporting standards in Australian commercial history.

The ACTING DEPUTY PRESIDENT (Senator Cook)—Order! The time for the debate has expired.

COMMITTEES

Scrutiny of Bills Committee

Report

Senator McLUCAS (Queensland) (5.46 p.m.)—I present the eighth report of 2002 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 7 of 2002, dated 21 August 2002.

Senator Patterson—You will have to keep up Senator Cooney’s tradition!

Senator McLUCAS—Yes, we will continue Senator Cooney’s tradition of a sausage sizzle.

Ordered that the report be printed.

Membership

The ACTING DEPUTY PRESIDENT (Senator Cook)—The President has received a letter from a party leader seeking variations to the membership of committees.

Senator PATTERTON (Victoria—Minister for Health and Ageing) (5.47 p.m.)—by leave—I move:

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

Community Affairs Legislation Committee—

Appointed: Senator Herron
Discharged: Senator Tchen

Privileges—Standing Committee—

Appointed: Senator Reid
Discharged: Senator Eggleston

Question agreed to.
COMMONWEALTH ELECTORAL AMENDMENT BILL (No. 1) 2002

Second Reading

Debate resumed from 15 May, on motion by Senator Abetz:

That this bill be now read a second time.

Senator MURRAY (Western Australia) (5.48 p.m.)—The Commonwealth Electoral Amendment Bill (No. 1) 2002 provides that public funding for the Liberal Party is to be paid to the federal secretariat of the Liberal Party rather than to state and territory divisions. Alternatively, the federal secretariat may lodge with the Australian Electoral Commission a written note that sets out the proportion of public funding to be paid to the state and territory divisions and the proportion of public funding to be paid to the federal secretariat. One of the great joys of this bill is to watch the adversarial politics on display, because this kind of interaction between the two major parties leaves spectators like us watching with some bemusement—and, I hope, occasionally some amusement.

But the serious issue is whether a bill described as a ‘dash for cash’ by Labor should be let through. As the electoral matters spokesperson for the Democrats, I have tried to employ a fairly central principle—that is, whether this bill does allow the same process or the same opportunity to every participant in the electoral process who is entitled to receive public funding. I find that it does not, and I and my party would not let the bill through as it is outlaid.

The other principle I have to look at is whether the allegations by the Labor Party concerning Liberal Party disaffection with this bill are true or not. I have no way of knowing that; I have no way of knowing how much irritation there is in state Liberal divisions. I can only work from my own experience and, as the electoral matters spokesperson, I have not had any—not one—member of any Liberal state executive, any Liberal president or any Liberal office holder ring me, email me or write to me, either officially or unofficially. The only time I have had any concerns expressed to me about this bill was by two members of this parliament who raised the matter informally with me. So I do not have any evidence that there is any internal Liberal Party concern about the mechanism which would allow a more centralised funding payment.

However, if that is the case, I then have to discard that area of concern and return to the first principle, which is whether this bill will allow the same provisions for all political parties or all those who receive funding. With regard to the Australian Democrats themselves, the law presently provides that funding is paid to a principal agent. Labor, in the speech from Senator Faulkner, outlined their agreed method between their state and federal bodies to allow them to be paid nationally. This legislation proposes to allow the federal secretariat of the Liberal Party to be funded directly, and we have been advised that that is unanimously agreed to by the federal Liberal secretariat, which includes all divisional presidents.

Either we would end up rejecting this or we could try amending it—and, being Democrats, that is what we have tried. As a result, we will probably end up satisfying nobody. The first amendment we will be presenting later in the debate provides for a general right of access for political parties to national funding. Through different mechanisms, the funding of both the Labor Party and the Democrats is paid directly to the national or principal agent to the party, and the legislation proposes to make it accessible to the Liberal Party in its particular circumstances. There are a lot of political parties other than the ones just mentioned. Our amendment will provide a similar option for all political parties. We think it is reasonable for the Liberal Party to have the option to be funded at a national level, if that is their consensus, but the option should be available to all political parties via the Australian Electoral Commission without in future having to come to parliament seeking specific legislation.

Therefore, our amendments will amend the bill so that it applies more generally to political parties registered under the provisions of the Commonwealth Electoral Act. Those amendments have the effect of extending the provisions currently in the bill relating to the Liberal Party to other parties which have a federal secretariat and state or
territory branches. They provide that a registered political party with a federal secretariat and state or territory branches structure, other than the Liberal Party, may choose—note the word ‘choose’—to be treated as a designated federal party. A designated federal party may give a written notice to the Electoral Commission specifying the percentage of public funding to be paid to the state and federal branches of the party.

In order to be treated as a designated federal party, the registered officer of a registered political party must lodge a written notice with the Electoral Commission stating that the party chooses to be so treated. The registered officer may revoke this choice by notice in writing to the Electoral Commission at any time except between the period commencing at the start of the polling day for an election and the end of the 14th day after the day on which the writ is returned. The effect of those amendments is to make this bill a bill of general application. The Democrats have no objection to political parties being funded at a national level if they so choose and desire, but it should not be necessary to come to the parliament seeking specific legislation in future in order to do so. This amendment will extend the option sought by the Liberals to all relevant political parties.

The second amendment proposed by the Democrats will give effect to recommendation 1 of the Australian Electoral Commission’s 1996 Funding and disclosure report, which recommended that public funding be paid into the account of the registered party, rather than paid in the name of individuals as agents of political parties. The Electoral Commission expressed its concerns as follows:

The AEC is concerned, particularly given the very large amounts of funding now being paid to individuals as agents of political parties, that the legislation as it currently stands does not compel an agent to deposit the cheque in an account of the party. A more secure method of effecting payment would be to make cheques out in the party's name. This would require an amendment to the legislation which, as it stands, does not allow the agent to nominate such a redirection of payment.

On this basis, the Democrats’ second amendment establishes enhanced and more secure payment provisions relating to the payment of public funding. It provides that the Electoral Commission will make payments of public funding by direct deposits into a nominated bank account or by cheque where there is no nominated bank account. Where the payment of public funding is made by cheque, it will be made out in the name of the registered political party, not in the agent’s name as is currently the case.

In conclusion, the Democrats accept the right of a political party to be funded nationally, but we believe it should be an option open to all political parties, not only to those who can secure the passage of party specific legislation through the parliament. On that basis, we will support this bill if our amendments making it a bill of general application are accepted. If they are not accepted, we will be opposing the bill.

Senator ROBERT RAY (Victoria) (5.57 p.m.)—The Commonwealth Electoral Amendment Bill (No. 1) 2002 entrenches the name of the Liberal Party in legislation more times than there are Liberal senators in this chamber. The Liberal Party is mentioned, by name, over 33 times in four pages. That has never happened in the legislative history of this parliament. This is the worst piece of legislation I have ever seen come into this parliament in just over 21 years. It is a total perversion of the legislative process to have this national parliament called upon to settle what is an internal factional wrangle in the Liberal Party. It is an absolute joke. No-one has ever contemplated the misuse and abuse of parliament in such a way before.

Let us go to the process issue. Virtually all electoral legislation in the past 19 years has been run before the Joint Standing Committee on Electoral Matters. What happened with this one? It has never been near the committee. There have been no submissions to the joint committee and there has been no reference by the minister. This did not get any public scrutiny at the time that it was drawn up. How did it come about? It was cooked up by the federal Liberal Party secretariat at Robert Menzies House and in the Prime Minister’s office; the evidence is there
for that. They cooked up this particular scheme and it went nowhere near any of the normal processes. It was then rushed through the party room with a minimum of discussion and a maximum of threats. We know that from what appeared in the newspapers, which was never denied.

Time and again in the last year, this government has tried to leapfrog this bill up the legislative calendar. Each time we have managed to head that off and push it aside. Now comes what will be a debate of Stalingrad proportions. As far as the Labor Party is concerned, we are in the tractor factory and we are going to fight this piece of legislation pillar and post right to the end because it is so corrupt. Look at the rationale for this piece of legislation. It is a very simple and beguiling rationale. This is here because the federal secretariat of the Liberal Party says that it runs national campaigns and should have the funding.

Let us go back eight years to when this legislation came in. Who was up on their feet arguing that they wanted the dual track process? It was the Liberal Party of Australia. They wanted the option. They pleaded with the then government, ‘Do not make it compulsory to go to the national body; give us the option.’ ‘We’re a federal party,’ we were told by the Liberal Party, ‘We’re a party based on states’ rights. How dare you compel national funding to go to the national body!’ We said, ‘Oh well, all right. We’ll go back, we’ll bring in a more convoluted form of legislation and we’ll end up having to pass it,’ and we did it; we accommodated the Liberal Party. Now they want to change 180 degrees.

We also now hear from Mr Peter Wells, the director of the WA division of the Liberal Party. What does he say about it? He is reported to have observed that the current system creates ‘cash flow problems’ for state divisions and the federal secretariat. He went on to add:

Why mess around with GST if you do not have to?

Why don’t you go out and tell that to all of your small business mates who have to mess around with GST time after time? We now have a piece of legislation that helps the Liberal Party avoid their GST obligations. What a sleazy, GST-rorting organisation the Liberal Party of Australia would become if Mr Wells had his way.

Having promised to reveal all about GST rorting in the electorate of Groom, they cleverly got the tax office to do the investigation and they now hide behind the confidentiality of its findings. There is one, and only one, real rationale as to why this legislation is here today: follow the money. As soon as you give the national office of the Liberal Party all the money, they will be in a position to tell each of the state divisions what to do. I have some sympathy with that. I understand the frustration that must exist up at Robert Menzies House as to some of the antics of their state division, but the way their constitution is currently written and the resistance to attempts to change it say to me that, at the moment, the Liberal Party state divisions do not want to be controlled or directed by the national secretariat. That has been their historical choice and, as far as I understand, overwhelmingly is their position today. So this is all about saying, ‘We’ll give all the public funding to the national secretariat. They’ll dole it out to the states, provided the states conform to the views expressed.’

Why would the federal Liberal Party want to take control of the state divisions? Let us do a run around the country. Let us start in Western Australia and have a look at the state of the Liberal Party there. It has gone from 28,000 members to 2,800 members in 10 years. It is subject to constant feuding. All you have to do is look at Senator Crane’s comments on Senator-designate Johnston. I do not give any value to them but it shows how bitter the divisions are in Western Australia. Look at the fact that, as soon as Senator Knowles puts out a confidential letter ripping up a few colleagues, it is immediately leaked to crikey.com. Look at the fact that Senator Knowles has had to apologise and pay money to former Senator Noel Crichton-Brown. Look at the fact that Colin Barnett is currently being undermined in the state parliament. Look at the fact that that was their worst state election result in decades. The whole Western Australian Liberal
Party is in meltdown: of course ‘Lightweight Lynton’ wants to go along and take it over.

Go across to South Australia—no rosier picture. There you have the Olsen and the Brown forces slugging it out, month in, month out, costing them state government. And look at Senator Hill and Senator Minchin—butter would not melt in their mouths in this chamber, but, the moment they are outside, the knives come out and they are into each other. This is factional warfare, culminating in the greatest branch-stack in South Australian history in the state electorate of Unley. Away they go, signing up people from Kuala Lumpur, London and even Afghanistan, I understand, as members of the Unley branch in South Australia. That is what we have: an absolutely pathetic Liberal Party in South Australia, probably the most pathetic of any division.

Look at my home state. Branch-stacking is absolutely rampant in the electorate of Bulleen and in other spots in Victoria. Of course, not satisfied with that, we also have the Doyle-Napthine brawl of the last few days. I will tell you what I really think about that—what about those 15 members of the Victorian Liberal Party who all promised poor Denis a vote and then went and voted the other way? What a sad indictment of a pathetic state Liberal Party, once the jewel in the crown of the national Liberal Party. The majority of federal members from Victoria are Labor; in state Labor government, the majority are Labor. What have the Liberals got in Victoria? Absolutely nothing, just fighting amongst themselves. No wonder the federal secretariat wants to tell them what to do.

We move on to the Apple Isle. Have a look at that: seven members out of 25 in the Legislative Assembly, none out of five in the House of Representatives, none out of 19 in the Legislative Council and five out of 12 in the Senate—and the only star that can be promoted to ministerial status is the Hon. Senator Eric Abetz. I do not know how many of you watched him on election night: he moved from being the arch string-puller to being just a commentator. He was commenting on something that he had had a major role in—what a self-effacing minister we have here! The person that dictated the whole strategy in Tasmania is no longer a part of it; he is simply a commentator. Look, do not think that I am at all bitter about Senator Eric Abetz; he is one of my closest mates here! Who else can I thank for returning five federal members to the House of Representatives? Who else can I thank for that great headline in the Australian ‘Honey, I shrunk the Opposition’? There is no-one closer and friendlier to the Labor Party than Senator Eric Abetz; he is our greatest asset in Tasmania and I say to him, if he is listening to this in his office, ‘Comrade, you have always got a free dinner on me.’

Will we move up to New South Wales? Is it much better? Half of the New South Wales membership of the Liberal Party are over the age of 65. I am not here to criticise Australia’s elder citizens; it just reflects that the Liberals are no longer reflective of Australian society. Of course, we have similarly had a war between Mrs Chikarovski and Mr John Brogden; they have been at war for ages. Within the branches, it is a battleground between the group and the uglies fighting it out. If you really want to know how New South Wales has become the absolute pits, think about who is the Prime Minister’s representative on their administrative committee: Senator Bill Heffernan. How low can you go! If that does not reflect the malaise in New South Wales, I do not know what does.

Then there is the ACT branch. Apart from their throwing away territory government, at least we know that every member of the ACT branch of the Liberal Party is lining up to replace Senator Margaret Reid.

Senator Faulkner—they’re all running for the Senate.

Senator ROBERT RAY—All six of them are in the field. I just say this: I am pretty certain that Senator Margaret Reid will stay here a bit longer and will continue to make the great contribution she has always made, so they will have to wait in the queue just a bit longer.

We now return to the final great state branch of the Liberal Party: that in the great
state of Queensland. I love Queensland—I always have my holidays there.

Senator Brandis—It is a very great state, Senator.

Senator ROBERT RAY—It is a very great state, as Senator George Brandis—

Senator Faulkner—Who desperately hopes that the bill will go down.

Senator ROBERT RAY—I do not know about that, but it is certainly regarded by some as the problem child. If the Queensland state branch of the Liberal Party were a piece of real estate, how would a real estate agent describe it—‘has potential for improvement’? It has three out of 88 members in the Legislative Assembly. I remember—I will not be too derisory—that we could only field a cricket side there on one occasion. All you can do is have a game of kellypool with three entrants—an absolutely three-out-of-88 top-class effort!

Just go through their history. We have had to raise in this chamber Mr Mal Brough’s fundraising rort. Remember that one—that was an absolute bottler that embarrassed the party. Then we had the Entsch government contract that went on as though office of profit under the Crown and everything else simply did not exist. Then we had the civil war in Moncrieff—that was a beauty. The then existing member threatened to sue everyone else in sight, and we had this big preselection brawl in which character assassination was a byword. Let us not forget the great Ryan stack—that was an absolute bottler. I understand they now have 40 delegates to the state convention, they have stacked it out so much. That and the treatment of Mr Ted Tucker—I do not know him personally, so I do not really care whether he was mistreated—had an enormous stench. The then existing member threatened to sue everyone else in sight, and we had this big preselection brawl in which character assassination was a byword. Let us not forget the great Ryan stack—that was an absolute bottler. I understand they now have 40 delegates to the state convention, they have stacked it out so much. That and the treatment of Mr Ted Tucker—I do not know him personally, so I do not really care whether he was mistreated—had an enormous stench. The then existing member threatened to sue everyone else in sight, and we had this big preselection brawl in which character assassination was a byword. Let us not forget the great Ryan stack—that was an absolute bottler. I understand they now have 40 delegates to the state convention, they have stacked it out so much. That and the treatment of Mr Ted Tucker—I do not know him personally, so I do not really care whether he was mistreated—had an enormous stench.

We then had Senator MacGibbon’s preselection that went to court. We have the documents that show just how outrageous the preselection was. One Senate candidate—I will not identify him, but he has certain similarities to Mr Bean—voted for himself in the preselection, which was totally in contradiction to the rules. Ballot papers were taken in and out of the meeting. It is all there in the 25-page affidavit from Senator MacGibbon just how rorted that preselection was, and he went down by only one vote—absolutely pathetic. Then we have the issue of how they ‘assassinated’ the opposition leader on the Brisbane City Council. That was all there: he was ‘assassinated’. I understand he is probably a friend of yours, Senator Brandis. You might confirm that.

Senator Brandis—He’s a very fine man—Councillor Caltabiano.

Senator ROBERT RAY—That is right. His enemies did him in too, even though Senator Brandis has put on oath here today that he is a very fine man and obviously doing a very good job.

Then we have the Groom GST fiasco, where they said, ‘It was only a few dollars.’ The small business minister has some views on GST. We found that they were rorting their GST deliberately there. I will not go into any of the details of the Carroll-Tucker factional brawl, because that would take me all afternoon. Of course the current rort in Queensland is this: you are allowed 10 delegates to a Senate preselection if you have more than 100 members. So what you do is take members from the Sunshine Coast and top up those electorates that you control, move them over the 100 and get the 10 delegates. I thought we were pretty good in the Labor Party at times, but, gee, I take my hat right off: this is a top operation and it is going on because the word is that Senator Herron is off to Ireland and the Vatican at some stage in the near future. Of course, not content with that, here they have the leader, Mr Quinn, saying, ‘Unless you reform these branch-stacking activities, I’m off.’ What did they say? They said, ‘See ya.’ They are going to have a valedictory for him. Off he goes. You could go on, like a lot of those things.

In the very last incident, we had Batman and Robin sponsoring the federal Treasurer going around Queensland. The two senators, Batman and Robin, took the Treasurer all the way around outback Queensland to humanise
him—with absolutely altruistic motives. Pre-
ferment from a future Prime Minister is the
last thing they are thinking about with this
visit! So the Queensland branch is the real
target of this legislation, one has to say, from
what we know of it.

I have said before that this matter is solv-
able. It is solvable because there already ex-
ists within the current act the ability for the
Liberal Party to transfer its funding from
state divisions to the federal secretariat—
after all, we have done it in the Labor Party.
Do you know what you have to do, Mr Act-
ing Deputy President Lightfoot? You go and
collect each state director to sign the same letter,
saying, ‘We transfer the funding from a state
division to the federal secretariat.’ It is sim-
ple—one letter, one stamp, as I have said in
the past, and it is all done. Why isn’t it being
done? The federal director of the Liberal
Party denies that there are internal differ-
ences on this. Why can’t he go and collect a
letter? Why can’t he have it delivered to the
Electoral Commission and save this parlia-
ment the embarrassment of having to settle a
factional war in the Liberal Party by legis-
lating to enforce victory for one side? It is
unbelievable that a supposedly sophisticated
government that supposedly believes in up-
holding the traditions of this parliament
could so besmirch it by bringing in legisla-
tion of this particular type. I really cannot
understand why the Prime Minister and his
henchmen want to do this, other than that
this is the only way they can capture control
of the machinery of the Liberal Party and
sent out their diktats.

A solution is easy: 45c, and we can go
home or get on with the next piece of legis-
lation—one stamp. Everyone knows of my
largesse—Senator Harris acknowledges it.
Senator Harris will be pleased to know this:
here is the stamp, and I am tabling it and
donating it to the Liberal Party of Australia
for them to send a clear letter to the Chief
Electoral Commissioner at the Australian
Electoral Commission—

The ACTING DEPUTY PRESI-
DENT (Senator Lightfoot)—You will need the
permission of the chamber to table it.

Senator ROBERT RAY—I seek leave to
table the stamp.

Leave granted.

Senator ROBERT RAY—Any member
of the Liberal Party can come and collect it. I
will trust you to give it to Mr Lynton Crosby.
I know you would not pocket it and I know
that you will declare it under the Electoral
Act, even though it does not go beyond the
$1,500 limit. So, Mr Lynton Crosby, Federal
Director of the Liberal Party, collect the
seven signatures—the Liberal Party is not
represented in the Northern Territory—from
the six states and the ACT. They all just need
to say that the federal secretariat can have all
the public funding. I thought we had some-
one to collect it—but, no, we do not. I really
did think we had someone coming over to
collect it.

The ACTING DEPUTY PRESI-
DENT—The attendant is there to collect the
stamp and we assume that the stamp be-
comes a document of the Senate.

Senator ROBERT RAY—Thank you.

The ACTING DEPUTY PRESI-
DENT—it was taken from your electoral
allowance, I assume.

Senator ROBERT RAY—I would not
make any presumptions as to its origin, Mr
Acting Deputy President.

The ACTING DEPUTY PRESI-
DENT—it was an assumption, not a pre-
sumption.

Senator ROBERT RAY—Thank you.

All Mr Crosby has to do is to get the letter,
get the seven signatures and send it to Mr Andy
Becker at the Australian Electoral
Commission, and this entire piece of legis-
lation becomes redundant. As I said before,
there is a simple solution to this. The fact
that they cannot do it means that they are not
telling the truth. The fact that they cannot do
it means that there are internal difficulties
within the Liberal Party of Australia and they
are trying to use this parliament to enforce
their own factional warfare solutions. It is
not on. We intend to fight it all the way
through and if we lose we lose. But we will
put up the fight and we will make sure that
every element of this bill is fully tested.

Senator BRANDIS (Queensland) (6.16
p.m.)—I am almost lost for words in awe of
the theatrical skills of Senator Robert Ray.
What we have seen in the chamber this evening has been a bravura performance in hypocrisy by Senator Robert Ray. How could Senator Ray, of all people, the quondam leader of the right faction of the Victorian branch of the Australian Labor Party—and, Mr Acting Deputy President, you will agree with me that he delivered that speech for 20 minutes with a straight face and without missing a beat—give a speech condemning the evils of branch stacking, factionalism, leadership squabbles and character assassination?

He has been succeeded in that role by his protege, Senator Stephen Conroy. No sooner did Senator Conroy saddle up to take the factional reigns than he got bumped off by Senator Kim Carr, who walks into the chamber now. Senator Carr, in a retreat to the pre-Whitlamite days, to the unreformed state of the Victorian Labor Party in the fifties, seized factional control from Senator Ray and his protege, Senator Conroy, and brought it back into the hands of the tomato left.

It is an extraordinary thing that, in a political party as bereft of ideas and principles as the Australian Labor Party, one of their senior statesmen—a former cabinet minister and a party heavyweight by anybody’s definition of the word—could stand up and condemn branch stacking and factionalism. This is from the Labor Party. It has been an awe-some performance. May I commend to the Senate and to those people who may be listening this evening to the broadcast—if they want to know the way the Labor Party really ticks—former Senator John Button’s essay in the latest edition of Quarterly Essay. It is an essay which has attracted—and rightly so—a deal of notoriety in the last couple of months.

Former Senator Button is a product of the Victorian branch of the Australian Labor Party, and the picture he paints of the Labor Party—not just in his home state of Victoria but throughout the country—is of an institution riddled with decay, factionalism, violations of its own constitution and malpractice, an institution which is bereft of a way forward. What does former Senator Button say is the heart of the problem? He says that the heart of the problem is that the Labor Party is in the death grip of the trade unions. This party in the opening years of the 21st century is still clinging to a political structure which was devised in the late 19th century. Of all the institutions in Australian society today, whether they be political, commercial, social or public institutions, it is hard to imagine one that is more hidebound and more resis-tant to change than the Australian Labor Party. It has not fundamentally changed, either structurally or in its political culture, for more than a century.

Isn’t it a sad thing and isn’t it amusing and pathetic to see the dinosaurs of that remnant of Australian politics—that mix between an historical theme park and a political mausoleum that people like Senator Robert Ray, Senator Kim Carr and Senator Stephen Conroy represent in this place—lecturing the Liberal Party? The point former senator Button made is that, because the Labor Party is in the death grip of the trade unions, it is becoming more and more out of touch with the Australian people—simply because its recruitment base, the trade union movement, represents a smaller and smaller proportion of Australian society.

Do you know the really sad statistic that John Button recited in his impressive article in Quarterly Essay? It was not just that today only 25 per cent of the Australian work force are unionised but that, of that 25 per cent, only 14 per cent of the Australian work force are members of trade unions which are affiliated with the Australian Labor Party. So much for the claim to be representing the interests of working Australians! Indeed, so much for the claim to be representing the interests of working Australians who are trade unionists! The fact is that only 14 per cent of the work force—one-seventh of the work force—are today members of unions with an affiliation with the Australian Labor Party.

We have had two more products of the political mausoleum—Mr Hawke and Mr Wran—assay a review of the Labor Party. What did they come up with? After an arcane debate about whether trade union influence in preselections should be reduced from 60 per cent to 50 per cent, they actually produced a model which gives the trade union movement, this decaying social and eco-
nomic base which is the Labor Party’s narrowing connection with the Australian people, more say—not less—in the Australian Labor Party’s affairs. It is pathetic! It is, in the words of Senator John Button in the title of his essay, ‘beyond belief’.

All political parties are places of vigorous competition. In all political parties aspirants will recruit their supporters to come to their assistance in ballots. There is nothing wrong with that practice. As the Federal Director of the Liberal Party, Mr Lynton Crosby, said recently:

One man’s branch stack is another man’s membership drive.

That was Mr Crosby’s observation. We in the Queensland division of the Liberal Party, which I so proudly represent in this place, have in fact increased our membership steadily, not sporadically, over the years.

Senator Mackay—We don’t fly them in.

Senator BRANDIS—I must respond on behalf of my own division of the Liberal Party to the rather uncharitable suggestion that, having an embarrassingly small number of members in the state parliamentary party, the division is not performing well at all levels of politics. At the level of politics that we represent in this chamber—the federal level—the Queensland division of the Liberal Party returns 15 members to the House of Representatives—as many as the Victorian division of the Liberal Party does, a state with almost twice the population? Did you know, Mr Acting Deputy President Lightfoot, that the Queensland division of the Liberal Party returns 15 members to the House of Representatives—as many as the Victorian division of the Liberal Party does, a state with almost twice the population? Did you know, Mr Acting Deputy President, that there are now more government members—of course you do, Mr Acting Deputy President; I do not mean to insult your intelligence or your wisdom—from Queensland in the government party room here in Canberra than from any state other than New South Wales, with two and a half times the population of our state? We in the Queensland division of the Liberal Party stand proud of our achievement, particularly in securing the return of the Howard government. We stand proud of our achievement over many years in punching above our weight as a participant in the federal Liberal Party’s affairs.

As I said a moment ago, political parties will always be fields of vigorous competition, and it is right and proper that that should be so. The question is this: who are able to be the competitors? In the Labor Party, unless you are a trade union heavyweight you do not even get a go. Unless you are a member of the 14 per cent of the Australian workforce that has a link of union affiliation with the Australian Labor Party, you do not even get a go. In the Liberal Party our doors are open to all, and that is why we have become the great mass based political party of Australian politics—just as Sir Robert Menzies conceived the Liberal Party to be when he shaped it in the late 1940s.

Let me conclude on this note: Senator Ray, in a slighting reference to my friend Senator Mason and me, referred to a trip around western Queensland which the federal Treasurer accompanied us on last week. One of the things we saw on that trip was a woeful excuse for a shrub in Barcaldine. It is called rather grandly the ‘tree of knowledge’. I want to describe it to you. It is a gum tree. It stands beside the Barcaldine railway station and beneath it there is a plaque which purports to record the historical fact—it may well be a piece of apocrypha which has become romanticised over the years—that beneath the branches of that tree in 1891, during the course of the great shearers strike of that year, the body met from which the Queensland branch of the Australian Labor Party was ultimately formed. Let there be no denying that in the 1890s, particularly in my state of Queensland, the Australian Labor Party had a proud record. It formed briefly under Anderson Dawson the first Labor government in, I think, 1903. The glory days of the Labor Party—that is, those days about a century ago—began under that tree in Barcaldine. If you look at the old photographs of it, you will see what a magnificent, majestic tree it was. If you looked at it today, it could serve as the most exquisite metaphor for the modern condition of the Labor Party. First of all, it is practically dead. Its life was only saved by tree surgeons a couple of years ago—I believe at taxpayers’ expense, because the Beattie Labor government in Queensland has been bold enough to claim it as a national heritage site or worthy
of protection by the state environment department. Its trunk is maintained by plaster and cement—

Senator Forshaw interjecting—

Senator BRANDIS—Yes, it is, Senator Forshaw. Above the once mighty trunk there stretch a few miserable, weedy, half-decayed branches. The disproportion between the dead but once mighty trunk and the few shrivelling, weedy, pathetic branches that emerge from it could not be a better metaphor for the modern Australian Labor Party in that attractive and sleepy town of Barcaldine in western Queensland. If you wanted to see a metaphor for the state of the current Australian Labor Party as diagnosed by one of their great ministers during the time of the Hawke government, Mr John Button, you would not look any further.

The former Labor Party Federal President, Mr Barry Jones, said that the way the Labor Party was going at the moment it was at risk of becoming a heritage party and, just like the heritage tree at Barcaldine—that pathetic shrub—that is what the Labor Party is today. It is a shadow of its former self, so much so that we see the performance piece of a man like Senator Ray, who, as I say, can stand up in this place and with a straight face condemn branch stacking and with a straight face tell us about the evils of factionalism. Yes, that was Senator Robert Ray—the great factional chieftain, the great factional warlord, the mentor of the junior factional warlord, Senator Stephen Conroy.

We saw Senator Ray condemning character assassination. Yes, that was Senator Ray condemning character assassination! This was the Labor Party which, not all that many years ago, members of this chamber might recall, during the course of preselection for a seat in Sydney—and Senator Forshaw might help me with the name of the seat—was engaged in such an ugly contest that one of the participants in that preselection was savagely bashed to within an inch of his life. That was Mr Peter Baldwin who went on to win a preselection somewhere and became, I think, a minister in the Hawke government. Nobody in Australian politics should ever forget the haunting image of the bashed, bruised and scarred face of Mr Peter Baldwin on the front page of the Sydney papers the next morning under the headline ‘This is the face of modern Labor’.

We in the Liberal Party have vigorous contests, but the violence, the criminality, the sheer political thuggery which has been so much a feature of the Labor Party in its decline, in its decay, is unique to the Labor Party and something about which they ought not to do anything other than hang their heads in shame. People like Senator Ray ought not lecture the Liberal Party on vigorous internal competition. They should try to conduct their own internal competitions without dishonesty, without illegality and—as they have done in some cases—without actual physical violence.

Senator HARRIS (Queensland) (6.31 p.m.)—I most certainly cannot bring to the chamber the oratorical abilities of Senator Ray or the immaculate legal mind of Senator Brandis. But I will try to bring this debate back to, and focus on, the Commonwealth Electoral Amendment Bill (No. 1) 2002. I believe that to some degree that will probably be more appreciated by the people who are listening to this debate on broadcast.

I would like to commence my comments on the bill by quoting from a research paper by the Department of the Parliamentary Library called ‘Australia’s political parties: more regulations?’ In the ‘major issues’ section of the paper the Department of the Parliamentary Library has this to say:

The private aspects of parties has provided no means for aggrieved party members to challenge their parties’ actions in court. A pivotal 1934 High Court case reinforced the view that their rules did not form a contract that was enforceable—that is, the rules of the political party—and as a matter of law it was held that party members had no personal interest in a party’s assets. The parties therefore asserted their freedom to act without any type of external oversight.

Today, however, various factors suggest that they should have a greater level of accountability to the Australian people—and my emphasis is on the people who make up the party. The paper continues:

It is now much harder to sustain the case that parties are private bodies, in some way beyond the law:
of great importance is the fact that several recent court cases have thrown doubt on the extra-legal nature of parties
• parties now a constitutional presence, as well as a presence in legislation
• in addition, the establishment of public electoral funding has produced legislative changes which have seen the first serious parliamentary ‘interference’ in party operations
• some observers believe parties’ own tough internal behaviour has helped produce a loss of support in the wider community, and
• there has been a shift in society towards expecting more accountability and transparency in our institutions.

Not all political systems have allowed the same degree of freedom to their political parties, and many Western democracies move to adopt regulatory arrangements well before it became an issue in Australia. Such nations:
• have seen parties as public organisations which have not only a responsibility to their members for their actions, but also to wider community
• have placed close-checking requirements on parties if they receive public funding
• believe parties have a role to preserve the democratic nature of the state within which they operate, and
• see parties as having a responsibility to implement democratic practices within their own internal operations.

The question therefore arises:

does more need to be done to make parties accountable to the Australian public, let alone to their own members?

That is the opening quotation of the Parliamentary Library’s research paper. The Commonwealth Electoral Amendment Bill (No. 1) 2002 seeks to amend the Commonwealth Electoral Act 1918, allowing the agent of the Liberal Party of Australia—that is the federal secretariat—to determine the distribution of election funding between federal secretariat and the state and territory divisions of the Liberal Party. One Nation believes that the geographical distribution of that the federal funding to political parties should not be the purview of this parliament. Once federal funding has been obtained, distribution should proceed as an internal party matter. This bill clearly demonstrates that some sections of the Liberal Party want to use legislation to override other sections of the party.

The effect of the bill will be to centralise more power within the federal structure of the Liberal Party. This centralisation flies in the face of the spirit of the Australian Constitution. Mr Acting Deputy President, if you cast your mind back and try to envisage what life was like at the turn of the 1800s, we have a series of colonies separated by vast distances with little or no communication between them. One of the major concerns of each of those individual colonies was the issue of states rights and the possibilities of states losing their power to a centralised body. This was a critical concern in framing the Australian Constitution. Section 51 was framed and worded to specifically restrict the function of the Commonwealth government in relation to states rights. In relation to section 51, noted constitutional experts Sir John Quick and Sir Robert Garran have stated:

The federal government can claim no powers not granted to it by the Constitution: powers actually granted must be such as are given expressly or by necessary implication. The instrument is to have a reasonable construction according to the import of its terms; where a power is expressly given in general terms, it is not be continued to particular cases, unless that construction grows out of the context or by necessary implication.

Further, they note:

A law in excess of the authority conferred by the Constitution is no law: it is wholly void and inoperative; it confers no rights: it imposes no duties; it affords no protection ... What is not so granted to the parliament of the Commonwealth is denied to it.

Furthermore, the Constitution does not authorise political parties. Their existence has come about by convention. This is reflected by the fact that the federal funding for political candidates is paid to the individual candidate, not the political party. The candidate then agrees that the party can become an agent to receive the funding. It is debatable whether the parliament even has the scope to legislate on the matter before us.

Several justifications for the introduction of this legislation have been presented. The first rationale is that the federal secretariat of the Liberal Party is responsible for federal election campaigns and therefore it is appro-
appropriate that all of the party’s or part of the public funding be paid to an agent of the federal secretariat. This is nonsense. The ALP has reached its own accord within the party in relation to the distribution of funding and there is no reason why the Liberal Party cannot do the same. The second rationale is that the legislation will enable the Liberal Party to streamline administration of the GST. All I can say is if the Liberal Party is trying to find a way around the GST then bad luck. Let the Liberal Party comply with its own policies. The final rationale is that the amendments serve to settle an unresolved dispute between the federal secretariat and certain state and territory divisions.

The Liberal Party wants to use federal legislation to mitigate internal party wrangling. This legislation raises wider issues regarding the distribution of funding to political parties. I am not talking about federal funding. One Nation fully supports the federal funding of political parties. What I am referring to is corporate patronage of political parties. It is simply naive to believe that big donors will never want a return on their investment. Of course, the major parties reject the suggestion that corporate patronage has the capacity to influence policy decisions. Members of parliament have a sworn duty to do the best for the Australian people and any suggestion that politicians can be bought off is repugnant. But questions on corporate donations to political parties continue to resurface. This is a potential hot potato among constituents who believe the large corporations combine political donations with intensive lobbying. The Australian Electoral Commission’s submission returns for the financial year 2000-01 indicate that the Liberal Party received $21,813,658 in donations; the National Party received $6,659,664 in the same period and the Labor Party received $31,888,812. The total amount donated to the Liberal, Labor, and National parties during that period was in excess of $60 million. By far, the major donations were from corporations.

Corporate political funding is a very touchy area indeed and here are a couple of examples from the media. The Age on 2 February 2001 reported Special Minister of State, Senator Eric Abetz, saying he would pursue changes to electoral laws after it was revealed that Labor’s single biggest donor was the public relations company Markson Sparks, which collected $8,292,255 on behalf of the ALP. In the same story the Age reported that the Victorian Labor Party accused the Victorian Liberals of hiding a $60 million slush fund in a network of shady companies and fundraising organisations. Clearly, there is innuendo and there are accusations surrounding corporate donations to both major political parties.

Australia’s major political parties are yet to pay back significant financial donations obtained from disgraced companies, despite creditors being out of pocket. Australian political parties have not followed the lead of the US politicians who have returned donations that could help victims of failed companies like Enron. The US politicians have returned corporate donations to former employees, creditors or charities assisting former employees. There are two controversies here in Australia that I will use as an example. A $100,000 HIH donation was made to the New South Wales Liberal Party in 1999 and a $181,000 gift from the entrepreneur Karl Suleman’s Froggy business to New South Wales Labor.

Sydney investors faced losses of up to $65 million from Mr Suleman’s Froggy business failure while the HIH crash is one of Australia’s worst corporate collapses. A media report on News Limited’s web site indicates that so far only the Western Australian Labor Party has agreed to repay a $10,000 donation to Suleman’s businesses. Liberal Party national director, Lynton Crosby, is reported to have said that he would only consider giving back the $100,000 HIH donation if Labor returned its money from Suleman. The bottom line comes down to a disagreement between Liberal and Labor, not what might be an ethical decision to help people who are adversely affected by corporate collapses.

I would also like to raise the issue of material benefits that may be provided to political parties. The provision of your own labour is not a gift for the purposes of the Commonwealth Electoral Act 1918. However, the provision of someone else’s labour—that is,
paid by you—may be. What happens if a corporation uses this provision to put company experts at the disposal of political parties during election campaigns? Media strategists, public relations experts or fundraising personnel could simply take leave to work on a campaign. I put it to you that the imbalance caused by corporate donations that go to all political parties must be corrected. It is in the interests of achieving a more healthy democracy. One Nation does not have a problem with federal funding of political parties, but corporate patronage is far worse. The rules work very heavily in favour of the big parties.

In conclusion, I would like to quote from the Department of the Parliamentary Library’s research paper entitled Australia’s political parties: more regulation? Under the heading ‘Their Own Worst Enemy?’ it states: Parties perhaps need to be alert to dangers posed by a decline in public support for their activities, both inside and outside parliament. In many democratic societies the level of public support has reportedly fallen to a record low. This is confirmed in the case of Australia, where it has been claimed by Professor Ian McAllister of the Australian National University that one in three voters believe politicians use public office to line their pockets, and even fewer believe that their political leaders have ‘a high moral code’. Discussions in the Labor Party since the 2001 Commonwealth election have linked such matters to the decline in party memberships: ‘For those without political ambitions who simply wish to make a contribution, rank-and-file membership of the ALP is profoundly unappealing’.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

NOTICES

Presentation

Senator HARRIS (Queensland) (6.49 p.m.)—by leave—I give notice that, on the next day of sitting, I shall move:

That the Senate—

(a) notes that Friday, 23 August 2002 is Daffodil Day; and

(b) congratulates all those who organise and support the promotion of research for cancer.

Senator BARTLETT (Queensland) (6.49 p.m.)—by leave—I give notice that, at the giving of notices on the next day of sitting, it is my intention to withdraw business of the Senate notice of motion No. 1 standing in my name for the disallowance of the Environment Protection and Biodiversity Conservation Amendment Regulations 2001 (No. 2).

ADJOURNMENT

The DEPUTY PRESIDENT—Order! There being no consideration of government documents, I propose the question:

That the Senate do now adjourn.

Defence: Seasprite Helicopters

Senator ROBERT RAY (Victoria) (6.51 p.m.)—I want to address my comments tonight to the absolute failure of Senator Hill’s defence spokesman in the House of Representatives, Ms Danna Vale. On at least two occasions she has been asked questions on the Super Seasprite project. On each occasion, she has refused to address the details of the question and has sought to deflect attention by saying that the project is essentially one of a previous Labor government. She argues that tenders closed not long after Labor left office, but she never explains why the contract for the Seasprites was signed in June 1997, a full 15 months after Labor’s departure from office.

Minister Vale’s failure to acknowledge that three Liberal defence ministers had responsibility for this program prior to the 2001 election really condemns those ministers as being asleep at the wheel. She is in effect saying—and I do not endorse it—that Ministers McLachlan, Moore and Reith did a bad job. That failure, together with a failure to answer questions, indicates that she is not fit to hold office. There are obvious shortcomings in the current Seasprite contract. It is not easy to ascribe responsibility for this. Is it the fault of the Navy, the government or contractors? We will never know if we have to rely on Minister Vale. She merely tries to apportion blame without analysis. She tries to argue that Labor should never ask a question on this matter because the whole issue was one of our own creation. This is absolute nonsense.

It is the duty of an opposition to scrutinise government. I acknowledge that bipartisan-
but it does not mean or imply that you do not examine government programs. If as a defence minister I operated in a climate of bipartisanship, I never once expected that the five shadow ministers that I had in six years would not pursue issues to do with equipment purchases and the efficiency of the Department of Defence. So why should Mrs Vale believe that we should not pursue these matters?

It was the incoming Liberal government who chose Kaman Aerospace for this particular project. If it was not satisfied with Kaman’s offer, then it should not have taken it up. And if it was not satisfied that Kaman could deliver a good product, then it should have at least looked properly at the Westland alternative. I must say, I always thought Westland would win this tender, but, to save $200 million, the option was taken up with Kaman Aerospace. Mrs Vale complains that there was not a liquidated damages clause in the original request for tender. It was entirely up to Minister McLachlan, when it got to contract negotiation stage, to determine whether or not a liquidated damages clause was put within that contract. The Labor government never got to see the final tenders and never got to negotiate the final contract, yet Mrs Vale seems to think that it is all our fault if something goes wrong five or six years later. Mr McLachlan probably had his own reasons for not going down the route of liquidated damages, but people can pursue it with him.

The crucial role for a minister in all this process really lies in two areas: in making sure, firstly, that the tender process evaluation is fair and responsible and, secondly, that the final contract does justice to the Australian taxpayers. That is the role of the minister. It is not to get in there and write software or crawl over the belly of a ship or anything else; it is at those two crucial stages. Of course, much has been made of the decision to try to have commonality between frigates and OPVs with regard to helo capacity. Certainly, when this government made the decision not to proceed with the OPV program, it was wide open then for it to reopen the question as to which helo capacity it wanted to have for the frigates. It chose not to do so. If you look at this government’s track record with regard to early warning aircraft, it opens tenders and closes tenders; it then cancels the process and reopens the process somewhat later—at great cost to the taxpayer, I might add. So, if you are not satisfied with the tender process and who has tendered, it is not as though it is impossible to reopen it, make the appropriate compensation and get a better outcome.

Let me note in passing that the OPV project was cancelled in 1997. In retrospect, wouldn’t it have been an ideal platform for border protection these days? It would be a far cheaper and far more efficient option than having frigates and destroyers and other things patrolling off the North West Cape of Australia. The OPV, as it was then designed, would have been an ideal vehicle to enforce border protection, especially with its helo capacity. It is also true to say that it may not have rated in the Navy options or priorities; we have to concede that. We also have to concede that it was probably a far more expensive option once the Malaysians pulled out of a joint project. So it was not as though there were not valid reasons not to proceed with the OPV program back in 1997. But, equally, having made that decision, you can then have much better options as to what sort of helo you put on the back of a frigate. This government did nothing about it; it just proceeded with the project as it was going.

I am not, tonight, going to make judgments on the success or otherwise of the Seasprite program. It is a truism to say that anything that involves complicated software will involve a major risk. Failure to meet timetables with regard to defence equipment that has complicated software is the norm. If you meet timetables on time, that is the exception. But what an irony that, having gotten into difficulty on this project, the government should turn to Computer Sciences of Australia for software: the very firm that was responsible for not delivering on the Collins class submarine integrated combat system. The very one that failed to write the software and deliver on that has now been called in to write the software on the Seasprites.

I have taken the precaution of reacquainting myself with all the documentation there
was on the subject before I ceased to be Minister for Defence. I am allowed to do this on the basis of refreshing my memory. I will not be quoting from the documents nor tabling them, nor have I shown them to anyone else. But, having gone back and read those documents, it is quite clear that we were always going to be left with a difficult tender process given the fact that at one stage we had six contenders that were interested in tendering for this project. By the time tenders closed, only two remained. Eurocopter, Augusta, Bell and Sikorsky all dropped out. That leaves a difficulty for a government of any persuasion, I have to concede. And, indeed, the type of naval helicopter we wanted was not specifically available, which meant you had to take another helo platform and modify it for Australian use.

I can assure the Senate that when I was briefed on this project never once were the airframes or the complicated nature of the software mentioned to me. That all came later, and that was dealt with by Minister McLachlan in whatever form, so for Mrs Vale to continue with her obfuscation on this issue is just not on. In politics you must accept blame when you are responsible for it. When it is your watch and things go wrong, you have to accept blame. The Seasprite problems occurred on the Liberal Party watch, so it is up to them to fix the problems and not deliberately and falsely accuse the previous government of having a role to play here. It is not easy with some of these projects—I concede that. They run late, and that is true, as you would know, Mr Deputy President, right around the globe. But what we want in this parliament is accountability. We want Mrs Vale to continue with her obfuscation on this issue is just not on. In politics you must accept blame when you are responsible for it. When it is your watch and things go wrong, you have to accept blame. The Seasprite problems occurred on the Liberal Party watch, so it is up to them to fix the problems and not deliberately and falsely accuse the previous government of having a role to play here. It is not easy with some of these projects—I concede that. They run late, and that is true, as you would know, Mr Deputy President, right around the globe. But what we want in this parliament is accountability. We want Mrs Vale to actually answer the questions she is asked, to make the appropriate explanations and not accept the advice of some crackpots in the Department of Defence—because it is only a couple of them—that say, ‘Oh, you don’t have to answer any of these questions: just blame the previous Labor government and they will shut up.’ That is not on. It did not happen on our watch. I do not ascribe blame for any of the faults that have occurred, because I do not know the full circumstances, and we will never know them from Mrs Vale. She has a duty to answer questions on this and not hide behind the blame game.

*Unauthorised Publication of Photograph*

Senator McLUCAS (Queensland) (7.01 p.m.)—I wish to bring to the attention of the Senate tonight a matter which has brought considerable pain to a constituent and friend of mine. Thancoupie is a Thanaquith woman of western Cape York Peninsula. She is a person of significant standing, held in high regard in the arts community and well known as a person who has made a considerable contribution to the process of reconciliation. The matter is the publication of a leaflet by Senator Eric Abetz. It is a publication entitled ‘A Rabbit Proof Fence Full of Holes’. It is a publication that reproduces, in an edited form, a critique of the film by Peter Howson and Des Moore. Their article, first published in the *Australian* in March this year, warrants further analysis and many have written about its inaccuracy. Dr Carmen Lawrence, in a press release following its publication, refuted Howson and Moore’s denial of the existence of the stolen generations. She said:

The court clearly acknowledged the existence of the stolen generations and the personal hardship and distress resulting from previous Federal, State and Territory government policies.

The position of Howson and Moore is based on false assertions and has been refuted in other places. However, it is not the content of the article that I wish to refer to tonight. It is the fact that Senator Abetz has published two photographs of himself with Thancoupie, my constituent, on the back of the flyer. There was no permission sought or provided for the publication of these photographs.

Their publication in such a document is concerning to Thancoupie because their inclusion implies her support for Senator Abetz and for the content of the flyer. There is an implication that she is a friend of Senator Abetz, and I can assure the Senate that as a result of this publication nothing could be further from the truth. When I spoke with Thancoupie about the issue this week, she described the publication of the photos as a ‘breach of confidence’—they are her words. She said that Senator Abetz had ‘really disappointed’ her. Her name, she said, had been ‘discredited’—that is her word.
These are the words of a woman who is truly distressed and angry that her trust has been broken.

The photographs were taken at Bowchat, Thancoupie’s traditional land near Weipa on western Cape York Peninsula. They were taken when the parliament’s Joint Statutory Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, of which I am a member, travelled there in July 2000. The committee secretariat had suggested that it would be appropriate that we visit a place where we could gain a broader understanding of the Indigenous connection to land. As a result of this suggestion, I asked Thancoupie if we could come to her country, where I knew she was staying in preparation for the holiday program that she undertakes annually for children—both Indigenous and non-Indigenous—in North Queensland. Thancoupie generously offered to host the committee and gave up an afternoon and provided all of us with afternoon tea. She spoke openly and generously with all of us and happily had her photograph taken with members of the committee. And this is how Thancoupie’s openness and generosity has been repaid: the publication of her photograph in a document that does nothing to promote reconciliation or cross-cultural understanding, a document that questions whether children were taken from their mothers—an undisputable fact that is accepted by the courts. Thancoupie herself was placed in a dormitory as a young child and lived there until she was 16 years old. She has described to me in great detail how damaging and hurtful that experience has been to her.

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The question now is how Thancoupie can receive some sort of recompense for the damage that this publication has caused her. Previously, a government department has used Thancoupie’s image in a publication in Queensland. Thancoupie advises me that departmental staff contacted her, asked permission to use the photograph and then offered her a small sum of money as payment for the publication. This is normal practice, and maybe Senator Abetz may consider that course of action. However, the reality is that this event has identified a policy void in our legal system that needs addressing.

In many states of the United States, a right of publicity prevents the unauthorised commercial use of an individual’s name or likeness. It gives the individual the exclusive right to license the use of their identity for commercial promotion. This model may be a possible policy response that we here in Australia may take. There is also a possibility that the Trade Practices Act in Australia may be a vehicle for recourse. Currently, sections 52 and 53 of the federal Trade Practices Act prohibit commercial conduct which misleads or deceives consumers. The website of the Arts Law Centre of Australia, in describing the Trade Practices Act in terms of the use of a likeness, says:

If a person is well known by the public as an endorser of products then the unauthorised use of their image in connection with a product may constitute misleading and deceptive conduct. This is because the public would be lead to believe that the celebrity is endorsing the product.

This is a piece of policy work that does need to be done so that the unscrupulous and self-serving actions of people such as Senator Abetz can be prevented. In a piece in the Sydney Morning Herald on Thursday, 21 March this year, Doris Pilkington Garimara, the author of Beyond the Rabbit Proof Fence and the daughter of one of the women who is the subject of the film, said:

Recognition and understanding can help with our healing. That is why this May 26, like every year
since the first Sorry Day in 1998, we will look forward to an apology from the Federal Parliament.

This provides Senator Abetz with a lead. Thancoupie desires and demands a public apology—not something piecemeal; a real apology, made in major newspapers in the country, including in her home state—and the publication of a document with the same dissemination program that the earlier document had, which includes an apology to Thancoupie. Thancoupie has suffered considerable distress as a result of this publication, as have I. We need recognition of the breach of confidence that has occurred. An apology would provide some measure of justice to Thancoupie. The Prime Minister has avoided his responsibility to recognise the enormous hurt that his lack of recognition of the stolen generations has caused. I will leave the door open for Senator Abetz to redeem himself and await his response.

Ballarat: Australian Ex-Prisoners of War Memorial

Senator MARK BISHOP (Western Australia) (7.09 p.m.)—I rise tonight to address the Senate on the subject of Australian ex-prisoners of war and their commemoration. I am prompted to do this following a recent visit to the electorate of Ballarat where, as part of a series of meetings with veterans’ groups around Australia, I was able to familiarise myself with the campaign to build a magnificent memorial to Australian ex-prisoners of war.

Many senators and others listening tonight may be aware that this project, which began in 1999, seeks to raise the funds necessary to build this monument in the Botanical Gardens beside Lake Wendouree. The proposed monument, designed by well-known sculptor Peter Blizzard, comprises a granite wall 130 metres long, on which will be engraved the names of all 34,737 Australians who fell captive to our enemies during war, from the time of the Boer War to Korea. For the record, it should be noted that, of that number, 104 were imprisoned in the Boer War, 4,044 during World War I, 30,560 during World War II, and 29 in Korea. In total, 8,600 died in captivity.

This is truly an outstanding proposal and deserves the support of all Australians. Let me quote the Memorial Appeal’s own description:

The POW monument’s design uses the basic idea of a journey through and an experience of time and place. The start of the pathway is long and straight heading off into the shape of railway sleepers, a reference to the Burma railway. Running parallel to the pathway is a polished granite wall, 130 metres long, etched with the names of all the Australian POWs. Standing in a reflective pool are huge basalt obelisks up to 4.5 metres high with the names of the POW camps. The columns are out of reach and across the water, symbolising that all the POW camps were far away from Australian shores. Further on there is another wall with the words Lest We Forget engraved, allowing for an area of contemplation and reflection after the journey.

As shadow minister for veterans’ affairs, I encourage all Australians to give generously in order that this wonderful concept be brought to fruition in memory of all those who suffered, including those who paid the ultimate price and never came home.

Much has been written on the torment of Australian POWs, especially those who suffered at the cruel hands of the Japanese throughout South-East Asia during World War II. Their ordeals continue to fire the imagination of later generations, building enormous respect and recognition for what was endured. More than any other feature of war, the recorded experiences go further than any other means to exemplify the futility and unnecessary suffering of war. They remind us of the susceptibility of man, when wrongly inspired, to transgress civilised values and of the need to seriously question the acts of those more inclined to fight and kill than to deal peaceably with the underlying aggravation. It is, however, not just a feature of the war in the Pacific, where Australians’ experiences of brutality were most numerous; it was also a feature, no doubt, of the behaviour of the Boers in Africa and of the Turks and the Germans in the Middle East and Europe. Hardship and suffering were endemic and, as we know, the Geneva conventions amounted to little in practice. As a nation, I would suggest that our recognition
of this hardship and suffering has been spasmodic.

In terms of the provision of care and benefits, we have for many years recognised, more than any other nation, the need to treat those who survived with great compassion. The gold card and the war widows pension are automatic. We also provide free nursing home care. The community at large regards POWs as having earned a special place. Our conscience, though, always pricks us as to whether any of this material care can ever be enough. We are particularly reminded of this question at times of commemoration. I would be remiss if I did not mention my own experience earlier this year when I accompanied the delegation of veterans to the anniversary of the fall of Singapore to the Japanese, from where the bulk of our POWs were drawn. What strikes one so deeply on occasions such as this is the impossibility for anyone not present at the time of the conflict to understand the depth and detail of the tragedy that confronted everyone captured at the time. Subsequent attempts to capture the events in literature or on film almost by definition fail to accurately portray the reality. It was of course highly dramatic, but it was of a scale that simply cannot be replicated. I think it is agreed that all attempts to recreate it in film—whether it be A Town Called Alice, King Rat or even Paradise Road—have certainly failed. It simply is not entertainment and never could be.

It does remain a matter of great wonderment and awe. We are fortunate to still have with us many of those who have survived. We are also fortunate to still have with us their widows and widowers, many of whom provided total care on the return of their loved ones, with little reward or recognition. Coping with the damaged bodies and minds of young men exposed to the most harrowing treatment possible was a task too great for a few, but one which meant a life of commitment by many.

It is indeed a matter of great regret that the current government, in a typical approach to these matters, chose to discriminate between POWs and their widows in the granting of the recent $25,000 announced in the 2000-01 budget. Again it would seem that the government, as all-knowing master of the universe, can distinguish between the suffering and hardship of those imprisoned by the Japanese and that of those imprisoned by the Germans. We can all freely acknowledge that many suffered and did not survive the Japanese cruelty. Many did not suffer to the same degree. However, ask the 5,200 who were captured in Greece and Crete how they were treated and you will find similar accounts of brutality, albeit fewer in number. The malnutrition, the beatings and the forced labour were ever present in Europe as well, and the Geneva conventions were equally disregarded.

I make this point simply because, while we freely acknowledge the bestiality of what was inflicted by the Japanese on our own men—particularly on the Burma railroad, at Sandakan, at many points of capture where execution was summary and in the forced labour camps in Japan—not only is distinguishing between degrees of suffering ghoulish but it provides a direct comment by government of the worth of one group over another. Yet this outrageous discrimination persists. This is simply unacceptable and very un-Australian. In closing, I again commend the attention of the senate and of our fellow Australians to the fundraising efforts of the Ballarat prisoners of war memorial committee. It is a great cause, and I urge everyone to donate most generously.

Senate adjourned at 7.17 p.m.

DOCUMENTS

Tabling

The following government documents were tabled:


Australian Broadcasting Authority—Online content co-regulatory scheme—Report for the period 1 July to 31 December 2001.

Tabling

The following documents were tabled by the Clerk:

Aged Care Act—

Accreditation Grant Amendment Principles 2002 (No. 1).
Information Amendment Principles 2002 (No. 1).
Customs Act—CEO Instruments of Approval Nos 24-38 of 2002.

Lands Acquisition Act—Statements describing property acquired by agreement under sections 40 and 125 of the Act for specified public purposes [2].
Therapeutic Goods Act—Therapeutic Goods Order No. 67A.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Small Business: Australian Business Number**

*(Question No. 177)*

**Senator Murray** asked the Minister for Revenue and Assistant Treasurer, upon notice, on 8 March 2002:

According to the Australian Taxation Office, how many small businesses are there in each state and territory (using the small business classifications arising from registrations under the Australian Business Number program, the goods and services tax and the like.)

**Senator Coonan**—The answer to the honourable senator’s question is as follows:

As at 28 March 2002 the numbers of small businesses in Australia with an Australian business number (ABN) with an “active” status is as set out in the table below:

<table>
<thead>
<tr>
<th>State/Territory</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW</td>
<td>1,120,336</td>
</tr>
<tr>
<td>VIC</td>
<td>829,586</td>
</tr>
<tr>
<td>QLD</td>
<td>620,801</td>
</tr>
<tr>
<td>WA</td>
<td>348,190</td>
</tr>
<tr>
<td>SA</td>
<td>244,864</td>
</tr>
<tr>
<td>TAS</td>
<td>63,805</td>
</tr>
<tr>
<td>ACT</td>
<td>45,682</td>
</tr>
<tr>
<td>NT</td>
<td>26,877</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>3,300,141</strong></td>
</tr>
</tbody>
</table>

Notes:

In defining a small business

1. All over $20M turnover cases (at registration) have been excluded
2. All entities indicating non-profit (at registration) have been excluded
3. All Super Fund and Government client types have been excluded
4. Only currently active (as at 28/3/2002) ABN registrations are included
5. The allocation to a state or territory has been made by the state code on the business address recorded on the relevant entity’s ABN

It should be noted that a business is only required by law to be registered for the GST when its annual turnover is or is expected to be greater than $50,000 (NB: a special turnover threshold applies to Taxi operators).

Further, it should also be noted that it is not mandatory that a business applies for an ABN and as a result some Australian businesses do not have an ABN. The numbers of non ABN businesses is not known.

**Forestry: Prepayments**

*(Question No. 245)*

**Senator Brown** asked the Minister for Revenue and Assistant Treasurer, upon notice, on 15 April 2002:

With reference to the revenue impact of the forestry prepayments under Taxation Laws Amendment Bill (No. 1) 2002:

(1) Is it correct, as stated in the explanatory memorandum to the bill, that industry and independent estimates place the presence or absence of the prepayment rule at 50,000 to 60,000 hectares per annum.

(2) Is it correct, as stated in the explanatory memorandum to the bill, that the cost to revenue resulting from the prepayment measure is estimated to be $25 million in 2002-2003, $5 million in 2003-2004, nil in 2004-2005 and $25 million in 2005-2006 and each year thereafter.

(3) In assessing the cost to revenue of the measure what did the Minister assume to be the tax deductible costs over the life of the plantation.
(4) Using the figures in parts (1), (2) and (3), what is the cost of the measure in each of the next five years assuming: (a) a marginal tax rate of 37 per cent; and (b) a marginal tax rate of 50 per cent.

(5) With reference to the response provided to questions raised by Senator Murphy by Julia Neville from the Ministers office, dated 21 March 2002: (a) what is included in the entire amount of investment in the forestry industry (estimated at $560 to $700 million per annum); and (b) why does it differ from the actual investment in forestry plantations in 2000-01 (stated to be $200 million).

(6) Can the analysis be provided of marginal tax rates of taxpayers likely to invest in schemes which supports the assertion that a marginal tax rate of 37 per cent is appropriate for these calculations.

(7) Does the Minister agree that the following costs are representative for the purposes of estimating the cost of the measure establishment cost $5 069 per hectare, total cost over 11 years $9 286 per hectare (Lonsdale Securities Ltd, mean costs for nine eucalypt pulpwood prospectus projects).

Senator Coonan—The answer to the honourable senator’s question is as follows:

(1) The industry estimates relate to the 13 month prepayment rule which was removed in the Review of Business Taxation.

(2) Yes.

(3) The tax deductible costs of forestry managed investment schemes were estimated at $5,000 per hectare.

(4) The cost of the measure, assuming an average marginal tax rate of 37 per cent, was estimated to be $25 million in 2002-03, $5 million in 2003-04, nil in 2004-05 and $25 million in 2005-06. If a higher marginal tax rate was assumed, the estimated cost of the measure would be higher.

(5) (a) The costing assumed a base of $200m investment in forestry managed investment schemes reflecting the actual level of investment provided by the Department of Agriculture, Fisheries and Forestry Australia.

(b) Senator Murphy estimated the level of investment to be between $560m and $700m. I am not aware of the source of the Senator’s estimate.

(6) The costing assumed that the majority of investors in managed investment schemes would be taxpayers who incurred a business loss but did not earn any business income. An analysis of tax return data showed that the average tax benefit from business losses for these taxpayers was 37%.

(7) For the purposes of the costing, it was assumed that the average establishment cost is $5,000 per hectare. Other costs of investment are not deductible under the measure.

Superannuation: Revenue

(Question No. 303)

Senator Sherry asked the Minister for Revenue and Assistant Treasurer, upon notice, on 14th May 2002:

(1) What was the revenue raised from superannuation contributions tax (excluding the surcharge) for the financial years 1996-97 to 2000-01.

(2) (a) What is the projected revenue to be raised from superannuation contributions tax (excluding the surcharge) for the financial years 2001-02 to 2004-05; and (b) what are the projections for the next 40 years (reported on a 5-yearly basis).

(3) What was the revenue raised from the superannuation surcharge for the financial years 1996-97 to 2000-01.

(4) (a) What is the projected revenue to be raised from the superannuation surcharge for the financial years 2001-02 to 2004-05; and (b) what are the projections for the next 40 years (reported on a 5-yearly basis).

(5) What was the revenue raised from superannuation exit taxes for the financial years 1996-97 to 2000-01.

(6) (a) What is the projected revenue to be raised from superannuation exit taxes for the financial years 2001-02 to 2004-05; and (b) what are the projections for the next 40 years (reported on a 5-yearly basis).
(7) (a) What was the amount of salary sacrificed for superannuation for the financial years 1996-97 to 2000-01; and (b) what revenue was lost as a result.

(8) (a) What is the projected amount of salary sacrificed for superannuation for the financial years 2001-02 to 2004-05; (b) what are the projections for the next 40 years (reported on a 5-yearly basis); and (c) what revenue will be lost as a result.

(9) What was the revenue lost as a result of concessional contributions tax for the financial years 1996-97 to 2000-01.

(10) (a) What is the projected revenue loss as a result of concessional contributions tax for the financial years 2001-02 to 2004-05; and (b) what are the projections for the next 40 years (reported on a 5-yearly basis).

(11) What was the cost of the Senior Australians Tax Offset for the financial year 2000-01.

(12) (a) What is the projected cost of the Senior Australians Tax Offset for the financial years 2001-02 to 2004-05; and (b) what are the projections for the next 40 years (reported on a 5-yearly basis).

(13) What was the cost of the 15 per cent rebate for allocated annuities and pensions for the financial years 1996-97 to 2000-01.

(14) (a) What is the projected cost of the 15 per cent rebate for allocated annuities and pensions for the financial years 2001-02 to 2004-05; and (b) what are the projections for the next 40 years (reported on a 5-yearly basis).

**Senator Coonan**—The answer to the honourable senator’s question is as follows:

(1) Contributions and earnings are not taxed separately but are included as income against which deductions are claimed to derive a superannuation fund’s taxable income. Tax on contributions to superannuation funds is not calculated separately from tax on investment earnings.

(2) (a) and (b) This information is not available.

(3)

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<thead>
<tr>
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<th></th>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>Superannuation surcharge</td>
<td>$0m</td>
<td>$347m</td>
<td>$286m</td>
<td>$577m</td>
<td>$690m</td>
</tr>
</tbody>
</table>

Source: 2002-03 Budget Paper Number 1, Table B2

No surcharge was collected in 1996/97.

(4) (a)

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<tr>
<th></th>
<th>2001/02</th>
<th>2002/03</th>
<th>2003/04</th>
<th>2004/05</th>
<th>2005/06</th>
</tr>
</thead>
<tbody>
<tr>
<td>Superannuation surcharge</td>
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<td>$810m</td>
<td>$790m</td>
<td>$750m</td>
<td>$700m</td>
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Source: 2002-03 Table B2, Budget Paper Number 1, 2002-03

This information is not available.

(5)

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<tr>
<td>Tax on unfunded lump sums</td>
<td>$370m</td>
<td>$370m</td>
<td>$370m</td>
<td>$370m</td>
<td>$370m</td>
</tr>
<tr>
<td>Tax on funded lump sum before 1/7/83</td>
<td>$30m</td>
<td>$30m</td>
<td>$25m</td>
<td>$25m</td>
<td>$20m</td>
</tr>
<tr>
<td>Tax on funded lump sum from 1/7/83</td>
<td>$320m</td>
<td>$400m</td>
<td>$380m</td>
<td>$400m</td>
<td>$420m</td>
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(a)

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<tr>
<td>Tax on unfunded lump sums</td>
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<td>$370m</td>
<td>$370m</td>
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<tr>
<td>Tax on funded lump sum before 1/7/83</td>
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<td>$’m</td>
<td>$’m</td>
<td>$’m</td>
<td>$’m</td>
<td>$’m</td>
</tr>
<tr>
<td>Under taxation of employer contributions #</td>
<td>3,770</td>
<td>3,820</td>
<td>4,250</td>
<td>4,550</td>
<td>4,300</td>
</tr>
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</table>

# Includes the revenue impact of the surcharge on high income earners
Source: Treasury 2001 Tax Expenditures Statement Table B1

(a) and (b) This information is not available.

(10) (a)  
<table>
<thead>
<tr>
<th>Year</th>
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<th>2002/03</th>
<th>2003/04</th>
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<td>$’m</td>
<td>$’m</td>
<td>$’m</td>
<td>$’m</td>
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<tr>
<td>Under taxation of employer contributions #</td>
<td>4,530</td>
<td>5,080</td>
<td>5,340</td>
<td>5,610</td>
</tr>
</tbody>
</table>

# Includes the revenue impact of the surcharge on high income earners
Source: Treasury 2001 Tax Expenditures Statement Table B1

(b) This information is not available.

(11) The cost of the Senior Australia Tax Offset for the 2000/01 financial year was estimated as $1,340m.
Source: Treasury 2001 Tax Expenditures Statement Table 5.1 A42.

(a)  
<table>
<thead>
<tr>
<th>Year</th>
<th>2001/02</th>
<th>2002/03</th>
<th>2003/04</th>
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<td>$’m</td>
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<tr>
<td>Senior Australian Tax Offset</td>
<td>1,390</td>
<td>1,440</td>
<td>1,500</td>
<td>1,600</td>
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</table>

Source: Treasury 2001 Tax Expenditures Statement Table 5.1 A42

(b) This information is not available.

(13)  
<table>
<thead>
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<tbody>
<tr>
<td>$’m</td>
<td>$’m</td>
<td>$’m</td>
<td>$’m</td>
<td>$’m</td>
<td>$’m</td>
</tr>
<tr>
<td>Annuity/pension rebate claimed</td>
<td>322</td>
<td>342</td>
<td>390</td>
<td>NA</td>
<td>NA</td>
</tr>
<tr>
<td>Superannuation contribution &amp; annuity rebate claimed</td>
<td>4</td>
<td>4</td>
<td>6</td>
<td>NA</td>
<td>NA</td>
</tr>
</tbody>
</table>

Source: Taxation Statistics 1996-97 Table 11, 1997-98 Table 10, 1998-99 Table 8

(14) (a) and (b) This information is not available.

**Taxation: Superannuation Guarantee**

(Question No. 307)

**Senator Sherry** asked the Minister for Revenue and Assistant Treasurer, upon notice, on 14 May 2002:
With reference to an answer to a question taken on notice during additional estimates hearings, in which the Minister informed the Economics Legislation Committee that the Australian Taxation Office had conducted 141 prosecutions (involving 177 charges) in respect of superannuation guarantee matters over the financial years 1996-97 to 2000-01, and that from 1 July 2001 to mid-February 2002, there were 10 prosecutions involving 10 charges:

1. How many prosecutions have been commenced since mid-February 2002.
2. Can a breakdown be provided of the outcomes from this total of 151 prosecutions involving 187 charges from 1996-97 to mid-February 2002 as well as any subsequent prosecutions.
3. In the period from 1996-97 until mid-February 2002, how many employers have been the subject of employee notifications of insufficient employer contributions.
4. Since mid-February 2002, how many employers have been the subject of employee notifications of insufficient employer contributions.

Senator Coonan—The answer to the honourable senator’s question is as follows:

1. From 14 February 2002 up to 31 May 2002 the ATO issued 747 formal notices to employers in accordance with section 77 of the Superannuation Guarantee (Administration) Act 1992 (SGAA). These notices generally require an employer to provide information to the Commissioner as part of an ATO audit for Superannuation Guarantee purposes. The response by employers to the formal notices has been good. However, during this period 37 employers have been referred to the ATO’s prosecutions area for further action. At the end of May 2002 four employers had been convicted and fined for failing to comply with the section 77 notice and lodge the required information with the Commissioner. Individual fines have ranged from $250 to $750.

2. The breakdown is as follows:

<table>
<thead>
<tr>
<th>FYEAR</th>
<th>PROSECUTIONS</th>
<th>CHARGES</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>63</td>
<td>75</td>
</tr>
<tr>
<td>1998</td>
<td>59</td>
<td>79</td>
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<td>1999</td>
<td>14</td>
<td>18</td>
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<td>2000</td>
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<td>2001</td>
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</tr>
<tr>
<td>2002 (to mid Feb)</td>
<td>10</td>
<td>10</td>
</tr>
<tr>
<td>2002 (from mid Feb to end May)</td>
<td>4</td>
<td>4</td>
</tr>
</tbody>
</table>

3. From 1 July 1996 until 14 February 2002 there have been employee notifications of insufficient employer contributions in respect of 38,548 employers.

4. From 15 February 2002 until 30 May 2002 there have been employee notifications of insufficient employer contributions in respect of 2,359 employers.

Fuel: Excise

(Question No. 317)

Senator Ludwig asked the Minister for Revenue and Assistant Treasurer, upon notice, on 16 May 2002:

(a) How much revenue has been forgone to the Commonwealth through the non-payment of excise duty on fuel for the vessel CSL Pacific; and

(b) What is the total amount forgone by all foreign vessels operating on single or continuing voyage permits in each year since 1996.

Senator Coonan—The answer to the honourable senator’s questions are as follows:

(a) The Commissioner of Taxation advises that the Australian Taxation Office (ATO) does not monitor individual sales of fuel to vessels and cannot quantify how much fuel has been sold to the vessel CSL Pacific.

(b) The Commissioner of Taxation further advises that excise duties are not payable by foreign vessels operating on an international voyage and the ATO does not calculate the amount of duty forgone for international voyages.
Taxation: Mass Marketed Schemes
(Question No. 340)

Senator Harris asked the Minister for Revenue and Assistant Treasurer, upon notice, on 22 May 2002:

1. How many Australian Taxation Office (ATO) employees, staff or management, personally or through an adviser, are investors in mass-marketed tax effective schemes.
2. What schemes are involved in (1).
3. Will those schemes in (1) receive favourable treatment when being re-assessed by the ATO.
4. Do ATO officers receive bonuses; if so, are bonuses paid on the issuing of re-assessment notices relating mass-marketed tax effective schemes.

Senator Coonan—The answer to the honourable senator’s question is as follows:

1. and (2) The Commissioner of Taxation has advised me that due to secrecy and privacy issues he is not prepared to release the information requested. He added that he would not release any similar information requested on a ‘per employer’ basis.

3. No. All schemes considered to be mass marketed and fitting within parameters outlined by the Senate Economics References Committee Inquiry into Mass Marketed Schemes and Investor Protection are receiving the same treatment. That is, eligible investors who settle are entitled to a deduction for the actual cash outlaid, with nil penalty and interest and two years interest free, provided they enter into an agreed payment arrangement.

4. The ATO is party to industrial agreements which provide eligible officers with access to performance pay through a performance management system. Performance pay is based on the employee’s annual appraisal which includes an assessment against business outcomes. Payments are not made based on a criterion involving numbers of amendments issued to mass marketed scheme participants.

Education: Veterinary Science
(Question No. 366)

Senator O’Brien asked the Minister representing the Minister for Education, Science and Training, upon notice, on 13 June 2002:

1. (a) Which Australian universities offer undergraduate courses which can directly result in students graduating with a Bachelor of Veterinary Science degree; and (b) where are they located.

2. (a) Which Australian universities offer postgraduate courses which can directly result in students graduating with a Master of Veterinary Science degree or higher veterinary degree; and (b) where are they located.

3. How many places are currently available at Australian universities in undergraduate courses which can directly result in students graduating with a Bachelor of Veterinary Science degree.

4. How many places are currently available at Australian universities in postgraduate courses which can directly result in students graduating with a Master of Veterinary Science degree or higher veterinary degree.

5. For each of the past 5 financial years, how many places have been available at Australian universities in undergraduate courses which could directly result in students graduating with a Bachelor of Veterinary Science degree.

6. For each of the past 5 financial years, how many places have been available at Australian universities in postgraduate courses which could directly result in students graduating with a Master of Veterinary Science degree or higher veterinary degree.

7. How many fully federally-funded places are currently available at Australian universities in undergraduate courses which can directly result in students graduating with a Bachelor of Veterinary Science degree.

8. How many fully federally-funded places are currently available at Australian universities in postgraduate courses which can directly result in students graduating with a Master of Veterinary Science degree or higher veterinary degree.
(9) For each of the past 5 financial years, how many fully federally-funded places have been available at Australian universities in undergraduate courses which can directly result in students graduating with a Bachelor of Veterinary Science degree.

(10) For each of the past 5 financial years, how many fully federally-funded places have been available at Australian universities in postgraduate courses which can directly result in students graduating with a Master of Veterinary Science degree or higher veterinary degree.

Senator Alston—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

(1) (a) & (b) University of Queensland Brisbane, Queensland
University of Sydney Sydney, New South Wales
University of Melbourne Melbourne, Victoria
Murdoch University Perth, Western Australia

(2) (a) & (b) University of Queensland Brisbane, Queensland
James Cook University Townsville, Queensland
University of Sydney Sydney, New South Wales
University of Adelaide Adelaide, South Australia
University of Melbourne Melbourne, Victoria
Murdoch University Perth, Western Australia

(3) Under the Higher Education Funding Act 1988, the Commonwealth’s role with regard to higher education lies primarily in the provision of block grant funding to universities for a specified number of student places consistent with each institution’s teaching and research activities. As universities are autonomous institutions, generally established under State legislation, the allocation of funding between various activities is an internal matter for the university to determine on the basis of its own assessment of needs and priorities.

Given these considerations, the allocation of both undergraduate and postgraduate places for the current academic year for veterinary science is an internal matter for each university to decide. Universities are self-accrediting with respect to courses and they determine their own entrance requirements in addition to making decisions about the places they will offer and in which courses they will be offered.

(4) See (3).

(5) While it is not possible to give a breakdown of the number of places allocated by the universities, see (3) above, the number of students enrolled in Bachelor of Veterinary Science (honours and pass) degrees in the calendar years 1997 to 2001 was:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>1,316</td>
</tr>
<tr>
<td>1998</td>
<td>1,401</td>
</tr>
<tr>
<td>1999</td>
<td>1,465</td>
</tr>
<tr>
<td>2000</td>
<td>1,566</td>
</tr>
<tr>
<td>2001</td>
<td>1,622</td>
</tr>
</tbody>
</table>

(6) While it is not possible to give a breakdown of the number of places allocated by the universities, see (3) above, the number of students enrolled in a Veterinary Science higher degrees Science (Masters by coursework, Masters by research, Doctorate by research and Higher Doctorate) in the calendar years 1997 to 2001 was:

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997</td>
<td>311</td>
</tr>
<tr>
<td>1998</td>
<td>296</td>
</tr>
<tr>
<td>1999</td>
<td>297</td>
</tr>
<tr>
<td>2000</td>
<td>290</td>
</tr>
<tr>
<td>2001</td>
<td>261</td>
</tr>
</tbody>
</table>

(7) Under the Higher Education Funding Act 1988, the Commonwealth’s role with regard to higher education lies primarily in the provision of block grant funding to universities for a specified number of student places consistent with each institution’s teaching and research activities. As univer-
sities are autonomous institutions, generally established under State legislation, the allocation of funding between various activities is an internal matter for the university to determine on the basis of its own assessment of needs and priorities.

Given these considerations, the allocation of both undergraduate and postgraduate Commonwealth fully funded places for veterinary science is an internal allocation matter for the university to decide. Universities are self-accrediting with respect to courses and they determine their own entrance requirements in addition to making decisions about the fee-paying places they will offer and in which courses they will be offered.

See (7)

See (7)

See (7)

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**Defence: Personnel Management Key Solution Software Package**  
(Question No. 416)

**Senator Chris Evans** asked the Minister for Defence, upon notice, on 9 July 2002:

With reference to the introduction of the Personnel Management Key Solution (PMKeyS) software package:

1. Can a list of all contracts associated with the introduction of PMKeyS be provided, including for training and consultancies, indicating the organisation contracted, the goods or services provided under the contract, the total value of the contract and the start and end dates for the contract.

2. At the recent estimates hearing of the Foreign Affairs, Defence and Trade Legislation Committee it was indicated that ‘direct’ costs for the project were likely to be $70 million: (a) what is covered by the term ‘direct’ costs; and (b) what other goods or services associated with the implementation of PMKeyS would not be covered by the term ‘direct’ costs.

3. To date, what is the total amount spent, both on direct and indirect costs, on the introduction of PMKeyS.

4. What is the latest estimate for the total cost, including direct and indirect costs, of introducing PMKeyS.

5. (a) What problems were reported on the introduction of PMKeyS for civilian employees; and (b) how many faults were reported.

**Senator Hill**—The answer to the honourable senator’s question is as follows:

1. 

<table>
<thead>
<tr>
<th>Company</th>
<th>Amount</th>
<th>Start Date</th>
<th>Finish Date</th>
<th>Nature of Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>Acumen Alliance</td>
<td>44,839</td>
<td>Sept 01</td>
<td>Dec 01</td>
<td>PMKeyS/Roman data integrity testing</td>
</tr>
<tr>
<td>Alliance Consulting</td>
<td>13,320</td>
<td>Sept 99</td>
<td>Sept 99</td>
<td>Data entry for testing</td>
</tr>
<tr>
<td>Azimuth</td>
<td>40,992</td>
<td>Nov 99</td>
<td>Nov 99</td>
<td>Phase 1 Post Implementation Review</td>
</tr>
<tr>
<td>Burnbax</td>
<td>3,247</td>
<td>Nov 97</td>
<td>Jan 98</td>
<td>Recruiting of Project staff</td>
</tr>
<tr>
<td>CCFMG</td>
<td>19,400</td>
<td>May 99</td>
<td>May 99</td>
<td>Review release of civilian payroll and personnel administration</td>
</tr>
<tr>
<td>ComTech</td>
<td>12,363</td>
<td>Jan 01</td>
<td>Feb 01</td>
<td>Development network support</td>
</tr>
<tr>
<td>Crain</td>
<td>38,020</td>
<td>Sept 01</td>
<td>Oct 01</td>
<td>Provision of data acquisition services</td>
</tr>
<tr>
<td>DA Consulting Group</td>
<td>3,707,938</td>
<td>Jan 00</td>
<td>Jul 02</td>
<td>Development and delivery of PMKeyS training packages</td>
</tr>
<tr>
<td>Dorothy Outram &amp; Associates</td>
<td>17,518</td>
<td>Dec 97</td>
<td>Jun 98</td>
<td>Communications management</td>
</tr>
<tr>
<td>Effective People</td>
<td>1,423</td>
<td>Aug 01</td>
<td>Aug 01</td>
<td>Staff training courses</td>
</tr>
<tr>
<td>F1 Solutions</td>
<td>4,000</td>
<td>May 01</td>
<td>May 01</td>
<td>Maintenance of PMKeyS IDAS registration database</td>
</tr>
<tr>
<td>GemTech</td>
<td>566,050</td>
<td>May 00</td>
<td>Dec 01</td>
<td>Performance testing</td>
</tr>
</tbody>
</table>
(2) (a) Direct costs are costs that can clearly be traced to a cost object, in this case, the PMKeyS project.

(b) Indirect costs are costs or outlays that cannot be identified specifically with or traced directly to a given activity or cost object by an economically feasible method, sometimes referred to in Defence as departmental overheads/on-costs. These costs do not fluctuate in total and directly with any change in cost drivers. Indirect costs include such costs as overhead expenses for general administration, and costs associated with the use of infrastructure such as building, heating, cleaning, fuel, light and power etc.

(3) Direct costs incurred by the PMKeyS project for the period ending 30 June 2002 are $59.225m comprising of APS employee expenses $5.004m, consultant/contractor support $47.122m and other admin and licence/maintenance fees expenses $7.099m (excludes depreciation).

The indirect cost attributed to the PMKeyS project for the period ending 30 June 2002 is $2.556m.
(4) The latest estimate for the total direct costs for the PMKeyS project is $73.711m comprising of APS Employee expenses of $6.764m, consultant/contractor support $58.772m and other admin expenses and licence/maintenance fees $8.175m. The estimated total indirect cost attributed to the PMKeyS project is $3.322m.

(5) (a) An independent Post Implementation Review of PMKeyS Phase 1 (Civilian HR and Payroll) was conducted by Management Audit Branch (Report No: IT01C144). The following is a summary of the major findings identified in the report on the introduction of PMKeyS for civilian employees:
   (i) Access security was initially insufficient;
   (ii) System performance problems with programs deadlocking and timing out;
   (iii) Management reports containing inaccurate or incomplete data;
   (iv) Incorrect leave calculations;
   (v) Retrospective processing of transactions being a manually intensive process;
   (vi) Process of salaries and pay advices for overseas members being highly manually intensive; and
   (vii) Compensation calculations were incorrect under some circumstances.

(b) In the six months post the implementation of PMKeyS for civilian employees (Phase 1) there were 10 software releases into the production environment. Part of these releases were 22 fixes to software faults reported on implementation.

Defence: Aircraft Weapons
(Question No. 419)

Senator Chris Evans asked the Minister for Defence, upon notice, on 10 July 2002:
With reference to the weapons carried by the F-111s:
(1) What weapons (missiles or bombs) are deployable on the F-111 but not on the F/A-18.
(2) For each of these weapons, can a description be provided of its capability, purpose and cost.
(3) Is the AGM-142 a weapon that can be deployed on the F-111 but not on the F/A-18.
(4) What is the total stock of weapons (not individually) that can be deployed on the F-111 but not on the F/A-18.

Senator Hill—The answers to the honourable senator’s questions is as follows:
(1) The AGM-84 Harpoon and GBU-24 are the only weapons or missiles that can be deployed on the F-111 but not on the F/A-18.
(2) Unit cost of weapons is classified. The capability and purpose of these weapons/missiles are as follows:
   (a) For the AGM-84 Harpoon:
      (i) The AGM-84 is a medium range, over the horizon anti-ship, sea skimming cruise missile employing a radar homing seeker. The missile has a 222kg high explosive blast penetration warhead.
      (ii) The missile provides the Royal Australian Air Force (RAAF) and the Navy with a potent anti-ship missile capability with the capacity to attack ships from in excess of 60nm.
   (b) For the GBU-24:
      (i) The GBU-24 is an unpowered, low-level laser guided weapon. GBU-24 uses the Paveway III laser guidance kit and can be assembled with either the Mk-84 or BLU-109 2,000lb bomb.
      (ii) The bomb provides the RAAF with a precision strike capability to attack high value, fixed and mobile targets from ranges in excess of 10nm.
(3) The AGM-142 cannot be deployed on the F-111. The RAAF is currently undertaking flight clearance and release activities and once completed will enable the weapon to be deployed on F-111. There are no plans to clear the weapon for release on the F/A-18.
(4) Australian weapon stock numbers are classified.
Wide Bay Electorate: Program Funding

(Question No. 447)

Senator O’Brien asked the Minister for Revenue and Assistant Treasurer, upon notice, on 10 July 2002:

(1) What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Wide Bay.

(2) What was the level of funding provided through these programs and/or grants for the 1999-2000, 2000-01 and 2001-02 financial years.

(3) Where specific projects were funded: (a) what was the location of each project; (b) what was the nature of each project; and (c) what was the level of funding for each project.

Senator Coonan—The Treasurer has provided the following answer to the honourable senator’s question:

(1) The department of the Treasury does not administer any grants or programs directly to the federal electorate of Wide Bay. All administered grants and/or programs from the department of the Treasury are directly to state governments.

(2) N/a

(3) N/a

Trade: Live Animal Exports

(Question No. 457)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 11 July 2002:

(1) In Australian dollars, for each of the past 5 financial years, what was the total value of live sheep and cattle exports from Australia.

(2) What was the total number of head of sheep and cattle exports from Australia for each of the past 5 financial years.

(3) Which five ports of destination took the most live sheep and cattle exports from Australia in terms of heads of animals for each of the past 5 financial years.

(4) At which Australian ports are cattle and sheep loaded for live export.

(5) What is the length of the ocean voyage, in terms of time and distance in kilometres, from each Australian port at which cattle and sheep are loaded for live export to each of the five ports of destination which took the most live exports of sheep and cattle from Australia in terms of head over the past financial year.

(6) How many jobs within Australia are directly dependent upon the livestock export trade.

(7) What are the current requirements imposed by the Commonwealth Government on livestock exporters in terms of animal health during the voyage, specifically: (a) what is the minimum regulatory ratio requirement of veterinary surgeons per head of animals; (b) how is the performance of shippers in terms of the ratio of veterinary surgeons per head of animals monitored by the Federal Government; (c) what are the current penalties for shippers found not to comply with the Federal Government’s regulations as to this ratio; and (d) have these penalties been altered since 1 January 1998; and if so, how.

(8) What steps have been taken by the Federal Government and/or the industry to ensure animal welfare during live export since 1 January 1998.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1)

<table>
<thead>
<tr>
<th>Year</th>
<th>Cattle Total Value $m</th>
<th>Sheep Total Value $m</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996/1997</td>
<td>$445</td>
<td>$193</td>
</tr>
<tr>
<td>1997/1998</td>
<td>$352</td>
<td>$200</td>
</tr>
<tr>
<td>1998/1999</td>
<td>$350</td>
<td>$188</td>
</tr>
</tbody>
</table>
Cattle

<table>
<thead>
<tr>
<th>Year</th>
<th>Total Value $m</th>
<th>Total Value $m</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999/2000</td>
<td>$439</td>
<td>$185</td>
</tr>
<tr>
<td>2000/2001</td>
<td>$497</td>
<td>$264</td>
</tr>
</tbody>
</table>

Note: Source – Australian Bureau of Statistics Report

<table>
<thead>
<tr>
<th>Year</th>
<th>Cattle Total Exported</th>
<th>Sheep Total Exported</th>
</tr>
</thead>
<tbody>
<tr>
<td>1996/1997</td>
<td>895,283</td>
<td>5,298,954</td>
</tr>
<tr>
<td>1997/1998</td>
<td>722,796</td>
<td>5,109,131</td>
</tr>
<tr>
<td>1998/1999</td>
<td>729,899</td>
<td>5,032,783</td>
</tr>
<tr>
<td>1999/2000</td>
<td>853,809</td>
<td>4,948,186</td>
</tr>
<tr>
<td>2000/2001</td>
<td>861,132</td>
<td>6,032,507</td>
</tr>
</tbody>
</table>

Note: Source – Australian Bureau of Statistics Report

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Indonesia</td>
<td></td>
<td>Kazakhstan</td>
</tr>
<tr>
<td>2</td>
<td>Philippines</td>
<td></td>
<td>Saudi Arabia</td>
</tr>
<tr>
<td>3</td>
<td>Egypt</td>
<td></td>
<td>Jordan</td>
</tr>
<tr>
<td>4</td>
<td>Malaysia</td>
<td></td>
<td>Denmark</td>
</tr>
<tr>
<td>5</td>
<td>Libya</td>
<td></td>
<td>Oman</td>
</tr>
</tbody>
</table>

Note: Source – Australian Bureau of Statistics Report


Export Ports-Live Cattle

<table>
<thead>
<tr>
<th>Port of Destination</th>
<th>West Coast Nmiles</th>
<th>East Coast Nmiles</th>
<th>West Coast Days</th>
<th>East Coast Days</th>
</tr>
</thead>
<tbody>
<tr>
<td>Brisbane</td>
<td>1763</td>
<td>3247</td>
<td>6</td>
<td>11</td>
</tr>
<tr>
<td>Broome</td>
<td>2971</td>
<td>4455</td>
<td>10</td>
<td>15</td>
</tr>
<tr>
<td>Darwin</td>
<td>6214</td>
<td>7698</td>
<td>21</td>
<td>26</td>
</tr>
<tr>
<td>Fremantle</td>
<td>2555</td>
<td>4039</td>
<td>9</td>
<td>14</td>
</tr>
<tr>
<td>Karumba</td>
<td>6963</td>
<td>8447</td>
<td>23</td>
<td>28</td>
</tr>
</tbody>
</table>

Note: Source – AQIS

Cattle Exports

<table>
<thead>
<tr>
<th>Port of Destination</th>
<th>Approx. Nmiles from Aust</th>
<th>Approx. Days from Aust</th>
</tr>
</thead>
<tbody>
<tr>
<td>Indonesia</td>
<td>1763</td>
<td>6</td>
</tr>
<tr>
<td>Philippines</td>
<td>2971</td>
<td>10</td>
</tr>
<tr>
<td>Egypt</td>
<td>6214</td>
<td>21</td>
</tr>
<tr>
<td>Malaysia</td>
<td>2555</td>
<td>9</td>
</tr>
<tr>
<td>Libya</td>
<td>6963</td>
<td>23</td>
</tr>
</tbody>
</table>

Note: Source – AMSA ‘Veson Distance Table Calculation’ for relevant ports.
Sheep Exports

<table>
<thead>
<tr>
<th>Port of Destination</th>
<th>Approx. Nmiles West Coast</th>
<th>from Aust</th>
<th>Approx. Days West Coast</th>
<th>from Aust</th>
<th>Approx. Nmiles East Coast</th>
<th>from Aust</th>
<th>Approx. Days East Coast</th>
<th>from Aust</th>
</tr>
</thead>
<tbody>
<tr>
<td>Saudi Arabia</td>
<td>5,247</td>
<td>6,731</td>
<td>18</td>
<td>23</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Kuwait</td>
<td>5,391</td>
<td>6,875</td>
<td>18</td>
<td>23</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>UAE</td>
<td>4,698</td>
<td>6,452</td>
<td>17</td>
<td>22</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jordan</td>
<td>6,154</td>
<td>7,638</td>
<td>23</td>
<td>28</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Oman</td>
<td>5,749</td>
<td>7,233</td>
<td>20</td>
<td>25</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: Source – AMSA ‘Veson Distance Table Calculation’ for relevant ports.

Note:

1. Shipping distances provided in nautical miles.
2. Distances provided from West Coast (Fremantle) and East Coast (Portland).
3. Travel time based on average speed of 13 nautical miles per hour.

(6) The recent industry funded report “Assessment of Contribution, Livestock Export Industry 2000 – Hassall & Associates” identified that approximately 9,080 jobs were directly or indirectly associated with the livestock export trade.

(7) (a) Under the AMLI (Live Sheep Exports to Saudi Arabia) Order 2000, made pursuant to the Australian Meat and Livestock Industry (AMLI) Act, veterinarians are required to accompany consignments of live sheep destined for Saudi Arabia.

(b) See answer 7 (a).

(c) Unless a veterinarian accompanies each shipment of live sheep to Saudi Arabia, the export is not approved by AQIS.

(d) See answer 7 (c).

(8)

<table>
<thead>
<tr>
<th>Year</th>
<th>Federal Government/Industry activity to ensure welfare during live export</th>
</tr>
</thead>
<tbody>
<tr>
<td>1998</td>
<td>1. AQIS Direction 98/045 - required AQIS approved veterinarian to accompany cattle consignments to Middle East and North Africa.</td>
</tr>
<tr>
<td></td>
<td>3. Industry Livestock Export Accreditation Program (LEAP) was implemented.</td>
</tr>
<tr>
<td>1999</td>
<td>1. AQIS Direction 99/020 - requiring either an AQIS approved veterinarian or an accredited stockman to accompany cattle consignments to Middle East and North Africa.</td>
</tr>
<tr>
<td></td>
<td>2. Implementation of Industry Accredited Stockman - Shipboard Program.</td>
</tr>
<tr>
<td></td>
<td>3. AMLI (Live Sheep Exports to Saudi Arabia) Order 1999 - required a veterinarian to accompany exports of sheep to Saudi Arabia.</td>
</tr>
<tr>
<td></td>
<td>2. AQIS and industry prepare draft conditions for the export of pregnant cattle.</td>
</tr>
<tr>
<td>2002</td>
<td>1. AMLI Order LC2/98 amended to restrict the export of cattle from ports south of the 26th parallel to ports in the Persian Gulf during the months of May to October, inclusive, effective 18 July 2002.</td>
</tr>
</tbody>
</table>