INTERNET

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

SITTING DAYS—2002

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

RADIO BROADCASTS

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

    CANBERRA       1440 AM
    SYDNEY         630 AM
    NEWCASTLE      1458 AM
    BRISBANE       936 AM
    MELBOURNE      1026 AM
    ADELAIDE       972 AM
    PERTH          585 AM
    HOBART         729 AM
    DARWIN         102.5 FM
SENATE CONTENTS

THURSDAY, 22 AUGUST

Temporary Chairmen of Committees ......................................................... 3535
Petitions —
Immigration: Asylum Seekers ................................................................. 3535
Notices —
Presentation ............................................................................................. 3535
Withdrawal ................................................................................................. 3535
Presentation ................................................................................................. 3535
Business —
Rearrangement ........................................................................................ 3536
Rearrangement ........................................................................................ 3536
Rearrangement ........................................................................................ 3536
Notices —
Postponement ......................................................................................... 3536
Daffodil Day ............................................................................................... 3536
Committees —
Legal and Constitutional Legislation Committee — Extension of Time .... 3536
Finance and Public Administration Legislation Committee — Extension of time .................................................. 3537
Higher Education Funding Amendment Bill 2002 .................................. 3537
Higher Education Legislation Amendment Bill (No. 2) 2002 .................. 3537
Customs Legislation Amendment Bill (No. 1) 2002 ............................... 3537
Import Processing Charges (Amendment and Repeal) Bill 2002 —
First Reading ............................................................................................. 3537
Second Reading ......................................................................................... 3537
Commonwealth Electoral Amendment Bill (No. 1) 2002 —
Second Reading ......................................................................................... 3542
Business —
Rearrangement ........................................................................................ 3575
Family Law Amendment (Child Protection Convention) Bill 2002 —
Second Reading ......................................................................................... 3576
Third Reading ........................................................................................... 3581
Jurisdiction of Courts Legislation Amendment Bill 2002 —
Second Reading ......................................................................................... 3581
Third Reading ........................................................................................... 3581
Health Legislation Amendment (Private Health Industry Measures) Bill 2002 —
Second Reading ......................................................................................... 3581
Third Reading ........................................................................................... 3581
Ministerial Arrangements ........................................................................... 3581
Questions Without Notice —
Scientific Research: Funding Cuts ........................................................... 3581
Distinguished Visitors ............................................................................... 3582
Questions Without Notice —
Workplace Relations: Compulsory Union Fees ...................................... 3583
Agriculture: Drought ................................................................................. 3584
Resources: Stanwell Magnesium Project ................................................ 3585
Agriculture: Exceptional Circumstances Program for Drought Relief ...... 3587
International Criminal Court: Article 98 Agreements ............................ 3588
Telstra: Regional Communications Inquiry ............................................. 3588
Distinguished Visitors ............................................................................... 3590
Questions Without Notice —
Immigration: Border Protection .............................................................. 3590
SENATE CONTENTS—continued

Environment: Natural Heritage Trust ............................................................ 3591
Insurance: Public Liability............................................................................. 3592
Australian Prudential Regulation Authority .................................................. 3593
Health: Mental Illness.................................................................................... 3593

Questions Without Notice: Take Note of Answers—
Telstra: Regional Communications Inquiry................................................... 3595

Committees—
Legal and Constitutional References Committee—Report: Government
Response................................................................................................... 3600

Higher Education Funding Amendment Bill 2002—
Report of Employment, Workplace Relations and Education Legislation
Committee ................................................................................................ 3610

Committees—
Taxation: Family Payments................................................................................. 3610
Documents—
Consideration................................................................................................. 3630
Committees—
Consideration................................................................................................. 3632
Documents—
Consideration................................................................................................. 3634

Adjournment—
Unauthorised Publication of Photograph....................................................... 3634
Workplace Relations: Small Business ........................................................... 3636
Sugar Industry: Queensland........................................................................... 3637
New South Wales: Education ........................................................................ 3639
Battle of Milne Bay: 60th Anniversary ........................................................... 3641

Documents—
Tabling........................................................................................................... 3642

Questions on Notice—
Indigenous Land Corporation: Roebuck Plains Cattle Station—(Question
No. 80)...................................................................................................... 3643
Environment: Rabbit Calicivirus Disease—(Question No. 372)................. 3645
Environment: Saemangeum Wetlands—(Question No. 385)...................... 3645
Environment: Priorities—(Question No. 387)............................................. 3646
Agriculture: Wool Industry—(Question No. 454)......................................... 3647
The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 9.30 a.m., and read prayers.

TEMPORARY CHAIRMEN OF COMMITTEES

The PRESIDENT—Pursuant to standing order 12, I lay on the table a warrant nominating Senators Collins and Hutchins as Temporary Chairmen of Committees when the Deputy President and Chairman of Committees is absent.

PETITIONS

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

Immigration: Asylum Seekers

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

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

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

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

We, therefore, the individual, undersigned attendees at the Forum on Refugees and Asylum Seekers at St Hilary’s Anglican Church, Kew, Victoria 3101, petition the Senate in support of the abovementioned Motion.

And we, as in duty bound, will ever pray.

by Senator Allison (from 113 citizens)

Petition received.

NOTICES

Presentation

Senator Mackay to move on the next day of sitting:

That the Senate—

(a) congratulates the Australian Capital Territory Legislative Assembly:

(i) on becoming the first state or territory legislature to remove abortion from the Criminal Code, and

(ii) for repealing the appalling abortion law which required women seeking abortions to first look at pictures of foetuses;

(b) notes that this landmark legislation should serve to encourage all remaining states and territories to enact similar legislative changes; and

(c) notes that the Australian Capital Territory legislation recognises that abortion is a decision for women and is not something that should carry the threat of a jail term.

Withdrawal

Senator BARTLETT (Queensland) (9.32 a.m.)—Pursuant to notice given yesterday, on 21 August, I withdraw business of the Senate notice of motion No. 1 standing in my name for today.

Presentation

Senator Nettle to move on the next day of sitting:

That the Senate—

(a) notes that 26 August 2002 is the anniversary of the beginning of one of the most shameful chapters in Australia’s recent history, the turning away of the MV Tampa;

(b) acknowledges that the Australian Government acted callously and against international convention in turning away the asylum seekers, who had been rescued by the MV Tampa on the request of our own Coastwatch;

(c) condemns the Howard Government for its ongoing scare mongering and cynical manipulation of public opinion against refugees and asylum seekers;

(d) calls for an end to the system of mandatory detention, which is inhumane, inefficient and an international embarrassment to Australia;

(e) calls on the Government to abandon the ‘Pacific Solution’, which is designed to avoid Australia’s international responsibilities, and to rule out any expansion of this approach including the excision of Australian islands for migration purposes; and
(f) reaffirms Australia’s commitment to its international obligations to shelter and assist humanitarian refugees.

BUSINESS

Rearrangement

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (9.33 a.m.)—I move:

That the following government business orders of the day be considered from 12.45 pm till not later than 2 pm today:

No. 3 Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment Bill 2002
No. 4 Family Law Amendment (Child Protection Convention) Bill 2002
No. 5 Jurisdiction of Courts Legislation Amendment Bill 2002
No. 6 Health Legislation Amendment (Private Health Industry Measures) Bill 2002

Question agreed to.

Rearrangement

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (9.33 a.m.)—I move:

That the order of general business for consideration today be as follows:

(1) general business notice of motion no. 137 relating to the family tax payment system; and
(2) consideration of government documents.

Question agreed to.

Rearrangement

Senator FERRIS (South Australia) (9.34 a.m.)—by leave—At the request of the Chair of the Employment, Workplace Relations and Education Legislation Committee, Senator Tierney, I move:

That the presentation of the report of the Employment, Workplace Relations and Education Legislation Committee on the provisions of the Higher Education Funding Amendment Bill 2002 be postponed to a later hour of the day.

Question agreed to.

NOTICES

Postponement

Item of business was postponed as follows:

General business notice of motion no. 125 standing in the names of Senators Brown and Nettle for today, proposing the establishment of a select committee on the possible support by Australia of a United States invasion of Iraq, postponed till 26 August 2002.

DAFFODIL DAY

Senator HARRIS (Queensland) (9.35 a.m.)—as amended, by leave—I move the motion as amended:

That the Senate—

(a) notes that:

(i) Friday, 23 August 2002 is Daffodil Day, the largest national fundraising event for cancer research, education and patient support in the southern hemisphere,
(ii) cancer affects one in three Australians, and the two in three who are not directly affected by cancer will know someone who is,
(iii) in 2001, Daffodil Day helped raise over $8.6 million, and
(iv) the target for Daffodil Day in 2002 is $8.7 million; and

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

Daffodil Day is a day to celebrate the hope that we can and will defeat cancer and a day to raise funds for cancer research, education and patient and family support. At the beginning of the last century, people with cancer faced almost certain death. Now, thanks to continuing improvement in research and patient care, more than 50 per cent of people diagnosed with cancer will recover. This progress is celebrated on Daffodil Day. Although there have been major advances in research, so improving detection and treatment, cancer is still the leading health concern in Australia. I commend this initiative and ask all senators to support Daffodil Day.

Question, as amended, agreed to.

COMMITTEES

Legal and Constitutional Legislation Committee

Extension of Time

Senator FERRIS (South Australia) (9.37 a.m.)—At the request of the Chair of the Legal and Constitutional Legislation Committee, Senator Payne, I move:
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.

Question agreed to.

Finance and Public Administration Legislation Committee

Extension of time

Senator FERRIS (South Australia) (9.38 a.m.)—At the request of the Chair of the Finance and Public Administration Legislation Committee, Senator Mason, I move:

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.

Question agreed to.

Higher Education Funding Amendment Bill 2002

Higher Education Legislation Amendment Bill (No. 2) 2002

Customs Legislation Amendment Bill (No. 1) 2002

Import Processing Charges (Amendment and Repeal) Bill 2002

Plant Health Australia (Plant Industries) Funding Bill 2002

First Reading

Bills received from the House of Representatives.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (9.40 a.m.)—I indicate to the Senate that those bills which have just been announced are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed as three separate orders of the day on the Notice Paper. I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

Higher Education Funding Amendment Bill 2002

This Government is committed to creating an environment that encourages investment in the education and training of our young people, in updating the skills and knowledge of the workforce, in generating knowledge through research and in translating these ideas into economic activity that benefits all Australians.

Despite Australia’s total investment in higher education already being above the OECD average, the Government is currently delivering a significant injection of funding through the Backing Australia’s Ability initiatives and other measures such as the 2001-02 Budget measure to provide additional places to regional universities. As a result of these initiatives, by 2004 annual Commonwealth funding to universities through the Education, Science and Training portfolio, including HECS, will be $480 million higher than in 2001 at around $6.3 billion (in non cost-adjusted terms) and there will be at least 8,300 more fully funded undergraduate places in 2004 than in 2001.

Many of the key indicators for the health of our higher education sector continue to be very positive. Revenues which are at record levels and growing. Higher education participation is at a record level and increasing. Graduate employment outcomes are improving. Graduate satisfaction is at record levels and our educational exports are more successful than ever.

Nevertheless the Government is not content to sit back. Over the coming months I am undertaking a review of the higher education sector and have invited public discussion on the future policy directions of higher education. We want to bring institutions, students, the general community, and even the Opposition if they are willing, on board to work with us to create best higher education system we, as a nation, possibly can. I am sure that all members would agree that this task is one of considerable national importance and one that should transcend political divisions.
A well-educated and skilled workforce that embraces life-long learning is essential for Australia’s economic growth. As part of its commitment to life-long learning, this Government announced the Postgraduate Education Loans Scheme in 2001 as part of Backing Australia’s Ability. The Scheme, which commenced this year encourages extended participation in education and helps Australians update and acquire new skills. It is also an important equity measure ensuring that no prospective postgraduate coursework student is prevented from studying by an inability to pay upfront fees. Early indicators suggest that the Scheme has been extremely successful in increasing the number of Australians undertaking postgraduate coursework qualifications. For example, early estimates data shows a 20 percent increase in postgraduate coursework enrolments in 2002 over 2001.

This bill provides for the extension of PELS to four additional institutions—Bond University, Melbourne College of Divinity, Tabor College and Christian Heritage College as promised in the election and announced in the recent Budget. This gives students at these institutions access to postgraduate study loans on the same basis as other students, but does not make the institutions eligible for public funding.

The extension of PELS to these four institutions levels the playing field for competition in fee-paying postgraduate coursework degrees and further extends opportunities for institutions to provide and students to undertake fee-paying postgraduate coursework.

The bill also updates the funding amounts provided for in the Higher Education Legislation Amendment Bill No 2, 2002 which is currently before the House. In doing so it provides additional funding for the establishment of a Graduate Diploma in Environment and Planning at the University of Tasmania with six associated scholarships. This honours an election promise and implements an initiative from the recent Budget. The varied amounts also contain further supplementation for indexation purposes, in accordance with the latest Treasury parameters and reflect a revision of the estimated HECS liability in various years.

The bill also adjusts funding levels in HEFA and the Australian Research Council Act 2001 to permit the Institute of Advanced Studies at the Australian National University to access the competitive funding schemes of the Australian Research Council and the National Health and Medical Research Council. This measure is part of the ongoing efforts of this Government to create a more strategic and internationally competitive research system in Australia.

Finally the bill provides for an additional funding cap for ARC competitive research schemes in 2006, consistent with the current budget forward estimates, so that the Minister can approve ARC grants for a period of four years. The purpose of this measure is to reduce administrative work and to give grant recipients greater certainty in relation to their funding.

There is a technical amendment to correct a previous drafting error in HEFA.

I commend the bill to the Chamber.

HIGHER EDUCATION LEGISLATION AMENDMENT BILL (No. 2) 2002

Under the policies of this Government universities have enjoyed an unparalleled opportunity to be key institutions in Australia’s social, cultural and economic life. Most have used that opportunity well. Universities are earning record levels of revenue—an estimated $10.4 billion in 2002. The sources of revenue are more diverse than ever before, indicating how far universities have come in engaging with the community. Universities are providing more opportunities for Australians to access higher education in the manner which suits them. There are now around 55,000 more full-time equivalent domestic students in our universities than there were in 1995. The satisfaction level of graduates with their education has also never been higher.

In building this impressive record, universities have been able to rely on a strong and undiminished commitment of public funding. The Bill currently before the Senate is a clear expression of that commitment. The major measure in this Bill is the provision of university funding for the year 2004, the final year of the current funding triennium. In keeping with the Government’s commitment to higher education the monies we seek to appropriate through the Parliament for that year are significantly increased. In 2004 universities will receive operating funding through the Education, Science and Training portfolio totalling $6.35 billion, some $480 million more than in 2001.

Last year the Prime Minister made the most significant set of policy and funding announcements in support of innovation that has ever been made in this country. It should be obvious that innovation has become a vital driver of economic growth, and the key to economic prosperity. Universities produce much of the knowledge and skilled workforce that sustain the innovation system.
The benefits of that package are already being enjoyed by universities. This Bill puts in place the next stage of that commitment. I would like to remind the Senate of the extent of that commitment. The Government’s Innovation Action Plan, "Backing Australia’s Ability", commits an additional $3 billion over 5 years for science, research and innovation. It includes an additional $1.5 billion for the university sector.

The funding is comprised of an additional $736 million to double the Australian Research Council’s national competitive grant schemes. It includes $583 million to build up the research infrastructure in our universities and an extra $151 million over five years for additional university places in the priority areas of information and communications technology, mathematics and science.

The Bill provides for a number of legislative housekeeping measures. It updates the funding amounts in the Higher Education Funding Act 1988 and the Australian Research Council Act 2001 in accordance with indexation arrangements. It also varies funding amounts to reflect revised estimates for HECS contributions, the Commonwealth’s superannuation liability and the provision and repayment of an advance of operating grant to the University of Adelaide.

The Bill provides for internal transfer of funding amounts between sections of the Act that will enable the Institute of Advanced Studies of the Australian National University to participate in the Government’s performance based block research funding schemes. This is an important step in building a more integrated and competitive higher education research system.

The Bill reduces the compliance burden on universities in relation to the accountability of Commonwealth funding. As it stands, universities are required to meet separate, and sometimes inconsistent, acquittal requirements for different types of grant. These will be replaced with a single consistent provision applying to all funds provided under the Act.

The requirement for institutions to send a ‘notice of liability’ to overseas fee-paying students will be removed under the Bill. There is currently no requirement to send liability notices to domestic fee-payers. The Government thinks it is best left to each institution to determine such administrative processes.

The Bill contains two measures to streamline the administration of ARC grants and the provision of expert advice to the ARC Board. The amendments to the ARC Act will enable the Minister to formally approve research grants for a period of four years, rather than the two currently allowed by the Act. This will reduce the amount of paperwork involved in administering grants and provide certainty to grant holders.

They will also allow the ARC Board to create advisory committees, other than those specifically involving advice on funding allocations, without the approval of the Minister, thus streamlining the processes for the ARC Board to acquire expert advice on other matters.

In minor technical amendments, the Bill changes two sections of HEFA to reflect changes in taxation legislation. It also amends the name of Batchelor Institute of Indigenous Tertiary Education in Schedule 1 of HEFA, which is currently listed as ‘Batchelor College’. It remedies a minor drafting oversight in relation to the post-graduate education loan scheme.

I commend the Bill to the Senate.

CUSTOMS LEGISLATION AMENDMENT BILL (No. 1) 2002

The Customs Legislation Amendment Bill (No 1) 2002 contains amendments to the Customs Act 1901, the Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001 and the Passenger Movement Charge Collection Act 1978.

The Bill continues the process of harmonising Customs offences with the Criminal Code; restores the way imported goods are valued to make it consistent with Australia’s international trade obligations; improves Customs border security measures by allowing seizure of certain goods in the Torres Strait and providing for simplified reporting of re-mail; and makes a number of amendments as a result of the Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001.

The Bill also makes minor changes to the exemptions available under the Passenger Movement Charge Collection Act.

First, the bill contains amendments to offence provisions in the Customs Act to make them consistent with amendments to other Customs offences made by the Law and Justice Amendment (Application of the Criminal Code) Act 2001.

The amendments will ensure that where a fault element is not required, offences are expressly described as strict liability offences.

The amendments will also redraft some offences to clarify that an exception to the offence is not an element of the offence to be proved but can be raised as a defence.
The bill also provides for amendments to ensure consistency in the way financial penalties are expressed in the Customs Act by replacing references to dollar amounts with the equivalent penalty units.

The next set of amendments deals with the provisions for determining the customs value of imported goods for the purposes of assessing the duty payable.

The Full Federal Court in CEO of Customs v AMI Toyota Ltd held in September 2000 that the warranty component of the price paid for imported vehicles should be deducted from the customs value for the purpose of assessing duty.

The Government considers that decision to be inconsistent with the World Trade Organization Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994, to which Australia is a party.

The WTO Valuation Agreement requires the customs value of imported goods to be the total of payments made for the goods, with specific exceptions.

Those exceptions do not cover payments for warranty costs.

The reasoning of the Full Federal Court is potentially applicable to the valuation of a wide variety of goods.

The amendments will align the Government’s policy objective with the WTO Valuation Agreement by clarifying that the warranty component of the price paid for imported goods is included in the customs value.

A transitional provision included in the bill ensures that these amendments affect only the valuation of goods entered for home consumption after the date of commencement of the amendments.

The next set of amendments will insert a power to seize without warrant prohibited imports and prohibited exports found onboard certain vessels in the Torres Strait Protected Zone established under the Torres Strait Treaty 1978.

Traditional inhabitants of the Torres Strait using vessels in the conduct of traditional activities in the Torres Strait Protected Zone do not have to comply with the normal Customs reporting requirements when travelling between Papua New Guinea and Australia.

However, to maintain control over the movement of prohibited imports and prohibited exports into and out of Australia, Customs officers intercept and board these vessels.

Under current legislation if prohibited goods are found on a vessel, an application for a seizure warrant must first be made to a Magistrate. This poses considerable operational and safety problems until the warrant is obtained.

The amendments will allow for the seizure of prohibited imports and exports without a warrant in these circumstances.

Customs has consulted with and received support from the Torres Strait Regional Authority for this proposal.

The bill also proposes to amend the cargo reporting provisions for simplified arrangements for the reporting of cargo known as ‘re-mail’.

Re-mail relates to bulk business mail such as periodic newsletters, bank statements and subscription publications.

The nature of re-mail items, as defined, is such that the potential for them to harbour prohibited goods is low.

To require standard Customs reporting of detailed data for this class of mail is considered unnecessary.

It is therefore proposed to amend the Act to enable a person who registers as a re-mail reporter to provide fewer details for the report of re-mail cargo.

The bill also contains amendments to the Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001.

The provisions of that Act are to commence by Proclamation within a two-year period dating from Royal Assent.

The Trade Modernisation Act received Royal Assent on 20 July 2001 therefore all provisions must commence by 20 July 2003.

Many provisions of the Trade Modernisation Act depend directly or indirectly on the introduction of Customs new cargo management computer system—the Integrated Cargo System.

The two-year ‘Proclamation period’ was to allow sufficient time for the trading community to be ready for the procedural and computer system changes that the amendments support.

However, since enactment it has become apparent that the trading community may not be ready to use the Integrated Cargo System by July 2003.

To avoid uncertainty for industry, the bill therefore allows up to a further one year (until 20 July 2004) for the relevant provisions to commence.

The bill also amends the Trade Modernisation Act to allow the repeal of the provisions in the Customs Act that govern the operation of Customs
current cargo management computer systems to commence on different days.
Currently the Trade Modernisation Act requires all those provisions to be repealed on the same day.
Given the scale of change involved in the replacement of the current systems with the Integrated Cargo System, Customs intends, in consultation with industry, to introduce the new system in a phased manner.
The bill also includes some minor and technical amendments to the Trade Modernisation Act, the majority of which are to more closely align some of the provisions to the development of the new computer systems.
Finally, the bill clarifies an existing exemption to the Passenger Movement Charge as it applies to persons making more than one departure from Australia while on a journey that incorporates both air and sea legs.
The bill also extends the exemption from the Passenger Movement Charge to the small number of persons covered under the Overseas Missions (Privileges and Immunities) Act 1995.

IMPORT PROCESSING CHARGES (AMENDMENT AND REPEAL) BILL 2002
The main purpose of this bill is to continue the imposition of the import processing charges imposed by the Import Processing Charges Act 1997 which is to be repealed by the Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001.
The Trade Modernisation Act introduces substantial new import reporting and entry processes under the Customs Act 1901 as part of the Integrated Cargo System.
The charges for these new reporting requirements are contained in the Import Processing Charges Act 2001.
It was intended that the repeal of the 1997 Charges Act and the new processes would commence on a day to be fixed by Proclamation and if the provisions were not Proclaimed, they would commence automatically two years after the Trade Modernisation Act received the Royal Assent.
Many provisions of the Trade Modernisation Act depend directly or indirectly on the introduction of Customs new Integrated Cargo System.
The two year proclamation period was to allow sufficient time for the trading community to be ready for the procedural and computer system changes.
Since the Trade Modernisation Act was enacted, it has become apparent that industry would not be in a position to implement its computer system changes by July 2003.
The Customs Legislation Amendment Bill (No. 1) 2002 will extend the time in which those provisions can be Proclaimed to commence to three years to allow the trading community the extra time it would need to be ready.
This bill ensures that the 1997 Charges Act will continue to apply in respect of import reports and processing made under the old systems.
These charges will continue to apply until all of the new import reporting and entry processes have commenced.
The bill also continues the imposition of charges for documentary cargo reports made during the 6 months general moratorium period, or any further moratorium period granted by the Chief Executive Officer of Customs.

PLANT HEALTH AUSTRALIA (PLANT INDUSTRIES) FUNDING BILL 2002
This bill will enable new levies and charges to be paid to Plant Health Australia Limited (PHA) through the normal appropriation from Consolidated Revenue. The bill also provides a mechanism for monies collected in excess of a plant industry's liability to PHA, to be appropriated for research and development activities.
PHA was established in April 2000 as a Corporations Law company responsible for coordinating national plant health matters. The Commonwealth, all States and Territories, and a number of plant industries are members. PHA's running costs of approximately $1.5 million per annum are shared between its members. The purpose of the bill is to help plant industries fund their share of PHA's costs.
Industry members of PHA cover the grains, cotton, vegetable and potato, sugar, winegrape, nursery, apple and pear, rice, banana, fresh stone fruit, nut, honey and strawberry industries.
To date, as an interim measure pending the development of these new arrangements, industry members of PHA have been funding their share of PHA's costs either directly from industry association monies or through their industry's Research and Development Corporation. When these arrangements are in place, industry funding of PHA using research and development funds will no longer be necessary.
Plant industries' share of PHA's costs is approximately $500,000 per annum. Under PHA's constitution, these costs are shared between its plant
industry members based in part on the value of production of the various crops.

The legislative mechanism was developed in consultation with PHA plant industry members. It is designed to limit the appropriation made to PHA to exactly that of each plant industry member’s share of PHA’s annual costs.

Given seasonal variations in crop production levels and revenue from sales, it is impossible to set operative levy and charge rates that will collect a fixed sum of money, whereby the levy and charge burden is shared equitably by levy and charge payers.

Accordingly, once an industry’s share of its annual contributions to PHA have been met, the bill provides for monies collected in excess of this amount to be redirected to that industry’s R&D Corporation and be deemed to be R&D levy or charge. This R&D component will be matched by the Commonwealth, as is currently the case. The new PHA levies and charges component will not be matched.

Clearly, the benefit of returning any excess levy collections to research activities is that the industries will benefit from the Government’s matching dollar for dollar research and development funding.

The bill also contains measures that will enable a plant industry member to raise additional funds for special projects that the member wishes to be undertaken by PHA on its behalf. In accordance with PHA’s constitution, PHA’s members have to agree to these before the start of the year.

While the plant industries have sought to pay for their yearly contribution to PHA from a new PHA levy and charge, there will be no increase in the overall levy and charge burden on industry members. This is because the proposed operative rate of PHA levy or charge for initial participants will be exactly offset by a corresponding decrease in that industry’s existing R&D levy and charge rate.

In addition, the impact on business will be minimised as existing levy and charge collection arrangements are to be used with no change to the paperwork required of businesses/producers already paying levies and charges.

This legislation has the full support of industry groups and producers. It establishes arrangements for the long term funding of PHA’s plant health activities. It facilitates plant industry members of PHA contributing to the development of an internationally outstanding plant health management system that enhances Australia’s plant health status and the profitability and sustainability of plant industries.

Debate (on motion by Senator Mackay) adjourned.

Ordered that the Higher Education Funding Amendment Bill 2002 and the Higher Education Legislation Amendment Bill (No. 2) 2002; and the Customs Legislation Amendment Bill (No. 1) 2002 and the Import Processing Charges (Amendment and Repeal) Bill 2002 be listed on the Notice Paper as two orders of the day, and the Plant Health Australia (Plant Industries) Funding Bill 2002 be listed as a separate order of the day.

COMMONWEALTH ELECTORAL AMENDMENT BILL (No. 1) 2002
Second Reading

Debate resumed from 21 August, on motion by Senator Abetz:

That this bill be now read a second time.

Senator HUTCHINS (New South Wales) (9.41 a.m.)—I was speaking to a distinguished colleague—and I think we would all call him that—Senator Ray, about the Commonwealth Electoral Amendment Bill (No. 1) 2002 and he said to me that this is essentially a bill about a dash for cash for the Liberal Party. After having done a bit of research on this bill, I understand that this is a bill to assist the federal secretariat of the Liberal Party, bunkered down in Robert Menzies House, in their dispute with the Queensland division of the Liberal Party.

Senator Ferguson—I thought you were going to talk about Centenary House. That’s your dash for cash.

Senator HUTCHINS—No, Senator Ferguson. I am not sure what position the South Australian Liberal Party is in at the moment. You are not in power there at the moment, are you, Senator Ferguson? In fact, as you would know, Mr President, in no state or territory is the Liberal Party in power.

This bill, as Senator Ray explained to me, quite emotionally—this dash for cash by the coalition to get this money—has a long and tawdry history. I have been here only since 1998, but I have become aware of this growing division within the Liberal Party and their particular bureaucracies as a result of this bill being once again presented to the
Thursday, 22 August 2002

Mr Acting Deputy President, can you imagine the sort of flaying that we would get on our side of politics if we were not even able to run our own political party. As a president of the New South Wales branch of the Labor Party, I can tell you that we are always operating in surpluses. We will always operate, and have always operated, in surpluses. Can you believe that these geniuses on the other side who would purport to represent and govern this country cannot even run their own political party? We have to have special legislation, which has been presented to us this morning, to get them out of the—I was going to use a swear word, but I know you cannot do that in the chamber, so ‘poo’ will do. We have to try to dig them out of their own graves. I am not in favour of it. I have spoken to Senator Ray and Senator Faulkner about this. I know that Senator Faulkner has a deep and lasting affection for state branches of political parties, but, indeed, not even Senator Faulkner could come at this bland hypocrisy that is ensconced in this bill. The Courier-Mail of 30 August last year said that Senators Brandis and Mason were lobbying the Australian Democrats to make sure that they opposed this bill. I suppose as good state righters they have been dispatched to Canberra to represent their party, but to treacherously go round and talk to the Australian Democrats to make sure that this bill was defeated is a new low.

Senator Faulkner—They are treacherous, but they are also right on this.

Senator Hutchins—In fact, Senator Faulkner, it was reported that in the cabinet meeting the Prime Minister was so angry about the actions of Senators Brandis and Mason that he himself labelled them treacherous. As I said, the treachery and duplicity of these new-age Liberals that have been dispatched to Canberra from Queensland was reported on 30 August last year. Mr Acting Deputy President, you only have to listen to some of their speeches, particularly those by Senator Mason, to realise that they think the triumph of capitalism has finally occurred and that they and their predecessors have been proven right about the combat between the Left and the Right. Listening to some of the madcap speeches that Senators Brandis...
and Mason have made in here, you would sometimes think that Dr Strangelove had been let into the Senate.

These two gentlemen get up here and beat their chests about the triumph of Liberal capitalism that they believe has occurred over the last few years, but we have not heard them comment at all on the appalling performances of their capitalist mates in America. Where are their answers to what has happened to Enron and WorldCom? Where is their apologia for what is happening in the HIH royal commission? Where is their apologia for what Adler and all of those sorts of people have got up to? Their answers are nowhere; the silence is very deafening. We still wait to hear their contribution about this so-called triumph of Liberal capitalism. The only triumph that they are trying to have in the Senate in this period is to make sure that this bill is defeated. When a division is called on this bill, I hope they are not gutless and get paired or something like that. I would like to see exactly where their loyalties lie. What about Senator Herron? You have to give it to him. He has an ambassadorship in the offing, and he may not be able to vote in accordance with the wishes of the Queensland division of the Liberal Party. But Brandis and Mason do not. I am looking forward to seeing what they will do and where their loyalties are. Are their loyalties with their Queensland state branch or with the federal coalition here?

The Prime Minister has made it clear where he thinks their loyalties are. As I said earlier, he believes they are treacherous. Can you imagine a successful Prime Minister—I have to say it—like John Howard going into a full cabinet meeting and labelling two of his obscure backbenchers as treacherous? That is what he has done. What are we expected to do here today? We are waiting again for the government to respond on this.

One of the reasons this legislation is before us is that both the federal and state divisions of the Liberal Party have cash flow problems, not only in Queensland but particularly in Western Australia. In fact, in the Canberra Times of 8 August 2001 the Western Australian Liberal Party director, Mr Wells, said in relation to the changes, ‘Why mess around with the GST if you don’t have to?’ This rationale was rejected by Lynton Crosby, who instead claimed that the changes will—and it sounds very Orwellian—‘more accurately reflect the purpose for which public funding is paid’; that is, for us for the federal election campaign.

Can you imagine small businesses being satisfied with one of the paid servants, one of the paid puppies, of the Liberal Party saying, ‘Why mess around with the GST if you don’t have to’? Mr Acting Deputy President, can you imagine going to one of the small businesses in the southern suburbs of Sydney—as I know you do all the time—shoving one of those quotes in front of them and saying, ‘Why muck around if you don’t have to’? I will tell you what they would say; they would say that the Taxation Office would be up you like a rat up a drainpipe, wouldn’t they? Imagine that. All these taxation officers have been crawling over these small businesses, except of course the Queensland Liberal Party and the Western Australian division. I invite Senators Brandis and Mason—and, as I said, I can understand the predicament Senator Herron is in at the moment, because he does not want to get anybody offside. He has his loyalties to his Queensland division but he does have Dublin and Rome in sight. I can understand that he would not want to get people browned off about taking them on. But, definitely, Brandis and Mason could at least come down here—

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Order! Senator Hutchins, you should refer to senators by their correct titles.

Senator Troeth—Thank you. That is correct.

Senator HUTCHINS—Senator George Brandis and Senator Brett Mason. I am not sure of their second names but I will try to read them out, Senator Troeth, if I can get a hold of them at the moment. You can see the divisions in the Liberal Party, not only in Queensland, where they are rocking and rolling on this, but also in Western Australia, where they feel that compliance with the GST is something you might not need to look at if you can get away with it.
In our state of New South Wales, Mr Acting Deputy President, we have some interesting things going on, particularly in the seat of Wentworth. I have become aware, as we would all have become aware, of the rorting and stacking that has been going on in the seat of Wentworth. We saw Andrew Thomson, who was the member for Wentworth, getting rolled by Ian Sinclair’s son-in-law in last year’s preselection. That was a conflict, I suppose, between the Left and the Right. In fact, in 2000 it got so bad in Wentworth—this is one of the rich suburbs in Australia; this is one of the ‘the’ suburbs in Australia.

Senator Faulkner—This is where all the patricians live.

Senator Hutchins—This is where all the patricians live, of course. It got so bad for Andrew Thomson that he had to call in the police to stop factional operators from signing up members. There were also allegations that 120 Young Liberals were stacked into the meeting of the University of New South Wales Young Liberals Club and that they were enticed to go to the meeting for the free grog. I could not imagine Young Liberals going along to a meeting where they were offered, say, Tooheys Draught or Resch’s—

Senator Faulkner—Was it Verve Cliquot?

Senator Hutchins—Senator Faulkner, I think that is what it would have to have been. I could not imagine them being enticed to go to a meeting unless they were offered Verve Cliquot, or some nice, expensive French red or something like that. But, apparently, they turned up. I gather that, after King was selected—

The Acting Deputy President—Order! Senator Hutchins, you should refer to members by their full names.

Senator Hutchins—I am sorry: Mr Peter King—Ian Sinclair’s son-in-law. After Mr Peter King was selected, a member of one of the other dynasties in Sydney, one of the Hughes in-laws, was not happy with the Sinclair in-laws getting the selection—it is a bit like Romeo and Juliet, the Capulets and the Montagues—so the Hughes in-laws conducted a poll—

Senator Faulkner—Do you think it would have reached the same sticky end?

Senator Hutchins—It could have, but the Hughes in-laws conducted a poll against the Sinclair in-laws and they found that the Hughes in-law, Turnbull, was more popular than the Sinclair in-law, Peter King. That was released to the press. However, that did not get too far because we have the Sinclair in-law in here now rather than the Hughes son-in-law. I know it is confusing but among the aristocracy they are all related anyway, and it is just a matter of getting the surnames correct. When this occurred there was obviously some conflict in the Wentworth area. I am not sure if you received it, Mr Acting Deputy President, or even if my leader Senator Faulkner received it. But I certainly received this anonymous email and I put this caveat on it.

Senator Faulkner—No, I did not but I would like to receive one.

Senator Hutchins—In your interests, Senator Faulkner, I think that I should probably should read it out.

Senator Faulkner—Thank you.

Senator Hutchins—Before I read the contents of this email and the transcript, I would like to point out that I am not necessarily alleging that this email and the attached transcript of the recording implies that it is actually going on. I am merely relaying to the Senate what has been sent to me by an unidentified source as evidence of the level of disarray at their level in the party.

The email says:

Dear Recipient,

The following is a recorded telephone conversation (22/05/02) between a source from Woollahra Young Liberals, and one Mr. Adam Crozier, a member of the branch, who clearly states that a Mr. John Hyde Page—

No-one has single names anymore in the Liberal Party. I wonder whether you have to have Saxe-Coburg-Gotha or something like that—

had offered a bribe to induce Mr. Crozier to attend a meeting.

Context:

Mr. JHP has been lobbying to ‘take out’ certain members of Woollahra Young Liberals as a con-
sequence of the defection of those who control the branch from ‘The Group’ (the Left faction) to the Right wing faction of the Liberal Party.

Several meetings have already been held at Woollahra—

I do not know how much champagne or red wine they spilt in Woollahra—

without much success to re-take the branch from the Right. Senior members of the Party have been implicated in activities surrounding the ‘Woollahra war’.

This transcript reads:

FIRST SPEAKER: I’d just like you to know I won’t be attending that meeting at this point despite someone expecting me to.
SECOND SPEAKER: Is that you Mr Crozier?
FIRST SPEAKER: Yes, that’s right.
SECOND SPEAKER: Have you had a call have you?
FIRST SPEAKER: Yes I have.
SECOND SPEAKER: Can you tell us who called you?
FIRST SPEAKER: John Hyde Page.
I do not know whose in-law he is. Maybe the Liberals who follow me can assist us. The transcript goes on to say:
SECOND SPEAKER: Has anyone else called you?
FIRST SPEAKER: Apart from being indicated at this meeting yesterday, no nothing else.
SECOND SPEAKER: How did he try to convince you to get to the meeting?
FIRST SPEAKER: Cash inducement.
SECOND SPEAKER: He offered you a cash inducement?
FIRST SPEAKER: Yes.
SECOND SPEAKER: How much did he offer you, just out of interest?
FIRST SPEAKER: Seventy dollars.
SECOND SPEAKER: How much?
FIRST SPEAKER: Seventy dollars.

That is all they were offered. You would think that the Woollahra Young Liberals in particular would have been offered more than 70 bucks.

Senator Faulkner—You would think there would be a few noughts on the end of that!

Senator HUTCHINS—You would think so. It is outrageous that they were only offered $70 to try to stack out the meeting against one of the Sinclair in-laws as opposed to the Hughes in-laws. (Time expired)

Senator HOGG (Queensland) (10.01 a.m.)—I am very grateful that the Commonwealth Electoral Amendment Bill (No. 1) 2002 has been brought on by the government. It certainly gives me an opportunity to say a few things that need to be said. This bill is known as the ‘dash for cash’ bill. I think that is probably more closely aligned to the TV program Who Wants to be a Millionaire because, when I looked at it, that is what it is really about. It is really a grab for the funds that would have otherwise been allocated to the Queensland branch of the Liberal Party in a federal election by the national secretariat of that party. The bill comes about because the Liberal Party is unable to resolve its own internal administrative problems. It is shameful that it has been left to this parliament to sort out those particular problems. That is certainly not the purpose of this parliament; that is not why this parliament is here. The Liberal Party should at least be able to sort out its own problems within its own party. We will come to the Queensland branch in a few moments.

I likened the bill to the program Who Wants to be a Millionaire. In that program you are given a number of options and you lock in your answer. As I understand it, if you get the answer right you progress and you could potentially win the big prize. The big prize, if you get it right for the national secretariat of the Liberal Party, is the federal funding out of Queensland. The competitors in this are their state rivals. This has led to a very bitter struggle within the Liberal Party, both in the Queensland branch and nationally.

I always turn to the Bills Digest, because I think that it is always a very handy document to refer to when one is considering a bill before this parliament. It talks about the rationales for this bill being before parliament. I will take those rationales straight from the Bills Digest. I think they are very good options. Those who are listening and watching, get ready to lock in your options. The official
rationale is that the amendments reflect the purpose and the pattern of election funding expenditure. That is option one. The second rationale is that the amendments will relieve the Liberal Party of an unnecessary administrative burden associated with the goods and services tax. The third rationale alleges that the amendments serve to settle an unresolved dispute between the federal secretariat and certain of the state and territory divisions. These are the three options before the contestants. Lock in your options. If you picked the third option, you are right. If you picked the second option, you are right. If you picked the first option, you picked a furphy.

We are now heading down the path of the further options. Undoubtedly, anyone out there with no real hand in the political process can see that this is a set-up by the government. It wishes to use this parliament and its legislative processes to overcome the difficulties that exist within the Queensland branch of the Liberal Party in particular. Having identified the fact that the source of the problem was the internal problems within the Liberal Party in Queensland, I was led back to the Financial Review of 2001. For those who are still wanting to compete in the contest, we will have some more options to choose from in a few moments. The article in the Financial Review of 27 June 2001—12 months ago—says:

Outraged Liberal backbenchers forced the Government to remove the Commonwealth Electoral Law amendment from the top of the agenda for discussion at yesterday's joint Coalition party to allow for more consultation.

The article goes on to say:

Unusually, the amendment—which would redirect funding from the States to the Liberal Party's federal headquarters—was listed for discussion under the name of the Prime Minister, Mr John Howard. This is an indication of the importance the Government attaches to its efforts to strengthen federal control before the next election, which is due by the end of the year.

Then the article really gets to the nub of the issue:

The bid to strengthen central party control has angered backbenchers when the Federal Government is also intervening in State affairs on an unprecedented scale. So we see a number of prominent people in the Senate, the House of Representatives and within the machinery of the Liberal Party in Queensland participating in open warfare for the control of the party and the funds. This is a party which is reduced to substantially less even than the reserves that you would have for a cricket team and which cannot even get anywhere near the line in the Brisbane City Council elections, let alone the state government elections.

Those who are ready to plug in their answers, get pen and paper ready, because we will be getting to that in a short moment. Further on in this article, we find the following quote, from one of the same angered backbenchers who are still running around today:

‘This will make us mendicants,’ said a Liberal backbencher. ‘Bear in mind [Robert] Menzies deliberately created a federal party structure. What is being proposed would subvert Menzies’ designs.’

It seems there are a number of recalcitrants in the Queensland branch of the Liberal Party. These recalcitrants are readily identifiable. For the purpose of this debate, we need not give them any publicity here today. They know who they are.

This led me down the path of trying to find out if there was another way to describe these recalcitrants. I went into the thesaurus on my computer and it came up with a number of alternative descriptions. I wonder if these fit the recalcitrants that are in the Queensland branch of the Liberal Party. ‘Unruly’—I think that has been clearly exhibited by the outbreaks that have taken place in preselection battles in Queensland. ‘Unruly’ clearly fits them. ‘Intractable’—now, there is a good word for them. They are intractable. They have dug their toes in. They are not here today fighting for their little piece of turf, which surprises me, but they are intractable. ‘Disobedient’—I cannot say that about them. ‘Refractory’—I think one would have to use one’s own judgment there. ‘Wayward’—now, there is a good word to describe the recalcitrants. I will include that in the list. ‘Obstinate’—I do not think they are obstinate, because they have given in too quickly and too easily and vacated their
piece of turf. ‘Unmanageable’—they are definitely unmanageable. Most of their consultations and decisions are taken at a trendy coffee shop in Racecourse Road at Ascot or in Park Road at Milton or at some plush cafe at Mount Gravatt.

I think I have covered all the principal players there. They are unmanageable, uncontrollable and are causing undoubted difficulties within their own party, for which I am very grateful because it has helped our prospects in Queensland no end, not only for retaining state government but also for retaining the Brisbane City Council. ‘Non-compliant’—yes, I think that could be said to apply very readily to these people, and so could ‘stubborn’. You have a number of words that you can now lock in to choose to get you closer to the prize. Of course, the prize at the end of the day will be whether or not this chamber chooses to pass the legislation and take the funding away from the Queensland branch of the Liberal Party and hand it to the national secretariat of the Liberal Party. If this legislation is defeated, then it will be up to the internal processes and goodwill of the party—which I find does not exist within the Liberal Party in Queensland—to resolve their problems.

One might say, ‘If you live in a glass-house, you should not throw stones.’ In the political argy-bargy, there are difficulties within political parties. We all have our fights and our battles from time to time. One accepts that there will be stiff contests for some positions within the party, but, if one reads a number of the articles that are available on the internal machinations within the Liberal Party in Queensland, one will find that we in the Labor Party are in absolute peace in Queensland and that we have been at peace for years.

This article from the Courier-Mail of 18 March 2000 highlights the internal factionalism and the fighting in the Queensland Liberal Party. I have this argument with a number of people that I know on the other side of politics about whether or not there are factions within the Liberal Party. I get a wry smile out of one of the people on the other side of the chamber now, but I am assured that there are factions. I am sure that that will prove to be much of a problem for them in the longer term and something that they would not like to throw back to us. The Courier-Mail of 18 March 2000 reports about the Brisbane City Council election which was imminent at that stage. I think it was actually held that Saturday. The article says:

A poor result in the council poll could reignite recent Liberal problems, including factional infighting, and trigger speculation over the future of Queensland president, Con Galtos. Con is now history as branch president of the Queensland party. Then an article on 27 March 2000, post the Brisbane City Council election, says:

Mr Galtos said last night his party had failed to properly resource its councillors in the past nine years, making it difficult for them to develop policies.

But he said the key to the Liberals’ stunning loss was party disunity, with five or six figures constantly leaking information and creating faction-based disunity.

‘These five or six people should not even call themselves Liberals,’ Mr Galtos said. These are the people in the smoke filled rooms. These are the people who are doing the plotting and the scheming. These are the people who are creating the havoc within the Liberal Party. I say to keep at it; you are doing a good job. Having said that, it does not give you the right to bring a bill before this parliament and misuse the purpose and the role of the parliament. Settle your disputes down at the coffee shop at Racecourse Road, Ascot or wherever. Sip on your cappuccino and work out your difficulties. Go to Park Road and have your cappuccino, but do not bring your problem here. The next bit of the article is even more interesting. I quote again from the Courier-Mail of 27 March 2000:

Dr Watson—who was the state Liberal parliamentary leader at that time—said the council result would not translate to the next state election, due in the middle of next year.

‘Mr Beattie isn’t in the same league as Lord Jim,’ Dr Watson said.

Lord Jim, for those who do not know, is Jim Soorley, the long-serving Mayor of the City of Brisbane. He continues:
‘The Premier has made more mistakes in 18 months than Lord Jim in nine years.’

That was reassuring indeed for the Labor forces in Queensland. That was the best thing that could have been said. From the prediction of Dr Watson—I do not know if Sherlock Holmes was in on this—we ended up with a record majority in the state parliament in Queensland. The disunity reduced the Liberals, as I said, to fewer than the number of reserves you would put in a cricket team. The party in Queensland has frittered away its resources and lost its credibility, and its only way to resource itself is through federal funding. Then you find that you end up in a battle with the national secretariat of the Liberal Party, who want to take that federal funding away. It is an absolute disgrace and absolute shame that this bill has shown up here at all. If you want to be a millionaire, then you have got to plug in either of the answers. You vote for the bill and it goes to the national secretariat, or you do not vote for it and it stays in Queensland. I would be only too pleased to see that happen.

They have now developed into an art form frittering money away on internal fights and internal preselections—thereby enhancing Labor’s standing as a responsible state government and also Labor’s standing in the Brisbane City Council, the principal council in the state of Queensland if not the whole of Australia.

I turn for one moment to the preselection crisis. It now looks as though Senator Herron is departing us for other climes. Will we go through the same haggling and wrangling that took place in the wake of Senator Parer’s resignation? I hope we do. I have got the same notice of motion ready for when that happens as I had when Senator Parer left. The wrangling, the infighting and the factionalism within the Liberal Party in Queensland led to a record 117 days elapsing before the party could present Senator Brandis to us here as the replacement for Senator Parer. I hope that happens again; it gave me a notice of motion to put up each day. I know it was followed with interest around the parliament and around Australia, because the previous record was 109 days. That record was set when Senator Lightfoot got the casual vacancy in Western Australia. It is really saying something when the Liberal Party in Queensland can outstrip the Liberal Party in Western Australia. I note that my colleague, Senator Webber, is going to talk about the highlights of that.

I would have loved to have put a lot more quotes on the record, but time does not permit. This really boils down to a hypocritical act, in my view. We should not have to resolve internal party differences. If you have an internal party difference, go down and have your caffè latte, cappuccino or whatever you have at that hour of the morning and resolve it down on Racecourse Road in a restaurant or coffee shop. But do not bring your problems here. Do not expect us to resolve them. *(Time expired)*

**Senator WEBBER** *(Western Australia)*

*(10.21 a.m.)*—I join with my colleagues from the opposition to speak today to the extraordinary Commonwealth Electoral Amendment Bill (No. 1) 2002. In fact, I join many other members on this side of the chamber to state my wholehearted opposition. As Senator Faulkner so eloquently said earlier in this debate, this bill is commonly described on our side as the ‘dash for cash’ bill. It is outrageous that the mechanics of this bill are basically to allow a party interest—in this case the federal secretariat of the Liberal Party—to overcome its own internal difficulties. The specific nature of this bill is to allow the federal Liberal Party to circumvent the operation of the Commonwealth Electoral Act. The Electoral Act is designed, above all else, to ensure that elections in this country are conducted in a transparent manner. If we cannot be guaranteed that, then what can we be guaranteed? What the Liberal Party want us to do is to amend the act so that they can ensure that the distribution of funds between the federal secretariat and the state branches of the Liberal Party to overcome its own internal difficulties. The specific nature of this bill is to allow the federal Liberal Party to circumvent the operation of the Commonwealth Electoral Act. The Electoral Act is designed, above all else, to ensure that elections in this country are conducted in a transparent manner. If we cannot be guaranteed that, then what can we be guaranteed? What the Liberal Party want us to do is to amend the act so that they can ensure that the distribution of funds between the federal secretariat and the state branches of the Liberal Party is undertaken in the interests of the federal wing. In essence, the federal secretariat of the Liberal Party is forcing this parliament to pass legislation because it cannot get the numbers to make the organisational changes necessary to allow it to receive moneys from public funding.
When I gave my first speech in this place the other day, I started by quoting Edmund Burke, and a number of people opposite congratulated me on that. I now have another one. Edmund Burke once observed:

One of the first motives of civil society, and which becomes one of its fundamental rules, is that no man should judge in his own cause.

This bill seeks to allow the federal secretariat to circumvent the Electoral Act to judge in its own cause. The Electoral Act currently provides for public funding to be paid to the agent of the state branch of the party for which the candidate stood. We all know that; we have all had to sign appointment of agent forms as part of the process of getting elected.

The current act allows a mechanism through section 299(5A) whereby a state branch lodges a notice with the Australian Electoral Commission requesting that payment be made to an agent of another party. Section 299 allows a straightforward approach that permits public funding to be paid to an agent rather than to the state branch for which the candidate stood. Unlike Mr Lynton Crosby and his colleagues, our national secretariat in the ALP is quite capable and has reached agreement with each state branch of our party and, in accordance with section 299, such notice was duly lodged.

Everyone carries on about the internal difficulties that the ALP is supposedly having because we are quite happy to have an open and transparent process where we engage our rank-and-file membership and the community at large in our internal processes and our process for policy development, yet we can make sure that, whilst we are doing that, the mechanics of conducting an election and the mechanics of managing our own internal structural affairs duly comply with the act. Why is it that we now have to change it because the Liberal Party is completely unable to achieve the same thing?

Those opposite know that this legislation is being proposed only because they cannot achieve it. They cannot manage to get it together. Having met some of the more interesting characters from the WA division of the Liberal Party, it is little wonder Lynton Crosby cannot get them to agree. They cannot agree amongst themselves. As Senator Hogg said before, when Senator Lightfoot was preselected they had to have two goes at it. They ran it up, he nominated, it was a contested preselection and he won with the able assistance of former Senator Crichton-Browne. Some did not like that result, so what did they do? They did it all over again. And just to prove that former Senator Crichton-Browne could actually count, Senator Lightfoot won again. In the meantime my state of Western Australia was underrepresented in this chamber because the Liberal Party could not manage their internal difficulties.

Having been involved with the WA branch of the ALP for some time and having worked for our former state government, I understand how difficult it is to make the transition from government to opposition. I went through that process. As I say, I worked for the Lawrence state government and therefore went through all the heartache that goes with losing government, so I have some sympathy for what Colin Barnett is going through as Leader of the Opposition, and I am sure he is trying to do his level best. I think he would have a fair bit of sympathy for Senator Stott Despoja at the moment in that he is being undermined by four of his own at every turn.

Not only do we have Colin Barnett, who wants to be and is Leader of the Opposition, but also we have Matt Birney, the new member for Kalgoorlie, who would really like to be leader—but the trouble is that, with one vote, one value, he will probably lose his seat; he is actually going to have to find a seat because you have to be in the parliament to be the Leader of the Opposition—and Mike Board, who is the AMA spokesperson for health in the state parliament, who would really like to be leader as well, although it is a bit of hard work and you need more than the AMA to help you develop policy if you have to deal with more than the health portfolio. Next is Rob Johnson, who seems to be trying to be involved in who is going to be leader. He would probably like to be leader and, if not that, at least deputy leader—that is when he is not helping to organise the members of One Nation to be elected to his local council! Then, of course, there is the
dark horse, Cheryl Edwardes. She has had a longstanding involvement in the northern suburbs of Perth, and I would have to say that, of all of those candidates, she is probably the one I am most in awe of it. She has a tremendous network within her local community and an incredible work ethic; she works really hard. She is probably the one whom they would all like to draught, but she is frustrating them because she just won’t play: she keeps saying that she is backing the current leader. So the Liberal Party have all sorts of internal difficulties in my part of the world. And I gather, from having listened to some of the debate here, that my state is not on its own.

As I say, if you cannot manage who is going to be the leader and you cannot successfully manage to preselect senators, little wonder that you cannot sign forms and make sure that you are going to disburse public funding accordingly. In fact, I would like to be so bold as to suggest that it would be far more appropriate if the Liberal Party invested some of their time and effort into getting their own house in order rather than devaluing the role of this place by proposing this legislation.

Why should the federal parliament be forced to pick up the pieces because the Liberal Party hierarchy cannot get all of their state divisions to reach agreement on the public funding disbursements under the current act? Simply, it should not. Instead of having the courage to adopt a truly national structure—and what is wrong with having a national structure?—we now have to have federal legislation to deal with their internal difficulties. This comes from the states rights party—they come into chambers like this all the time and give us lectures about how you have to stand up for your own state and are not allowed to be partisan and about how we all have to be from Western Australia together or from Queensland together or whatever. But it would seem that they cannot actually bring all of those state branches together into a federation and act as a truly national body.

Instead of adopting a truly national structure and having a proper national structure with an enforceable code rather than nice reports and critiques of what goes wrong in each state branch, the Liberal Party want the Australian parliament to pass a bill that is nothing less than a shameless attempt to impose a legislative solution on a purely internal matter. They have the cheek to claim that the ALP is the party with internal problems. Where is this nonsense going to end? How many other pieces of legislation will we be asked to pass to resolve their internal difficulties? Perhaps we could have an act to restore the former President of this place to her former position—that would certainly resolve another internal dispute—or we could introduce a bill to allow Dr Naphine to be returned as Leader of the Opposition in Victoria. Of course, we can do none of these things, and nor should we allow this bill to pass into law.

If we pass this bill we will create a precedent that at any time it is acceptable to pass amendments to laws that are to the direct benefit of one political party. This bill is so obviously a bill for the benefit of the Liberal Party that it is mentioned directly by name. This bill was not designed for the general operation of the disbursement of public funding but specifically for the benefit of the Liberal Party alone. As I said before, no-one should be entitled to be the judge in their own cause. Neither should the legislative power of the Australian parliament be used to act as the circuit-breaker for an internal problem of the Liberal Party. This government has become so arrogant that it comes into this place with legislation that is designed for nothing other than its own benefit. How could anyone support this crass attempt to resolve its own organisational and structural problems? In fact, it must be incredibly embarrassing to actually have to draft and introduce and then try to negotiate the passage of a bill for an act of parliament to address your own internal structures.

It is clear that this attempt to amend the Electoral Act to their own benefit is a case of their judging in their own cause, and they just assume that the Australian parliament is going to roll over and assist in their self-interest. In fact, if you examine the statement of Senator Abetz on 15 May this year when the motion for the bill’s second reading was
moved, there is no doubt that this is solely to the benefit of the Liberal Party. You need only read the minister’s own words to confirm that the bill is intended to allow the Commonwealth legislation to be used for the purpose of resolving an internal party problem. He said:

However, as the Federal Secretariat of the Liberal Party is responsible for federal election campaigns, it is appropriate that all or part of the public funding be paid to the agent of the Federal Secretariat. I agree—that is the way it is handled within the ALP. We do not need an amendment act to make sure that that happens; we have an agreed structure that governs the conduct of federal elections. We have lots of robust internal, and sometimes external, debates, but we can actually agree on the fundamentals of the organisation of our party and the conduct of an election campaign. As I have said before, that payment of public funding to the federal secretariat can already be achieved through section 299 of the current act, if the Liberal Party could only get all of their state directors to actually trust their federal director.

There can be no doubt that a mature political party should be able to resolve these matters. On this side of the chamber we have coped nothing but abuse and criticism because we are prepared to review and reform our structures in a very public, open and transparent manner, whilst those on the other side cannot even agree, it would seem, on who is going to bank the money. After 60 years—60 long, hard years in some cases—the Liberal Party are so poorly organised and structured that they would rather skulk in here and use parliament’s legislative powers than address their own structural and organisational problems. This legislation does absolutely nothing to create any benefit for our fellow Australians: it does not create one additional job; it does not help one Australian achieve a better standard of living. It is a shameful exercise that is designed to benefit the federal secretariat of the Liberal Party, and for these reasons this bill should be rejected.

Senator BROWN (Tasmania) (10.36 a.m.)—The Greens oppose this legislation.

We believe that it is up to the Liberal Party to deal with public funding through its own structure and, if it wants to aggregate that into the national office from the states, it should arrange to have that done within its own democratic and administrative processes. It is very evident, as other speakers have said, that there is some fault line within the party that is preventing that, but it is not up to us to arbitrate a matter of dispute within the Liberal Party from outside. Legislation is not the way to go.

On behalf of the Australian Greens I will be moving an amendment to this legislation on another very pertinent aspect of the funding of political parties: what happens when donations from the corporate sector come to political parties from donors who then turn out to be insolvent or go insolvent. There is some dispute about this at the moment, as you will know, in relation to a couple of companies. I will talk about those in a moment. It is a very contentious issue that shareholders in Australia are left out of pocket when a company goes insolvent. Indeed, some face bankruptcy themselves through the loss of money through that insolvency. It has a negative cascading effect. The question is: isn’t it the ‘moral duty’, as the headline of the Sunday Telegraph editorial of August 18 puts it, of politicians to ensure that in such circumstances donations that have come from those companies to the political parties be returned so that there will at least be that amount of assistance to the shareholders who are at loss? I think so.

You will know, Mr Acting Deputy President, that the Greens believe that donations from the corporate sector to political parties should go into an opaque trust and then be disbursed according to the vote at the election—in other words, on a basis exactly the same as that on which public funding is disbursed. We believe that there is a corrupting influence on politics from donations coming from the corporate sector. We are not alone in this. Various presidents of the United States over the last century have commented on the untoward effect on policy and democratic outcomes from the pressure of corporations—not least from their financial pressure.
I am stating the obvious when I say that a corporation which is acting effectively on behalf of the shareholders cannot ethically give donations to political parties without expecting a return—without discussing this at board level and being able to say, ‘It is a wise investment for our corporation to give this many dollars to that political party, because it will advantage the corporation’s profit line and therefore the interests of the shareholders.’ For a corporation not to behave in that way would go against the whole philosophy of corporate ethics, which should ultimately be ethics which advantage the shareholder. Where the rules advantage the shareholder, the whole thrust of the corporation is to make a profit which is going to maximise the interests of its members, who are its shareholders. That is not happening in Australia today.

We have recently had a number of corporate collapses which have left people in terrible financial loss—citizens of Australia who have put hundreds of thousands of dollars, in some cases, into investments. These dollars that they have earned through their own lifetime’s hard work have gone into companies like HIH—the most notable one at the moment. The company has then become insolvent and they have lost nearly all, if not all, of that money. One only has to stop and think for a little while about the plight of shareholders who have put most of their money into a corporation like HIH to know how devastating it is for them.

HIH is a case in point. Since 1994 that company has given $800,000 to the Liberal Party. In 1999 alone—and there is evidence to suggest that insolvency was already coming down the line—$100,500 was given to the Liberal Party and, I understand, another $15,000 to the National Party. This is money that, we submit, should now be returned from those parties to the shareholders, because they are the people who are really suffering. I would of course like to hear argument on this. It may be that the Liberals in this case could mount an argument that their suffering is greater, but I doubt it. I might add that, while our amendment would mean that moneys that have come from a corporate entity that has gone bust within the three previous years should be returned, there is an argument for making it a decade. Why should the $800,000 not be returned? However, we are being conservative about this and our amendment would mean that the $115,500 that has gone to the government parties would be returned.

Of course, donations occur across the board. The company Froggy, built up by entrepreneur Mr Karl Suleman, gave the New South Wales ALP $181,000 in recent times. The company is apparently facing losses of $65 million. We know that that is hitting shareholders—I would think potentially thousands of small shareholders across the country—and I believe that in these circumstances that money ought to be returned. The return of neither of those donations—either by the Liberals to the authorities looking after the bankruptcy of HIH or by the New South Wales ALP to those looking after the insolvency of Froggy—is going to create a huge problem for the political parties involved. It is a matter of real ethics that we show, as politicians, we are capable of understanding the suffering at a very personal level when bankruptcies like those occur—because party political donations do become personal for those politicians who are advantaged by them—and there is a willingness to be fair, to be reasonable, to be responsible and to give back the money.

The amendment that the Greens are putting forward has been circulated, but I will flag it by reading it to the chamber. It proposes that, after subsection 306 of section 7, you would insert 306A, headlined ‘Repayment of donations where corporations wound up etc’. The amendment reads:

Where:

(a) a political party, a candidate or a member of a group receives a donation from a corporation being a donation the amount of which is equal to or exceeds $1,000; and that has to be recorded—

(b) the corporation for a period concluding three years after making the donation has been wound up in insolvency or wound up by the court on other grounds;

an amount equal to the amount of the donation is payable by the political party to the liquidator and may be recovered by the liquidator as a debt due
to the liquidator by action, in a court of competent jurisdiction against:

(c) in the case of a donation to or for the benefit of a political party or a State branch of a political party:

(i) if the party or branch, as the case may be is a body corporate—the party or branch, as the case may be; or

(ii) in any other case—the agent of the party or branch, as the case may be.

(d) in any other case—the candidate or a member of the group or the agent of the candidate or of the group, as the case may be.

There are two notes at the conclusion of the amendment. The first note reads:

The donation received by the liquidator is an asset of the corporation to be distributed under the provisions of the Corporations Act 2001.

The second note reads:

This section applies to donations made after the commencement of this provision.

It was very tempting to put in a retrospective clause here, which would include the HIH and Froggy donations. I am not an advocate of retrospectivity. I think we have to appeal here to the goodwill of the parties involved that they return those donations. I note that in one case it has become a little bit of ‘if you do, I will’. It should not be that way; it should be: ‘We’ll do the right thing here by shareholders.’ If the political parties return that money, they will be doing the right thing not just by the shareholders but for the kudos of politics. It is not just a giving thing to do—this is not a charity—but a reasonable, fair-minded thing to do, and it should and must happen. I also point out, regarding the note at the bottom of the flagged amendment, that if this legislation does not pass the second reading—and I reiterate the Greens will be opposing it—at the next opportunity, under any amendment to the Commonwealth Electoral Act, or maybe better still, to the Corporations Act 2001, I will be moving a similar amendment.

I strongly commend this amendment to the chamber. I ask all parties to look at it very seriously. It is an amendment which is about good governance. It is a timely amendment, and it will put us all on notice when we are taking corporate donations that not only do we get the benefit from them but also we share the risk and the donation will have to be returned if the corporation becomes insolvent. I do not see why political parties should be protected from that risk—in fact, quite the opposite. If there is a risk to be borne by anybody, I think head of the list should be political entities that are taking donations from the corporate sector. There will be the argument: if the political parties do it, why shouldn’t football clubs or art galleries or Opera Australia? This is a very different matter to a political party which has gained an advantage in circumstances which the Greens find very troubling. We are very concerned about the influence of the donation system on politics and on the outcomes in this place. I have said that a number of times before. The amendment I am flagging on behalf of the Australian Greens is a small step towards bringing some control, some transparency and some responsibility into the corporate donation system. We believe that, if it ought not be abolished—public funding is a much better option—it should, as I said earlier, become opaque to political advantage through a trust which disburses moneys without fear or favour or the current potential for political advantage.

That said, we oppose the legislation. I commend this amendment very strongly to the house. I flag right now that, if the opportunity to move it does not succeed because this legislation is knocked out on the second reading, I will be taking the very next opportunity to amend either the electoral legislation or the corporations legislation and return this amendment to the house. I earnestly ask for very diligent consideration of it by all others concerned.

Senator FORSHAW (New South Wales)

(10.51 a.m.)—We are debating the Commonwealth Electoral Amendment Bill (No. 1) 2002. The long title of the bill reads:

A Bill for an Act to amend the Commonwealth Electoral Act 1918, and for related purposes

Anybody picking up this piece of legislation for the first time would think, ‘Yes, this has got something to do with the electoral process in this country. We are amending the Commonwealth Electoral Act.’ As honourable senators know, when legislation is introduced into this parliament, of necessity we
have to read it. You then read the explanatory memorandum, which is a document provided by the government to explain in supposedly plain English what the legislation is about. You have to read very closely the many explanatory memorandums and pieces of legislation that come before the parliament. You have to study them and try and find what might be the hidden consequences of the bill or the real purpose or intention behind the legislation, because it is not always clear. But I have to hand it to the government on this one! They have not tried to dress this up in some way to hide from the public or the parliament what they are really about. They have no shame when it comes to this legislation. When you read the bill—this bill that has six clauses—you find the words ‘Liberal Party’ mentioned 33 times.

I have not done a full search of all of the legislation that operates in this country or of all of the legislation that has been passed by or brought before parliament since Federation in 1901—that is a mammoth task. I am sure the library would be able to do it, but it would be a huge task. I would be prepared to bet on the fact that if you searched the legislation of the Commonwealth parliament you would probably not find any legislation that mentions the name of a political party. You would certainly not find any legislation as blatant as this, which provides for the Liberal Party national secretariat to be given the legislative power to control the electoral funding that the Liberal Party may receive following federal elections.

We all know the reason this bill has been introduced—it is to fix up a problem in the Liberal Party in Queensland that the Liberal Party itself is unable to fix up. As we know, the problem is quite simply that, under the electoral funding system that operates in this country, political parties and candidates are entitled to receive electoral funding following elections on a formula based upon the vote that they receive at the election, and that money goes to the nominated political party. What happens in Queensland, of course, is that the money goes to the Queensland branch of the Liberal Party. Not much of it goes to them because their vote has been pretty damn low—we know that—but the money goes to the Queensland branch of the Liberal Party. Because of the internal divisions within the Liberal Party in Queensland, the national secretariat of the Liberal Party wants to get its hands on the money, but the Liberal Party branch in Queensland have said no. As has been referred to, they want to continue with the structure that has been in operation in the Liberal Party since it was founded by Sir Robert Menzies, which is that of a federalist approach. This is the party that has lectured us year after year.

I notice that the two senators leaving the chamber, Senator Brandis and Senator Mason, have been some of the fiercest advocates for the maintenance of states rights within the Liberal Party and within this country. They have made speeches in the Senate on many occasions opposing the concept of centralism. But what do we find on this occasion? They have been silent. As was so eloquently pointed out in earlier speeches—I particularly listened to Senator Hutchins’s and other speeches—Senators Brandis and Mason have been rolled on this bill. They do not want the funds that would otherwise be paid to the Liberal Party branch in Queensland to fall into the hands of the national secretariat. But, if this legislation is passed, that is clearly what will happen. As has been said, this bill should more properly be called the ‘dash for cash’ bill. I would suggest that it possibly should be called the ‘Lynton Crosby slush fund’ bill, because that is what this bill is about.

As the explanatory memorandum says, the bill seeks to amend the Commonwealth Electoral Act to allow the agent of the Liberal Party, before polling day, to determine how the percentage of public funding for the Liberal Party will be distributed between the federal secretariat and the state and territory divisions of the Liberal Party. On reading that, you have to say that this is a total abuse of the parliamentary procedure of this country. This is outrageous! Why should the parliament of this country—why should we, as elected representatives of the people—be required to consider legislation that relates to the internal financial arrangements of the Liberal Party?
It is a total abuse of the principles of parliamentary government that you have a piece of legislation that so specifically refers to the Liberal Party—as I said, on 33 occasions in the bill—and gives the Liberal Party national secretary power, by virtue of legislation, that his own organisational state branches are not prepared to give him. This is an outrage! This bill is not directed at better accountability of the public funding process. This bill is not about improving the electoral process in this country. This bill is simply about solving divisions within the Liberal Party. This bill should be thrown out, and the Liberal Party should go away and solve its own internal differences. But of course the Liberal Party cannot. Why can't it? Because right across this country the Liberal Party at the state level is racked with division and dissension. It is in a hopeless mess.

Senators Brandis and Mason of course have been mentioned on a number of occasions, and we know why. They have fought a battle within their own party against this legislation. As we know, their actions have been described, according to newspaper reports, as treacherous by no less a person than the Prime Minister. Senators Brandis and Mason have tried to stand up for the principles of the Prime Minister's great hero Sir Robert Menzies—as I said, the principles of states rights and federalism. But the current Prime Minister, who claims to carry the mantle and the torch of Sir Robert Menzies, has apparently attacked them as being treacherous. It is not hard to work out, when it comes to the principles that the Liberal Party has so long espoused—the Menzies tradition—who is really treacherous to that tradition.

As I said, the Liberal Party around this country at the state level is in total disarray. Other senators of course have made reference to this, but it is worth repeating because it is at the heart of why this legislation is in the parliament. The Liberal Party cannot govern itself in any of those states, and that is why it is not in government in any of those states—or in the territories. In my home state of New South Wales the Labor Party is in government with a record majority. Premier Bob Carr enjoys unparalleled popularity, and there is no doubt that when the elections are held in March next year his government will be returned, again with a significant majority. What we saw in New South Wales prior to the last election was a desperate attempt by people within the Liberal Party—led by the former member Ron Phillips, who lost his seat—to undermine their own leader and replace Peter Collins with Kerry Chikarovski.

Senator Hutchins interjecting—

Senator FORSHAW—That is a huge list—I would need another 20 minutes, Senator Hutchins. But we remember it so well. Kerry Chikarovski was going to be the heroine of the Liberal Party; she was going to be the Joan of Arc of the Liberal Party and lead them into the electoral battle and win the election. What happened was that Kerry Chikarovski was absolutely humiliated. Of course, Kerry Chikarovski not only was humiliated at the election but, in a coup within her own party—I think about 20 of them got a vote—was rolled by John Brogden. Her popularity was so low that my state colleague the Minister for Primary Industries in New South Wales, Richard Amery, once said that he had noxious weeds in his portfolio area that had a higher popularity rating than Kerry Chikarovski—and he was right.

Senator Hutchins—And Chopper Read.

Senator FORSHAW—Chopper Read even, yes. The Liberal Party certainly know something about the exploits of Chopper Read. You can go through all of the other states. Recently in Tasmania, Jim Bacon obtained a huge majority in a landslide win. Getting landslide victories in Tasmania has never been easy because of the nature of the electoral system, but Labor did it under Jim Bacon. The Liberal Party were humiliated and Bob Cheek lost his seat. In Queensland, Premier Beattie obtained a landslide victory. In the state where this legislation is designed to help the Liberal Party heal their own divisions, Labor leader Peter Beattie achieved a magnificent victory. In Victoria, Steve Bracks achieved a win for Labor. In Western Australia, Geoff Gallop has been elected. In South Australia, Mike Rann is the Labor Premier. We also know that, in the Northern Territory, Clare Martin was elected.
with a record victory for the Labor Party. In the ACT election, Jon Stanhope was elected as the ALP leader. Every state and territory in this country is governed by state Labor governments because the Liberal Party are a hopeless rabble. It is just a disgrace.

Senator Kemp interjecting—

Senator FORSHAW—I notice that in Victoria, in the home state of Senator Kemp—who is interjecting because he obviously cannot stand hearing the truth—they have just dumped Denis Napthine as leader and replaced him with Robert Doyle.

Senator Hutchins—He was a member of the right club.

Senator FORSHAW—That is right. The facts are that the Liberal Party at the state level right across this country cannot govern itself. It cannot solve its own internal problems. We know about the rorting of branch memberships in Queensland; we know about that in New South Wales. It cannot keep these young turks under control in the Young Liberals.

Senator Kemp interjecting—

The ACTING DEPUTY PRESIDENT (Senator Chapman)—Order! Excessive interjections are unruly, Minister. You may enter the debate at an appropriate time and respond if you choose.

Senator FORSHAW—There was even an instance in New South Wales with the Young Liberals where they had on their web site a link to the Nazi party. That is how low it has got in some parts of the Liberal Party. You have got these young activists who are only interested in total power and they do not care at all about the electoral consequences on their own party. Sir Robert Menzies would be ashamed to see what is being done here today. As much as he was our political opponent, Sir Robert Menzies was, as we know, a great parliamentarian—a person who trained in the law and, as a parliamentary figure, someone who understood and respected the role of the parliament. Many other leaders of the Liberal Party and the coalition parties have carried on that tradition, but that tradition is being torn up now. It has been thrown out of the window simply to try and fix a problem in the Liberal Party over who gets their hands on the money.

In conclusion, my colleague Senator Hogg in his remarks quite appropriately drew an analogy with that TV program Who Wants to be a Millionaire. There are strong analogies to be drawn between what this legislation is about and that particular quiz show. When you think about the likely prospects of the Queensland Liberal Party in the future, I do not think that, if they were on Who Wants to be a Millionaire, they would get to the stage of answering the questions for the million dollars or even the $500,000. They would be knocked out on the first question. That is how pathetic it would be.

At the end of the day, the amount of money that would be available to the Queensland Liberal Party under the public funding formula is not going to be all that much. Lynton Crosby may think that if this legislation were passed he will get his hands on a bundle of money. I have to say that he will be surprised. He certainly will be disappointed. But I do not think that this legislation is going to be passed. I think the members of this Senate already realise that this is nothing but a rort. This is nothing but an abuse of parliamentary procedure to try to sort out the internal problems of the Liberal Party. I challenge Senator Brandis and Senator Mason, particularly, and the other Queensland senators and the other Liberal Party senators who claim that they stand up for the federal structure of the Liberal Party and support state rights: here is your opportunity to put your mouth where your money is and vote this bill down.

Senator CARR (Victoria) (11.10 a.m.)—The Commonwealth Electoral Amendment Bill (No. 1) 2002 clearly illustrates how the Liberal Party works. Their essential problem is that, as a political party, they are of course moribund. Their problem essentially is that they have failed to modernise in their approach to government, in their approach to dealing with conflict and in their approach to resolving differences about the direction in which the party should go. This bill seeks to impose a parliamentary solution on a failure of the Liberal Party to reach internal agreement. The reason they cannot reach internal
agreement is that they have no processes by which that can be undertaken.

We have before us a bill that gives carte blanche to the Liberal Party national secretariat to divide money between the various fractious elements within the divisions of the Liberal Party itself. As members of this chamber, you are being asked to resolve a problem that the Liberal Party cannot resolve itself. The Prime Minister made it perfectly clear when this bill was first proposed back in August 2001—perhaps earlier than that—when he said that the Queensland division of the Liberal Party had reneged upon funding arrangements. As a consequence, the Prime Minister’s office initiated this bill. It failed to go through the normal parliamentary procedures in terms of the joint house committees, and it failed to acknowledge the appropriate consultations within the parliament on such basic issues as the electoral bill and sought to impose upon this parliament a very partisan political fix to sort out a problem within the Liberal Party.

We saw the initial responses around the states to the GST. The Western Australian divisional secretary indicated that he was concerned to avoid the GST obligations—a concern that was of course reflected right around the country by small business. But in the Liberal Party’s case, you come into parliament to fix up your problem. If we look at the subsections 299(5E) to (5G) of the bill, we see that there are no accountability mechanisms whatsoever for how this money is going to be distributed. There is no attempt being made to employ the normal parliamentary processes that come to the distribution of funds. It is a centralisation of decision making within the Liberal Party.

It is quite clear that this bill is not urgent. It has been around for a little while, that is true. We saw at the end of the last parliamentary session an attempt to pre-empt much more urgent legislation by bringing on this matter. Now at the beginning of this particular sitting period an attempt is being made to pre-empt much more urgent matters. No doubt, at Christmas time, we will hear the cries and see the crocodile tears from the other side of this chamber about the failure to pass urgent legislation. We have plenty of time now to discuss this frivolous matter, this attempt to essentially impose upon this parliament a rort by the Liberal-National secretariat to fix up its internal problems! We have an attempt by the Prime Minister’s office on behalf of the Liberal secretariat to deal with problems that should be dealt with internally.

We have noticed that throughout the states there are serious problems in the Liberal Party, so I can understand why the Liberal-National secretariat feels it necessary to do this. Their failure to develop proper processes is to be deplored. Their failure to develop a decent factional system that acknowledges the importance of conflict resolution is to be deplored. Their ancient attitudes, their primitive views, the notion that the winner takes all, the psychology of the Liberal Party that essentially argues that a narrow clique can dominate all effective decision making within the political organisation are inevitably going to lead to disaster.

What is the evidence for that? The evidence from around the country can be found in every single division of the Liberal Party. We see the dominant characteristic of a narrow group of people based essentially on exclusivity—more often than not, as we see in Victoria, linked to the big end of town; the special private club that is called the Liberal Party. We see the new leader of the Liberal Party in Victoria exemplifying the principle that one has to be a member of the right club, go to the right schools and enjoy the right social connections to get on—and if you do not, you call on the Liberal Party national secretariat to sort out your problems. What we have is the failure of the Liberal Party to modernise. To be dominated by vested interests—

Senator Sherry—Lawyers!

Senator CARR—It is not just lawyers; it is these corporate types who feel the need to express their social ambition through the Liberal Party. It is not a political party in the modern sense of the word at all; it is essentially a social club designed to allow certain persons to get on at the expense of the overall majority. The interest of the clique dominates the interest of the total. A recent report by the Liberal secretariat itself identified this. I do not have to be relied upon here; I
can rely upon the Liberal Party itself. What does Mr Crosby say? He says that there is no effective management mechanism in place to deal with constructive resolution of internal conflict. I acknowledge quite freely that in the Labor Party there are differences of opinion about the pace and the route of social reform and social change, but in the parties of town and country capital, as they were once called, there is no mechanism. It is a winner-take-all attitude of brute force. We have, essentially, disputes being fixed in the Liberal Party in a very visceral way. We have an irrational, self-destructive approach being taken. We have a bitterness borne on personal ambition and ‘fuelled by spite’, to quote Mr Crosby himself.

In Victoria in recent times we have seen quite serious problems emerge as a demonstration of this. The problem, as we have seen and has been brought to public attention, between Dr Napthine and Mr Doyle was fuelled, we might say, by the great backroom boys of the Liberal Party—Mr Kennett and Mr Kroger are out there, Mr Costello, of course, is lining up for his chop as well.

Senator McGauran—Enough! I’ve run out of room!

Senator CARR—I hear an interjection from the man who, as I have often said, proves the point that the National Party in Victoria is an absolute irrelevance. His father put him here as a result of his great wealth. Buying a seat in this Senate is the means by which the National Party operates in Victoria, so we should not hear much more of the National Party’s view of political reform and modernisation. There is nothing older in the political lexicon than the capacity to buy a seat in parliament.

With this discussion with Dr Napthine and Mr Doyle, we have Mr Bailleau sitting there. The great Bailleau family of Victoria is just waiting for their chance to hop in for their chop. We have an example in Victoria that is characteristic of every state in the Commonwealth as far as the Liberal Party is concerned. We could go through it state by state. They are characterised by disarray, by uncertainty over policies. Mr Doyle in Victoria in his first decision said: ‘I repudiate every promise that I have made. Every commitment I have made is now repudiated. We have no policies in Victoria whatsoever.’ That is not inconsistent with the approach taken around the Commonwealth. We have tensions between the factions in Victoria. We have huge doubts about the future leadership. Even though Mr Doyle has only been in there for five minutes, already there is speculation about what is going to happen to him in the future.

Let me talk about the way in which the carve-up in Victoria occurs. Let us take the simple example of the seat of Forest Hill. The seat of Forest Hill is one of those interesting cases where we will see, I trust, within the foreseeable future just what impact this sort of corruption in the Liberal Party produces. In Forest Hill, the upper house MP Maree Luckins was defeated in a preselection battle against an Indian-born businessman who, I might say, was fortunate enough to attract the support of 500 new members—500 new members in a state seat! These new members, who were mainly from Sri Lankan and Fijian communities, were attracted to the Liberal Party in that electorate to assist the candidate to gain preselection. You have to understand what it means to have 500 new members in a state electorate such as Forest Hill at the edges of Melbourne—an area that is not known for its huge levels of participation in any political party—and what that would do to a preselection ballot.

Senator McGauran—It’s called a successful membership drive.

Senator CARR—I call it corruption. When you stack 500 members in a state electorate, you have corruption, and that is a perfect example thereof. I read in a report in the Age on 12 March that at one branch at least 12 of the 16 votes came from Indians and two from Young Liberals who were also from the Indian community. Forest Hill rose as a vacancy because the veteran MP, Mr John Richardson, was retiring. I bet Mr Richardson would not have found this sort of behaviour in the past, but that is characteristic now of the Liberal Party in Victoria.

Mr Doyle says that he will bring in a new broom. I know damn well what has happened here: a coup has been organised by the
Kroger-Costello forces. I know meetings occurred about it, but it all happened very early in the morning with Mr Doyle, I can tell you that. They only could have happened early in the morning; you would not want to get this bloke too late in the day as he would not make much sense at all. I am afraid to say that you have a Liberal Party that is characterised by its inability to face up to the challenges that it should be meeting.

We could turn to New South Wales, where a similar pattern emerges and where we have the backroom powerbrokers, the shadowy figures, the shadowy men of money and influence associated with Mr Yabsley and the Millenium Forum—

Senator Sherry—What was Senator McGauran doing?

Senator CARR—I do not think the National Party counts for much in New South Wales. The McGauran family does not have that sort of influence in New South Wales.

Senator Sherry—If they only have three per cent of the vote, how did McGauran get in?

Senator CARR—His problem is that they spent so much money financing the DLP.

Senator Sherry—I did read about the DLP.

Senator CARR—It is extraordinary. They were once a very wealthy family in Victoria. Unfortunately, they managed to lose it on a whole range of things, and presumably investing in the Liberal Party, and if it is not investing in the Liberal Party it is investing in the DLP. If only the National Party could attract that level of support. I would have thought that the National Party in Victoria could probably do a lot better than it currently is.

Senator Hutchins—But they had to find Julian a job.

Senator CARR—He was not buying himself a seat on the Melbourne City Council. In fact, if you live in East Melbourne, it is very hard to represent rural Victoria.

Senator Sherry interjecting—

Senator McGauran—I have an office in Benalla.

Senator CARR—that is the problem: have you moved out of Collins Street?

Senator McGauran—Yes.

Senator CARR—You have? How long have you been out of Collins Street?

Senator McGauran—I have two offices now.

Senator CARR—So you have two offices now, but you have an office in Collins Street. Is that correct?

Senator McGauran—I have been years in Benalla—catch up!

Senator CARR—But you have an office in Collins Street. That is where the National Party are; they are Collins Street farmers. They do a very good job of representing Collins Street farmers. What they do is make sure that, first of all, they get a seat in this Senate as a result of being a Collins Street farmer. They are not representing the people of Victoria; they are representing that small unrepresentative clique that fosters its influence through the private clubs of Melbourne. As I say, I am afraid that is a pattern that is repeated around the country. I notice that in Victoria there is again talk of coalitions, but it is instantly rejected. They cannot even agree among themselves.

Talking about coalitions, Victoria pales into insignificance when we look at Queensland, where the results are quite profound. Again there are examples of widespread branch stacking involving ministers in this government and state members of the parliament of Queensland. It is very difficult to involve the state members in Queensland because there are only three of them. I understand that, of the three, one is about to retire and the other one is being groomed for a leadership challenge. So it is only a question of time before the internal divisions in Queensland come to the fore again.

Senator Sherry—Julian McGauran as a leader in the Senate!

Senator CARR—it is a very difficult thing to have, out of three, at least one retiring and the other one being groomed for a leadership challenge. Mr Quinn said in the paper this morning that if he does not get what he wants they might be left leaderless
within a very short period of time. One
shudders to think of the prospect of a lead-
erless Liberal Party. It is an extraordinary
proposition.

As I said, there is a similar pattern around
the country. In New South Wales the situa-
tion in relation to the Millenium Forum has
become infamous. We had Mr Michael Yab-
sley, former MP Mr Photios, former Premier
Mr Nick Greiner and, of course, Mr Greg
Daniel pulling the strings and organising the
coup against Mrs Chikarovski. According to
the reports, we have a situation where vari-
ous persons in this parliament are being tar-
geted by Senator Heffernan for their failure
to meet the requirements with regard to fund-
raising. The *Daily Telegraph* of 27 March
2002 states:

Senator Heffernan was understood to have drawn
up a hit-list of Liberal MPs who had not met their
fundraising targets over a certain time-frame.
This is a party based on intimidation, not just
on intrigue and bitterness in terms of their
personal attitudes. Let us have a look at it
around the country: in Queensland, three out
of 89 seats are held by the Liberal Party; in
Western Australia, 16 of the 57 seats are held
by the Liberal Party. In each of those states
there is leadership conflict. In New South
Wales, 20 out of 93 seats are held by the
Liberal Party—and we assume that it is only
a matter of time before there is a further
leadership challenge in that state; in Victoria,
it is 35 out of 88 seats; and in South Aus-
tralia, 21 of 47 seats and, again, questions about
leadership emerge. In Tasmania they have
seven out of 25 seats. One has to question
just how long it will be before there is an-
other leadership ballot there.

Senator Sherry—The leader and the deput-
y have both lost their seats.

Senator CARR—That is basically right,
Senator Sherry: we have a party that is un-
able to function; it is a dysfunctional organi-
sation. We have a bill before the parliament
that seeks to fix up these problems by the
Liberal Party national secretariat imposing
its will on these increasingly fractious, inef-
effective and desultory organisations that run
their business in a visceral way, aimed at
tearing down opponents rather than thinking
about the future direction of this country. It is
a pattern that will inevitably lead to the de-
struction of the Howard government. I heard
what was said about the last election. The
Howard government won the last election by
utilising the great darkness of race and xen-
ophobia in Australian society. They were the
characteristics this Prime Minister used to
hold together this house of cards. Essentially,
the result was a status quo. If you think about
the number of people who came in and the
number of people who went out in the House
of Representatives, you can see that it was
essentially a status quo result. So the Prime
Minister was able to produce a stay of exec-
uction on the collapse of this house of cards
by basically gluing it together with racism
and xenophobia. The Liberal Party now
seeks this parliament’s assistance to fix up its
problems by trying to get us to agree to
handing out very large sums of public money
to the Liberal Party national secretariat.
improper. It is totally inappropriate. The bill has not gone through the normal processes that one would expect for such a fundamental piece of legislation as the Commonwealth Electoral Act. The Commonwealth Electoral Act ought to be amended from time to time, as we all know, but it ought to be done on the basis of general agreement. Essentially, there is an attempt being made here to impose a partisan solution. It is a partisan proposition that asks us to interfere in the Liberal Party’s internal affairs in a manner that gives precedence to a centralised administration. It asks us to try and sort out the problems that the Liberal Party should be able to sort out itself. (Time expired)

**Senator JOHNSTON (Western Australia)** (11.30 a.m.)—Mr Acting Deputy President, may I draw your attention to the fact that what we have heard this morning is the most outrageous litany of hypocrisy. If we look back to what happened in 1994 and subsequently, in 1995, we can see that this is exactly what the Labor Party did with respect to the public funding. They have chopped their state divisions off at the knees. They set the system in place in 1994 and then, in 1995, they amended the act so that they took all of the money.

Let me explain something to my learned senators opposite. The Liberal Party in Western Australia, which I represent, has a structure. That structure is one of branches. We have over 200 branches in various towns and communities throughout our state. May I say that the number of our branches is far in excess of the handful of ALP branches spread through the state. Those branches elect delegates to divisions. Each of the divisions is representative of the federal divisions. Those divisions elect delegates right up to the pre-selection committees, the state council and the state conference, which is held once a year in my state. The Labor Party does not have such a structure. In this place, representative members are chosen for their states from here, through EMILY’s List. So there is absolutely no representation of the states in this place by the Labor Party.

When you look at the way our party has functioned and is structured, you can see that there are strong individual state divisional bodies. Those divisional bodies work in cohesion with the federal body and the federal funding is divided up in an ad hoc informal way. What this legislation seeks to do is to perfect that system so that everybody knows where they stand. This is in stark contrast to the arbitrary and centralist exercise that was performed in 1995 by Labor. It said, ‘We will take every cent of the money and we will not dole it out to the divisions. We will run the campaign centrally.’ Effectively, their state divisions are just a facade and that facade is totally unrepresentative.

The **ACTING DEPUTY PRESIDENT** (Senator Forshaw)—Order! Would senators on my right please resume their seats or carry on their conversations outside the chamber.

**Senator JOHNSTON**—There is a stark contrast between a representative body such as my division, and the senators who are chosen by my division, and what happens right around Australia with respect to ALP selection. I will give an example. In Western Australia there is an Independent member in Pilbara called Mr Larry Graham, who was a true believer—a long-term member of the Western Australian division of the ALP. His family before him were all strong, loyal members of the Labor Party. He lost his pre-selection. It was a seat that he had held very comfortably for many years through many elections. He lost his seat at the whim of a group of people sitting in Perth who do not live in his seat of Pilbara. They had absolutely no knowledge of the work of that member on the ground. They had no understanding of his commitment to his electorate. But they decided, through a factional brawl and deal, that he should lose his seat. And, of course, what happened? He held his seat quite dramatically, obviously and convincingly in the face of a Labor candidate who I think lost her deposit.

In Western Australia the diversity of our communities is reflected in our structure. This is in absolutely stark contrast to what happens in the Labor Party. We have members choosing their elected representatives from the Pilbara, the Gascoyne, east Gascoyne and the Goldfields. All of these towns and communities have representatives.
who come along and choose their members. The Labor Party chooses them in a small, dimly lit back room at the bottom of Curtin House. It is absolutely unrepresentative. We conduct 50 preselections over the course of a state campaign. The Labor Party sits there—two or three faceless men who are unelected—parachuting people into these seats. The members opposite have the audacity to call us corrupt! Forget about the corruption of anything other than the system, by them. They have corrupted the system to deliver to some of their favoured few a reward for services to the other favoured few. It is a partnership made in dimly lit rooms, one that largely had its genesis in the favouritism and nepotism of the union movement.

Back in the year 2000—I think it was—when the Labor Party held their national conference, they had 189 delegates voting. Forty-seven per cent of them were union representatives. A further 30 per cent of the Labor politicians present were former union heavyweights. Of course, union representation is below 20 per cent in the private sector in this country. Only five per cent of the ordinary run-of-the-mill membership of the Labor Party is not affiliated to the union movement. They are totally and utterly unrepresentative of anything other than their own nepotistic empire. In an article in the Australian of 27 July 2000, Malcolm McGregor wrote one of the most stunning indictments of my political opponents and the members sitting opposite when he said that that conference was:

... in reality, emblematic of Labor’s deterioration into a narrow, spiteful, schismatic political ghetto presided over by a hereditary cloister of petty shoguns. It exists mainly as a conduit for its own born-to-rule caste to secure public office, from whence to dispense largesse to immediate family members and assorted sycophantic supporters in the lobbying and public relations industries.

And they say we are corrupt! This is the greatest example of hypocrisy and corruption of the democratic process that anyone could possibly imagine in Australia today. The article went on to say:

It is an avant garde outfit that rates Della Bosca more highly than Barry Jones. Better to have a cadre of loyal bootheads than a community-based party whose members may actually be interested in issues.

And they cannot understand how they are not in the Lodge painting the walls today! They have chosen the colour scheme and they have done all the curtain matching but they cannot understand how it happened that they did not win. They fought another GST election, they would have us believe. They will talk about the good ship Tampa, but we know about the policy vacuum and the fact that they are an unrepresentative party. And they have the audacity to come into this place and say we are corrupt. Who went to jail in Queensland? A woman going to jail in this country for nine months—

Senator Ferris—A mother!

Senator JOHNSTON—She was a mother. Now who is corrupt? I could go on, but I will be brief. Let me quote former Keating government minister Gary Johns—one of their own—talking about the ALP division in Western Australia:

Local Branch members have no say in preselection, there is no sense of democracy in WA—it has the most overwhelmingly union dominated pre-selection rules. Branch members are irrelevant—

Senator Cook—I wouldn’t go there, if I were you. You’ll open up a can of worms.

Senator Kemp—That’s right, Cookie.

Senator JOHNSTON—The honourable senator knows what I am talking about.

The ACTING DEPUTY PRESIDENT—Order! There is far too much conversation and interjection across the chamber. Would you please desist.

Senator JOHNSTON—Gary Johns goes on to say of WA:

Branch members are irrelevant—it is whatever the main union characters at the time think. Kim (Beazley) has been a major beneficiary so he won’t try to change anything. He’ll do things when it suits him and I think we are looking for better things from our leaders.

So were the Australian people at the last federal election—and they got better things. The West Australian newspaper of 14 April 2002 stated:

The WA Labor Party gave a sop to branch representation on preselection ballots at its conference
last year when local branches with at least 40 members were granted a 15% say in choosing their candidates.

And they say we are corrupt! Larry Graham says, of the way that Geoff Gallop, the Premier of Western Australia, runs the ALP:

... if he ran a polling booth like that in a general election, he would be arrested.

This bill simply seeks to deliver to our representative structure what the Labor Party does now.

Senator COOK (Western Australia) (11.42 a.m.)—This bill is entitled the Commonwealth Electoral Amendment Bill (No. 1) 2002. That is its formal title. It sounds grand. It is in fact the 'Dash for Cash Bill'. It is a bill introduced into this chamber by the executive of the parliament—that is to say, the ministry—but it is in essence a sordid, seamy exercise only understandable if you follow the money trail, because the money trail leads you to the conclusions. In Australia, we have public funding of elections. Quite a wad of taxpayers' money goes to support the democracy of Australia, to allow the cases to be put fairly to the electors by political parties. This bill is about who pockets that cash in the Liberal Party. It is not about who does it in the Labor Party or the National Party. There is certainly a reference to the Democrats, but none to the Greens. It is about the Liberal Party. It is a dash for cash. If you follow the dollar signs, you find out what this bill is about.

Let me go through the purposes of this bill. First of all, this is its second appearance. It was introduced before the last election. It lapsed and it has now been brought back again for a second try. Normally, legislation of this sort would go to the Joint Standing Committee on Electoral Matters. Has this legislation been there? No. Why? Because it is inconvenient to open up this bill for proper public scrutiny, something that would take place if the committee had a hearing into the contents of this bill. This is an attempt—although it is broad daylight now—to sneak this through in the dead of night in order to get in place legislation that solves an internal party problem in the Liberal Party.

My colleague Senator Ray said yesterday that the Liberal Party is mentioned by name in this legislation more times than there are members of the Liberal Party in this chamber, and that is true. That is what this bill is about. Why? The Liberal Party—which claims to be foremost among political parties in Australia in supporting the concept of federation, that is, our constitutional entity as a federation of states—has a party organisation that mirrors a federation of state divisions. Under their rules they pocket the public funding at state level but, despite their record of being federalists, they want to pocket the money at national level in the federal secretariat of the Liberal Party and not at state level. Lynton Crosby, the national secretary of the Liberal Party, wants the cheque; he does not want it to go to his states. I do not want to blame Lynton Crosby in this. We know that the Prime Minister—who, in the words of Shane Stone, the President of the Liberal Party, is 'mean and tricky' and who we know is the most hands-on, interventionist Prime Minister in political and campaigning organisation of any party at any time in our history—wants this cheque in the hands of Lynton Crosby so he can decide who are the favourites and who are not; who gets the dollars and who does not. That is what this is about. It is just a seamy, sordid dash for cash.

All political parties have internal disputes, and from time to time these disputes blow up in public. At the moment we are witnessing the implosion of the Australian Democrats as they go through internal argument, division and power struggle. We have seen it on the front pages of our newspapers over the last couple of weeks. We know that the National Party are going through a similar thing. The Western Australian branch of the National Party have delivered an ultimatum to the federal organisation. They say that they will withdraw from the National Party and stand alone if the National Party here in Canberra support the privatisation of Telstra. We know that the National Party went through all sorts of internal ructions before the last election in deciding whether they supported Pauline Hanson as a second preference or whether they did not and put her last. They could not agree. In the end they threw their hands up in the air and let each individual person decide.
I must say that from time to time even the Labor Party has internal disputes that attract public attention. In the history of politics in this country up until this day, though, no political party has come to the Senate—the legislature of Australia—to solve an internal party problem by legislation of the federal parliament. No-one has ever done that. Everyone has had the dignity and honour to settle in-house squabbles in-house, and not pull the parliament into solving divisions between different groups and forces within their own party. We are being asked now—and I find this absolutely incredible—to legislate, as a serious legislative chamber, to solve an internal dispute in the Liberal Party. I do not know why the Liberal members in this place do not turn a vivid red in embarrassment. The Liberal members of this parliament must have a hide thicker than a rhinoceros to pretend that there is any public interest or national public purpose in carrying this bill.

The last speaker, Senator Johnston—a former president of the Western Australian division of the Liberal Party—said that the Labor Party has some problems. We do from time to time, but we have never come in here to solve them. Since he has raised the question of the Western Australian situation, let me complete the picture. His has been, dare I say, a one-sided, biased presentation of the facts. Let us look at the Liberal Party division in Western Australia. They have trouble keeping a leader. Colin Barnett is elected as the leader; weekly, members of his caucus leak against him. Most recently, the Sunday Times carried a headline that he was going to be deposed at a party meeting on the following Tuesday. On Monday night, as Liberal members turned up for a sitting of the parliament, we saw doorstep interviews by almost all of them with none of them genuinely endorsing their leader. The best he got was condemnation by faint praise; some of them were outrightly hostile to him. Did they have the ticker to go ahead with their leaked threat? Of course not; they all backed off. One of their putative candidates, Mr Matt Birney, the member for Kalgoorlie, retreated from all of the innuendo and leaked threats by declaring—and this is a stunning political quote—that he is a ‘lover not a fighter’.

Then we have the spectacle which occurred in the last sitting week that this parliament was together, when we had a valedictory for outgoing senators. A Liberal senator from Western Australia—one who, to listen to his colleagues in this chamber and in my view too, has a long and distinguished career in this place—stood in his place and wept. He shed a tear, he said—and his words are in the Hansard for all of us to read—on the basis that he had been stabbed in the back. Hoping for guidance and assistance, he had gone to the president of his party division and shared concerns about a police investigation into the rorting of his travel expenses. He then found that information he had passed in confidence to his president was used against him to remove his endorsement as a Liberal Party candidate. He stood there—just over there—and physically wept as he told this chamber, lips trembling, what had happened to him. A real happy ship, you would have to say.

But it gets worse. Just recently, the Liberal Party in Western Australia had its state conference. The notorious Graham Kierath, who was the party’s hero in introducing the third wave of industrial legislation, was defeated for the presidency of the party and, in bad faith, left the meeting declaring that he had been done over by the powerbrokers and that it was not a fair vote of the rank and file. We have heard those sorts of stories before. The thing that takes the cake, though, is the seamy saga that we had on the front page of the West Australian newspaper a couple of years ago when the office of the then member for Stirling, Mr Eoin Cameron, was raided by the Australian Federal Police because, as it turned out later, Senator Sue Knowles had tipped them off that he was the source of a document that had been spreading discontent in the Liberal Party and that this was scurrilous. Senator Knowles went before a disciplinary committee of her party and was in fact expelled for a time. She was brought back only by the intervention of the Prime Minister, it would seem.

So goes this saga of sordid internal squabbles. It is not exceptional—it sometimes happens in other places—but no-one ever comes here to try to solve it. The thing that I
think illustrates this is a letter that has been
given to me by a former prominent senator
representing the Liberal Party in this place—
a letter he has personally sent me. It is a copy
of a letter to another senator in this chamber.
Mr Acting Deputy President, I propose to
read part of the letter provided to me by a
former, dare I say, distinguished Liberal
senator. It is addressed to Senator Ian Camp-
bell, Parliament House, Canberra ACT 2600.
It says:

Dear Ian
I have become aware of the full extent of your
insulting and abusive conduct towards State
Council delegates and State members of parlia-
ment at Sue Knowles’ appeal. Apparently you
think you have a right to act like a lout towards
anybody and everybody who disagrees with your
opinion of what is right.

It does not offend you that Knowles lied about her
allegations of death threats, conspired with the
Labor Party to have those lies published, lied to
her pre-selection, deceived the public before the
last federal election ...

Senator McGauran—Who would have
written that?

The ACTING DEPUTY PRESIDENT
(Senator Forshaw)—Order! Senator Cook, I
understand you are reading from a copy of a
letter. The words in that letter may have been
written by someone else, but nevertheless
their use in this chamber is a reflection on
another senator. Therefore, it is unparlia-
mentary to use the words you did. I ask that
you withdraw them.

Senator COOK—Thank you, Mr Acting
Deputy President. I withdraw anything I
have said. I make the point, however, that I
am quoting from a letter by a former senator
who was a Deputy President in this chamber.

Senator Kemp—Mr Acting Deputy
President, on a point of order—

The ACTING DEPUTY PRESI-
DENT—Senator Kemp, would you resume
your seat. I am listening to Senator Cook’s—

Senator COOK—I am not saying that
this is my opinion, Mr Acting Deputy Presi-
dent.

Senator Kemp interjecting—

The ACTING DEPUTY PRESI-
DENT—I have ruled on the point of order
and I understand Senator Cook has with-
drawn the words, but Senator Kemp is now
taking a point of order.

Senator Kemp interjecting—

Senator COOK—I withdraw any reflection
on an honourable senator in this cham-
ber. I do not know whether this is true. All I
am saying is that this is what has been said.

The ACTING DEPUTY PRESI-
DENT—Senator Cook, you have withdrawn.
Do you wish to still take a point of order, Senator
Kemp?

Senator Kemp—Mr Acting Deputy
President, on a point of order: I think the
withdrawal is not the correct withdrawal.
The withdrawal should be that the inappro-
priate comments made about Senator
Knowles and Senator Campbell should be
withdrawn directly, and Senator Cook has
not said that.

The ACTING DEPUTY PRESI-
DENT—Senator Cook has withdrawn the
words—

Senator Kemp—In the appropriate form,
Senator.

The ACTING DEPUTY PRESI-
DENT—There is no point of order, Senator
Kemp, and I ask you, Senator Cook, to re-
sume your speech.

Senator COOK—Thank you, Mr Presi-
dent, and I will, but I want to say this, too,
because it relates to what I am quoting into the
Hansard: I withdraw any reflection on an
honourable senator. I am not saying these
words are true. As I said, when I introduced
this letter for quoting, these are the opinions
of Liberal Party members about other Liberal
Party members. They may or may not be
true. I do not make a reflection either way on
another senator. It is just emblematic of the
problem, and I withdraw any reflection that
is made. Let me continue with this letter, and
I will observe the standing order as far as any
unparliamentary expressions that might be
contained in this letter are concerned. I will
start where I left off. It says:
It does not offend you that Knowles—
delete—
about her allegations of death threats, conspired
with the Labor Party to have those—
Senator Kemp—Mr Acting Deputy President, on a point of order: it is very clear that Senator Cook, in a rather underhand and sleazy manner—

The ACTING DEPUTY PRESIDENT—Senator Kemp, you will withdraw that word.

Senator Kemp—I withdraw that word. It is very clear from the manner of Senator Cook that he is trying to go around your ruling. He is persisting in reading this letter, which contains a scurrilous attack on two members of this chamber. I think that Senator Cook should now observe the ruling that you have made and stop attempting to get around it by this most unfortunate behaviour that he is adopting, which I might say is becoming more typical of him in recent months.

The ACTING DEPUTY PRESIDENT—Senator Cook, I am not aware of the rest of the words that you are going to read in the letter, so I am not able to rule on any future comment at this time, but I draw to your attention the fact that you should refrain from using any words or any imputations or making any references which would be unparliamentary and reflect on other senators. Even though you are quoting from a letter, that does not remove the fact that it is still unparliamentary to use those words or those references.

Senator COOK—Thank you, Mr Acting Deputy President. I therefore seek leave to incorporate the letter in Hansard.

Leave not granted.

Senator COOK—Mr Acting Deputy President. I seek leave to table the correspondence.

Leave not granted.

Senator COOK—I note for the Hansard that Senator Kemp, a Liberal Party minister, denied leave for the incorporation or tabling of this letter. I now should say that this is a letter written by a former Deputy President of this chamber and former Liberal senator for Western Australia, Noel Crichton-Browne. It concludes with the words:

Feel free to distribute this correspondence. I shall. Yours sincerely,

Noel Crichton-Browne.

I do not think I can read this letter honestly and conform with standing orders at the same time. Therefore, I will summarise essentially what it says and do so in conformity with standing orders, because it serves to illustrate the deep divisions within the Liberal Party and the divisions that give rise to a manipulation by this government of this legislature to solve those problems in the Liberal Party by having a Liberal government enact laws that settle an internal party dispute. This is a relevant piece of evidence that the party disputes in the Liberal Party are deep, entrenched, bitter and personal, and it is therefore not surprising that there is anger and distrust.

Senator Kemp interjecting—

The ACTING DEPUTY PRESIDENT—Order! Senator Kemp, would you be quiet. I need to hear what Senator Cook is saying.

Senator COOK—in all dignity, it ought to be the proper reaction for the Liberal Party to solve those problems itself, not to come here and ask us to vote in order to solve those problems for it. If I can summarise this letter, it is a damming, almost incendiary, indictment of the ethical behaviour and conduct of honourable senators—and I will not go to the details. It sets it out in some considerable detail; the letter runs to one and a bit pages. It refers to me directly by name—which is obviously why it has come to me—because the imputation of this letter is that I was the victim of misconduct by individual members of the Liberal Party, some of whom are members of this parliament. I am certainly interested to know that that is the view of at least one member, who was a deputy president of this chamber.

Senator Kemp—Mr Acting Deputy President, I rise on a point of order. Senator Cook has alleged that he was the ‘victim’ of misconduct by members of this chamber.

Senator COOK—No, I didn’t. I said that the letter said it.

Senator Kemp—This is a very grubby way to get around your ruling, Mr Acting
Deputy President. The fact of the matter is that if Senator Cook wants to attack members of this parliament there are ways to do it and they should be warned.

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

Senator COOK—Politics is a rough game sometimes. Perhaps it should be less rough and more civil or less vulgar and more genteel, but from time to time it breaks out. I have not complained about being the victim of alleged Liberal Party misconduct toward me; it only becomes relevant in the context of the stupidity underlying this bill. Here we have a government trying to solve problems within its own political party by, in my submission, misusing this legislature to solve a factional dispute in its own party. It is a disgrace that this should occur.

I do not complain about being the subject of rough treatment—if that is the rough and tumble of politics I am prepared to wear it and get on with the job, because my interest in this place is in policy, not personality. But when this issue comes before us in the manner that it has it is a relevant element of this debate to put before this chamber the sort of trenchant distrust that occurs between members of this organisation called the Liberal Party, which has fielded candidates that other members—who have achieved distinction and are in good standing—regard as less than worthy. I will leave it there.

In leaving it there, I make this point. Senator Johnston is new to this chamber and is entitled, as a debutant member of this chamber, to make his regulation number of mistakes. We all did it, and he is entitled to do it and not have it held against him. But in an excess of zeal a few moments ago he used this platform in this chamber to try and denigrate my party. I resent and reject that. All of those things that he said are fundamentally untrue, yet we see this sleazy operation of the art of the big lie and giving the lie to the conduct of the Labor Party. We know that there is this element in politics; I reject it, but we keep hearing about it. If anyone is in any doubt then they should wait until question time, because we will see a number of ministers come in here just for the purpose of slagging off against the Labor Party, not for the purpose of providing answers to questions asked of the executive. If that is the sort of seamy politics they play here, it is not surprising that within their own organisation they cannot agree and that they would seek to put their hands on public money by legislating to solve that problem through this chamber, not by fixing it as they would if they had any dignity and self-respect within their own party. (Time expired)

Senator MASON (Queensland) (12.07 p.m.)—Mr Acting Deputy President Forshaw, as you know, I am rarely shocked—indeed, rarely surprised—by the sanctimony and hypocrisy of the Labor Party when it comes to organisational structures, party integrity and policy relevance.

Senator Chris Evans—You’re from the Queensland branch of the Liberal Party, so you haven’t had a good experience.

Senator MASON—Thanks, Senator Evans. I have not heard many of the speeches from the opposition, but I did hear my good friend Senator Carr—perhaps the last of the unreconstructed Stalinists in any Australian parliament—giving the Liberal Party a lecture on policy irrelevance. The other day I was at the tree of knowledge in Barcaldine. The tree of knowledge, which I have dubbed ‘the shrub of ignorance’ is withering, just as the Labor Party is.

The ACTING DEPUTY PRESIDENT (Senator Forshaw)—Order! Senator Mason, I ask you to withdraw the comment you made a moment ago in respect to another senator. I ask you to withdraw the word you used.

Senator MASON—Which one?

Senator Chris Evans—I suspect, given that Stalin murdered thousands, it is probably not very—

The ACTING DEPUTY PRESIDENT—The word is unparliamentary.

Senator MASON—I understand what you are saying, Mr Acting Deputy President, and I withdraw it. We received a lecture from Senator Carr about policy irrelevance. What I do know about this debate is that the people here in the chamber and those who will read the Hansard later are not interested in this debate at all. This is the ultimate insider’s
debate. They are actually interested in trade, globalisation, industrial relations reform, mutual obligation, welfare reform, social issues and changing policies relating to families. They do not care at all about the internal structures of political parties. So when I hear lectures from the Labor Party—including, I might add, from those who are supposedly the best and the brightest of the Labor Party—I find it (1) unbelievable and (2) pathetic, and (3) in some ways I cannot understand why I have been asked to speak in a debate on which I have very little interest. If we are talking about policy irrelevance—and you have heard me so often on this subject, Mr Acting Deputy President—I could go on for hours.

The 20th century was won by those who wanted to liberate humanity, not by those who wished to enslave it. The Labor Party finally adopted conservative economic policies in the eighties and the nineties. I will make this prediction: they adopted conservative economic policies but within the next, let us say, decade they will adopt the conservative formula of mutual obligation. You watch. They will, because they now know that the Australian community will not tolerate welfare without some reciprocity from the recipient. Slowly and steadily the Liberal Party has had to drag the Labor Party into the 21st century and relevance. As you know, Mr Acting Deputy President, because you have heard me on this many times, I dislike the Left not so much because they generously lent their lunatic economic policies to the Third World, nationalising industry and things like that, and thereby impoverished thousands of millions of people—I can forgive that; they probably cannot, but I can—

Senator Hutchins—Tell us about Enron!

Senator MASON—I concede that there can be peccadilloes by individuals on both sides of politics. I accept that. I certainly do not claim to be closer to the angels than Senator Hutchins is. The point, of course, is that it is not so much about whether individual Liberal senators or individual Labor Party senators are good or bad but about whether the structure and the organisation of a party are corrupt. The Labor Party are dominated by an increasingly irrelevant bunch of people—namely, the trade unions. Once again, you might think, ‘Oh, that’s not right’—they are tethered to the trade union movement. I will again quote from former Senator Button. At page 36, he said: In August 2001 unions made up less than 25 per cent of the total workforce and only 19.2 per cent of the private sector workforce.

The ALP is seen as a pale alternative to the Coalition. It is incapable of embracing and speaking for the divergent progressive groups in the community. It has been unable to respond effectively to new aspirations. It no longer represents contemporary Australia. Let me repeat that:

It no longer represents contemporary Australia.

Mr Button said this; not me. He said:

It may not even represent its members any more: its national body has become an offshore island adrift from the rest of the party, inaccessible to its rank and file, a barren and rocky outcrop untouched by new ideas—except those they borrow from us! Mr Blair is pretty intelligent; he got rid of the union movement. It took some courage, but he did it, and the policies that he has adopted are called the ‘third way’. Do you know what that is? It is the Left grabbing our ideas, re-badging them and saying, ‘They’re ours.’ That is what has happened in the Labor Party and the Left over the last 20 years. They may have state governments and they might build nice highways, but the best the Labor Party can do these days is become a pack of straighteners and managerialists. The right wing of the ALP has made that party a pack of managerialists and straighteners—they are all that is left, because they lost the big issues of the 20th century. I will move on to structural problems.

Senator Hutchins—Tell us about Enron!

Senator MASON—I concede that there can be peccadilloes by individuals on both sides of politics. I accept that. I certainly do not claim to be closer to the angels than Senator Hutchins is. The point, of course, is that it is not so much about whether individual Liberal senators or individual Labor Party senators are good or bad but about whether the structure and the organisation of a party are corrupt. The Labor Party are dominated by an increasingly irrelevant bunch of people—namely, the trade unions. Once again, you might think, ‘Oh, that’s not right’—they are tethered to the trade union movement. I will again quote from former Senator Button. At page 36, he said:

In August 2001 unions made up less than 25 per cent of the total workforce and only 19.2 per cent of the private sector workforce.
This is the crux of why the Labor Party are irrelevant, this is why they are tethered to the trade union movement, and this is why they will go nowhere in the battle for ideas. Mr Button says:

Unions affiliated with the Australian Labor Party represent less than 15 per cent of the workforce. That is who they represent: less than 15 per cent—and they come in here and claim to speak for a majority of Australians! Less than 15 per cent of the workforce is who they represent.

Senator Hutchins interjecting—

Senator MASON—And they do not like it. Senator Hutchins, when this is brought up. The one thing the Labor Party hate is when they are exposed as frauds—speaking for an absolute minority of working Australians. We represent ordinary Australians; the Labor Party do not. Mr Button refers at page 37 in his essay to ‘less than 15 per cent’, Senator Evans. Mr Button continues:

The past twenty-five years have seen no new union affiliations to the ALP in technical and professional areas. Membership of unions in the growth sectors of the economy—information technology, telecommunications, electronics, biotechnology and financial and business services—

and that is where this country is moving—is low, sometimes tiny.

They are not even attached to those parts of the economy that are growing. They represent less than 15 per cent of the workers of this nation, and they sit there with smirks on their faces saying that they represent the average Australian worker. It is pathetic, hypocritical and sanctimonious.

Senator Chris Evans—The comparison is stacking branches with people who have left the country; that is your—

Senator Hutchins interjecting—

The ACTING DEPUTY PRESIDENT—Order! Senator Hutchins, do not interrupt while the chair is speaking. I ask all senators to tone it down a bit and observe the standing orders.

Senator MASON—If you thought, Senator Hutchins, that somehow the union hold over the Labor Party might have changed, you are wrong. I have a copy here of the Hawke-Wran report of August this year titled An enduring partnership: Labor and the union movement. Senator Ferris, it says that less than 15 per cent—

The ACTING DEPUTY PRESIDENT—Senator Mason, direct your remarks through the chair and not directly to other senators.

Senator MASON—The report An enduring partnership: Labor and the union movement says:

Unions affiliated with the Australian Labor Party represent less than 15 per cent of the workforce. How pathetic! I think my friend Senator Evans said something about factions; so does Mr Button. Let us get to that now. He says on page 21 that in Labor:

These disputes represent something important. They are signs of a Labor Party corrupted by petty conflicts, dominated by what unionist Martin Foley calls factional ‘warlords’—that is them sitting over there—and distracted from its historic purpose. This is the new inward-looking, corrosive culture of the ALP.

Of course, factional disputes are hardly unknown to the Labor Party. What is new is the domination of the party hierarchy by a new class of labour movement professionals—there they are—who rely on factions and unions affiliated to the party for their career advancement. These people come from the ranks of political advisers, trade union policy officers and electoral office staff. Individually they can be thoughtful and decent people.

I think that is right; I can see some individually thoughtful and decent people—Collectively—

the Labor Party are collectivists—they are destroying the diversity and appeal of the ALP and its affiliated unions.
Mr Button states in his essay:

The overall effect on the ALP has been profoundly destructive. Federally, the party is in retreat. Its primary vote, its membership and the breadth of people it sends to parliament are all shrinking. These things are intimately connected, and they are made possible by a party structure that has barely changed in the past century, that is moribund and out of touch with contemporary society.

He goes on to say:

What had replaced a broad spectrum of backgrounds was a new class of political operator who had been filtered through the net of ALP machine politics. Out of a total of ninety-six members, fifty-three came from jobs in party or union offices.

And I wonder why they are irrelevant to policy debate! What more can I say? It gets worse, far worse.

Senator Ferris—There’s more!

Senator MASON—There is a lot more, and this is perhaps the worst part. It goes on to say:

The narrowing parliamentary base is symbolised by the predominance of a number of holy families of Labor politics—

this Comcar aristocracy that the Labor Party has developed—

Once upon a time it was conservative clans like the Downers and the Anthonys who tended to monopolise parliamentary dynasties, but today the ALP has a rival list that reads like a row of gentlemen’s outfitters in the lower end of Bond Street: Beazley and Son, Crean and Son, Ferguson Brothers, Fitzgibbon and Son, Brown and Hoare (father and daughter), McClelland and Son ... The list goes on, and they are all worthy and respectable concerns; there can be no serious objection to their continuing in the family business. Between them, however—

and listen to this—

the present generation of dynastic representatives makes up about 10 per cent of the ALP lower house.

Ten per cent of the Labor members of the House of Representatives are part of a dynasty—and they are against hereditary monarchies! The argument I am developing is that while there are individual peccadilloes, and I concede there are on all sides, the institutional corruption—indeed, the sordid institutional corruption—in the ALP is much worse simply because of its tethering to the union movement. Mr Button says on page 28:

Unions, of course, have had a long involvement in politics. They started the ALP and once dominated party conferences with numbers and ideas. They pumped their best-qualified members into parliament, often from self-educated and politically motivated rank and file members. Now it is the other way around.

Mr Button writes:

ALP factions try to capture the allegiance of unions to advance the interests of a breed of Labor professionals.

Not to advance the workers but to advance the breed of Labor professionals. He says:

These professionals do not come from the rank and file of union members, and so a gap widens between the leadership of the union and its members. Too often the members switch off politics as a result, to the long-term detriment of the ALP.

I will make one last mention of Mr Button’s article before I get onto even more interesting themes. He says:

Hyped-up by the heady tribalism of group loyalty, factional warriors—

and there they sit—

are primed to suffer, like athletes overdosed on steroids, from testicular atrophy when confronted by the real enemy.

Quite right. I have never been afraid—not of this lot. He goes on:

They can make good constituent members, but in parliament their identity is swamped by sexual fealty and the need for tribal approval.

You see: testicular atrophy. He continues:

Because of this a curious phenomenon occurs: they often have no strongly developed sense of difference from the Liberals sitting opposite them.

Because we have won the battle of ideas, they want to be like us.

Senator Chris Evans—I don’t know why you don’t go home if you’ve won everything.

Senator MASON—You might think I am saying nasty things about my friends opposite, but I have tagged all their backgrounds in the Parliamentary Handbook, and I will get to that in a minute, because I am sure the gallery will be amused. I note, and I say again, that we have our peccadilloes in the Liberal Party—I concede that—and I know
the Labor Party does. But the difference is the institutional tethering of the Labor Party by the union movement. I did not see it but I understand that Senator Ray had a go at my preselection yesterday. Then I had this memory—a flash—going back over 20 years, Senator Hutchins.

Senator Hutchins—You should be a preacher, you know.

Senator Mason—Yes. In fact, perhaps it was divine! When Senator Ray said that my preselection was bitter and everything else, I remembered—I may have been at high school or just at university, but it was the late seventies to early eighties—when Senator Ray knocked off that old leftist Jean Melzer. That was the most bitter struggle in the Labor division in Victoria ever. And apparently that is okay, but a close run in the Liberal Party is not okay. I remember, even as a student, that I thought it was all right. Do you know why? I thought, ‘They got rid of an old leftist—that’s good.’ And I applauded Senator Ray for doing it. I thought, ‘Great stuff: Get rid of an old leftist from the Labor Party. That’s good for democracy.’ But do you know what? It was the most bitter, the most sordid and the most disgusting campaign. I do not care about how Senator Ray got here, because I used to think he performs a good job, but the fact that the best and the brightest of the Labor Party spent all their time going through the gutters and the rubbish of this place makes me sick. I will take on Senator Ray in a policy debate any day of the week and win.

Someone like Senator Ray or Senator Faulkner—bright people though they are—will never come in here and debate policy, because when they do they lose. The one constant is that they always lose. So what they do is they think, ‘We’ll see if we can find a bit of rubbish, a bit of dirt, a bit of this and a bit of that and we might get somewhere.’ They will never come in here and debate taxation policy, industrial relations reform or welfare reform, because if they do they will lose—because they are irrelevant. That is what makes me so sick about this debate: the best and the brightest of the Labor movement have nothing new to say on the agenda. It is becoming increasingly apparent, so they come in here and talk about the internal structures of the Liberal Party. The day that the Labor Party get over the union movement and have the courage to say, ‘We only represent less than 15 per cent of the work force, we should do something about this,’ is the day they can come in here and lecture to us. They are irrelevant because they represent no-one except the professionals climbing up the greasy pole to end up in this place.

Senator McLucas (Queensland) (12.27 p.m.)—The Commonwealth Electoral Amendment Bill (No. 1) 2002 has a seemingly very innocuous name. Unlike the government’s colourfully and, I think, inaccurately titled bills like More Jobs Better Pay, A New Tax System or the quite strangely named fair termination bill, this bill would have you believe that it was simple and plain and that it would change the way that the Commonwealth Electoral Act works for the betterment of our nation. Nothing is further from the truth. All politicians are aware of the community’s view of us all. There is a sense of disengagement and contempt for political processes. I think the community would welcome positive and sensible reforms of the electoral process.

The acting Deputy President (Senator Forshaw)—Order! Excuse me, Senator McLucas. Would honourable senators on my right resume their seats or leave the chamber if they wish to have a conversation.

Senator McLucas—I think the community would welcome a thorough review of our political processes and our electoral system. But this seemingly innocuously named bill does nothing like that. It is simply a bill to solve the internal problems and factional wars of the Liberal Party.

This bill is designed to use the processes of the parliament to manage the power battles and struggles in the Liberal Party, both nationally and between the states. It is to my mind an outrageous abuse of the parliament and the parliamentary system. Essentially, the bill allows the federal secretariat of the Liberal Party to control the disbursement of all the public funding due to the Liberal Party following an election. Liberal Party
state divisions would only receive the proportion of public funding agreed to with their federal secretariat. It is a bill about money; it is a bill that strips electoral public funding from the state based organisations and provides it to the federal secretariat. It is a bill that should be called ‘Commonwealth Electoral Amendment Bill (Liberals Dash For Cash)’, if the government were following true to form in the way that they have misnamed other legislation in this place. It is reasonable, I believe, for the community to ask why it is that the parliament is spending all of this time— I say, wasting all of this time—talking about the internal processes of a political party. The answer is that the Liberals cannot, will not and do not talk to each other. It is across these benches that we, the parliamentarians of this country, have to solve the internal problems of the Liberal Party.

All of the state branches of the Liberal Party are in enormous disarray, and the Queensland branch of the Liberal Party, more than any of the others, is the champion of factional warfare. Over the last few months in Queensland we have seen the most unseemly public brawling reported in the newspapers and other media. It seems that every Friday night we see a trooping of the factional chiefs off to Liberal Party headquarters to carry out the next stage of the battle. We see the sad and sorry Leader of the Liberal Party of Queensland pleading for his party to adopt electoral reform. We see the Leader of the Liberal Party leading a parliamentary party of three: himself, Dr David Watson and Mrs Joan Sheldon. The Liberals are irrelevant in Queensland—they have three seats out of 89. One would wonder what they are squabbling about!

The only game you can play with three players is piggie-in-the-middle. I think that Mr Quinn is the unfortunate player standing in the middle trying to catch that ball—the prize. The prize in my mind is party electoral democracy, but he just cannot catch it. He has tried—a couple of weeks ago he tried very hard. He tried to do what Peter Beattie has done so successfully, I believe, in Queensland in cleaning up internal party electoral corruption. Peter Beattie has done it showing enormous leadership. He got rid of the ‘rorters’—to use his language. It was tough and it was hard, but he did it. However, it is too hard for the Liberal Party. Mr Quinn himself said:

Peter Beattie has shown us what to do ...

We have to move to put those sorts of reforms in place in our own party. We can’t bury our head in the sand.

Mr Quinn tried to adopt the Beattie style electoral reforms that had cleaned up corruption in the Queensland branch of the ALP, but he has failed. In the Liberal Party in Queensland you can still vote in a preselection if you are not an Australian citizen or even if you do not live in the electorate for which you are selecting a candidate. Surely that is a fundamental democratic principle for any preselection process, but unfortunately it would seem that Mr Quinn will fail in his attempt to clean up electoral rorting within the Liberal Party in that state. As I said, Mr Quinn failed to deliver party reform to stop branch stacking but then, as has been reported very widely, he also lost the stack itself.

On 9 August this year, we saw unprecedented growth in the membership of the Liberal Party of Queensland—20 per cent growth. A total of 800 new members were joined up on that evening, adding to the membership of 4,500. The Santoro-Carroll faction, which includes the state president, Mr Caltabiano, stacked 500 votes, it is said, on that night. It is important to note that Senator Brandis and Senator Mason are part of that group. The scuttlebutt is that they will have the numbers to preselect Mr Santo Santoro, the failed member for Clayfield, as a replacement for Senator Herron. That will not please a number of women in the Liberal Party of Queensland, especially Kathy Sullivan, a former member of the House of Representatives, who has been arguing for and urging the Liberal Party to do the right thing and find a woman candidate to replace Senator Herron when he moves to his next appointment. But unfortunately I do not know that the women of the Liberal Party in Queensland actually carry a lot of weight.

The other player of course is Mr Michael Johnson, the new member for Ryan. He is
clearly at the moment the champion branch stacker in Queensland. He is the head of what is known as the ‘fly in, fly out branch’ and is aligned with, but not a captive of, the Santoro-Carroll faction. Mr Johnson controls the largest membership of the Liberal Party in Queensland and is a powerful player—someone that requires respect from all of the combatants. It is said, though, that Qantas shares will rise in the lead-up to the state conference this year as some of the Liberal Party people have to travel from quite a long way, including from overseas.

On the other side of the battle we have the old Bob Tucker faction, known as the ‘Western Suburbs Wets’. I understand that includes Senator Ian Macdonald, so there is also a division within this place. Mr Mal Brough has been busy in his attempt to win the stacker of the year trophy, but I do not know that he has quite made it. It is reported that he personally took most of the 300 new membership forms to party headquarters on 9 August and that those memberships were paid for with a small number of cheques. Mr Quinn has been attempting to rule out this sort of branch stacking. This is the sort of branch stacking that has been comprehensively ruled out by the work of Peter Beattie. We do not have that sort of corruption in the Labor Party anymore in Queensland because we dealt with it. Unfortunately, it seems that the Liberal Party in Queensland is not quite prepared to. Mr Quinn, as I said, is a member of this group—the Bob Tucker group—and I do not think it would sit well with his tough words about reform. As is reported in the *Courier-Mail* on 16 July, he said:

> The reason I’m proposing these tougher reforms for the Liberal Party is I want to make the Liberal party respectable and electable and I think those are the key words here ...

> If the community doesn’t respect you, they won’t elect you.

That is pretty clear: there are only three of them! The *Courier-Mail* article continues:

> Mr Quinn said his party would not be electable or presentable until it stamped out branch-stacking.

But it is evident from the events of 9 August that his group are up to their ears in it as well. So you can say one thing, Mr Quinn, but then your actions have to sit well with your words. Mr Quinn went on:

> I’m trying to hand the party back to the members of the party rather than the elected people sitting around state executive ...

> It’s that important.

Well, Mr Quinn, we will see at the state conference whether or not you have been successful in delivering to the Liberal Party the reforms that you speak of. In the *Courier-Mail* at a later date, he also said:

> If we are going to clean up this party, then I need to work with people who do support the reforms that I am proposing. The current president isn’t supporting them. He is more of a hindrance than a help, quite frankly.

Mr Quinn said:

> Mr Calabiano was not interested in complete reform and was part of a “small clique” of factional power brokers more interested in preserving their stranglehold than making the Liberal Party respectable enough to deserve election.

It is very unedifying. It is not a pretty sight. The actions of the Liberal Party in Queensland are undignified, just as this bill is an undignified misuse of this parliament. This should have been solved internally in the Liberal Party; it should not be wasting the time of this Senate or the parliament.

This bill is about money and power. Unfortunately, it seems that that is what the Liberal Party stands for. Last week the Howard government cabinet travelled to Cairns, the place where I live. When I heard that the cabinet was coming to Cairns I was initially very welcoming. It is very important that parliamentarians travel outside Canberra and the major cities to understand what is happening, especially in rural places. I was initially pleased that they were going to make some sort of attempt to connect with the community, to understand the issues that face people, especially in regional Australia. It is important, as I said, for parliamentarians to travel, to get to places outside the major cities and I always encourage it. It is an opportunity to understand those community concerns. But it became evident very early in the piece after we found out that the cabinet was coming that there was really no attempt at all for true community connection.
As an aside, I would like to explain what happens when Peter Beattie does what are called the ‘community cabinet visits’ in Queensland. Every three weeks the cabinet travels to a regional place in Queensland. On the Sunday afternoon they sit down with community members at an open forum. Everyone is invited. There is an advertisement in the newspaper and everyone comes. Anybody can raise any issue from the floor. That lasts for a couple of hours and then the meeting breaks into smaller groups where each cabinet member sits at a table and anybody in the world can walk up and have a discussion with that cabinet member about the issue that concerns them. They are invited openly and freely and they do not pay a cent; anyone can come. Later on that Sunday evening—and it is the same pattern at every community cabinet meeting—Peter Beattie hosts an open barbecue or drinks. It is very cheap and once again anyone can come along. The following day the cabinet meet and then there is an open luncheon to which usually the local government invites whomever they would like to come along to it. These visits are very open, very communication based and extremely effective. It is something that the Beattie government should be commended for. I know community members across Queensland welcome these events as an opportunity to truly connect with their members of parliament.

The contrast between those events that happen every three weeks in Queensland and the fanfare and palaver of the cabinet visit to Cairns could not be more extreme. The itinerary was a litany of publicity opportunities and fundraising events. In North Queensland we live in a wonderful part of Australia. Members of parliament and businesspeople are often criticised for travelling to our part of the world in the winter when it is 27 degrees, there are beautiful clear skies, Trinity Inlet sparkles and the Great Barrier Reef sits out there. People are often criticised for coming to North Queensland at that time of the year. I always say to them that that is unfair. We deserve parliamentarians to come to our part of the world, and we would like you to come when it is attractive and beautiful—not that it is not all the time, but it is always better in the winter. In fact, the logo of the convention centre is ‘Serious business in a stunning location’. We are serious in North Queensland about doing business but we do not like it when our community is treated in the way that I say the Howard cabinet treated us last week. It is important that MPs are always seen to be working.

There were three opportunities for the community to meet with the cabinet during their time in Cairns. The first one was at a cocktail welcome reception. It cost you $40 to go to that. According to Mr Entsch in the Cairns Post, 450 people came along to that event. At a cost of, let us say, $15 per head, I would put the profit from that connection with community at about $11,250. So the Liberal Party of Leichhardt FEC made $11,250 by hosting an event where community members could meet the cabinet. That was on the Monday night. That was followed later in the evening by a dinner party. The Cairns Post put it beautifully:

Dinner with the Prime Minister for $2000 a plate. We have done a bit of figuring on that one, too. Let us say that eight people sat at Mr Howard’s table. That gives a net income from that table of about $16,000. I understand that not all members of the cabinet are worth $2,000—Mr Costello was worth $1,500, so $13,500 would have been collected from the eight or nine people who sat around that table. The other 15 ministers ranged in value from $750 to $1,500. Let us be conservative and say that they were all worth $750. That brings us to $101,250 that could have been made from those tables. With 170 people, the total income would be $130,750, less—let us say it was $50 a plate—$18,500, giving a final profit from the dinner with the Prime Minister—this event where we connect with the community, where we understand what the community thinks—of $122,200. The total income to the Leichhardt FEC would be $135,450—not a bad thing if you can do it.

Debate interrupted.

BUSINESS
Rearrangement

Senator COONAN (New South Wales—Minister for Revenue and Assistant Treasurer) (12.45 p.m.)—I move:
That consideration of government business order of the day No. 3 (Australian Radiation Protection and Nuclear Safety (Licence Charges) Amendment Bill 2002) be postponed till a later hour of the day.

Question agreed to.

FAMILY LAW AMENDMENT (CHILD PROTECTION CONVENTION) BILL 2002

Second Reading

Debate resumed from 20 August, on motion by Senator Coonan:

That this bill be now read a second time.

Senator Bartlett (Queensland) (12.45 p.m.)—I rise to speak briefly to the Family Law Amendment (Child Protection Convention) Bill 2002. It is an example of the government actually implementing, through legislation, international conventions. It is worth noting that fact, given this government’s own propensity from time to time to criticise and to be seen to be undermining the importance of international conventions, particularly ones relating to human rights, such as this one. This government uses rhetoric to suggest that we should not be dictated to by people in Geneva or by people in ivory towers in the UN and that we should determine for ourselves what we wish to do, despite the fact that we have signed up to particular conventions.

However, as this legislation shows, whilst that may be good rhetoric to appeal to the anti-internationalists, quasi-One Nation vote, it is not reflected in the reality of how the government operates in practice a lot of the time, thankfully. This legislation is one example of that, where it implements an international convention that the government has adopted and incorporates it into law. It is worth emphasising that, because I do not think there is a common misunderstanding amongst the Australian public that Australia’s ratification of an international convention does not automatically make it enforceable in Australia. If there is no other law to the contrary, it is certainly open to courts to take that into account when interpreting how existing laws should be enforced or how they should operate. Unless the convention is specifically incorporated in Australian law, then it has no direct legal effect.

That is nowhere more evident than in areas such as the refugee area. Whilst the refugee convention is partly incorporated in the Migration Act, it is also regularly and repeatedly undermined in the Migration Act through various components of it. The many breaches of the refugee convention that this government continues to allow to occur daily do so because our national law allows it, despite the fact that we have ratified an international convention. This is even more the case in a convention such as the Convention Against Torture, which we have ratified and, technically, are accountable to. But we have not incorporated it in Australian law, so there is no mechanism for people to legally enforce through the courts their right to protection under the Convention Against Torture, despite the fact that Australia has ratified it. They do have an option, if all their legal avenues have been exhausted, to go to the relevant UN committee overseeing that, which can examine their situation. But the government is under no compulsion to pay any attention to what that committee finds or, indeed, whilst the committee makes its considerations, even to allow the person to remain in the country. The government has followed that convention to allow that to happen in previous times, but it is purely on its own wishes. There is no legal requirement for it to do so, and there is no legal way that people, if they have a complaint before the relevant UN committee, can enforce the government to do so. All we are left with in that area is ministerial discretion, which ministers can use or not use as they choose, without any right for that to be compelled through a court.

It is important to emphasise that, under many of these crucial human rights treaties, such as the Convention Against Torture, whilst it is obviously good if Australia ratifies them, we are reliant in many cases purely on the goodwill of the government of the day. Even if one were to suggest that this government and its current minister operated in an appropriate way in that area—and that is, in the very least, debatable—there is no legal guarantee that future governments will
feel bound to uphold the conventions they have signed. That is a long way of saying that bills like this are important and welcome, because they do actually put into legislation the principles that we have signed up to in conventions, so that people will have a legal right and are able to seek legal remedy if those rights are breached or if they need to be enforced.

It is an important process and it is an important bill, and the Democrats support it. But it needs to be emphasised that, whilst it might seem a run-of-the-mill thing to simply reflect international conventions in legislation, it actually does not happen automatically. It does not happen as often as it should. I think there is no surer way of undermining our credibility as a nation and our support for international conventions than if we ratify them and then flout them, regardless of the topic, but particularly in areas like human rights.

Australia needs to play an effective role internationally as an advocate for strong human rights protection—I believe we have played that role effectively in the past—and it is one of the constructive international approaches we can take. But we cannot be effective at it if we preach to other governments, saying, ‘You should pick up your act on human rights; you should ratify these conventions; you should meet these standards,’ and breach them ourselves. That is one, amongst many, of the real tragedies of this government’s flagrant abuses of human rights in the refugee area in the last couple of years, and that is an extra negative consequence of those actions. When we perform so badly ourselves, it dramatically reduces our ability to effectively advocate and push internationally for better performances by other nations.

This bill relates to the child protection convention and the family law components of that, which in many ways are tangential to the refugee issues but they do have a common link in the recognition of the fundamental rights of children and putting children’s interests first. I have circulated a second reading amendment to emphasise this fact. I have decided not to go with moving amendments to the bill, because I do not want to hold up its passage, but I do think it is important for the Senate to express an opinion about the broader issue.

The child protection convention that this bill deals with stresses the need to improve the protection of children in international situations. It notes the importance of international cooperation for the protection of children, which the bill deals with. The convention confirms that the best interests of the child are to be of primary consideration and it reinforces the obligation of Australia to protect refugee and internationally displaced children. It specifically makes reference to the Convention on the Rights of the Child, which is a much broader convention that we are also a signatory to. That is another convention that we have regularly breached, and continue to breach—not just under this government but also under the previous Labor government—with our insistence on detaining children for prolonged periods of time.

We have the recent outrageous case of the Bakhtiyari family being detained in Woomera for over 18 months while the father was out in the community. There have been allegations from the minister about whether the father has told the truth and whether or not his story is genuine. That is an important issue, but it is irrelevant to the fact that this family had a parent recognised as a refugee under our system out in the community but being kept separate from his wife and children. I do not think you would get a more blatant breach not just of the refugee convention, which recognises the importance of immediate family reunification, but also of the Convention on the Rights of the Child. Imprisoning children should be absolutely a last resort and absolutely the minimum time possible. There can be no excuse for those children to have been kept in jail—and they are still there—for over 18 months, without any certainty as to how much longer they will be there, while a parent is legitimately out in the Australian community. That goes directly to the protection of children and the broader Convention on the Rights of the Child. If we are serious about not just the content of legislation and treaties like these but also the spirit, intent and aim of treaties like these, we need to
make that clear. We need to put on the record a clear statement that we reinforce that the best interests of the child must be given primary consideration.

The practice of mandatory detention of child asylum seekers has been widely condemned throughout the Australian community, even by people who are broadly supportive of other aspects of this government’s approach to unauthorised arrivals. The area of ongoing detention of children is one that I believe the majority of the community are not supportive of and are keen to see other alternatives explored. There have been no serious attempts to adopt other alternatives by this government; instead, we have a situation where, at any time a child story becomes public and there is a potential for public sympathy to come out, the relevant child, their family or their circumstances are dragged through the mud and they are discredited in some way or other. Quite frankly, while it is important to get the truth of what people’s circumstances are, in relation to children, I do not care. They should not be locked up for prolonged periods of time. They should not be locked up at all unless there is a very strong case, and we should not be deliberately confusing the issue between looking after the interests of the child and any broader issues about the credibility or otherwise of their parents. If there is one group that are the most innocent victims of displaced people, of refugees, of people-smuggling—of all of those things—it is the children. They should not be the pawns and victims of government policy, particularly one that has been driven so clearly for political reasons.

So apart from reinforcing the importance of the best interests of the child being taken into consideration, the amendment specifically condemns the practice of detaining child asylum seekers and calls on the government to detain children only as a matter of last resort. I think this is a fundamental principle that should be expressed. It is relevant to the bill, because it specifically mentions not just family law situations but also the Convention on the Rights of the Child, which it links to. It is part of the schedule of the convention, it is part of the principles that Australia has signed up to and it is part of the broader principle of respecting the conventions that we adopt not just in word but in practice. I believe this amendment will play an important role both in sending that message and in reinforcing it for the future implementation of this particular act.

Having said that, the act itself is one that we support and we do not wish to hold up its passage. But we do believe the principles within it need to be reflected more broadly in the policy approach this government takes towards children across the board. That is not the case at the moment. Children’s best interests are not being put first; in fact, they are not being put anywhere other than dead last if they happen to be in a refugee or asylum seeker situation. That is something the Democrats believe needs to be changed. Amongst virtually everything else that needs to be changed about the approach this government takes to asylum seekers its approach to children is the one thing that I think has to change most urgently and most comprehensively. I commend the amendment, along with the bill, to the chamber. I move Democrats second reading amendment:

At the end of the motion, add:

“But the Senate:

(a) recognises that the Child Protection Convention:

(i) stresses the need to improve the protection of children in international situations;

(ii) recalls the importance of international cooperation for the protection of children;

(iii) confirms that the best interests of the child are to be a primary consideration; and

(iv) reinforces the obligation of Australia to protect refugee and internationally displaced children;

(b) and therefore:

(i) condemns the practice of mandatory detention of child asylum seekers which fails to meet our protection obligations; and

(ii) calls upon the Government to detain children only as a measure of last resort, and then only for the shortest appropriate period of
time, necessary to conduct background health and identity checks”.

Senator LUDWIG (Queensland) (12.58 p.m.)—Labor supports the second reading amendment to the Family Law Amendment (Child Protection Convention) Bill 2002, moved by the Australian Democrats. Perhaps I can add that the bill highlights the complexities that arise in national disputes involving children, yet equal complexities do arise in laws and regulations affecting children between states in Australia. We do sometimes lose sight of the fact that, as governments, we should be trying to make sure that the best interests of children are put first when determining how to resolve these complexities and cooperation between states and the Commonwealth, which is sometimes difficult to obtain. The detailed work that went on in the preparation and review of this bill is a sign that it can be done in the area of children and youth. Labor has highlighted areas where more work needs to be done to protect our children’s interests, in particular the need for a children’s commissioner, which we believe will further the best interests and protection of children nationally.

As an independent statutory office, a children’s commissioner would be able to consider the best interests of children and advocate, both to the government and to the public, measures to advance the interests of children in society. Details of the proposal were announced by the Leader of the Opposition, Mr Simon Crean, in May on the occasion of this bill. I commend Labor’s proposal to the Senate in relation to a children’s commissioner and support the second reading amendment moved by the Australian Democrats.

Senator HARRIS (Queensland) (1.00 p.m.)—I rise to speak on the Family Law Amendment (Child Protection Convention) Bill 2002. This bill seeks to amend the Family Law Act 1975 so that it is consistent with the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in respect of Parental Responsibility and Measures for the Protection of Children—the child protection convention—thus enabling Australia to ratify that convention. As its long title indicates, the convention defines when a national court or administrative body has jurisdiction in respect of a child, what law it should apply, the circumstances in which a national court or administrative body should recognise a foreign determination affecting a child and provides for cooperation through central authorities between member states—that is, countries that are a party to the convention. It applies to parental rights existing by operation of law such as the attribution of parental responsibilities to each of the natural parents at birth, to court orders and to administrative decisions. As defined in article 3, it broadly covers three types of situations: firstly, the private sphere of parental responsibility, custody and access rights—and this is the most important aspect of the convention; secondly, the public sphere of child protection by or on behalf of public authorities; and, thirdly, the property rights of children.

It is said that the advantages of the convention for Australia would include, firstly, the clarification of responsibilities and the elimination of conflicts in jurisdiction between Australia and overseas authorities in relation to child protection and family law matters. Secondly, it would ensure recognition and enforcement abroad of Australian court orders and other measures of protection overseas where appropriate. Thirdly, it would provide mechanisms for child protection authorities in Australia and other countries to cooperate in relation to protective measures for an Australian child abroad or a child returning to another country who is subject to Australian protective measures.

The Family Law Association of New South Wales commends the ratification of the Hague convention insofar as it strengthens and extends the rights of children who are wrongfully removed from their country of habitual residence and extends the rights of the parent left behind. The association also supports the objective of enhancing the effectiveness of provisions for the protection of children from abuse and neglect. However, the association notes that many signatory states have applied their obligations to the convention in an entirely unsatisfactory
way. Recent cases involving children wrong-
fully removed from their mothers from
Greece and Mexico have caused great con-
cern, and this could be seen to undermine
Australia’s reputation as a signatory.

I now give an example of how the child
protection convention works in relation to
applicable law. Article 51.1 of the conven-
tion states a principle long applied by Aus-
tralian courts: once the court has jurisdiction
it shall apply its own law. However, article
15.2 gives the court an option by way of ex-
ception to apply the law of another state—
not necessarily that of another contracting
state—with which the situation has a sub-
stantial connection. The law of the forum
will therefore be applied in most situations
even if the child is foreign. Questions as to
whom residency will be granted, or in whose
favour an order for contract should be made,
will be determined by local law. But this
does not apply to the issue of whether a per-
son has parental responsibility by operation
of law, by agreement or by some other act—
such as recognition of paternity—which does
not require the intervention of a court of ad-
ministrative authority.

Article 16 subjects those issues to the law
of the state, not necessarily a contracting
state, of the habitual residence of the child. A
change in the child’s habitual residence will
not extinguish by itself an already existing
parental responsibility even if the law of the
new residence does not confer parental re-
sponsibility on that person. Thus, if a child
of unmarried parents is taken from eastern
Australia to England, the father will be
 treated in England as retaining parental re-
sponsibility even though English law does
not confer it on an unmarried father. But if
the new habitual residence confers parental
responsibility, when the old one did not, that
person gains parental responsibility under the
new law. In the converse case of the example
given, an English unmarried father will gain
parental responsibility in England and Aus-
tralia—assuming they are both contracting
states—if the child moves to eastern Austra-
lia. It is not necessary in either case that the
father change his habitual residence. The
court of the new habitual residence may, of
course, by orders made according to its own
law, extinguish or grant another parental re-
sponsibility notwithstanding the provisions
of article 16.

In essence, the bill does not appear to take
away any rights of the states to deal with the
matters of child protection and interventions.
Nor does it appear to seek any significant
level of uniformity on how child protection
intervention will be determined, imple-
mented or executed across state boundaries.
In other words, families seeking consistency
between countries in matters of child protec-
tion will be sorely disappointed. Rather, it
appears to focus purely on the matter of ju-
risdiction where a child may have been
moved from one country to another or
through multiple jurisdictions over any given
period of time. I draw the minister’s attention
to clause 17 of the bill which reads:

At the end of subsection 67P(1) Add:
; or (f) with the leave of the court that
made the location order:

(i) the Commonwealth central authority;
or

(ii) a central authority or a competent
authority of a Convention country.

The bill is reasonably straightforward, al-
though by necessity it is complex in its func-
tions because of the issues related to it. My
concern is that, in relation specifically to
clause 17, the second sentence appears to
make the provision ambiguous. It appears to
say that as soon as a parent absconds, or with
a legal right changes to another state with a
child and takes up residence there, it be-
comes the child’s habitual state of residence
as a matter of fact. In other words, in terms
of residency, under the bill it becomes a fact
that they are habitually resident in the new
area rather than a fact that is determined by
law. The bill clearly states that the fact that
the child moves, either by being abducted or
by legal means, changes the habitual resi-
dency place. It is not the fact that it is de-
cided at law that it has moved. The mere fact
of change of residence makes it habitual in-
stead of considering the meaning of ‘habit-
ual’.

I want to place on record the fact that One
Nation supports the bill. As I said, we have
some concerns whether it will deliver the
outcomes of security for the parents of the
children involved, and we are concerned that by merely relocating, the legislation as it stands clearly sets out that the child’s place of residency has changed. I look forward to the minister’s contribution.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (1.11 p.m.)—I thank all senators, including your good self, Mr Acting Deputy President Bartlett, for their contributions to the debate. It will be a disappointment to you, Mr Acting Deputy President, to know that we will not be supporting your second reading amendment.

To save us going into committee, I want to answer a question that Senator Harris raised. In reply to Senator Harris, may I say that, although the law says that habitual residence would be a fact, it would not be a fact if there were an abduction because it would be illegal and the abduction convention would overrule that. If it were an illegal abduction—as an abduction is—that would not be a fact.

Senator Harris—What if it was a legal movement?

Senator IAN CAMPBELL—That would be a different situation. If it were an abduction, it would obviously not be a fact. I thank all honourable senators and I commend the bill to the Senate.

Question agreed to.

Original question, as amended, agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

HEALTH LEGISLATION AMENDMENT (PRIVATE HEALTH INDUSTRY MEASURES) BILL 2002

Second Reading

Debate resumed from 21 March, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

Sitting suspended from 1.15 p.m. to 2.00 p.m.

MINISTERIAL ARRANGEMENTS

Senator HILL (South Australia—Leader of the Government in the Senate) (2.00 p.m.)—by leave—I have pleasure in advising the chamber that Senator Ferris is to be the Government Whip and Senator Eggleston is to be the Deputy Government Whip.

QUESTIONS WITHOUT NOTICE

Scientific Research: Funding Cuts

Senator CARR (2.00 p.m.)—My question is to Senator Alston, the Minister representing the Minister for Education, Science and Training. What action does the government propose to take to address the concerns expressed by Professor Frank Fenner, the recipient of this year’s Prime Minister’s Prize for Science, about the future of scientific research in Australia following the government’s drastic funding cuts? Is the minister aware that Professor Fenner has said that he is concerned about the government’s policy on the commercialisation of research and that:

... with the fall off in direct government spending and the dependence on commercial support, the chance for doing blue sky research, something for which there is no apparent commercial end in view, is diminished.

Senator ALSTON—I am not sure whether Senator Carr is referring to remarks made by Professor Fenner, as I understand the correct pronunciation to be, at the Prime
Minister’s science awards the other night. If he was then that is not my recollection of what he said. Professor Fenner certainly did emphasise the importance of blue sky research. I think we all understand the significance of that—in the same way that we do not want an Obsessive emphasis on the sciences as opposed to the humanities—but that is a far cry from suggesting that somehow there have been drastic funding cuts. I certainly do not think he said that to the audience. Maybe he had a word to Senator Carr afterward or maybe, as usual, Senator Carr was away with the fairies and was making up notes of things that he would have liked Professor Fenner to have referred to.

The fact is that the latest ABS statistics show that Australia’s gross expenditure on R&D in 2000 and 2001 was at an all-time high of more than $10 billion—more than $1 billion higher than it was in the previous survey. All of those present the other night were very laudatory of the government’s efforts with Backing Australia’s Ability. They were too polite to say that the poor, unfortunate ‘noodle nation’, which disappeared without trace, offered not the slightest sense of encouragement to them. It was all funding on the never-never and it did not touch the sides.

Those present were extraordinarily grateful for what we have committed ourselves to over the next few years. The announcement of the awards, the Federation Fellowships and all of the things that are happening now in a very dynamic scientific sector are very positive indeed. Certainly, as far as the government is concerned, Backing Australia’s Ability is going to provide an enormous fillip to the scientific community. Priorities will need to be set and we have already started down that path but, at the end of the day, we will be encouraging research in all its manifestations.

Senator Carr should not for a moment try to suggest that Professor Fenner was standing up there being critical. As I recall it, almost his opening remark was, ‘It is 20-odd years since I retired and I’d feel very diffident talking about current public policy issues.’ I think that, if you put Professor Fenner’s remarks in context, you will see that he was stressing the importance of blue sky research, but he was not for a moment suggesting that what has happened in the last couple of years has not been enormous progress.

Senator CARR—Mr President, I ask a supplementary question. Minister, had Professor Fenner’s remarks been edited in the published video displayed to the dinner the other night? Were statements to the effect that I have read today broadcast on ABC’s Radio National yesterday? I can quote those words directly. Professor Fenner said that he was concerned about the ‘fall-off in direct government spending and the dependence on commercial support’ and that ‘the chance for doing blue sky research, something for which there is no apparent commercial end in view, is diminished.’ Further, is it also the case, since you cite ABS figures—and the Group of Eight also cites ABS figures—that the fall-off in GDP has in fact been from 1.68 per cent to 1.4 per cent, which is an equivalent of $3.5 billion in support for science and research in this country?

Senator ALSTON—I do not know if Senator Carr meant to say what he said, but he talked about a fall-off in GDP. I am sure that is not right—I presume that he meant the proportion of GDP devoted to science. The fact is that this year’s science and innovation budget exceeded $5 billion for the first time. That $3 billion package is making a huge difference. You offered no serious alternative. You dithered for about nine months as to whether you would endorse it. You finally came out with that very amusing alternative to a policy proposal, but there was no serious financial commitment. I think that the science community well and truly understands who is backing the right horse and who is not. They understand our commitment to innovation and to research in all of its manifestations. The sooner you start listening to the wider community and backing off the relevant union, the more informed you will be.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from the Republic of Korea, led by
the Vice Speaker of the National Assembly, the Hon. Kim Tai-Shik. On behalf of honourable senators, I have pleasure in welcoming you to the Senate and I trust that your visit to our country will be both informative and enjoyable.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE
Workplace Relations: Compulsory Union Fees

Senator TCHEN (2.06 p.m.)—My question is directed to Senator the Hon. Richard Alston, the Minister representing the Minister for Employment and Workplace Relations, the Hon. Tony Abbott. Would the minister inform the Senate about how some Australian workers are being coerced in their workplaces to pay fees for services they have not requested? What is the government doing to ensure that Australian workers continue to have freedom of choice in the workplace? Are there any alternative positions in relation to this issue?

Opposition senators—That is out of order!

Senator ALSTON—No, it is not. The matter is off the Notice Paper. You know that. It was disposed of yesterday. I can understand your exquisite sensitivity on this issue, because once again it is a classic example of laziness. Rather than have your union masters get out there and work for a living and persuade people to join unions because of their inexorable decline, you want to impose a non-performance levy. In other words, what you have in mind is to just rake hundreds of dollars into union coffers so that you will be able to have this cosy relationship continue indefinitely.

The facts are that the contribution of the union movement in recent years to the Labor Party has been little short of spectacular in financial terms but, at the same time, you have less than 20 per cent of the private sector now choosing to belong to unions. There is a fundamental disconnect here between servicing the needs of workers and servicing the needs of unionists. What do workers want? Workers want increases in wages and salaries and conditions. They want a better standard of living. They want security for their families. What do unionists want? Of course, they want money, power and influence, but they also want security. But it is a different form of security. What they want is the free trip into parliament. When you have done a few years apprenticeship, you actually end up in the Senate. What did we see after all these modernisation reforms? Come 1 July, there were six new members of the Labor Party in the Senate. Four of them are trade union officials. Two of them represent the public sector, which is what you would expect, and, of the other two, one is simply a party official and the other, representing the real community, is an academic lawyer. There it is: a party that looks like Australia?

Senator Carr—You cannot get a job over there unless you are a lawyer!

Senator Sherry—Lawyer! Lawyer! Lawyer! Lawyer! Lawyer!

Honourable senators interjecting—

The PRESIDENT—Order! There are far too many interjections on both sides of the house. I ask you to come to order.

Senator Cook—Mr President, I rise on a point of order, which relates to your ruling yesterday on the point of order taken by Senator Abetz on Tuesday. It relates to standing order 73. Standing order 73(4) says: In answering a question, a senator shall not debate it. Mr President, you ruled narrowly—as it was termed in this chamber—on Senator Abetz’s point of order in relation to this section of the standing orders about questions. I ask you now to apply the same standard that you applied in your ruling on questions to answers, under standing order 73(4). Clearly, the minister is not answering the question. Clearly, he is debating it. Normally, the point of order would be on relevance, because what he is now saying is irrelevant to the question he was asked, but it is clear under the standing orders—and from the announcement you made yesterday on how the standing orders are to be interpreted—that this answer is out of order and that you should rule that the minister confine his remarks to the question, answer the question and not debate it. If he wants to debate it, he should be sat down immediately by you, un-
der the standard that you now apply—with respect.  

The PRESIDENT—Senator Cook, I hear your point of order. I rule that there is no point of order, but I ask the minister to return to the question.  

Senator Cook—Mr President, I rise again on a point of order: consistent with your ruling yesterday, you now rule there is no point of order. I accept your ruling, but would you please take on board what I have said and provide reasons why you think that questions should be narrowly confined but, in answers, ministers should be able to cut loose, irrespective of what the black letter of the standing orders says?  

The PRESIDENT—I have taken notice of what you, Senator Faulkner and Senator Ray said yesterday and I have already asked the minister to return to the question.  

Senator ALSTON—On a separate point of order, Mr President: could I ask that you look at whether it is an abuse of parliamentary process for a question to debate an issue in the way that Senator Cook has. He was not quite clear on whether he was taking the debating point or the relevance point but, in either form, all he did was engage in a pretty low-level diatribe to distract attention from the embarrassment that the Labor Party obviously feel.  

The PRESIDENT—We seem to be involving ourselves in a debate on points of order. I would ask you to return to the question.  

Senator ALSTON—I will, with great enthusiasm. The fact is that the federal Labor Party are fundamentally at odds with their state colleagues on this issue of compulsory fees. Mr Carr said that you cannot put a tax on other members of the work force, and the state cannot require the collection of union fees from non-unionists. That is round 1. The Western Australian workplace relations minister, John Kobelke, said:  

We think unions need to get out and provide services to their members and attract members on what they can offer.  

We think that is right too. We agree entirely with him. In Victoria, Monica Gould—who I presume is a non-lawyer, so probably you would not kill her—says that there are legal difficulties with two parties agreeing to impose something on a third party. The fact is that part of the Labor Party—but it seems to be the state part—actually believes in performance and getting a reward. The other half does not; they think it is all about just raking in the dollars—from people who do not want to be raked in and do not want to contribute, because they do not think they are getting value for money—so that the unions can have this wonderful closed circle where you end up shovelling people in here when they are past their use-by date. As Senator Cook clearly demonstrates today, even when you are well past it you are allowed to stay on. It really is a meal ticket for life on that side of the parliament. Let there be no doubt about it: we do not believe in coercion. We do not believe in forcing people. We believe in freedom of association and in people’s rights to join organisations. We do not believe in this lazy method of collecting funds which can then be recycled back to the Labor Party at election time. Get serious about it. (Time expired)  

Agriculture: Drought  

Senator O’BRIEN (2.15 p.m.)—My question is to Senator Ian Macdonald, the Minister representing the Minister for Agriculture, Fisheries and Forestry. Can the minister advise what action the Department of Agriculture, Fisheries and Forestry has taken in expectation of receipt of applications from New South Wales and Queensland seeking exceptional circumstances declarations for the worsening drought? Will the minister give thousands of farm families in New South Wales and Queensland a guarantee that the government’s bungling of exceptional circumstances reform will not delay the consideration of drought relief applications from these states?  

Senator IAN MACDONALD—I thank Senator O’Brien for raising what is obviously an issue of great concern to many people on the land—particularly as Australia seems to be entering a period of even greater drought difficulties. In May this year the Minister for Agriculture, Fisheries and Forestry, Mr Truss, met with his state and territory colleagues at the first meeting of the
new Primary Industries Ministerial Council to negotiate EC policy reform. As Senator O’Brien may know from his Labor colleagues on that committee, the agriculture ministers broadly agreed on the elements of the proposed new framework, including the extension of the role of the states and territories in the proposed application, assessment and streamlined decision making process. Regrettably, the ministers were not able to reach agreement on a new EC framework in its entirety. The state and territory ministers would not agree to implement the package of reforms if it were to be underpinned by a new fifty-fifty funding arrangement for EC business support.

At Commonwealth level, we consider that it is essential that the state governments have a financial commitment to exceptional circumstances. This is critical to avoid the adversarial situation that has occurred under the current arrangements, whereby states are able to prepare at times questionable applications for assistance and place responsibility on the Commonwealth when they are rejected because they do not fit the guidelines. Mr Truss has been very active in approaching the state and territory treasurers and agricultural ministers, urging them to consider the issues so that the matters may be resolved urgently. He will be meeting with state agriculture ministers at the next Primary Industries Ministerial Council meeting in October, with the aim of addressing outstanding EC issues and finalising negotiations.

The difficulty, as all of us who have an interest in rural and regional matters and farming matters are aware, is that the states help with the putting forward of the applications but it is the Commonwealth that pays. This leads some recalcitrant states to put up applications that are not appropriate and which do not fit the guidelines. They know that, but they are prepared to make a political point out of it—unfortunately, playing with other people’s adversity, playing with people’s futures at the time when they are at their lowest ebb because of drought and other exceptional circumstances. Mr President—and congratulations to you publicly on your appointment—we are trying to get a more sensible approach to exceptional circumstances; that is essential for all of those who are on the land and for all of those in this place who have the wellbeing of farmers at heart.

Senator O’BRIEN—Mr President, I ask a supplementary question. Farmers around Australia are not interested in buck-passing on this issue. Farmers are interested in the answer to this question: will the government provide immediate emergency income support to drought-affected farm families in New South Wales and Queensland on the same terms as the emergency support provided to farmers in Western Australia and Queensland in the months before the 2001 federal election? Or is this just another case of the government treating an issue one way before the election and another way straight afterwards?

Senator IAN MACDONALD—I always tell Senator O’Brien and his colleagues that they should not judge this government by the standards they adopted when they were in government. People on this side of the chamber are in very close contact with rural communities. We understand the real difficulties that most of them face and suffer—we should, because we represent nearly all of the rural and regional electorates around Australia. It shows that rural and regional people have confidence in this government and have little confidence at all in the Labor Party, who rarely show any genuine interest in this. We will be approaching this in accordance with the guidelines. We will be doing what we can. But we do call upon the states and plead with them to put aside the sort of political point scoring that Senator O’Brien has just involved himself in. We call upon them to seriously look at the questions and join with the Commonwealth in making sure that we can help people who desperately do need help in these difficult times. (Time expired)

Resources: Stanwell Magnesium Project

Senator MASON (2.22 p.m.)—My question is to Senator Minchin, the Minister representing the Minister for Industry, Tourism and Resources. Will the minister inform the Senate of the benefits to Queensland and Australia of the Australian Magnesium Cor-
poration’s Stanwell magnesium project? What role has the Howard government played in getting this project off the ground? Is the minister aware of any alternative approaches?

Opposition senators interjecting—

The PRESIDENT—I ask the minister to answer—if he could hear the question.

Senator MINCHIN—Thank you, Mr President. I did manage to hear Senator Mason’s question and a very good question it was too. Today is a very significant day for those of us who, like Senator Mason and me, believe in maximising value adding to Australia’s great wealth of natural resources. Today the ground will be broken for Australia’s first—and the world’s largest—magnesium plant at Stanwell, near Rockhampton, effectively marking the birth in Australia of the magnesium industry. Today sees the groundbreaking ceremony for a $1.3 billion magnesium plant being built by the Australian Magnesium Corporation in regional Australia. It is going to create 1,300 jobs during the construction phase and 350 jobs once the smelter is operational in regional Australia. The magma site which will supply this plant has the largest deposit of its type in the world. Most important—and I think relevant to the question from Senator Carr to Senator Alston—is that it is using Australian science. The processing technology is genuinely Australian, developed by the company in collaboration with the government’s own CSIRO. The company secured a 10-year contract with Ford in the United States to supply nearly half its product for that 10-year period. This plant is going to generate some $500 million in export income every single year, so it is a major development for Australia.

We expect demand for this great new metal, magnesium, to double over the course of the next decade. It is going to be driven by the car industry, which is increasingly using magnesium. Magnesium is 75 per cent lighter than steel and 35 per cent lighter than aluminium, so it is going to be critical to producing fuel efficient, lighter vehicles which will be much more friendly to the environment. Cars currently have about three kilos of magnesium in them, and we expect, over the next 15 to 20 years, that that is going to increase to 150 kilos, making cars much more environmentally friendly and efficient, and Australia is extremely well placed through the AMC to meet that demand. The Queensland government has sensibly seen the virtues of this project, as has the Australian government. We supplied the CSIRO with some $50 million to help—

Senator Bolkus interjecting—

The PRESIDENT—Order! Senator Bolkus. I have asked you several times now to stop interjecting. I had hoped you would observe the chair and the standing orders.

Senator MINCHIN—I was just telling the Senate how much support the federal government has provided to this project to get the magnesium industry off the ground. We provided $50 million to our CSIRO to invest in this technology, and we have assisted the AMC with its capital raising by acting as guarantor for $100 million of debt. Our vision is to see Australia become a world leader in light metals. We want to see more of these sorts of plants. We want to see the magnesium plant at Port Pirie in South Australia commence. They have an offtake agreement with Thiessen in Northern Europe, so we have every expectation that that program should proceed. Magnesium is one of the great value adding industries for this country, but it is only going to succeed if we can continue to supply cost-effective electricity to these great industries, and we can only do that if we stay out of the Kyoto protocol.

Unlike these people opposite, we are not going to sacrifice the national interest, these great new Australian industries or the jobs that go with them by a knee-jerk reaction to the Green movement and siding up to Kyoto, which is contrary to the Australian national interest, because it will increase the price of electricity and it will mean that these resource value adding industries will go to our competing countries that are not signing up to Kyoto and can outbid us on electricity prices. These projects will move to those countries. We have to stay out of Kyoto for that reason—because we will not have the opportunity to produce these light metals
which are environmentally friendly and environmentally efficient.

**Agriculture: Exceptional Circumstances Program for Drought Relief**

Senator O’BRIEN (2.25 p.m.)—My question is to Senator Ian Macdonald, the Minister representing the Minister for Agriculture, Fisheries and Forestry. I note the minister confirmed that all states expressed opposition to Minister Truss’s proposed funding changes to the exceptional circumstances program for drought relief at the May meeting of the Primary Industries Ministerial Council. Just what has the Minister for Agriculture, Fisheries and Forestry done to achieve reform of the exceptional circumstances program since that time, other than to issue a stream of media statements complaining that no-one is listening to him? When does the government propose to resolve the funding impasse with the states or is it simply depending on the matter resolving itself at the October meeting?

Senator IAN MACDONALD—Again, I thank Senator O’Brien for raising this important issue because it does allow me to ask him to use his good influences with the state Labor governments to get a better, more sensible and more rational approach to exceptional circumstances throughout Australia. I will have to double-check this with Mr Truss, but as I recall from the ministerial council meeting—I do not think they are secret, I do not think I am giving away any confidences; and I think this was the issue they were talking about—a lot of the state ministers were agreeable to having a look at it and to contributing something, although they all complained that their treasurers would not be very happy about it, that they had half made their budgets and would not be very keen about it.

Senator Kemp—In spite of all the GST revenue.

Senator IAN MACDONALD—In spite of all the GST revenue that the states are now getting. What are they doing with all that GST money? Mr Truss was going to help out the Labor agriculture ministers by writing directly to their treasurers to see if we could encourage them to approach this properly.

Senator O’Brien—When did he do that?

Senator IAN MACDONALD—I am afraid I am not in Mr Truss’s office actually checking when he sends his letters out, but my advice is that he has written. In fact—here it is—on 29 May he wrote to the treasurers in all states and the Northern Territory concerning the EC package, and he wrote in similar terms to ministers for agriculture. I am advised that, to date, substantial responses have been received from the Queensland minister for agriculture and the Treasurer and the Northern Territory minister—only the two of them so far. That is as at 15 August. Neither of them have supported this proposal.

Senator O’Brien, perhaps you could encourage David Crean and the other treasurers to at least respond to Mr Truss’s approach. Mr Truss has been working. Senator O’Brien, I am sure you, as a sensible person, would understand that we need to take this out of the political arena. We can play politics with a lot of things but not with people’s livelihoods, not where drought is concerned. I might say the Labor governments are not the only ones that used to play at this. When we used to have some Liberal governments—regrettably we do not have too many now—they were not much better. They were better but not much better. So in these instances, Senator O’Brien, we do not want to play politics. I call upon you and ask you to use your good offices with the state agricultural ministers to get involved and get a sensible arrangement going with the Commonwealth. No doubt we will continue to pay a substantial part of the money. We just want the states to put in a portion of it and to have a regime that does not allow for various politically oriented ministers to play political games with people’s futures and livelihoods.

Senator O’Brien—Mr President, I rise to ask a supplementary question. Again, I ask whether this government will use the absence of agreement with state ministers to withhold exceptional circumstances payments to drought affected farm families if this matter is not resolved at the October meeting? Can the minister assure farm fami-
lies that the federal government will not use absence of agreement to withhold exceptional circumstances payments?

Senator IAN MACDONALD—There is a system in place at the moment, but it is not a system that is working well. We could actually fix this tomorrow or this afternoon, Senator O’Brien, if you could get all the state treasurers and agricultural ministers—

Senator Kemp—All the Labor ones.

Senator IAN MACDONALD—to ring Mr Truss and say, ‘We agree, something needs to be done. Let’s get a better system to help those in immediate drought.’ So we do not have to wait until October; we can do it this afternoon or tomorrow if you can get your people to be sensible about this, to contribute some money and to really help out. Otherwise, the normal procedures will apply.

**International Criminal Court: Article 98 Agreements**

Senator GREIG (2.31 p.m.)—Mr President, I congratulate you on your election. My question is to Senator Chris Ellison, the Minister for Justice and Customs, representing the Attorney-General, and is in relation to article 98 of the Rome statute in the context of the International Criminal Court. Is the minister aware of reports that the US government has approached a number of countries to make article 98 agreements which would give US nationals immunity from prosecution by the International Criminal Court? Is the minister aware of related reports indicating that the US Congress has mandated the threat to withhold military assistance from and impose sanctions on countries which do not sign such agreements? Has the US government approached the Australian government to see if such an agreement could be met, and would the minister rule out the government ever making such a deal?

Senator ELLISON—I understand that the Minister for Foreign Affairs is the appropriate minister in relation to this issue. There has been some mention made of this issue, and I will take it up with the Minister for Foreign Affairs. He is not a minister I represent, but I will take it up and get back to Senator Greig.

Senator GREIG—I ask a supplementary question, Mr President, and I ask the Minister for Justice and Customs to also follow this up with the relevant minister. Does the government accept that giving the citizens of one country immunity from prosecution before the ICC for war crimes, genocide and crimes against humanity is in fact completely inappropriate and would undermine the effectiveness and credibility of the court?

Senator ELLISON—We have made our position on the International Criminal Court quite clear: we support it. The best thing I can do for Senator Greig is to get back to the Minister for Foreign Affairs and see if there is anything further he can add.

**Telstra: Regional Communications Inquiry**

Senator MACKAY (2.33 p.m.)—My question is to Senator Alston, the Minister for Communications, Information Technology and the Arts. Can the minister confirm that the chair of the minister’s regional telecommunications inquiry, Dick Estens, is a paid-up member of John Anderson’s branch of the National Party and long-time mate of the Deputy Prime Minister and that the second member of the three-member inquiry is Ray Braithwaite, former long-time National Party member for Dawson? How can Australians take seriously the minister’s claim that the inquiry will be independent when two out of the three inquiry members are members of the National Party? Given that this inquiry is stacked with political mates of the government, will the minister confirm that this is simply a sop to the National Party to sell Telstra against the wishes of the vast majority of the Australian public?

Senator ALSTON—it is unfortunate that Senator Mackay chooses to denigrate people simply because they happen to have some affiliation, past or present.

Opposition senators interjecting—

Senator ALSTON—I note that the independent review the Labor Party had into the nature and extent of their union ties, which was conducted by a former leader of the ACTU, said that Labor MPs should respond directly to local unionists’ priorities and support the role of local union activists.
The fact is that these people are not party hacks; they are not simply people who have done nothing else in life except work or worm their way up through the ranks and end up in the parliament. Mr Estens is a very distinguished cotton grower from Moree and a very successful businessman in the area. He has been extremely successful in employment programs in relation to Aboriginal youth and reconciliation, so he has a very impressive track record of involvement in community affairs.

Senator Mackay—Is he a member of the National Party?

Senator ALSTON—Whether or when he joined the National Party is a matter of utter irrelevance. When I approached him and when we announced his appointment it was not done on the basis that he was a member of the National Party. I had no knowledge of that fact, if it is a fact. If it is a fact, it was not known to me.

Opposition senators interjecting—

Senator ALSTON—You can believe it if you like. The fact is that Mr Braithwaite’s credentials are well known. Not only was he a distinguished member of parliament and a member of the opposition frontbench for a number of years but also he has been a consultant to the Productivity Commission and has travelled very widely around Australia. Jane Bennett is a dairy farmer in Tasmania. All of these people have impeccable regional and rural credentials, which is what it is all about. They are actually Australians—they have a commitment to understanding how the bush works. I do not remember the Labor Party volunteering any names that might serve on the committee; you simply are not interested in people who have community credentials. As Mr Wran and Mr Hawke make it plain, you are only allowed to talk to union activists. That is your problem; you should get out into the wide world.

These people will conduct the inquiry impartially and independently. They will come to their own conclusions and make judgments. I hope they will take note of the fact that we have spent over $1 billion in the last five years on regional and rural telecommunications infrastructure and that in response to the last inquiry, headed by Mr Tim Besley, we are in the process of spending about $160 million.

Senator Mackay—Why don’t you just table the report now?

Senator ALSTON—How are you going with your little exercise for tomorrow? Are you going to roll Mr Tanner or not? Good luck—we are barracking for you, let me assure you. I think you have right on your side on that issue, but on this one you are fundamentally wrong, because this committee of people who have very impressive credentials in being involved in regional and rural Australia are uniquely well placed to make these sorts of judgments. Just imagine what they would be saying if we had appointed a few people from the city! They would be saying, ‘Totally unrepresentative,’ wouldn’t they, Senator Boswell? Instead, we have appointed people who understand the real issues. If you have a word to them, you might learn a lot in the process.

Senator MACKAY—Mr President, I ask a supplementary question. Is the minister seriously asking the Senate to believe that he was unaware that Mr Dick Estens was a member of the National Party and that Mr Ray Braithwaite was a member of the National Party—a former long-time member for Dawson? How much is the inquiry expected to cost? Who will be paying for this sop to the National Party—Commonwealth taxpayers or Telstra itself? Specifically, what are the daily fees to be paid to this National Party dominated panel and what are the expected travel costs for their junketeering around the country?

Senator ALSTON—one man’s consultation is another man’s junketeering. Imagine if we said, ‘In the interests of saving money, they won’t go anywhere; they will do a desk audit.’ We would be slaughtered, wouldn’t we? Of course I was not suggesting that I did not know that Mr Braithwaite was a member of the National Party; of course I knew. That is just sloppy thought processes on the part of the opposition, but it is eerily reminiscent of the way they attacked Mr Besley. That is what they did from day one with Mr Besley: they bagged him; they said he had a conflict of interest. They were not in the slightest bit
interested in having a decent independent inquiry into the adequacy of services, because they have never said a word about it. All they have ever done is align themselves with North Korea and just say no. It is not good enough. We are interested in the adequacy of services and we think we have made enormous progress. You will see some ACA figures coming out shortly which show that satisfaction rates and compliance with the CSG on installation and fault repairs are well over 90 per cent, which was the Besley target. They are the sorts of things we want examined. We want them taken seriously and we will not be assisted by party political point scoring. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the President’s gallery of a former Democrat senator for New South Wales, former Senator Karen Sowada.

QUESTIONS WITHOUT NOTICE

Immigration: Border Protection

Senator BROWN (2.40 p.m.)—I add a word of welcome to former Senator Sowada. My question is to the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs. In view of the extraordinary statement today by the minister:

... claims that Australia’s border management strategies have come under international criticism are simply not true—
is it true that riot gear, including truncheons and shields, has been sent to Manus Island by the Australian government? Is it true that the 15 to 20 Australian Protective Service officers who are there are, in the main, there without official constable recognition or authority in relation to guarding? Is it true that the notorious mobile squads who, amongst other things, are remembered for shooting four unarmed students at Port Moresby last year, are on hand, should a riot occur, to meet any emergency and are brought into play whenever a decision or a determination about the future of people on Manus Island is about to be announced?

Senator ELLISON—Senator Brown has raised a number of issues. The first is that of international criticism of our border management. I reject that totally. Internationally there has in fact been some following of our border management, and you need go no further than the governments of New Zealand and the United Kingdom, both Labour governments, following our policy on border management. Far from international criticism, there has been more international endorsement of our policy on border management. Indeed, at the people-smuggling conference in Indonesia this year, which I attended, it was recognised as appropriate that countries should look after their own sovereignty by way of border management and in relation to people-smuggling.

Senator George Campbell interjecting—

Senator ELLISON—Senator George Campbell should remember that Prime Minister Blair, a Labour Prime Minister, is following exactly the same path that we have adopted in Australia, as has the Labour Prime Minister in New Zealand. We have taken appropriate steps regarding our personnel at Manus Island in relation to local authorities and the authority they exercise. Not only at Manus Island but also at other institutions we exercise appropriate measures in maintaining order without resort to unnecessary force or the sorts of things that Senator Brown alluded to. In fact, we pay careful attention to the way we conduct the control of those institutions. If Senator Brown has any example of where we have allegedly overstepped the mark he should raise it, but I am not aware of any group being on stand-by at Port Moresby and I am not aware of any untoward action by the officers at Manus Island. In relation to their power as constables, I understand that all appropriate measures have been taken for the lawful exercise of any authority.

Senator BROWN—Mr President, I ask a supplementary question. That was a very smudged answer, and I ask the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs to ask the minister, and come back with an answer to the Senate, whether riot gear, including truncheons and shields, has been sent to Papua New Guinea for use on Manus Island. Has tear gas been involved in preparations?
Are officers of the Australian Protective Service always in an official capacity on Manus Island as far as guard duties are concerned? Are the mobile squads from Papua New Guinea involved and on hand at Manus Island should there be a riot? The question is very serious, the potential outcome is very serious and I expect a direct answer from the government.

Senator ELLISON—I will take up with the minister the issues raised by Senator Brown. It is the responsibility of the government to ensure that order is maintained at these centres. We have seen recently at Woomera in particular, and Curtin is another centre that comes to mind, outrageous conduct which has resulted in not only injury to people but also damage to property. It is appropriate that we have provisions for the maintenance of order. I will take up Senator Brown’s issues with the minister to see whether there is anything we can add.

Environment: Natural Heritage Trust

Senator BOLKUS (2.45 p.m.)—My question is to Senator Hill, representing the Minister for the Environment and Heritage. Is the minister aware that National Party seats have received almost six times as much funding as Labor seats over the life of the government’s Natural Heritage Trust? Is he also aware that Liberal seats received an average of $4.52 million, whilst Labor seats received an average of just $1.64 million?

Government senators interjecting—

Senator BOLKUS—I understand why the other side is concerned about good government, Mr President, but they should keep quiet for a moment. Given the importance of environmental issues to Australia’s social and economic future, when will this government stop using the Natural Heritage Trust to pork-barrel in its own seats?

Senator HILL—I am not sure where Senator Bolkus has been for the last few years. That question was actually asked five years ago—but it takes a while for some to catch up. The answer given five years ago was that the Labor Party holds very few seats in regional Australia, the Liberal Party holds a considerable number, and the National Party holds slightly less. It logically follows that most money distributed to rural Australia will go to areas that happen to be Liberal Party and National Party seats.

Senator Bolkus—Mr President, I rise on a point of order. The question referred to numbers per seat: $4.5 million in Liberal seats and $1.64 million in Labor seats. I did not refer to a cumulative amount. I referred to specific averages. He should focus on answering that question rather than on trying to slip and slide out of it by misrepresenting it.

The PRESIDENT—There is no point of order. I think the minister has only just started answering his question, and I will listen carefully.

Senator HILL—As I understand it, the coalition holds some 80 per cent of non-metropolitan seats. I should remind Senator Bolkus that the Natural Heritage Trust was set up to repair damage that had been done principally to rural and regional Australia, and not surprisingly that is where the money will be invested. It is to repair the damage and put in place processes to give us greater confidence that the land will be utilised in the future in a sustainable way. So the money has been allocated exactly where it was intended, which was to bring the greatest benefit in terms of both economic value through rural production in a sustainable way and environmental and ecological recovery. I cannot help it if the Labor Party is so unsuccessful in rural and regional Australia. But I can say to Senator Bolkus that the NHT has been remarkably successful, firstly, in mobilising public support for its cause, which is, as I said, sustainable agriculture and ecological recovery and, secondly, in getting that process under way and starting to deliver real outcomes which will be a benefit to not only this generation but also future generations.

It is always possible, if you want to play political games, to find one seat and another seat and that in the first or the second more money went to that seat than the other. But when you start to analyse it, you find, for example, that Landcare happened to be better organised in the first seat—they put in better quality applications—and that the government would have greater confidence that the money would deliver the outcomes that were sought under the guidance of the trust. If you
are genuinely interested, you can always find an explanation that does not have a political connotation to it. But, of course, that does not suit the interests of the Labor Party. The bottom line is that the Natural Heritage Trust was set up for good reason. It was funded in part from the sale of Telstra, and therefore capital from the sale of a telecommunication company was being reinvested in the natural capital of our country. You will find that it has been remarkably successful in the outcomes that it has been able to deliver. If Senator Bolkus wants to concentrate on the politics, he might also be interested to know that it is remarkably popular in rural and regional Australia. If the Labor Party focused a little more on the benefits that are flowing from the trust, they might learn how they can contribute to a healthier rural and regional Australia in both productive and ecological terms.

Senator BOLKUS—Mr President, I ask a supplementary question. Given that in 2000-01—not five years ago, but just a few months ago—the Auditor-General found that the Natural Heritage Trust was largely unaccountable and that it released inaccurate data about the effectiveness of its funded projects, what steps will the government be taking to depoliticise the trust? Specifically, what will the minister do about removing the three board members who are failed Liberal and National Party apparatchiks?

Senator HILL—Senator Faulkner spent months on this project. We can all remember that. Remember when he defamed the Baillieu family, for example. He got it totally wrong. He said Baillieu was sowing the system when Baillieu was dead. This is just another manifestation of the same thing. The proof is in what was found on the last occasion when the Labor Party suggested exactly what Senator Bolkus is now saying. The Australian National Audit Office audit of the trust in 1998 found:

• the Natural Heritage Trust decision-making process is fundamentally sound ... and there was no evidence of systemic bias in the allocation of funds to projects.

I am confident that exactly the same position exists today and that the money is going to the causes for which it was intended: better agricultural outcomes and better ecological outcomes. (Time expired)

Insurance: Public Liability

Senator LIGHTFOOT (2.52 p.m.)—My question is addressed to the Minister for Revenue and Assistant Treasurer, Senator the Hon. Helen Coonan. Will the minister advise the Senate how actions by the federal government are helping address the rising cost of public liability insurance for businesses, sporting and community groups? Is the minister aware of any alternative policies?

Senator COONAN—I thank Senator Lightfoot for his question and for his ongoing interest in trying to derive solutions to this very difficult community problem. As most senators would be aware, the affordability and availability of public liability insurance has presented serious problems, not only for small business and big business but for community organisations, sporting groups and local councils. It is important that all of the activities that Australians enjoy can continue to go on. Things such as watching your kids play Little Athletics or going to a barbecue or a school fete have been severely threatened by this current problem. The Howard government has in fact acknowledged these concerns and moved very quickly to work with the community, industry and state and territory governments to assist in coordinating an appropriate response.

I am pleased to say that after a great deal of work and cooperation from most state and territory governments I have some very significant good news to report to the chamber. I am advised that one of the nation’s largest insurers, Suncorp GIO, has announced today that it is moving immediately to expand its public liability business and to make affordable insurance coverage available to community fundraising activities and several classes of businesses. In a second phase, which is expected to begin in September, it will expand the availability of cover in New South Wales for a range of community groups, including services for people with disabilities, unlicensed clubs, performing arts venues and residential care services.
Suncorp GIO has announced that it is taking these steps specifically because the reforms being put in place will reduce the costs in the system and put some predictability into the payout of claims, allowing them to provide policies at a reasonable price. Once the Commonwealth and the states finalise laws allowing people undertaking risky recreational activities to waive their right to sue in appropriate circumstances, the company expects to be providing more affordable and readily available public liability insurance to groups that have had so many problems—riding schools, skating rinks, golf clubs, bowling clubs and fitness centres.

The changes that the federal government has been working to implement are getting concrete results. Without overstating the position, the actions announced by Suncorp GIO today demonstrate that the cooperative and productive approach of the federal government and most of the state and territory governments is starting to pay very real dividends for the community. To help ensure a consistent and coordinated approach across the nation, there have been two ministerial meetings that I have coordinated with my state and territory counterparts, and the third is now scheduled for September. I am happy to inform the Senate that concrete steps to address the complex issues involved are now being implemented.

As agreed at these ministerial meetings, most states have moved on tort law reform, introducing changes that will stabilise the cost of claims, which is partly driving the big increases in premiums, and will introduce more certainty into the system. This government has led the way in driving these meetings, coordinating action to address the problem. The federal government has moved to introduce these reforms. The New South Wales government has moved to introduce these reforms. New South Wales is seeing the benefits of its own determination to reform the law. I say to all of those on the other side of the chamber: if you have any influence with your state counterparts, please urge them to go ahead and reform the law, and do it quickly.

**Australian Prudential Regulation Authority**

**Senator HOGG** (2.56 p.m.)—My question is to Senator Coonan, the Minister for Revenue and Assistant Treasurer. Does the minister recall comments by her predecessor and former factional ally Mr Joe Hockey on 2 October 2001 alleging various misconduct by trade union representative trustees of industry superannuation funds? Hasn’t the Assistant Treasurer, in answers to questions on notice tabled on Monday, confirmed that Mr Hockey received no advice providing evidence of misconduct by union trustees because there is no evidence of misconduct? Will the Assistant Treasurer therefore demand that Mr Hockey retract his remarks?

**Senator COONAN**—Thank you, Senator Hogg, for the question. I will, in fact, ask Mr Hockey what he said on an occasion last year. I am not aware of what his comments were. Without checking with Mr Hockey I would not be prepared to accept that that is an accurate statement of what he has said. I will pursue the question with Mr Hockey and get back to Senator Hogg.

**Senator HOGG**—I ask a supplementary question, Mr President. Does the Assistant Treasurer recall telling the Senate on 14 May that:

Labor’s union masters are responsible for $200 billion in investment assets. This, of course, is a wonderful fund for the union movement’s political wing here in the Senate.

Is the Assistant Treasurer aware that not one industry superannuation fund has ever donated to the Australian Labor Party? Will she, too, retract her inaccurate and ignorant remarks?

**Senator Coonan**—Mr President, I raise a point of order. The supplementary question raised by Senator Hogg had absolutely nothing to do with his question, and I do not propose to deal with it unless you rule that I should.

**Health: Mental Illness**

**Senator ALLISON** (2.59 p.m.)—My question is to the Minister for Health and Ageing. Has the minister read the report last week by Sane Australia that found: mental health services are in disarray in this country
and are now operating in crisis mode; proven effective treatments for mental illness are not routinely available on Medicare; untreated mental illness is a leading contributor to Australia’s suicide rate; and the cost of schizophrenia alone will spiral to $10 billion a year this decade unless services are improved? Minister, the report says there is an urgent need for action on the National Mental Health Strategy. Will your government take that action?

Senator Patterson—The Sane report highlights Australia’s spending on mental health services with comparable countries such as Canada, the United Kingdom and New Zealand. That direct comparison is very difficult to make because there are differences in the way that countries assess what comes under mental health services. For example, countries may or may not exclude services for dementia, intellectual disability and retardation, drugs and alcohol, housing and social services, and capital expenditure. The actual delivery of specialist mental health services in the acute and community health sectors remains a state and territory responsibility, as Senator Allison would know, through you, Mr President.

States and territories provide acute mental health services through both specialist mental health services and the general health system. The emphasis on public mental health services may be increased at their discretion. The Commonwealth continues to work with the states and territories to improve the care of people with a mental illness under the National Mental Health Strategy. We have had two mental health strategies and we are working towards a third mental health strategy. I ask Senator Allison to reflect carefully on the whole of that Sane report because it has acknowledged where change has occurred. A new scheme for general practitioners, Better Outcomes in Mental Health Care, which is an area where the Commonwealth has responsibility and can actually do something, was introduced in July 2002. It provides $120 million of Commonwealth funds over four years to increase the availability of general practitioners to care for people with mental health needs in the community. This is a first. There are training sessions for general practitioners to deliver this service. The scheme will improve the community’s access to primary mental health care, encourage evidence based practice and allow allied health professionals and psychiatrists to provide support for general practitioners.

Since 1993, expenditure on mental health services has increased by 44 per cent in real terms, with the increase in Commonwealth spending at 88 per cent and state and territory government spending at 30 per cent. However, mental health has only maintained—not increased—its position relative to total government spending on health. The National Mental Health Strategy has led to significant changes—for example, a much greater cooperation between the various organisations that represent people who suffer from mental illness, and that has been a real step forward. They themselves have acknowledged that it was important for them to meet together and have assistance from the Commonwealth to do that—to bring their concerns to not only the Commonwealth government but state governments. There have been significant changes. I have to give credit where credit is due—it has not all happened since we came into government. The first national strategy was under state Liberal governments and the then Labor Commonwealth government, and we have continued that and added to it. There will always be criticism—there will always be that in any area. When you have got this portfolio there will never be enough money for all the demands made on it. But we have made significant inroads and some innovative changes—for example, with BluePages, a web site I launched that was initiated at ANU for young people and people with depression to access services, and beyondblue, an organisation which is looking at innovative ways to address issues of mental illness.

Senator Allison—Mr President, I ask a supplementary question. I ask the Minister to again advise the Senate whether or not she rejects those findings of that important report. Minister, why is it that your government has not produced its annual report on mental health since 1998? How can we take
the minister’s statements about improvements in services seriously when such a report has not been delivered in some years?

Senator PATTERSON—I suggest that Senator Allison looks at my answer to her original question. Her question did highlight some issues that need to be addressed, but I have outlined some of the significant achievements in this area through the two national mental health strategies. As I said to Senator Allison, we are working towards a third.

Senator Mackay—Mr President, I raise a point of order. In respect of the supplementary question from Senator Hogg to Senator Coonan, as I understood it, Senator Coonan was actually asking you to rule as to whether the supplementary question was in order in relation to the substantive question. You did not rule but went straight to Senator Allison, so Senator Hogg is still waiting for a response and an appropriate apology from Senator Coonan on this matter.

The PRESIDENT—Senator Mackay, Senator Coonan indicated that she was not going to answer the question, so I moved to the next person.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS
Telstra: Regional Communications Inquiry

Senator MACKAY (Tasmania) (3.06 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Communications, Information Technology and the Arts (Senator Alston) in response to a question without notice asked by Senator Mackay today relating to the issue of the so-called ‘Besley inquiry mark II’ looking at regional services and Telstra, and of various answers given by ministers in response to questions without notice asked by opposition senators today relating to the failure of the National Party in a series of areas.

The response of the Minister for Communications, Information Technology and the Arts was somewhat incredible, and certainly he probably stretched credulity in his claims that he had no idea whether or not Mr Estens was a member of the National Party. The reality is that Mr Estens’s own admission is that he was John Anderson’s friend for over 10 years. Everybody knew he was a member of the National Party—he is in Mr Anderson’s branch of the National Party! So I do not know where on earth Senator Alston has been, but it was common knowledge out there.

Honourable senators interjecting—

The DEPUTY PRESIDENT—Could those members not participating in the debate move out of the chamber please.

Senator Heffernan interjecting—

The DEPUTY PRESIDENT—Senator Heffernan, you might take your conversation outside.

Senator MACKAY—At least Minister Alston had the courage, I suppose, to fess up that he knew who the other National Party member on this committee is and, of course, that is Mr Ray Braithwaite. He really had to say that because Mr Ray Braithwaite was in fact a member of the parliamentary National Party and a former National Party member for Dawson.

Senator Boswell—And a very good one, too.

Senator MACKAY—Probably very good, but should he be on a so-called independent inquiry into telecommunications services in the regions? Why should it be a prerequisite that two out of the three members of a critical inquiry in relation to regional Australia be members of the National Party? How on earth the minister has got the hide to put out a press release that describes this inquiry as ‘independent’ is, as I said before, unbelievable and incredible, and totally stretches credulity.

I want to make it very clear that the Labor Party is not saying that there should not be an independent inquiry into Telstra and what is going on. We have a major difficulty with this inquiry. First of all it is stacked. It is absolutely stacked. Two out of the three members are members of the National Party. How on earth can you hope to have anything like an independent outcome with regard to that? Secondly, we are not saying that this com-
mittee should not travel extensively around regional Australia. In fact, we would like to see this committee also have a look at some of the metropolitan areas as well. We would encourage this committee to travel widely. We just hoped that the members of the committee would be average members of the Australian community and not, as seems to be the prerequisite, paid-up members of the National Party.

In relation to the view of the opposition, we would encourage the Estens inquiry to go to Cunningham and have a talk to the people of Cunningham about what they think in relation to Telstra and what they think in terms of the standards of behaviour. We will just see how serious this inquiry is. If it were serious it would go to Cunningham and it would talk to the people there in relation to Telstra so that they can make their own minds up when that by-election comes. Are they going to vote for any party in relation to the sale of Telstra, none of which are entirely signed up to not selling it, or are they going to vote for the only party in this chamber that has made its position absolutely clear in relation to the sale of Telstra, and that is the Labor Party? We are the only party in this chamber that has not flinched on the issue of the privatisation of Telstra. Every other party sitting in this room has made it very clear that they are prepared to deal, they are prepared to sell out or they are prepared to get a bucket of money. One of the Independents sitting in this chamber already has form in relation to the sale of Telstra, and that is Senator Harradine. Who knows how Senator Harradine is going to vote? We did not know until the last minute last time.

The reality is that this is a total political exercise. The reality is that in order to be a member of a so-called independent inquiry you first have to produce your National Party membership ticket and, if you want to be chair, you have to be a really good friend of John Anderson. The minister claims that he did not know these two facts—in John Anderson’s branch? It is blatant. Couldn’t you have even picked somebody who was not in John Anderson’s branch—a semblance of independence?

I am sure the National Party is very happy with this, but the reality is that the outcome is predetermined. This committee will advise that Telstra is going to be sold. Otherwise, why would the time frame be 8 November? Let us get real here. Why didn’t you push for a decent independent inquiry? Why didn’t you have some guts in relation to trying to deal with the government? They have already ruled out the bucket of money. There is not going to be a bucket of money. Richard Alston confirmed that the other day. I think the National Party has yet again been side-lined and whitewashed.

Senator EGGLESTON (Western Australia) (3.11 p.m.)—Senator Mackay, the key thing about all three of these people is that they are regional people. They come from regional Australia, they understand regional Australia, and that is why all three of them have been appointed to this committee. They are from regional Australia. They are people involved in business. They live in regional Australia and they understand the needs of regional Australia. That is what we are trying to assess—the telecommunications needs of regional Australia.

Senator Mackay—Of the National Party!

Senator EGGLESTON—No, of regional Australia. All three of them come from regional Australia. I will keep on repeating that for five minutes if necessary because that is the key criterion for their appointment. Let us have a look at their CVs. Dick Estens is a cotton farmer from Moree with a long history of involvement in community issues at local and national levels. While running his cotton business he has also been involved with the Moree Plains and Barwon Health Services, chaired the Gwydir Valley Cotton Growers Association and been involved in local Indigenous employment issues. He is a person very much involved in regional Australia.

Jane Bennett is the production manager and a director of Ashgrove Farm Cheese in Tasmania and was the ABC Radio Australian Rural Woman of the Year in 1997. In addition to her commercial experience, she has extensive public and community experience including as a member of the National Food Industry Council, the federal government’s
Trade Policy Advisory Council, the Tasmanian Together Progress Board and as Deputy Chair of the Food Industry Council of Tasmania. Tasmania, when it comes down to dairy farming, is very much regional Australia. So she is a good appointment too. Ray Braithwaite, who indeed was a member of the National Party in this parliament, comes from regional Australia—the area around Mackay in mid-North Queensland.

Senator Ray—Where do you live? Metropolitan Perth?

Senator EGGLESTON—Senator Ray, the point is that Mr Braithwaite is somebody who comes from regional Australia. As far as my credentials go, I was born in the south-west, I grew up there and I lived for 25 years in the north-west, so I have pretty good regional credentials. Do not think you can make any progress in suggesting that I have other than excellent credentials for regional Australia.

Let us have a look at what the federal government has done in terms of assessing the needs of telecommunications in Australia. We set up the Besley inquiry in response to concerns that regional telecommunications were not up to scratch, that they were not equal to those provided in metropolitan areas. Indeed, that has proved to be the case. It has been shown that there were deficiencies in the level of services in regional Australia.

What have the government done since then? They have worked very hard and have spent a lot of money to improve telecommunications services in regional Australia. It follows, therefore, in a logical way, that it is quite reasonable to set up another inquiry to assess the level of progress and the improvements that have been made in telecommunications services to the regional parts of this country. It follows further that the logical and obvious people to put on that board of inquiry are people from regional Australia, and that is what we have done. We have put people on this board who have absolutely impeccable credentials as representatives of regional Australia. One could not ask for a better group of people. I am sure that they will very ably make an assessment of the improvements that have been made in telecommunications in regional Australia and also identify any areas which still need to be improved. The government will then be able to make a well reasoned decision about whether or not the improvements have met John Howard’s commitment to not proceed with the further sale of Telstra until regional telecommunications levels have been satisfactorily met. (Time expired)

Senator ROBERT RAY (Victoria) (3.16 p.m.)—The government, again, are starting their softening up campaign on Telstra. When they first brought the bill into this chamber, they said, ‘We only want to sell one-third.’ Then, within a week, they said, ‘Having sold one-third, it is untenable not to sell the other two-thirds because it is unfair to the people who have bought one-third of the Telstra shares.’ That is the way the logic went.

The government have always had a little difficulty with their country cousins on this particular thing. The rednecks in the National Party have not always quite agreed with their city cousins on this. This has led to the making of certain promises to them. You do not want to actually go into an election campaign saying, ‘We’re going to privatise Telstra.’ That is too tough. What you do is you go into an election campaign saying, ‘We will hold an inquiry and, if the objective conditions are okay, we might then sell Telstra.’ That is too tough. What you do is you go into an election campaign saying, ‘We will hold an inquiry and, if the objective conditions are okay, we might then sell Telstra.’ So, going into the last election, the coalition said, ‘We’ll hold an inquiry.’ They held an inquiry, but it did not come up trumps. So they are going to keep holding inquiries, and sooner or later they are going to get a jury that says, ‘You can sell Telstra,’—that is exactly what it is going to say—and they will sell Telstra.

We went into the last election, the election before that and the one before that saying, ‘We’re not going to sell Telstra.’ We gave our word that we would not sell Telstra, and we have been consistent on that. The absent ones from here, who are currently adding massively to Telstra’s profits by ringing each other constantly, held a press conference and signed a pledge that they would not sell Telstra. They did it before the last election. The government was not the target; we were the target. They can be trusted, they said; because we had not actually gone before the
cameras and signed off, we could not be trusted. We will put them to the test later this year when this report comes in, and we will see where they go.

The argument put up by Senator Eggleson is quite farcical. He said, ‘On the committee you have to get people from rural areas, so what is wrong with two of them being members of the National Party?’ This is supposed to be a genuine exercise. The fix is not supposed to go in at the start; it is supposed to go in at the finish. That is how the game is played. Being generous, 0.1 per cent of the Australian adult population are members of the National Party, yet on this inquiry two of the three members are members of the National Party. What a coincidence!

This minister has form. Remember when Mr David Barnett was appointed to the National Museum and he was asked how his name came forward. His answer was, ‘I think it was by osmosis.’ We at least know on this occasion how the cotton-picker got onto the committee—he is a close mate of Mr John Anderson. Give Mr Anderson credit for thinking about a mate; none of us knock that. But we have to rely on that mate to suddenly chair this particular committee with objectivity. He may do so; that is possible. But we are at least a bit cynical that two out of three members of this committee are members of the National Party. The third one is most unlikely to be a National Party member because, as far as I know—and I might be corrected by colleagues in the chamber—there is not a National Party in Tasmania anymore. Poor old Julian went down there, tried to form a branch and about four people, half of whom work for his family, turned up. So we do not have a National Party in Tasmania. But do not worry about it; the Liberal Party is heading in the same direction, thanks to comrade Senator Eric Abetz.

If we had ever set up an inquiry into Telstra and put on it two Labor Party members out of three, the coalition party, if they were in opposition, would have gone absolutely berserk. They would have talked about the usual mantras of trade union mates. They would have whined and whinged, absolutely. They would have gone on and on. But, of course, the Liberal Party have clean hands; they have given the dirty work to the National Party. They are quite clever. They are not going to give it to their own. They will be able to say, ‘Two of your committee members have come back and said that we should sell Telstra.’ So there is the moral sanction against you.

It is time the National Party representatives in this chamber looked after the interests of not only their own members but also their constituents. Selling out on Telstra without going to an election and getting a mandate on it—and you have never got a full mandate on the sale of Telstra—is wrong. To put up this sort of weak excuse: ‘We’ll have an inquiry. We’ll stack the inquiry and, by gosh, we’ll accept its recommendations. If that doesn’t work, we’ll set up another inquiry a few months later,’ is just not good enough. It is a really pathetic effort by the National Party of Australia.

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (3.21 p.m.)—I can recall hearing exactly the same words in relation to the Besley inquiry: ‘Besley was a rort. Besley was stacked. Besley would bend over, kneel and bow at the altar of the coalition.’ But what happened? Besley gave a very good and strong report which said that Telstra facilities were not up to scratch and which would not give a tick for the sale. We heard that. Now we are going to be challenged again because two people on an inquiry happen to be from the National Party. If you rule out people from rural Australia who are from the National Party, you would effectively rule out about 50 per cent of the farmers and other people connected with primary industry, because the National Party is part of primary industry and most farmers are. So, if the opposition are going to rule out people because they are in a political party, I would suggest that if they ever do get into government again they use their own mantra.

This is no more than a beat-up on the National Party. The Labor Party went to two elections—I can remember when we first came to government—and there were banners all around every polling booth, yards
and yards of plastic banners encircling schools, saying, ‘We will not sell Telstra.’ What did the electorate say? ‘We don’t give a damn. We just don’t want the Labor Party.’ Bang, they were out. Never ones to learn from their mistakes, they did it again. What happened at the last election? Bang, they were out again. You never, ever learn from your mistakes, and that is why you will be over there in opposition for some time. Mr Braithwaite gave a report that telecommunications were not up to scratch. The National Party has been in the forefront of the coalition in getting $1 billion spent on rural telecommunications. Ninety-seven per cent of Queenslanders have access to a mobile phone. The ones who have not got access to a mobile phone can take a mobile that—

Senator O’Brien—A satellite phone.

Senator Boswell—Yes, they can use a satellite phone for access.

Senator O’Brien—Yeah, for about $2,000!

Senator Boswell—That is subsidised. Everyone has Internet connection.

Senator O’Brien—What does it cost?

Senator Boswell—It costs 83c a minute, and that is not much more than an ordinary telephone call. Of course, everyone has Internet access. What about untimed local calls? I have been in the National Party since 1974, and every time I went to a preselection meeting or a National Party meeting I said, ‘You’ve got to stop having timed local calls.’ Everyone, whether you rang your next door neighbour or even another house on the same property, was charged the STD rate for their calls. All that has been removed—a billion dollars has gone into rural telecommunications. So do not say that the National Party has walked away from telecommunications in rural and regional Australia, because it is one of the great success stories of the National Party and the coalition in honouring a commitment to the bush. There is no better way to remove the tyranny of distance than by having a great telecommunications service. Rather than lie back in the traces and say, ‘Everything that has to be done has been done,’ we are going to have another committee with Mr Estens on it. Mind you, Besley got the nod first. Besley was asked to do it even though he brought down a response that telecommunications services were not up to scratch. We did not say, ‘We don’t like you, we don’t like the answer you gave us; you’re out.’ We approached him again, but he said he did not want to do it. A person that I remotely know, Dick Estens, was suggested by John Anderson, not as a National Party person but as a person who had great standing in Moree. He is a very successful cotton grower. He is a person who got the community together on Aboriginal affairs and said, ‘Let us try to get these people decent, meaningful jobs,’ and he put forward a program that was successful. (Time expired)

Senator O’Brien (Tasmania) (3.26 p.m.)—The sham review of Telstra services is another example of how willing the National Party of Australia is to sell out its own constituency, and I want to develop that theme further. The first thing I want to talk about is some comments by Senator Ian Macdonald about exceptional circumstances applications where he said that some exceptional circumstances were questionable. I want him to come back to the chamber and tell the parliament just which exceptional circumstances lodged by state governments on behalf of drought affected communities are questionable. I would like him to do that today.

On the issue of the National Party, as I said, it is selling out its own constituency on Telstra. There is only one party in this chamber that is standing up for country people and their rights, particularly their right to have world-class telecommunications, and that is the Australian Labor Party. Increasingly, there is only one party in this parliament that actually asks country Australians what they think and then bothers to listen to the answer. The once great National Party, the defender of country Australia, is no more. There is no better example of this decline than the minister who holds the Agriculture, Fisheries and Forestry portfolio, Mr Warren Truss. This is a portfolio that the National Party used to take seriously. In fact, it is a position that the leader of the party used to claim as his own. When not occupied by the leader,
the position was given to ministers of substance, but not anymore. Admittedly, the parliamentary National Party is not as big as it once was, but that is hardly an excuse.

We now have a minister who is not up to the job in that portfolio, who has failed to give leadership to his department, who has failed to stand up and give rural industries a voice in cabinet, who has completely mucked up the administration of Australia’s US beef quota, who has ignored the needs of the sugar industry, who has failed to negotiate with the states on reform of exceptional circumstance relief, despite the growing drought crisis in rural Australia, and who has failed to deliver a plan for Australian fisheries.

On the question of leadership, I have already informed the Senate this week of the crisis of confidence in the Department of Agriculture, Fisheries and Forestry. On Tuesday night, a senior departmental officer told a Senate inquiry that AFFA ‘does not have a view of quota arrangements that is of any relevance’. Either the minister has lost confidence in his department or the department has lost confidence in its minister. Either way, the minister must take responsibility when the Commonwealth department with responsibility for primary industries say that its views on quota administration are of no relevance.

A further example of the minister’s failings is his inability to advance the interests of rural Australia and, by extension, the interests of rural Australia inside the cabinet room. If Minister Truss was doing his job, the federal Treasurer would not tell the financial press that drought had no relevance to the Australian economy. You did not hear comments like that from the Hawke and Keating governments, because primary industry ministers in those governments exercised their voices in cabinet and made sure that all ministers, from the Prime Minister down, knew what was happening in regional Australia and understood the nexus between regional Australia and overall economic wellbeing. Under this government the gulf between income and services in the country and those in the city has grown wider. It is in no small way the responsibility of National Party members who are unwilling or unable to stand up for their constituencies.

Perhaps the most spectacular example of Minister Truss’s incompetence is his mishandling of the US beef quota crisis. A minister faced with the circumstances that Minister Truss was faced with a few months ago ought to have consulted widely and acted decisively. He failed to do both. A committee of this Senate is now doing the work that the minister should have done. It is no coincidence, I might say, that the Victorian Farmers Federation Pastoral Group passed a motion of no confidence in Minister Truss last month. On the question of sugar, yesterday during questions without notice in the other place the Prime Minister gave an answer that is instructive in this debate. When answering a question about the sugar industry, the Prime Minister made reference to the members of the government who are most concerned about this issue. There was a name missing from the list—that name is Minister Truss, the very minister responsible for this industry. It is no wonder that we have had two months of silence since the Hildebrand recommendations were handed down. I have touched on exceptional circumstances today. All senators will be aware of this issue. (Time expired)

Senator Boswell—Mr Deputy President, I wish to respond to Senator O’Brien.

The DEPUTY PRESIDENT—You cannot, because you have participated in the debate.

Senator Boswell—It is on another issue.

The DEPUTY PRESIDENT—You cannot—you have participated in the debate, Senator Boswell. I draw that to your attention.

Question agreed to.

COMMITTEES

Legal and Constitutional References Committee

Report: Government Response

Senator ELLISON (Western Australia—Minister for Justice and Customs) (3.32 p.m.)—I present the government’s response to the report of the Legal and Constitutional References Committee on its inquiry on the
Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999, and I seek leave to incorporate the document in Hansard.

Leave granted.

The document read as follows—


The Government welcomes the report by the Senate Legal and Constitutional References Committee of its inquiry into the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999.

The Senate referred to the Committee the Bill and the following related matters:

(a) the legal, social and other aspects of mandatory sentencing;
(b) Australia’s international human rights obligations in regard to mandatory sentencing laws in Australia;
(c) the implications of mandatory sentencing for particular groups, including Australia’s indigenous people and people with disabilities; and
(d) the constitutional power of the Commonwealth Parliament to legislate with respect to existing laws affecting mandatory sentencing.

**Committee recommendation**

The Committee recommended that the Bill be passed by the Parliament.

**Government response**

The Government does not accept the recommendation and notes that, in relation to the Northern Territory, the laws at which the recommendation was directed have been repealed by the Juvenile Justice Amendment Act (No.2) 2001 (NT), which repealed mandatory sentencing for juvenile offenders, and the Sentencing Amendment Act (No. 3) 2001 (NT), which repealed mandatory sentencing for property offences for adults, both effective from 22 October 2001.

**Government Senators’ recommendation**

**Interpreter services**

Government Senators recommended that the Commonwealth Government support the Northern Territory with funding to assist the continuing development of an adequate interpreter service to ensure that young people who do not speak or understand English will not continue to be disadvantaged by the legal system.

**Government response**

The Government accepts the recommendation (see discussion below).

Government Senators also made a number of suggestions which are also discussed below.

**Discussion**

As the report explains, the main issue with which the Committee was concerned was the application of mandatory sentencing laws to juveniles in the Northern Territory and Western Australia. The object of the Bill was to overturn those laws.

**The Northern Territory**

The report has been substantially overtaken by the repeal on 22 October 2001 by the Legislative Assembly of the Northern Territory of mandatory sentencing laws in relation to juvenile offenders and in relation to property offences.

The Government welcomes this development.

**Western Australia**

The Criminal Code (WA) provides for mandatory detention for third home burglary offences. However, the practice in relation to juvenile offenders is that the courts have a choice between imprisonment or detention on the one hand and a supervisory order of some kind on the other.

A review of the mandatory sentencing provisions of the Code was tabled in the Western Australian Parliament on 15 November 2001.

The review did not recommend any changes to those provisions. It confirmed the existence of a judicial discretion to impose non-custodial sentences instead of detention. It also showed that only a small number of juvenile offenders (143) have been convicted under the mandatory sentencing laws since they were introduced in 1996, of whom 17 per cent were not sentenced to detention.

**Commonwealth Government position**

The Commonwealth Government recognises that the States and Territories have a difficult job in dealing with the impact of crime and the problem of repeat offenders and that in some circumstances they may consider it appropriate to introduce mandatory detention laws for some offences. The Commonwealth Government believes that the States and Territories are best placed to address the problems associated with repeat offending and detention through their own legislatures and court systems.

The Commonwealth is committed, however, to working with the States and Territories to prevent juveniles from entering the criminal justice sys-
tem. This is demonstrated by the Agreement between the Commonwealth and the Northern Territory that was signed on 27 July 2000 and came into effect on 1 September 2000.

Agreement with the Northern Territory

Under the Agreement, the Commonwealth is providing $20 million over 4 years for the following:

- a range of new community-based diversionary programs in urban, rural and remote communities, including the establishment of community youth development units and drug and substance abuse diversionary programs;
- the establishment of juvenile diversion units in the Northern Territory Police Service to oversee the diversion process and act as a source of information and expertise on juvenile offenders for police throughout the Territory;
- a jointly funded Aboriginal Interpreter Service with offices in Darwin and Alice Springs;
- an on-site interpreter service at Royal Darwin Hospital and Alice Springs Hospital; and
- an additional $250,000 in the first year for training of interpreters (in addition to recurrent funding for training) and funding for the four Northern Territory Aboriginal Legal Services for the purchase of interpreter services.

The Agreement provides for different levels of response to juveniles apprehended, depending on the seriousness of the offence. These responses include verbal or written warnings, formal cautions, family and victim conferences and substantive community based programs. Under the terms of the Agreement, all juveniles who commit minor property offences are to be offered diversion, and diversion for more serious offences is at the discretion of the police.

Since the commencement of the Agreement, sound progress has been made. By 31 August 2001:

- 1215 juveniles had been offered diversion, mainly by way of verbal or written warnings; this equates to 79% of all juvenile apprehensions (1548 cases in total).
- 94 programs had been approved by the police as suitable for diversion, with programs registered in 23 predominantly Aboriginal communities outside the major centres of Darwin, Alice Springs, Katherine and Tennant Creek.
- 35 juveniles were referred to registered programs and 44 to informal programs.

By 30 September 2001, the AIS had 242 interpreters covering 104 languages on its register. The AIS has advised that it has completed more than 1900 jobs. So far some 140 Aboriginal interpreters have undertaken training and 180 clients of the AIS have been trained in the effective use of interpreters. This includes members of the judiciary, police, health professionals, lawyers and legal staff.

The agencies that have used the AIS the most between April 2000 and 30 September 2001 are:

- Territory Health Services and community service issues (633 jobs—33% of all agency jobs)
- NT Police (317 jobs; 17% of all agency jobs)
- Office of the Director of Public Prosecutions (172 jobs—13% of all agency jobs)
- North Australian Aboriginal Legal Aid Service (245—13% of all agency jobs)
- Central Australian Aboriginal Legal Aid Service (271—14% of all agency jobs)

Under the Agreement, the Northern Territory is required to provide detailed performance information to the Commonwealth every 6 months. The first performance information report was provided in April 2001 and the second in November 2001. The Agreement requires annual audits of expenditure, a review of progress in achieving the purposes of the Agreement during the first 12 months and a review no less than 6 months prior to its expiration in 2004. The 12-month review of progress has been delayed due to the Northern Territory and Federal elections but is expected to be completed by April 2002. The review will include an assessment of the impact of the diversionary schemes on juveniles in the Northern Territory and a report of the review will be made public.

Other interpreter services

The Northern Territory also has a general Interpreter and Translation Service that can provide interpreters in 39 languages. The services are provided free of charge when migrants access Northern Territory Government services. Additionally, the Commonwealth provides a national Translating and Interpreter’s Service which offers a 24-hour, 7 day per week service covering switchboard, telephone interpreting, on-site interpreting and a translation service. Non-English speaking residents, migrants and refugees can access the service for free. Other agencies access the service on a user pays basis.
**Government Senators’ suggestions**

Government Senators also suggested that the Commonwealth, in consultation with the Western Australian and Northern Territory Governments, address the following:

(a) Undertake an audit and review of all available diversionary and other support programs for juvenile offenders:

In addition to the review of progress in achieving the purposes of the Agreement between the Commonwealth and the Northern Territory, the Commonwealth is undertaking two important projects in this regard. The first project is to conduct a national audit of all diversionary programs in place for juvenile offenders to identify examples of good practice in diversion. These will be presented at a national forum to be held in September 2002. The second project involves a national profiling of Mentoring Youth At-Risk programs, which is also directed at identifying best practice. This is expected to be completed in 2002.

(b) Actively canvass and develop options for rehabilitating and deterring juveniles and young adults from repeat offending, as alternatives to mandatory sentencing:

While State and Territory Governments have primary responsibility for matters relating to juvenile offending and rehabilitation, the Commonwealth is strongly committed to a range of initiatives that contribute to the prevention of juvenile offending. These include early intervention in relation to such issues as suicide and drug abuse, early school leaving, unemployment and homelessness. The major strategies are the National Drug Strategic Framework, the National Illicit Drug Strategy, National Mental Health Strategy, the National Youth Suicide Prevention Strategy, the National Homelessness Strategy, the Youth Pathways Action Plan Taskforce, the Stronger Families and Communities Strategy, Partnerships Against Domestic Violence and the National Crime Prevention Program.

The Youth Pathways Action Plan Taskforce Report, Footprints to the Future, sets out a policy framework for supporting young people through school and from school to further education, training, work and active citizenship. The Commonwealth has welcomed the recommendations and has committed itself to continuing to expand young people’s opportunities.

Programs that target young offenders include the Young Offenders’ Pilot Program, the Job Placement, Education and Training Program and the Illicit Drug Diversion Initiative.

In addition, there are specific initiatives focusing on indigenous youth including the Indigenous Sport Program and employment and education initiatives, such as the School to Work Program.

Both the Department of Education, Training and Youth Affairs and the Attorney-General’s Department liaise closely with the Australasian Juvenile Justice Administrators’ Group. The Group meets regularly to discuss standards, good practice and approaches to the diversion of juvenile offenders, and correctional services for juveniles.

(c) Consult with indigenous communities to resource and develop from within those communities alternative programs to deal with juvenile offenders:

The Agreement with the Northern Territory recognises that consultation with key people within communities, particularly Aboriginal people, is imperative in the development and operation of community-based and driven diversionary programs.

As of August 2001, more than 170 organisations, committees and groups, and more than 700 community members, had been briefed or consulted by the Northern Territory police on the diversion scheme. The police have been meeting with Aboriginal leaders across the Territory and conducting extensive consultations with a wide range of community groups and non-government organisations and service providers to identify existing programs suitable for the diversion of juveniles. Consultations are also designed to develop targeted responses to emerging needs in indigenous communities.

(d) Monitor the impact of mandatory sentencing on juveniles and young adults, and publish the results at least annually:

The Western Australian review of its mandatory detention laws is referred to above.

An examination of the impact of the juvenile pre-court diversion scheme in the Northern Territory is being undertaken as part of the review referred to above of progress in achieving the purposes of the Agreement in the first 12 months since its commencement.

The Social Justice Report 2001 also contains a detailed review of the operation of the Criminal Code (WA) and the recent legislative developments in the Northern Territory.

**Senator ELLISON**—I understand that arrangements have been made for four speakers: Senator Ludwig, Senator Payne, Senator Greig and Senator Brown. The time allocation is 10 minutes for Senator Ludwig, 10 minutes for Senator Payne, six minutes for
Senator Greig and four minutes for Senator Brown.

Senator LUDWIG (Queensland) (3.33 p.m.)—by leave—I move:

That the Senate take note of the report.

I rise to take note of the government’s response to the report of the Senate Legal and Constitutional References Committee on the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999. This report was completed in March 2000. The bill itself was introduced into the Senate on the motion of Senator Brown, Senator Bolkus and Senator Greig. It was read for the first and second time on 25 August 1999.

It is worth giving a bit of the background to the report so that we can put the response by the government in context. It was referred to the Senate Legal and Constitutional References Committee for inquiry and report by the first sitting day in 2000. The terms of the inquiry were: (a) the legal, social and other aspects of mandatory sentencing; (b) Australia’s international human rights obligations in regard to mandatory sentencing laws in Australia; (c) the implications of mandatory sentencing for particular groups, including Australia’s Indigenous people and people with disabilities; and (d) the constitutional power of the Commonwealth parliament to legislate with respect to existing laws affecting mandatory sentencing. The committee held four public hearings, in Alice Springs, Darwin, Perth and Canberra, in February 2000. To underscore the seriousness of the issue, a supervening event occurred which heightened public concern. A 15-year-old Aboriginal boy was found in his room at the Don Dale Detention Centre in Darwin in the Northern Territory on 9 February following what is believed to have been a suicide attempt. The boy, from Groote Eylandt, was serving his second detention term under mandatory sentencing and was due to be released on the following Monday. He died in Darwin Hospital on Thursday morning, 10 February.

The bill itself was to ensure that a Commonwealth, state or territory law must not require a court to sentence a person to imprisonment for an offence committed as a child—that is, when under the age of 18 years. It would make existing laws of no force or effect and require any child in prison or detention be brought back to the sentencing court within 28 days for reconsideration of the remainder of the sentence. The bill was developed to address a number of issues of concern over the introduction of mandatory sentencing for various property offences in both Western Australia and the Northern Territory. These concerns included whether the jailing of children was contrary to the Convention on the Rights of the Child and whether other international obligations were being breached, the lack of relationship between the type of crime and the severity of the punishment, the limited options available to replace detention, the apparent discriminatory effect on Indigenous people; and the concept of mandatory detention for juveniles representing a disturbing shift away from the traditional sentencing principles. The emphasis had previously been on rehabilitation rather than on the protection of the community through detention, thus legislation governing the sentencing of juveniles had generally restricted the kinds of sentencing options available in respect of juveniles. The clear preference had always been for non-custodial sentences.

In essence, the Senate Legal and Constitutional References Committee unanimously condemned the laws in both the Northern Territory and Western Australia and the majority supported the bill. The two Liberal senators, Senator Payne and Senator Coonan, gave the Northern Territory and Western Australian governments a chance to consider the report, although it is recognised that one senator was predisposed to support a Commonwealth override if the governments’ responses were not positive.

The committee’s preferred course was to allow the respective governments to take action. The committee was not, however, convinced that the Northern Territory and Western Australian governments would act on their own volition to resolve this issue. Therefore, the committee recommended that the bill be passed by parliament. The Senate did pass the bill. Surprisingly, a number of Liberal members in the House of Representatives at the time indicated support for the
passage of the bill in the House. This support, however, did not materialise. The government’s position on this was very disappointing.

The arguments against mandatory sentencing can be summarised in the following way. In my view, they breach international laws, they are perceived to have a discriminatory effect on Indigenous persons and they are perceived as allowing parliament to interfere with and potentially undermine the independence and integrity of the judiciary. The government’s response to date has been pathetic. When the bill was introduced, Ms Vale in the House of Representatives said she was willing to introduce into the House a similar bill, but failed to take that step. Mr John Howard promised a good old back-bench committee to advise cabinet on measures to lessen the impact of the mandatory sentencing laws. Clearly, nothing of any substance came out of that. Nearly every living retired member of the High Court condemned mandatory sentencing laws. Many academics similarly condemned mandatory sentencing. In addition, a report of the United Nations Committee on the Elimination of Racial Discrimination condemned mandatory sentencing and Australia’s treatment of Indigenous people.

The Prime Minister attempted to persuade the then Northern Territory Chief Minister, Denis Burke, to change the law, but was singularly unsuccessful. However, by April 2000 the federal government struck a deal with the Northern Territory government to provide $5 million for additional diversionary programs. This of course failed to address the issue itself. At best, it was a face-saver for this government. However, it did not save the Northern Territory government. The date 22 October 2001 was an important one for those who are opposed to mandatory sentencing, because it signified the end of mandatory sentencing for property offences in the Northern Territory. The Labor Northern Territory government under Clare Martin should be congratulated for expunging from the record books a regime that imprisons children for minor offences. The application of the laws brought about unjust and inappropriate sentences which resulted in inconsistencies and discrimination and unfairness. It is hoped that the Western Australian government will heed the progress made in the Northern Territory and do likewise. Mandatory sentencing laws in the Northern Territory have been a lightning rod across Australia and amongst the international community because of their unjust nature. Dr Jonas, the Aboriginal and Torres Strait Islander Social Justice Commissioner, welcomed the repeal of the mandatory minimum term of imprisonment for property crimes committed by juveniles. Dr Jonas stated, and I agree with him:

A sense of justice has been restored to the Territory’s legal system.

There is another area where the response fails and fails miserably. There was a call by the Liberal senators for improved interpreter services. The government’s response focuses on the Indigenous interpreter services it is helping in the Northern Territory, yet does not mention the need for such funding in WA. There is no federal funding, as far as I am aware, for Indigenous interpreter services in WA. Since they set up about three years ago, I understand that the Kimberley Interpreting Service have been seeking funding to continue their operation of providing interpreter services to Aboriginal peoples and have managed on the basis of a grab bag of funds from different state departments and programs. They have not been able to access Commonwealth government funding. They have lobbied Senator Ellison and Minister Ruddock for about a year to receive funding from the government, but they have been singularly unsuccessful. I hope the government does take heed of that call and, if they are serious about providing a serious response to this report and they are serious about interpreter services, that they look at the obvious needs not only in the Northern Territory, where a deal was done with the previous government, but right across Australia, to ensure that interpreter services are provided.

There is a clear need. Fourteen per cent of Indigenous people aged over 13 years speak an Aboriginal or Torres Strait Islander language, and a further three per cent speak Aboriginal English. It is obvious that those
Indigenous Australians coming into contact with the justice system need to have adequate interpreter services, particularly when they are juveniles. Funding for these services in the Northern Territory, as I have said, only arose out of a deal that they did with their mate the former Chief Minister Denis Burke not to overturn mandatory sentencing. The government must move to remedy this situation around the country, not just in the Northern Territory. The original committee recommended that the bill be passed by the parliament. The government’s response said that the government does not accept the recommendation. (Time expired)

Senator PAYNE (New South Wales) (3.43 p.m.)—Mr Deputy President, may I take this opportunity to congratulate you on your election to that high and responsible office.

The DEPUTY PRESIDENT—Thank you.

Senator PAYNE—In rising to take note of the government’s response to the report of the Legal and Constitutional References Committee inquiry into the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999 I would like to note that two of the senators who played a very significant role in the development of that report and in the continuing work of the committee in this area, former senator Barney Cooney and former senator Jim McKiernan, are no longer members of this chamber, but I am sure would have been very interested to see the material which is before us today. The government, in its response to the committee’s report, welcomes the report and indicates that it contains matters which it has looked at very seriously. The government said at the time, and continues to say now, that it did not accept the committee’s recommendation that the bill be passed by the parliament. As a member of the committee at the time, I also did not advocate the passing of the bill by the Senate at that stage—as Senator Ludwig has referred to. I indicated that my preference was to see the Northern Territory and Western Australian governments take action of their own volition to address the concerns which had been made very clear to the committee in this process.

Since that time—as Senator Ludwig has referred to in one manner; I will perhaps do so slightly less pejoratively—the nature of the legislation in the Northern Territory has been changed significantly by the introduction of the Northern Territory Juvenile Justice Amendment Act (No. 2) 2001 and the Northern Territory Sentencing Amendment Act (No. 3) 2001, which repealed mandatory sentencing for juvenile offenders and mandatory sentencing for property offences for adults respectively. Both took effect from 22 October 2001. I welcomed on a personal basis those actions of the new Northern Territory government last year. In the report, tabled in 2000, the government senators made a number of recommendations which, in this response, the government has acknowledged and in some cases supported. The first was that the Commonwealth should support the Northern Territory with funding to assist the development of an interpreter service to ensure that young people who could not speak or understand English would not continue to be disadvantaged by the legal system. The government has responded to that in a number of ways. The response also indicated, on a number of other recommendations that government senators made, that they would pursue some of those areas.

Let me first turn to the question of government assistance and the agreement that the government formed with the Northern Territory. The government agreed to provide $20 million over four years for a range of new community based diversionary programs which would operate in urban, rural and remote communities. They would include the establishment of community youth development units and drug and substance abuse diversionary programs. We supported the establishment of juvenile diversion units within the NT police service to oversee that diversion process and to act as a source of information and expertise on juvenile offenders for police throughout the territory. We supported a jointly funded Aboriginal interpreter service with offices in Darwin and Alice Springs and an on-site interpreter service at the Royal Darwin Hospital and the Alice Springs Hospital. We provided an additional $250,000 in the first year for the training of interpreters—in addition to recur-
rent funding for training—and funding for the four Northern Territory Aboriginal legal services for the purchase of interpreter services.

The agreement formed between the Northern Territory and the Commonwealth also provided for different levels of response to juveniles who were apprehended, depending on the seriousness of the offence. The commencement of the agreement saw a pretty challenging environment, but since that time significant progress has been made. I understand from the government’s response that, by 28 February this year, 1,606 juveniles out of the 2,142 cases of juvenile apprehensions—that is, three-quarters—were offered diversion, mostly by way of verbal or written warnings; 113 programs had been registered as suitable for diversion in 34 Northern Territory communities; 77 juveniles had been referred to registered diversionary programs; and 63 juveniles had been referred to informal programs.

The Aboriginal Interpreter Service offers a central booking service for both government and non-government agencies that require on-site Aboriginal language interpreters. By its second anniversary, in April 2002, it had 250 interpreters covering 104 languages on its register, and it had completed more than 2,400 jobs. The services that have used that Aboriginal Interpreter Service the most include the Territory health services, the Northern Territory Police, the Central Australian Aboriginal Legal Aid Service, the North Australian Aboriginal Legal Aid Service and the office of the DPP. That is an indication of how actively it has been taken up as an opportunity in the Northern Territory.

The agreement has been reviewed; I would describe it as one for which the NT government is highly accountable to the Commonwealth for the funds that it expends in terms of annual audits and reviews of progress when they have been conducted during that time. As Senator Ludwig would know, we also have the opportunity, through the estimates process of this parliament, to examine the Attorney-General’s Department in relation to those services—and we do. Senators on both sides of the chamber ask for progress on the Northern Territory agreement, and we are advised regularly with updates on that.

In the report, the government senators made a couple of other responses to which the government has also responded in the document tabled today. We suggested that there be an audit and a review of all of the available diversionary and other support programs for juvenile offenders. The Commonwealth is now undertaking two projects in that regard. One of them is particularly important and it is very timely to refer to it today. The first is a project to conduct a national audit of all diversionary programs in place for juvenile offenders, for the purpose of identifying examples of good practice in diversion. They are then to be presented at a national forum to be held next month. That will be a very good opportunity to look at where similar programs in Australia are going, and what best practice actually is. The second is a national profiling of programs mentoring youth at risk, also aimed at identifying best practice and also expected to be completed this year. They are both very important initiatives that the Commonwealth has undertaken in that regard.

There are a number of programs in relation to young people which come broadly under the heading of the recommendation that the government senators made in this report about actively canvassing and developing options for rehabilitating and deterring juveniles and young adults from repeat offending as alternatives to mandatory sentencing. The government is committed to a range of initiatives which include early intervention in relation to suicide, drug abuse, early school leaving, unemployment and homelessness. A number of strategies have an overarching responsibility in that area; they would include the National Drug Strategy Framework, the National Drug Strategy, the National Mental Health Strategy and the National Youth Suicide Prevention Strategy.

One program with which I am particularly familiar is the National Youth Suicide Prevention Strategy. It is important for its capacity to look at innovative programs, and very often when we are talking about Indigenous juveniles that is extremely important.
The one-size-fits-all approach is not the case in that regard. It is important within those strategies to be innovative, flexible and open to alternative suggestions, and I think that is what marks that particular strategy. The programs also include the National Homelessness Strategy, the Youth Pathways Action Plan Taskforce, Partnerships Against Domestic Violence and so on. Let me just identify the Youth Pathways Action Plan Taskforce report *Footprints to the Future*, which sets out a policy framework for supporting young people throughout their life—through school and from school to further education, to training and to work and active citizenship. Its recommendations have been welcomed by the Commonwealth and are being pursued.

One of the important issues which the entire committee and government senators identified was the importance of consultation with Indigenous communities—to resource and develop from within those communities some of the solutions to the problems which we saw in our extremely intensive and extensive reporting process. The agreement that the Commonwealth has with the Northern Territory, to which I referred earlier, does recognise that consultation with key people within the communities, and particularly Indigenous leaders, is imperative in the development and operation of community based and community driven diversionary programs. I think these are all points which, as part of the government response to this report, should be noted by the Senate. *(Time expired)*

**Senator GREIG (Western Australia)**

(3.53 p.m.)—Mr Deputy President, I, too, congratulate you on your recent election. I would also like to follow up from Senator Payne in paying tribute and commendation to retired Senators Cooney and McKiernan, who contributed so significantly not just to the references committee but to this particular inquiry.

The first thing that struck me about the Government Response to the Senate Legal and Constitutional References Committee Report of the Inquiry into the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999, which we have incorporated into the *Hansard* today, was the date of it, really. I think it is rather sad and telling that the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999—a bill that was introduced and on which we began debate in 1999—is responded to only today, some three years later, by the government. My feeling and experiences are that there is much community anxiety about mandatory sentencing, and that is not reflected in the way in which the government has often responded to this issue.

As Senator Payne has said, the government’s response at the time, which is being discussed here today, effectively advocated that the bill ought not be passed and that the states or the territories ought to do so themselves. Since that time, we have seen that that has in fact happened in the Northern Territory under the new government with Clare Martin. That has been roundly welcomed and her government has been congratulated by my party and others. I have had the opportunity to visit the Northern Territory in recent weeks to inquire into how some of that law reform is progressing, and there are certainly positive signs that things are working well. It is not brilliant but, as I have said previously, there are social problems—the underlying difficulties, often with broken families, of physical and sexual abuse and sometimes drug and alcohol abuse. Broken families fundamentally seem to be the strongest contributing cause, particularly of juvenile crime in the Northern Territory, amongst Indigenous populations. Fundamentally, that remains the Democrats’ strong and vehement opposition to the whole notion of mandatory sentencing, given that we continue to argue that it must be left to the discretion of the courts—to the judges and the magistrates—to determine on a case-by-case basis what the sentencing for any particular crime ought to be, allowing them to take into consideration the extraordinary circumstances that many people, particularly young people, find themselves in.

It remains the case that, to its shame, my home state of Western Australia is now the only jurisdiction in the nation which maintains mandatory sentencing, introduced under the then Labor government of Dr Carmen
Lawrence. To be fair, the mandatory sentencing regime in Western Australia is different from that which existed in the Northern Territory. It is a three-strikes policy rather than a first-strike policy and relates only to property offences. Nonetheless, it is still having a serious effect on Indigenous people, young Indigenous people in particular, and remains the topic of heated and controversial debate on the public airwaves and through the press in my home state. It remains a thorny issue, too, with the parliament which, under the premiership of Dr Geoff Gallop, has seen some exceptional and welcome social reform. There remains strident opposition from the government, shared by the coalition opposition, to maintain those laws in Western Australia—despite the alternative dynamic that now exists in the state’s upper house.

As an example, I would like to bring the attention of the chamber to a relatively recent case published in the *West Australian*, where some of these issues were being debated in relation to a young, I understand, Indigenous girl. The article said:

A 13-year-old Broome girl at the centre of a row over WA’s mandatory sentencing laws was sent to detention for a year yesterday—and this was published on 24 July this year—

for committing another string of home burglaries in the North-West last month.

The girl, who is not named because of her age, stole cash and personal possessions from seven houses in Broome not long after being given a final chance by Children’s Court president Kate O’Brien. In May, the judge ignored prosecution calls to lock up the repeat offender and instead placed her on a 12-month conditional release order.

The child returned to Broome to live with her grandmother and siblings but began offending again on June 8 and was arrested by police two weeks later.

She pleaded guilty to seven counts of aggravated burglary in Broome Magistrate’s Court on June 22 and was remanded in custody for sentencing.

She also admitted being part of a group of teenage girls who kicked and punched a 16-year-old girl before stealing her mobile phone in February.

And so it goes on. It became very clear that the significant and underlying social problems and social causes of this particular offender were such that the court could not take that into consideration, so the situation remains that judges and magistrates cannot exercise discretion in sentencing—a situation which continues to be criticised and condemned by WA’s Chief Justice, Mr David Malcolm, who said:

Unless our community can settle on an alternative method of addressing crime and the rehabilitation of offenders, WA will continue to see an increase in the number of alcohol and other drug dependent offenders. Yet as a community we persist with such illusionary solutions as mandatory sentencing which is only a short term quick fix solution to impress constituents from one election to the next.

Senator BROWN (Tasmania) (3.59 p.m.)—This is a government response to the report of the Legal and Constitutional References Committee on the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999, which I introduced into the Senate a bit more than two years ago. The dilatory nature of that response is remarkable, but it is a response that is written with hindsight. It effectively says that the Greens legislation—which was supported by this side of the Senate back there—was right, that the outcomes which that aimed at were correct and that the decision by Prime Minister Howard and the government at the outset to oppose that legislation was not right.

What has happened in the meantime is the result of a national furore over mandatory detention, which ensnared primarily Aboriginal children in the Northern Territory but also in Western Australia, to the effect that it was not conscionable in our country. It was effectively locking kids up, doing them no good, potentially leading them to come out of detention with a greater likelihood of relapsing into petty crime than before and making them feel estranged from the very system that should have been helping them.

As a result of that legislation—which I brought into parliament at the behest of Aboriginal communities and also the Northern Territory Greens at the time—the consequent committee findings got the support of the Senate, the Labor Party, the Democrats and
the Independent senators at the time. It passed this place and went to the House of Representatives, where consideration of the legislation, and even debate of the legislation, was blocked by the government of the day. I must note that it was put forward there by then opposition leader Beazley and the Labor Party in the interests of improving this situation.

Nevertheless, that then caused a serious break in the ranks of the government. The more humanitarian-minded people in the government said to the Prime Minister, ‘We have to do something about that.’ It was in response to that that the Prime Minister then approached the Northern Territory government with considerable money and an agreement was made to vastly change the terrible situation that had existed up until then. Interpreters were to be brought into courts so that Aboriginal kids understood what was going on and there were diversionary opportunities created. Most kids have gone to those diversions. Instead of being locked up in effective juvenile jails, they are out learning things which are going to be helpful to them and the community in the long run.

In the consequence of that there was a change of government in the Northern Territory from the Country Liberal Party government to the Martin Labor government, which had the good sense to lead off by abolishing the mandatory sentencing legislation. It is a great outcome. I pay tribute to the Senate and its committee system and to those Indigenous organisations and the Greens in the Northern Territory, who first moved, with the legal community in Australia—not least in the Northern Territory—at the forefront, to put right a terrible wrong. There is still some road to go—we should abolish the sentencing in Western Australia. But the outcome has been great, and I thank all those who were involved. (Time expired)

Question agreed to.

**HIGHER EDUCATION FUNDING AMENDMENT BILL 2002**

**Report of Employment, Workplace Relations and Education Legislation Committee**

Senator McGAURAN (Victoria) (4.04 p.m.)—On behalf of the Chair of the Employment, Workplace Relations and Education Legislation Committee (Senator Tierney), I present the report of the committee on the provisions of the Higher Education Funding Amendment Bill 2002, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

**COMMITTEES**

Membership

The ACTING DEPUTY PRESIDENT (Senator McLucas) —The President has received letters from a party leader seeking the variation to the membership of committees.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.05 p.m.)—by leave—I move:

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

Community Affairs Legislation Committee

Participating member: Senator Stott Despoja for the committee’s inquiry into the provisions of the Research Involving Embryos and Prohibition of Human Cloning Bill 2002

Foreign Affairs, Defence and Trade Legislation Committee—

Participating member: Senator Stott Despoja

Foreign Affairs, Defence and Trade References Committee—

Participating member: Senator Stott Despoja

Foreign Affairs, Defence and Trade—Joint Standing Committee—

Appointed: Senator Johnston

Public Works—Standing Committee—

Appointed: Senator Colbeck

Question agreed to.

**TAXATION: FAMILY PAYMENTS**

Senator MARK BISHOP (Western Australia) (4.06 p.m.)—At the request of Senator Ludwig, I move:

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.

Before addressing myself to the motion, it might be appropriate to put that motion in context. I will do that by referring to a discussion this morning on Sydney radio hosted by well-known commentator Mr Alan Jones. Mr Jones opened the discussion on family payment debts by saying:

Look I’ve mentioned recently about this Family Tax Benefit. We were talking about raising children and the floodgates have opened. I’ve had letter after letter telling me what a farce this is. The most contentious aspect is this business where to gauge your entitlements you have to guess what you are going to earn in the following year. That’s fine when you’re in a salaried job, but if you earn your living through casual work or commission work or if you are in and out of the work force it is impossible. Now thousands of families are going to be hit because they’ve underestimated their income and Centrelink paid them too much. If they said they’d earn say, $40,000 and they’re out by as little as $1,200 they’d be hit. And worse, the overpayment is being taken directly from their tax returns. So you’ve got low income families—people who are trying to survive on $35,000 or $40,000 a year—

expecting a tax refund of say, $1,000, and getting nothing.

He went on to say:

In one of the few instances where Senator Vanstone ever got anything right, she said before the election this wouldn’t happen. But that promise has been broken—and people are suffering.

That is the context that is being put about, being discussed and being well understood in the Australian community, from Perth right across to the east coast. The design features of the family tax payment system introduced by this government some two years ago are now causing immense pain, hardship and suffering to hundreds of thousands of Australian families, all of which could have been avoided—all of which would not have been necessary—if a little more care, thought and planning had been given to the structure of the legislation which brings this wonderful benefit to hundreds of thousands of Australian families. But it was not; it is a terribly designed scheme, and loads of Australian families are suffering.

The design features of this scheme that gives the family tax benefit to hundreds of thousands of Australian families, affecting two million people or more, are very simple. Proposed recipients of the benefit advise Centrelink of their anticipated income and advise Centrelink of actual variations to their income throughout the year. The recipients receive family tax payments based on the information provided to Centrelink. At the end of each financial year there is a balancing activity. Overpayments are recovered as debts through the Centrelink system and underpayments are paid out to the recipients. Overpayments are stripped back through the tax system. Put briefly, when you put in your annual tax return, Centrelink has access to it and if you have a debt on the books, your tax refund is reduced by the amount that is owed as a debt.

Most people in Australia receive a relatively modest tax refund. Few get more than $1,000—most get between $500 and $800. The bulk of that annual tax refund, which people anticipate, plan for and intend to use to retire a bit of debt or perhaps to engage in a major household purchase, has been taken away—stripped out of the system—because
of the design features of the family tax benefit payment system. So an apparently simple system designed to assist families in financial need has resulted in a total mess.

The scale of the mess is almost incomprehensible. When it was discussed in Senate estimates this year, I could not believe it when they said there were two million families receiving this benefit and in each of the two years to date 650,000 families have received the wrong payment and debts, or overpayments, have been incurred—overwhelmingly debts, not underpayments—and each individual recipient has to go through the system to pay back the money. The system is designed to assist families and—let us not kid ourselves—the family benefit that is paid to low- and middle-income families is a significant amount of money. We are not talking about $5, $10 or $15 a week; it can be thousands or tens of thousands of dollars, depending on the financial circumstances of the individual family. That money is a great benefit, it greatly assists families and it is being ruined by this system designed through the taxation system.

That is the background, that is the context and those are the design features of the system—and that is what this motion is about. As I said, a number of families will be in for an unpleasant surprise when they submit their tax returns this year. These families will learn that the government has changed its mind about the way it collects debts which arise from flaws in its family payments system. Last year the Minister for Family and Community Services, Senator Vanstone, assured families:

"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."

That is an apparently innocuous statement, a sensible statement and one designed to give a degree of assurance or comfort to Australian families. But that was then, that was last year in the lead-up to the election, and all of that has now passed. Obviously, the government has decided that it is not going to be so easy on families anymore. This year, it does not care if people have earmarked their refund for use for specific purposes. After all, as I say, it is not an election year, as last year was, so the government does not feel that it has to make things easy for families this time around. This time around, there is not going to be any waiver of debts; not like last year, the election year, when the government managed to find up to $1,000 per family that had accrued debt—that is, 650,000 families.

When you get that kind of error rate in a payment system, you have to question the whole system. There must be some pretty pervasive flaws to achieve such an impressive level of failure. What happened last year is now happening all over again this year, but this time there is no $1,000 waiver. Families will find out, if they have not already, that the government has sneakily decided it will take any overpayment of their family tax benefit out of their tax refunds. It is for quite good reason that I say that the government has been sneaky. The first that people have known about this decision has been either when they have got their tax refund less the debt or, in many cases, when they received no refund at all or a bill in lieu of a repayment.

As I quoted earlier, the minister stated last year that she did not want to deduct debts from tax refunds because people may have earmarked their refund for use for a specific purpose. After all, it is the money that the government owes the taxpayer. It is not the government’s money; it is owed to the taxpayer. This time around, the minister has decided that she will ignore the hardship and disappointment that will result from her decision to strip families’ tax returns. Nothing the minister said in the lead-up to tax time this year has given families any clue that they should not earmark their tax return for other things. The trickiest part of all of this is the lack of public awareness. The government did not care to let the cat out of the bag until very late in the picture. Most families will not find out about it until they get their reduced refund or, as I said, no refund at all. The government is not giving people any notice of what it is up to; it just takes the money back. It just automatically has it deducted from their annual tax return.
Some weeks ago, the government took the decision, very secretly, to strip tax returns. It did not inform families, the community or the accountancy profession. Families who had budgeted on their accountant’s estimate of their return will be in for a rude shock shortly when the truth is revealed to them. The secrecy shrouding this decision is obvious from the fact that Centrelink call centre staff were not advised of the tax return stripping until just a few weeks ago. How can families be expected to have budgeted for this when they had no warning, when the government proposed to strip their tax refund out of the blue, without any community discussion or involvement or community information campaign?

Less than six months ago, in February of this year, the Secretary to the Department of Family and Community Services told a Senate estimates hearing that no decision had been taken to recover family payment debts by stripping out tax returns. Yet, on Tuesday this week in question time the minister stated that not using the tax refund offset last year was ‘for that year only, and we are past that’. Why then did the secretary to the department not know that in February this year when I asked him what would happen this year if not resorting to the tax refund offset was a one-off? Why did the minister not use some of her huge advertising budget to warn families that this would happen, so that they would not plan to use their tax refund only to discover that there was no money because the government had taken it all back, stripped it out of their annual tax refund? It was because the minister wanted to keep it quiet. A whole year has gone by since her last announcement about the refund offset—that is, that it would not be used. Now she does not let people know they will have their tax refund stripped. She just lets them get a surprise when they get their notice of assessment.

This is a shockingly underhanded way of dealing with problems that are created by a design feature in a system of a government agency. The problems and debts have arisen because of the poor design of the system itself. Why else would one-third of all families who received the family tax benefit last year now have accrued a debt averaging $850? That is an awful lot of money for a family to have to come up with out of the blue, without warning and by surprise. It is an awful lot of money to expect in your tax return only to discover that you are not going to see it. It might have been earmarked to retire some credit card debt, to pay school fees or to give the family a treat—$850 or $1,000 budgeted to come in—and the first time they will become aware that they should not budget for it, that they should not plan to spend it will be when they lodge their tax assessment and are advised that any amount up to the level of the debt, which otherwise would have been paid to them as part of their tax refund, will be taken out; it will stripped out, as if by a thief in the night.

Parents are facing increasing financial pressure under this government. Household debts are at record levels and are growing rapidly. There is no suggestion that the level of average debt is flattening out in any way. No doubt, many families had plans to use their tax refunds to reduce their debts. Swamping debt has placed Australian families under growing financial pressure and will leave them particularly vulnerable to an increase in interest rates. Unfortunately for families under financial pressure, the government has other plans for their lump sum tax refund. The average credit card debt of Australian consumers was over $2,150 for April—the highest on record. I imagine that many families could apply their tax refunds to a lot of very good purposes, including debt reduction. That will not happen under this government, however, because the tax refund that families thought they were owed, that they had planned to use for a range of purposes, is going to be stripped out via the tax system.

It is obvious that families are under financial pressure and that the family benefit system that this government have devised puts them under even more. It is an additional source of debt for families and one that has been deliberately created as part of a system through legislation introduced by Senator Vanstone into this place some two or three years ago. It is not something that they did not have knowledge of. It was not something
that was not raised at the time. Plenty of organisations and agencies advised the government of the consequences of this particular aspect of their then new legislation, and the government chose to ignore the warned-of consequences. It is even worse than that. Even families that play by the rules and advise Centrelink of changes to their household income can be caught in the government’s debt trap. A large number of families religiously and regularly advise Centrelink of changes to their own income or to that of their partner or spouse. Those changes get entered into the system, but the system keeps working, the debt keeps accruing and it gets taken out at the end of the financial year. Those who change jobs, get a pay rise or promotion or have irregular hours and therefore pay, even if they advise Centrelink of the changes, can end up with a debt at the end of the year if they are subject to the taper rates.

This system punishes families whose actual income differs by as little as two or three per cent from their estimates. Debts arising from small miscalculations can be remarkable—out of all proportion to the error made. Families where one parent returns to work midyear can expect to bear the brunt of the government’s debt trap. This system has clearly failed. In spite of the huge advertising campaign that the government has been running, families are still incurring debts. In a lot of cases, they simply cannot avoid the creation of a debt. I would suggest that a system that punishes families in this way is hardly fair. There are so many inconsistencies in this government’s approach to running the country. The government goes very easy on the big end of town but will chase families for every last cent, even if it means secretly taking money out of their tax refunds. The attack that this government has led on Australian families is remarkable in that it has designed a system that has as its purpose the creation of debt and the recovery of moneys in such a fashion, but it is also quite contemptible. If only it showed the same diligence in prosecuting corporate fraud and making sure company executives give back the enormous bonuses they undeservingly award themselves, the system would be a lot more honest and a lot better.

The government, I would suggest, has its priorities all wrong. At the same time that it is throwing additional staff at Centrelink to chase families for money it is stifling ASIC with a shortage of resources. The government allows the business world to operate in a loosely regulated environment while families can barely get a pay rise without suffering some immediate, direct and harmful consequences. If the government cared about families at all, it would fix the debt trap it has created and stop secretly taking money from families that they reasonably expect to receive in their tax return. The government needs to take a long hard look at its priorities and stop inflicting pain on families who least deserve it.

I move this motion today in the hope that this government will stop and think about what it is doing to Australian families. The persistent denials that there are flaws in the system fly in the face of evidence that hundreds of thousands of Australian families are accruing debts. This is an unacceptable margin of error where tightly balanced family budgets are concerned. The government needs to get in touch with the people it represents and understand the difficulties it is unnecessarily imposing on Australian families. The family tax payment system is a remarkable system with the ability to immediately benefit almost two million families in this country. Most of those families are low- and middle-income families. Most of them have one partner in the work force and one partner at home. The design features of the system encourage the creation of debt. (Time expired)

Senator CHERRY (Queensland) (4.26 p.m.)—I rise to speak on the motion moved by Senator Bishop. Prior to 1 July 2000 family payment was paid fortnightly to families on the basis of the previous year’s taxable income, known as the base year. While it was not without its administrative flaws, it generally provided regular fortnightly income support for Australian families. There was a built-in provision for those whose circumstances had changed significantly from the base year so that families whose circumstances changed for the worse received higher payments at the time they needed it.
I talk to families in my state daily. They tell me they need their regular family payment regardless of what it is called. That money is always used and rarely put away. It is needed fortnightly because children’s needs are ongoing and cannot wait until the end of the year. Parents spend that money on shoes, clothing, medication, sporting fees, schoolbooks and swimming lessons, and in many cases it is needed for the most essential needs of accommodation and food. A child cannot wait until the end of the tax year for food, clothing, shelter and medication. If you ask a sole parent with three children to wait until the end of the tax year to claim their family tax benefit, then you are asking that parent to accommodate, feed, clothe and raise up to three children on less than $200 a week—it just cannot be done. The assertion of the Minister for Family and Community Services that families can avoid overpayments by claiming the allowance at the end of the tax year shows just how out of touch this government has become with the real needs of Australian families.

The family tax benefit system was introduced in July 2000, and it was for the most part generous and positive, and consolidated a range of around 12 existing payments and rebates into just three. In principle, that is fine, and the Democrats have always supported simplification, especially when it comes to the myriad complex rules and legislation which comprise that wonderful thing called social security law. But simplification for whom? Clearly the fallout from the two tax years following the implementation of family tax benefit in July 2000 shows that there was no simplification for those caught up in large overpayments. My office receives telephone calls and letters daily from families for whom the system has proven to be anything but simple and which has left them deeply in debt.

Family tax benefit is based on the requirement that a recipient estimates their taxable income more than 12 months ahead to the exact dollar, including their partner’s where they are a member of a couple. I know that I could not estimate the exact dollar of my income for 12 months hence. In reality I doubt that it is possible for families. For example, if a person claims family tax benefit on 1 May 2002 they are expected to estimate their own and their partner’s income for the tax year commencing on 1 July 2001 and ending on 30 June 2002. This will involve estimating the income that they and their partner will earn from 1 May 2002 to 30 June 2002 and adding this amount to the amount they have already earned from 1 July 2001 to 30 April 2002. It remains that providing an estimate is difficult, if not impossible, and more so if the person works casually, if they have changed jobs since 1 July or if they are self-employed.

Let me explain what every person who wishes to receive family tax benefit fortnightly must actually do to provide an estimate. They must multiply the amount they receive before tax—that is, the gross amount—by 26 or 52, depending on whether they are paid weekly or fortnightly. Then they must take into account any pay rises or other changes in their regular earnings since the previous 1 July. Then they must take into account any tax deductions that may be allowed—that is, work-related expenses; for example, a uniform. Once they have estimated all that on the back of an envelope and added them together, they must then subtract their own and their partner’s child support or maintenance payments for the year. And that is called simplification!

Bear in mind also that, for the most part, these families are not accountants and they are certainly not clairvoyants. For the most part, they are low-income families. They may have literacy or numeracy difficulties. Many, of course, do not even read or speak English. Furthermore, in all of this no margin for error is allowed by the government. To
make matters worse, if a person’s income increases towards the end of the financial year—for example, because of starting a new job—that income is attributed over the whole year, right back to 1 July.

The legislation abolished the ‘notional date of event’ principle in the previous legislation. Prior to 1 July 2000, an increase in income affected family payment only from the date it increased—for example, because of a return to work or the sale of a large crop. Not so with this current legislation, where if a person returns to work in May 2002, the income for that year is attributed right back to 1 July, and the overpayment starts from that date, some 10 months before the person even starts work.

In these circumstances, even the most accurate of estimates cannot avoid a debt, and this is what we are seeing right now. A family whose circumstances have changed, and who rightly estimated their income but had no way of knowing that the total income is applied back to 1 July of the previous year, consequently have an overpayment. This means not only that families, through no fault of their own and despite providing the most accurate of estimates, can incur an overpayment debt, but also that their children’s welfare can be put at risk through reduced family income to repay government debts.

The minister cannot claim that families were well forewarned about the impact of this change. They were not. Prior to its introduction on 1 July 2000, the change was very poorly communicated to families. A very small paragraph appeared in the March 2000 edition of the department’s ‘Families’ publication, and in another newsletter to parents in July 2000 Centrelink simply said that ‘special rules’ would apply.

It was the Australian Democrats who, in January 2002, after listening to a growing list of complaining constituents, realised that the majority of Australian families had no real understanding that for the previous six months they were being paid on an estimate they had provided 10 months earlier. On 9 January 2001 we put out a press release appropriately entitled ‘Centrelink information for families 6 months too late’. That press release warned families of the potential for overpayment, not only because of estimates but also because their children spent some time with the other parent. Most parents did not know that they were not entitled to the full amount of family tax benefit if the child spent more than 10 per cent of the year with the other parent, until they received a Centrelink newsletter in January 2001, despite the fact that the changes took effect from 1 July 2000. Additionally, most people had no understanding that the estimate they provided in March 2000 would remain in force even if they told Centrelink about changes in their circumstances. Telling Centrelink on their dole form that they had returned to work, for example, did not constitute a new estimate, so the overpayment continued.

In January 2001 the Democrats called on the government to be flexible in regard to family tax benefit debts accrued prior to January, when the information was finally sent out. At that time their information was six months too late. Notwithstanding that thereafter the department sent out letters to families, it remains that it was simply closing the gate after the proverbial horse had bolted. By the time the government realised the inadequacy of their information to families and the impossible task they were asking of those families, hundreds of thousands of overpayments were already accruing. It came to a head last year, when almost 500,000 families, having submitted their taxation returns, received overpayment notices.

The Australian Democrats welcomed the government’s announcement just prior to the election last year of a $1,000 leeway for families who incurred a family tax benefit or a child-care benefit overpayment because they underestimated their income or were adversely affected by the new ‘shared care test’ arrangements during the 2001 year. While the waiver alleviated much of the debt at the time, it did nothing to fix the underlying problems in the administration of the family tax benefit system, which again led to overpayments in the next year.

It is of great concern that the same problem of debt overpayments is happening again, and indeed will happen for a third successive year, unless the administrative
system of family tax benefit is changed. Clearly the arrangements, which have been in force for two years, are working against families, and we call on the government to find an ongoing solution. To this end, we propose our own solution: the concept of ‘date of event’, which the government abolished two years ago, so that a family’s increased income can be taken into account only from when it is earned, will eliminate many of the problems associated with estimates and ensure that families receive assistance at the time they need it.

Notwithstanding the minister’s assertion that it is a tax benefit, we assert that the notion of monthly reconciliations exists in tax law, such as for GST returns, and is a possible solution. We submit that the same principle embodied in family tax benefit—that is, the monthly reconciliation of estimates together with the concept of ‘date of event’—would eliminate many of the large overpayments being incurred by families who are understandably unable to predict events that might take place 10 months into the future. At the very least, the government must introduce measures to assist families with their income estimates and explore ways to improve processes for seeking agreement on parents’ respective proportions of care. The Democrats look forward to working collaboratively with the government on such a measure.

Senator KNOWLES (Western Australia) (4.37 p.m.)—Today we are debating a motion from the Labor Party, and Senator Ludwig in particular, that says:

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 ...

I read this with sheer and utter amazement. It is remarkable to think that the Labor Party believes that a policy that was announced two years ago is without warning. This is the second day on which I have participated in a debate on this particular subject. Yesterday I asked a rhetorical question of the opposition as to whether or not they were going to arrive at a solution to the problem of people being given access to other taxpayers’ money to which they were not entitled. I asked whether or not they should be able to keep that money at someone else’s expense and whether the Labor Party believed that that should be repaid in some way. To date none of us have heard a response.

Here we are yet again, and presumably the opposition is now saying that if anyone gets an overpayment on anything they should be allowed to keep it. I think I referred yesterday to the idea that people should be able to refer to it as a lottery win and say, ‘Thank heavens I got overpaid. It doesn’t matter that someone else’s tax has been used to give me that overpayment. I’ve got it at their expense, and that’s it.’

The notion that this repayment system has somehow come in without warning could not be further from the truth. Yes, it was decided last year that at the end of the first year, despite the best possible efforts, there were some people who still did not understand the process and therefore had incurred a debt. Therefore, an allowance was made for that debt. That debt was for one year only. The minister made that quite clear. It is interesting to note that she made that quite clear in a press statement of 1 July 2001, so we are talking about something from over 12 months ago. She said:

The new family tax system provided Australian families with more than $2 billion extra in their pockets. It meant, for the first time ever, top-ups are paid to families who have received less than their actual entitlement because they overestimated their income during the year ...

She went on to say:

... this first year was always going to be one of transition where some families need extra help in adjusting to the new arrangements.

.........

That is why we have decided to adopt this lenient approach for the first year ...

Yet we have a motion before the Senate today claiming that this is without warning. The minister’s statement went on to say:

... it has been a year of transition and one where families have been fed a lot of misinformation by the Opposition.
The minister said that in July last year. Look what we are dealing with today. We are still dealing with opposition misinformation. Interestingly enough, the motion before the Senate today says:

... 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.’ ...

Isn’t it interesting just to take that paragraph out of context of the rest of the press release, which I have here in front of me? It fails to go on to the very next paragraph, in which the minister says:

Now that the new tax system has been in place for a year, families have had time to adjust and they should consider carefully their income estimates for the 2001-2002 financial year.

Why did the opposition not continue the rest of the quote? Why did they just pull out a part of a very comprehensive press release? The other thing that I find quite amazing is that the opposition fail to even acknowledge in any way, shape or form that the family tax benefit and the child-care benefit replaced a complex system of 12 different social security payments and tax rebates that were in place under their government. Twelve payments were replaced by these two.

The other interesting thing that they have failed to acknowledge is that there was never a top-up of anything. If you missed out, you missed out. The Howard government believed that that was unfair, so in the development of this particular initiative it made allowance for top-up as well as recovery. I do not think that anyone can say that that is an unfair proposition. If one makes a mistake in overestimation of their income then they will get a top-up. If they make a mistake in underestimation of their income, whether it be deliberate or accidental, then they will be put into a repayment situation. Is that fair, or is that fair?

The Labor Party seem to want it both ways. They do not want to give a top-up but they do want people to be allowed to keep money to which they are not entitled. I find that quite curious, because the new tax system is much simpler, fairer and much more generous to families than anything ever under the regime of Labor governments. The government’s family assistance system delivers $2 billion a year more to families. It does not deliver $2 billion over a period of time, such as two, three or four years; it delivers $2 billion a year more to families than under the Labor government. Yet we have the Labor Party complaining about that. That is absolutely and utterly illogical.

It is not only that. It is also of concern because people should not have to put up with the misinformation that is going out to constituents. If there is an acknowledgment, as there should be by any respectable opposition, that the payments are far more generous now than they ever have been and that the system is now more fair than it ever has been, then they should, regardless of their philosophical position, get on the bus and go down the street and say it is fair. When they have people coming to them and complaining that they have an overpayment to repay, they should say, ‘Hold on. You are now getting more than you ever have. If you underestimate your income then, unfortunately, you owe other taxpayers the money they have given you.’ But they choose not to do that. They choose to make political mileage and say, ‘Isn’t that dreadful. This is the frightful coalition government and they are stealing money from you.’ It is quite the reverse: they are giving people money that they never have before.

The family tax benefit and the child-care benefit can be received during the tax year as a fortnightly payment or it can be claimed at the end of the tax year. I heard Senator Cherry’s contribution and his concern about the end of the tax year. It is a fair concern—people do have ongoing expenses with children and families. It is for that very reason that families are given the option. They can either claim it when they need it, on their estimations—and they can update their estimations on a regular basis—or if they do not want to or have no need to do that, then they can claim it at the end of the financial year.
Whichever way, it is their decision and the customer’s entitlement is based on their taxable income for that year. Those fortnightly customers are paid on their estimates. It is not someone else’s estimate; it is their estimate. It is not some government department sitting there, gazing into a crystal ball and saying, ‘I believe that Mr and Mrs Jones are going to earn X amount of dollars’—whether that be right or wrong. It is on the person’s estimate. By adjusting for top-ups and over-payments, reconciliation ensures that all customers receive their correct entitlement for the year, regardless of how they have claimed. That, of course, ensures a fair and equitable outcome for all families—not just for some.

The question may well be asked: why are the family tax benefit overpayments recoverable from tax refunds? The family tax benefit is, as the name suggests, a tax benefit. It is part of the tax system. It is not some pot of money where people can say, ‘I am a bit short of cash this weekend; I am just going to put my hand in that pot and pull it out.’ It is part of the tax system. Like other entitlements available through the tax system, it is reconciled at the end of the year when taxable income is assessed as part of the annual tax assessment process. There is nothing different about this to any other form of tax assessment process. Australian families are familiar with the tax assessment process that offsets a person’s credits and liabilities for the year against each other, and this now includes offsetting a family tax benefit overpayment and crediting of family tax benefit top-ups to ensure that families receive the correct amount. To suggest that there is something extraordinarily out of kilter with the tax system is wrong. It is an integral part of the tax system and it is the way that every other part of the tax system works.

I therefore wonder why the opposition believe this should somehow be different. If one did not pay their correct amount of other taxes—whether they be company taxes, PAYG taxes or anything else—would they also say, ‘That is okay, they do not have to pay. Just give them holy absolution and let them on their way’? That is not the way the system works and I would be very surprised if that is what they are aiming at. Then again, I have been surprised before. The $1,000 waiver from last year, as I have said before, was a one-off. It was transitional, allowing for the new arrangements. Why, therefore, in full knowledge of that fact, are the opposition still saying that it should go on permanently? Do they think that there should not be any change to the waiver? They are probably saying that the waiver should be even more generous. What incentive would that provide for anybody to get it right? What incentive would that provide for the integrity of the tax system?

But you can play fast and loose with the truth when you are in opposition and you are the Labor Party—it is a combination—because it simply does not matter. If people have money to which they are not entitled then the Labor Party, when in opposition, believe they can keep it. But it is a curious fact that if there is an underpayment and someone is entitled to money to which they have not been a beneficiary then the Labor Party, when in government, does not believe they should get it. I do not understand those two propositions. Why would you say that someone is entitled to something but they cannot have it, and someone is not entitled to something but they can keep it? That does not make sense to me. Maybe, during the course of this debate, someone will actually be able to explain the rationale behind the Labor Party’s position.

I also have to say that it is a fact that over 400,000 family tax benefit and child-care benefit top-ups of entitlements for 2000-01 were paid. As I remind the Senate again, no families received any top-ups prior to this initiative. The vast majority of customers—71 per cent for the child-care benefit and 61 per cent for the family tax benefit—had no adjustment, or received a top-up. That is quite a substantial amount. That means that 71 per cent of people with child-care benefit and 61 per cent of people with family tax benefit got it right.

They got it right, the department got it right, everyone got it right. But to listen to the opposition you would think that everyone got it wrong and everyone has a huge bill. Quite the contrary: most debts are very
small. Half the family tax benefit overpayments and the vast majority—in other words, over three-quarters—of child-care benefit overpayments, before the waiver, were below $500. So they are not large amounts. The debts were very small.

The Family Assistance Office does assist families to get their estimates right. They explain the implications of understating and overstating their income. What could be fairer than that? But once again, that does not seem to worry the opposition. There is no limit as to how many times customers can adjust their estimate. So it is quite stupid for anyone to suggest that the system is unfair because people cannot make the adjustments. They can adjust their estimates as frequently or as infrequently as they wish. There is no prohibition on being able to go in and make a statement of their income. Customers can choose to estimate their income towards the top of the potential range to reduce any potential risk of overpayment. This is strictly a customer choice. If they choose to go to the top end to reduce the possibility of an overpayment or they choose to go to the bottom end so that they get maximum payment but know the risk, that is their choice. This government is not trying to say, ‘Thou shalt do X and Y.’ It is just saying, ‘You shall do what you know from the information you have, not what we think you have.’

Let us look at the child-care benefit reconciliation outcomes as at 28 June this year: nil adjustment, 46 per cent; top-up, 24 per cent; total overpayment, 29 per cent. I think that is pretty darn good. We are getting there. People understand it. The average overpayment amount was $267. Getting an average, as everyone knows, means that there are going to be some above and there are going to be some below the average $267 overpayment. Around 85 per cent of all child-care benefit debts were under $500 and approximately 95 per cent of all child-care benefit debts were under $1,050 and were fully extinguished by the application of the waiver. The average top-up amount was around $170.

That is not information that the opposition would want on the record because it does not suit their purpose of going out there and continually frightening people about their liability and their potential for liability. If honourable senators opposite had any decency in this matter, if and when they had constituents call in with a concern on this issue, they would sit them down and explain what is necessary for those families to do to be able to comply with the tax law. They would explain to them the fairness of it so that they can get the full benefit when they want it, whether they want it as a regular payment or whether they want it at the end of the year. So if constituents are coming in to them—if they ever do, and we certainly suspect that many of the cases they bring forward into this place are, by the sheer lack of information, furphies—and complaining about the issue, then I believe it is their responsibility, in serving their constituents, to explain to them the fairness of the situation, the additional benefits they are getting, and the liabilities that they hold for other taxpayers so that they can be entitled to taxpayers’ money based on the information that they provide.

Senator BUCKLAND (South Australia) (4.57 p.m.)—I rise to speak in the debate on the motion standing in Senator Ludwig’s name and to add my condemnation to the government’s decision to secretly strip families’ tax refund cheques without notice. This is really a most callous measure and is an enormous slap in the face to the many struggling families on strict budgets, and it undercuts the accuracy of advice provided by their tax accountants.

The Howard government has now ordered the tax office to deduct overpaid family tax benefits or child-care benefit from the tax refunds expected by these struggling families. Previously, the federal government had allowed families to pay back the debts gradually from future benefits. This should continue to be the case. It is a fair way to do it and a more decent way to do it. In July last year Senator Amanda Vanstone stated with assurance:

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 specific things.
On 21 February this year, the head of the Department of Family and Community Services told Senate estimates that no decision had been taken to automatically strip family returns. The government is robbing families of their tax cheque—tax cheques that they depend upon to pay outstanding bills and school fees, to make car repairs and to replace ageing household appliances. These are fairly standard things for wage earners to use their tax return for. Not only those who are struggling but also the general population can use this once a year, one-off payment of their tax return to take care of those things that are not always easily taken care of through the rest of the year. That is why so many schools do not require the fees to be paid until the second half of the year—so that the parents of the children at the school can pay the fees when they have the money available.

It seems to me that the minister cannot make up her mind. This secret tax grab stems from the Howard government’s unsound family payment system that was introduced with a great deal of fanfare just two years ago but is now falling apart at the seams. The system is seriously flawed because families are required to estimate their income for the year ahead but if they receive an unexpected pay rise or a promotion or they work overtime they may have to pay money back to the government. For those people who have been forced into the casual or part-time work regime, which is quite common now with maintenance workers and people in the service industries, it is very difficult to estimate their expected incomes because it is casual, because it is part time. The nature of the work says that there will be overtime on some occasions but on others there will not be. It is difficult in those circumstances to make regular adjustments as it is suggested, because to make regular adjustments there has to be a degree of certainty attached to the adjustment you are seeking to make.

The really unbelievable aspect of this system is that, even though families advise Centrelink immediately about their changed earnings, they still face a debt because of the flawed design of an extremely clumsy system. It appears those most at risk are the stay-at-home mums 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 mothers were entitled to for that part of the year that they were at home full time. Many women who have raised a family make the decision that they would like to go back to work, if for nothing more than some form of social contact. But, in the main, they wish to go back to work to supplement the family’s income, to give their family a better lifestyle and to provide for some of those things that would not otherwise be available to the family. Earlier in July, the government admitted that the baby bonus tax rebate could be wiped out because family payment debt would be deducted.

The Howard government, because of their contemptible attack on Australian families, need to be condemned. They need to be condemned roundly. They are a family unfriendly government. They are a government that do not care about those who are in most need. They say, ‘We will just take the money back; they are not entitled to the money if it is an overpayment.’ I do not think we are complaining about that—it is the manner in which the government are taking the money back. It can be taken back in a more sympathetic and realistic manner than it is. This is a form of taking money when a person is most reliant upon something in their pay packet. The Howard government would prefer to get their hands into the pay packet first.

Labor approves of and supports the Ombudsman’s decision to investigate the federal government’s administration of family payments and its clawback of payments by stripping tax returns without notice. Families were better off complaining to Centrelink in the first instance, as Centrelink had its own appeals and review process. It was a process that worked; it did not need changing. It was a process which could provide individual remedies, and the Ombudsman’s report could only recommend systemic changes. Since its commencement the flawed system has caused a great deal of distress for Australian families. Last year the system ensnared 650,000 Australian families. This statistic translates to one in three of the families re-
ceiving payments suffering an average debt of $850 each.

I do not know how any member of the government benches can rise in this chamber and defend the actions of this minister and this government in relation to this matter. The Ombudsman should investigate the government’s decision as it is both unreasonable and totally unwarranted. The Centrelink call centre staff say that they were also unaware six weeks ago that tax returns would be stripped. This is a government that not only does not tell the people, it does not tell its own people within the tax office what it is doing. It is a secret society.

Those families affected and their accountants were not advised of what was happening, as this highly political decision was taken at the last minute with no time to advise most importantly those affected by this measure. That needs condemning more than anything else. Those affected were not told that it was going to happen. They believed that they would get an amount of money because of the advice of their tax accountants, but they got a different amount when the cheque finally arrived. That is contemptible and it is un-Australian.

The government seriously need to make an honest assertion that their two-year-old scheme is nothing more than a debt trap for Australian families—a debt trap that affects most those least able to pay. About a week and a half ago, Senator Vanstone defended the government’s debt recovery process by saying that people had had two years to get used to the system. It does not matter how long you have to get used to a system such as this, the system is not fair. It is a system that is designed to disadvantage ordinary Australians and those who are suffering the most.

Unfortunately for the government, this is not the only system that has received negative scrutiny over the past two years. We see the same discontent among small businesses and their accountants with regard to the BAS. Only recently, thousands of accountants threatened mutiny against the tax system they described as overcomplicated, inefficient, poorly administered—and it is unfair.

It was only two years ago that the goods and services tax was introduced. On top of the disastrous introduction of the GST and its effects on the pockets of all Australians, these clumsy policies are still being introduced by this clumsy government. It is evident that the proof is in the pudding. The Howard government have got it wrong. They have shown themselves to be mean and tricky and they govern with no care for the ordinary Australian. This is simply a top end of town government who look after their own and forget the rest.

Senator TCHEN (Victoria) (5.12 p.m.)—Before I consider Senator Ludwig’s motion, I want to deal with one of the claims made by Senator Buckland. He said that people were unaware of the family tax benefit reconciliation balancing process. I draw Senator Buckland’s attention to what Senator Bishop, his senior colleague, said yesterday in a speech taking note of an answer on the same topic. He said:

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.

If Senator Buckland thinks that people are not aware of this, or if he is not aware of how the system works, I suggest that he speak to Senator Bishop. Obviously Senator Bishop has a better understanding of how the system works, I suggest that he disregard the rest of his presentation because it could be equally as ill informed.

Returning to Senator Ludwig’s motion, I was struck by the motion’s content because it seemed to me that it was a curiously disingenuous—or perhaps a disingenuously curious—motion for Senator Ludwig to move. It
does not surprise me that he decided not to take part in the debate and to send others to speak in it. The crux of the motion is that he claims that in July last year Senator Vanstone promised that the government were going to deal with the issue of overpayment, that they have gone back on it and that that is cruel, unkind, callous, unfair and so on and so forth.

In the motion itself, Senator Ludwig quoted a statement by Minister Vanstone on 1 July last year. He said she assured Australian 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.

If that is what Minister Vanstone had said—and only if that is what she said—indeed, this motion may have some ground. But I would like to inform the Senate of the relevant sections from the full text of the minister’s statement. In referring to the new family tax system, the minister said:

The new family tax system provided Australian families with more than $2 billion extra in their pockets. It meant, for the first time ever, top-ups are paid to families who have received less than their actual entitlement because they overestimated their income during the year.

However, this first year was always going to be one of transition where some families need extra help in adjusting to the new arrangements.

The Government’s information campaign to tell families about the changes has been very effective, with some 800,000 families updating their income estimates during the year. However, it has become clearer that more needed to be done.

While we know that many families have got their income estimate right, and they should be congratulated, there are still those whose circumstances mean that it is difficult for them to accurately estimate their income.

That is why we have decided to adopt this lenient approach for the first year—it has been a year of transition and one where families have been fed a lot of misinformation by the Opposition.

I think Australian families are still being fed misinformation by the opposition. The minister then said:

The $1,000 waiver will also be available where a separated parent has incorrectly estimated their share of the care of their child.

Then comes the quote that Senator Ludwig referred to:

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.

But the minister went on to say:

Now that the new Tax System has been in place for a year, families have had time to adjust and they should consider carefully their income estimate for the 2001-2002 financial year. Customers can contact the Family Assistance Office to update their details as often as they need to...

That is the full context of the minister’s statement and anyone who read through it would fully understand the government’s intention. That waiver was a one-off to allow families to adjust. No government can, year after year, make the same waiver. If we did that, what would the point be of having a system? So, as I said earlier, Senator Ludwig’s motion is disingenuous in the sense that it quotes something out of context and without explanation and is trying to give a totally wrong impression of what the government is trying to do. Given that, it gives us a much better picture of how the current supposed crisis that the opposition seems so excited about came about. It is simply nothing more than some people’s unwillingness rather than inability to adjust to a very clear and simple system.

It may be worth while for me to explain to the Senate how the system is supposed to work—in case Senator Buckland or any of the other Labor senators are still interested. Firstly, we could ask the question: how has the government’s family assistance system been of benefit to Australian families? In July 2000, the family tax benefit and the child-care benefit replaced a complex system of 12 different social security payments and tax rebates. The new system is much simpler, fairer and more generous to Australian families. The government’s family assistance system delivers about $2 billion more a year to families. For the first time, top-ups are now paid to families who are underpaid
during the year; it has never been done before. Under the previous system of family allowance, overpayments were recovered and no top-ups were paid—and that was the system that the Labor Party operated under.

What is the reconciliation process? Reconciliation of family assistance is a checking process that the Family Assistance Office carries out at the end of each tax year to see if customers who receive the family tax benefit and/or child-care benefit as ongoing payments have been paid the correct amount of benefit for that year. Family assistance is income tested and if customers choose to receive a family tax benefit as a fortnightly payment they will have provided the Family Assistance Office with an estimate of the family income for the tax year. The Family Assistance Office uses the income estimates provided to work out how much family assistance to pay during the year. At the end of the financial year, the Family Assistance Office compares these estimates with the family’s actual taxable income provided by the Australian Taxation Office to make sure that they have been paid the right amount for the year. If the customer has been paid less family tax benefit or child-care benefit than they were entitled to—for example, because their income was lower than they thought it would be—the Family Assistance Office will pay the extra. That means that the customer’s benefit payments will be topped up for their full entitlement. However, if they have underestimated their income and they have been paid more than they are entitled to, obviously the Family Assistance Office will seek to recover the extra payments. I do not think anyone has any objection to that.

A family can choose to receive a fortnightly payment or claim the benefits at the end of the year. In either situation, the customer’s entitlements are based on their taxable income for the year. Because fortnightly customers are paid on the estimates of their incomes while customers claiming at the end of the year are normally paid when their taxable incomes are assessed, if the income figures are not properly adjusted some families will be disadvantaged. By adjusting for the top-ups and overpayments, reconciliation ensures that all customers receive the correct entitlements for the year. No-one will be disadvantaged, regardless of how their benefits have been claimed. This ensures a fair and equitable outcome for all families.

Because reconciliation of family tax benefit normally occurs once the customer’s and their partner’s tax returns have been lodged, the Family Assistance Office will advise the Australian Taxation Office of the result of this reconciliation, which may be an overpayment, a top-up or no change to entitlement. Any top-up payable is included in the customer’s tax assessment, if that can be done. If the customer has a tax debt, the top-up amount paid will help pay for that tax debt. If the customer has been overpaid, the tax office will recover as much of the overpayment as possible from the customer’s tax refund. It is an extremely simple system and it is difficult to understand how people would not be aware of its elements.

One of the issues which Labor senators have much belaboured in this debate is the claim that, when the government acts to recover a debt from a tax refund, that is a callous and unfair way of doing things. But you get a tax refund if the government owes you money because there has been an overpayment of tax. If you have actually received a greater payment from the government through various benefits, the government does not owe you a tax refund. The government may need to repay you less than you expect or in fact you may owe the government. In the case where you expect a large tax refund and it turns out to be smaller, it is not a case of your money being stripped from you; you have had to repay your debt—as you should. Much has been made of the claim that people will get a shock that they did not receive the tax return they expected. I want to raise this question: how many people actually know fairly precisely the amount of tax refund they will receive each year? If people know their family’s economy—its income and entitlements—well enough to know how much of a tax refund to expect, are such knowledgeable persons likely to be unable to follow the very simple rules for reconciliation of family tax benefits? Yet these are the people over whom opposition senators are baring their hearts. That does
not quite make sense, given what they actually say.

Earlier we heard my colleague Senator Knowles go to the heart of the matter when she said the Labor Party did not have any real policy of their own and all they were trying to do was scare people by giving out misinformation or make people worry that the government was not doing the right thing. To be fair to opposition senators and members, I do not think any of them individually would actually give needy constituents coming to their offices misinformation or wrong information about what they are entitled to. If they had, I am sure we would have heard about it. But the reality is that opposition senators come into this chamber day after day and give out misinformation as they try to scare the general community, especially those people who are not in the group whose support the opposition needs, into thinking that this government is callous and unfair. However, those people who receive the supporting benefits that this government provides have very little concern: they know they are doing well.

To demonstrate that, I will explain to the Senate an economic model which has been prepared by the University of Canberra’s National Centre for Social and Economic Modelling, which has made estimates of the disposable incomes, after paying for child care, of typical family types between February 1996 and March 2001. This information was originally published in the Australian newspaper on 27 May 2001. We have about 11 different family models. In the first case of a sole parent not in the labour force with two children, one under five and one aged between five and 12, with no child-care payments outgoing and no rent assistance, in 1996 this parent would have received $311.68 per week and in 2001, five years later, this person would have received $370.47 in constant dollars, an increase of $58.79 or 18.9 per cent.

If we take another case, that of a sole parent working part time, earning half the average weekly earnings, with two children, with 20 hours of child care for the younger child, and with rent assistance, would have received $467.74 in 1996 and $536.35 in constant dollars in 2001—an increase of $68.61 or 14.7 per cent. In the case of a couple with only one working full time and earning average weekly earnings, with two children, no child care and no rent assistance, in 1996 the weekly earnings were $564.66; in 2001, they are $653.09—an increase of $88.43 or 15.7 per cent. Let us go a bit further down. A couple, both working full time, earning average weekly earnings, with two children, with 50 hours of child care, with no rent assistance, would have received $885.46 in 1999 and $953 in 2001—an increase of $67.54 per week in constant dollars or 7.6 per cent. A couple, both working part time—(Time expired)

Senator DENMAN (Tasmania) (5.32 p.m.)—I rise to speak to Senator Ludwig’s general business motion. This year we have seen one of the meanest family policies take effect. The government has used legislative powers to withhold tax refunds to recover outstanding Centrelink debts. Australian families are being made to pay dearly for poor policy. It is a policy that relies on families being able to accurately estimate their income at the beginning of the year. It seems odd to place this pressure on families when we do not require other people in the work force to predict their earnings. Even if a family has complied with the rules, they can still be penalised for underestimating their income by as little as two or three per cent. A family may have notified Centrelink of changes in income, yet there is still no guarantee that the family will not receive a debt at the end of the year. This is a nasty policy. While two to three per cent seems a small amount, when it is translated into a debt it can hurt a young family on a tight budget.

Yesterday, in question time, we heard the minister say that families who had been overpaid did not expect to keep the money; yet who is it that overpaid them? Families did not ask to be overpaid. Perhaps if they had the money to pay back, it would not be such a big deal. The simple fact is that Aus-
Australian families are already hurting. They cannot afford to have their tax refunds deducted. They should not be made to pay for the government’s blunders. This policy is inflexible. Irrespective of how dire a family’s financial situation may be at tax refund time, if the money is owed it will be taken away. Last year, the government recognised its own outrageous demands and waived the first $1,000. It also used fortnightly deductions as a means of recovering the excess. This year there is no election looming, so there will be no Mr Nice Guy and the government will recover the money regardless.

This is a policy that operates in secrecy. The government takes money away without warning. While it is true that most of these families do not have the additional dollars to spare, it seems even more evil that the government would plot such a cruel policy without alerting families first. Early notification would have given these families the opportunity to try and budget for a debt. A far better approach would be to allow regular reconciliations. This policy shows how uncaring and out of touch this government is with families. It is a policy that is hitting one in three families—approximately 650,000 families—by giving them average debts of $850.

The north-west coast of Tasmania—my home region—is being hardest hit by this policy because it has the highest unemployment figure in my state. It is very difficult for those people to accurately estimate what their income will be. What is it that this government has against Australian families? If Australian families are not already struggling under daily pressure, they may now face an annual financial burden as well. Where is the incentive for a parent to return to work mid-financial year when this may lead to a family receiving a debt at the end of the year? Our current system is administratively cumbersome for parents and relies on a degree of good luck and fortune-telling to escape an annual debt. Those are rather undesirable characteristics, I think, for a system that should be supporting families. An article in the Sun Herald, referring to Centrelink market research data, described the situation, saying:

... families felt powerless to avoid incurring a debt. Families said it was difficult to accurately estimate their annual income particularly if they worked on contract or were casual workers.

Again, this applies to the majority of people in my area. A far better system would be one that is efficient and sensitive to the changing work patterns of young families, without slugging them at the end of the year. Working families struggle to make ends meet, often spending tax refunds before they arrive. This is not unreasonable; it is about surviving in our current economic climate. Last year the minister acknowledged this, and she even endorsed it, when she said:

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.

Yet something changed around the time of the election or after it. The government went back on its word and its commitment to thousands of Australian families. It seems that this year the government has forgotten that families earmark their tax refunds to use on specific things. The expectation of having extra funds at hand from a tax refund can relieve the anxiety of families who are constantly worrying about how the bills are going to be paid, even if only for a week or two. A tax refund can provide a lump sum that means a family can afford to get a car repaired, do household repairs or buy a new fridge or washing machine. I doubt that those of us who are not financially stressed can fully understand the relief a tax refund can provide for a family.

Unfairly, this year there will be no relief for many families, as their tax refund will be taken away from them without them having had any warning. Why is it that those who are least financially able should be penalised by the government’s poor policy? These families are struggling. They are doing the best they can to survive, and they cannot afford to have their funds taken away from them. As a sole parent for a number of years, I knew what it was like to look forward to the tax return. I was a sole parent of two children, and I was on a reasonable income as a teacher. But that tax return provided for
my family the extra bits that we were not able to afford during the year. So I can imagine what it is like for those families surviving from week to week and relying on their tax income not to get it. In my case, the tax refund was probably an added luxury, enabling me to take the kids on a holiday or something.

But for people in today’s society, it is very different. It is all very well for the government to chant the virtues of saving money to families. But how can we realistically expect young families to save or to raise their standard of living when they are flat out trying to survive under increased financial pressures? The GST has cost families dearly. It added costs to essential goods and services. Young families are now finding it harder to find a doctor who will bulk-bill, and they are paying more to see their GPs. Had it not been for the Labor and Democrat parties opposing changes to the Pharmaceutical Benefits Scheme, the cost of medicines for families would also have risen this year. For families with mortgages, their financial situation is only going to worsen when expected interest rate hikes take effect. It is in these circumstances that this mean family policy is taking effect.

An article in the *Canberra Times* on 6 August noted a Commonwealth Bank commissioned survey that revealed that, in July 2002, 60 per cent of national households were finding it hard to make ends meet and were finding it hard to save. This is a 12 percentage point rise from the same time last year. We have to wonder at and think about that. Australian families are doing it tough, and it is ironic that at these times the government chooses to take away vital funds from families. Pushing families into difficult financial circumstances will have adverse consequences. The General Manager of the Smith Family Canberra, Mr Bill Morris, said:

If more people are not able to make provision for any unforeseen event, including illness, redundancy or a broken relationship, they could find themselves in a crisis situation.

Mr Morris also reported that the number of Canberra residents accessing all the Smith Family’s programs had increased. These are difficult times for Australian families. We already know that family breakdowns cost our welfare system through single parent payments. It is in our interest to make life easier for these families, not harder. Yet is it any wonder that family breakdowns are growing, when we place families under such pressure?

I have a friend who lives just out of Melbourne. Every fortnight, she works at a food co-op on a voluntary basis. She was telling me recently how the food co-op has had a greater demand for products. The people accessing that food co-op have to be recommended by one of the church charities or by Centrelink. But it is becoming very difficult for the co-op, particularly because of the single parent families, to meet the needs of the community.

Labor recognises and understands the delicate financial situation of young families. It was Labor who encouraged outraged young families to contact the Ombudsman’s office and voice their concerns. The government’s policy is flawed and requires urgent attention. The government has chosen to add families to the growing list of economically disadvantaged groups in Australia. This year, the Australian Council of Social Service, ACOSS, firmly criticised the government for all its penalties for Centrelink breaches and also for the inadequate social security payments paid to university students, to name a few areas.

We are told that the government’s platform for this term is ‘work and family’. Yet experience suggests this government is anti-families. This government seems intent on making life difficult for Australian families. In 1997, the government put a two-year funding freeze on child-care subsidies, leaving thousands of families unable to afford child care. This year we have seen the government refuse to give a commitment on paid maternity leave.

We urgently need policies that address the growing problems in our family and welfare system. We need to take away the unnecessary pressure that so many families are feeling as they struggle to make ends meet. At a time when we daily hear about our declining birth rate and the need to stimulate popula-
tion growth, the government seems intent on penalising the very people it should be supporting. The government talks of respecting the rights and choices of young families but, in reality, it is taking away these rights and choices through a lack of support and assistance for families.

The government has made much of its baby bonus initiative which, in reality, falls short of providing real assistance to families. The bonus works out to provide an average of $10 per week to families. It is a token amount—an amount which may allow families to afford an extra packet of disposable nappies, but not much else. It fails to take into account the increasing costs facing families. The baby bonus is also able to be accessed by people on very high incomes. It is unfair and an indication of the government’s own incompetence that it is unable to recognise simple observations such as: those least well off require more assistance than those in relatively better financial circumstances. It is initiatives like this one that will allow the growing divide between rich and poor to increase. It is a disappointing reality when families must be grateful for any assistance they can get from this government, rather than rightly expecting to be extended a fair system that grants them reasonable assistance.

This policy is hurting Australian families. Labor has opposed the policy because it disagrees that families who have complied with the rules should have their tax returns stripped without warning. But it is not only Labor that opposes this initiative. Yesterday, in a media release, my colleague Mr Wayne Swan quoted from a coalition backbencher’s letter to the minister, which noted:

... families on lower incomes wait in anticipation of their tax return to be able to pay off outstanding debts and 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.

If you will not listen to the Labor Party, please listen to your own party members. Australian families deserve better than this. They should be delivered policies that provide them with the support and assistance they need—policies that are designed to allow Australians to make the choice between having children and working. It is for these reasons that the Labor Party condemns the Howard government and its contemptible attack on Australian families.

Senator TIERNEY (New South Wales) (5.47 p.m.)—I also rise to speak on Senator Ludwig’s motion in relation to the family tax system. I was rather amazed by Senator Denman’s contribution. As I was listening to what she was saying, I was trying to tie it up with reality. I was also trying to relate what she was saying to the way in which our tax and income systems work for people who are in these situations, and I have great difficulty doing that. Senator Denman did not take into account a number of important aspects of the way in which we have reformed these payment systems. When we came into government, there were 12 different types of payment systems. People who had to access benefits in some way were faced with this amazing array of tax and welfare systems, and they would need professional assistance to find their way through such a package. One of the things we did when we came into government, and one of the things we did with the tax reforms in 1998, was to make the system far simpler and fairer. We introduced a number of features that did not exist before, which I will refer to later on, that improved the level of fairness. We have put more than $2 billion into the system that existed under the previous Labor government. So statements by Senator Denman that we are being unfair and that the way we have set it up is nasty do not relate to reality at all.

I would like to explain some of the aspects of the way in which the system of payments works because, obviously, people like Senator Denman have not read the documentation that explains this. If she had done that, she would have realised that, in terms of overpayment and underpayment, it is incredibly fair and no different to what we are used to when we deal with the tax system. If you are overpaid or underpaid, there has to be a reconciliation at some point. If you do not do that, what happens to the equity situations?

You are getting an advantage over people in the system who do not have that sort of ca-
pacity. So I really felt that Senator Denman did not quite understand how the system worked. And she is not alone amongst her opposition colleagues. If people listened carefully to the questions that were asked of Senator Vanstone yesterday and listened carefully to Senator Vanstone’s replies, where each Aunt Sally that was set up was hit for six—and the opposition adopted a fairly common tactic of saying, ‘Let’s have a look at this person’s case. Isn’t this terribly unfair?’—what Senator Vanstone proved quite conclusively, as case after case was bowled up yesterday, was that that is not true; that is not unfair. As a matter of fact, she proved—and senators opposite can certainly read the Hansard transcript—that it is incredibly fair. It is a lot fairer than what happened when this opposition was last in government.

I had a large family at home during that time, and I know what happened to family tax and welfare benefits over those 13 years: the whole thing was wound back. We found that the support levels from government over the period from 1983 onwards were gradually wound back. This government has reversed that process, so all Senator Denman’s rhetoric about nasty governments and unfairness does not stack up against the reality of the current situation. What we did with our family tax and child-care benefits systems was to replace an extremely outdated system. We have made things much easier for all Australians through the set-up of places like Centrelink, for example, where all these things are integrated and people have one-stop shops they can go to in relation to benefits.

None of this existed under the Labor government. As a matter of the fact, in my own city, they were in separate parts of the city and people had to trudge between them. The last government did not even have the nous to put them in the same building. We have integrated them under the one system of payments. You can go to particular offices, get a response and not have to do the bureaucratic run-around. With this system, we have overall benefited 1.8 million Australian families and 3.5 million children with a much better level of benefit and a much more sensible and integrated system than Labor ever set up.

Let me make clear one particular aspect of the system that has changed in recent years, and this relates to family allowance over-payments, which were recovered under the last government—when I say they were recovered, I mean they recovered some of them. The important point is that no top-ups were made if the payments went the other way: the government won each way in the financing of this. Over 400,000 top-ups of family tax benefits and child-care benefits were paid in the 2000-01 financial year, where families had overestimated their income. That would not have happened under the Labor government. I did not note that Senator Denman included that in her ‘nasty’ description—I would not have thought that was nasty at all; that is quite sensible and fair. But Senator Denman and other speakers on the other side have chosen to ignore totally the positive aspects of the system. Some $300 million has been paid in top-ups in the 2000-01 financial year under the family tax benefits and child-care benefit entitlement schemes. How could the opposition really question the fairness of such payments?

I would like to give a specific, concrete example of the fairness of this, when Senator Bishop’s question was hit for six by Senator Vanstone yesterday. Senator Bishop asked:

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?

That sounded unfair. That was Senator Bishop’s question—I see he has looked up from his newspaper and has developed some interest at this point in the debate, seeing as I have quoted him. To his great embarrassment—Senator Bishop will remember Senator Vanstone’s reply; I will bet he wished he had not asked the question after he got the reply—Senator Vanstone replied:

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.
Do you remember that, Senator Bishop? I think you were here at the time when your government did not give top-ups. Regarding the 12-month deadline, is that really too much to ask? Dates and deadlines are put in for particular reasons, and that is so you can run your country and your public finances effectively and efficiently. It is not ungenerous. The whole point of the question was an indication that the opposition did not really understand the way the system works. I would like to quote a very clear, concise summary of how the system does work — for the edification of the opposition, as they obviously do not understand it. This material from the family tax benefit package might enlighten them:

Family Tax Benefit and Child Care Benefit can be received during the tax year as fortnightly payments or claimed at the end of the tax year. Either way, the customer’s entitlement is based on their taxable income for that year.

That sounds fair —

Fortnightly customers are paid on their estimates of their taxable income while customers claiming at the end of the year normally are paid when their taxable income is assessed.

By adjusting for top-ups and overpayments, reconciliation ensures that all customers receive their correct entitlement for the year, regardless of how they have claimed.

This ensures —

And let me emphasise this to the Labor opposition — a fair and equitable outcome for all families.

This is an extremely clear explanation. I am very surprised that the opposition did not come across this document when they did their research. If they had done that and if they understood how the system works, they would not have been here yesterday having their questions hit for six by Senator Vanstone. Family assistance is income tested and, if customers choose to receive family tax benefits as fortnightly payments, they have to provide the Family Assistance Office with an estimate of their family’s income for the tax year. Again, the whole arrangement is quite fair.

Finally, as my time has nearly expired, I will quote Senator Vanstone in answers yesterday. She had this to say in reply to yet another silly question, this time from Senator Forshaw, who was quoting the case of a constituent who had $412 stripped from her $1,150 tax return when both she and her husband updated their tax estimate throughout the year. Senator Vanstone replied:

... it is possible for people to say to you, ‘I ... updated my income estimates,’ but to forget to say, ‘I did it on 31 May near the end of the financial year so ... I would have an overpayment of welfare ... “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 think that sums up the failure of the opposition yesterday in their attack. I was absolutely amazed that they wasted their opposition business time today on a matter that was so clearly explained in the documentation and when the fairness of the system was very clearly and amply demonstrated yesterday by the minister, Senator Vanstone.

Debate interrupted.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator McLucas)—Order! It being 6 p.m., we will proceed to consideration of government documents. There are 270 government documents listed for consideration, starting at page 14 of today’s Notice Paper, and there is a limit of 37 minutes for their consideration. To expedite the consideration of documents I propose, with the concurrence of honourable senators, to call the documents in groups of 20. Documents called in each group to which no senator rises will be taken to be discharged from the Notice Paper. Documents not called on today will remain on the Notice Paper. There being no objection, it is so ordered.

Consideration

The following orders of the day relating to government documents were considered:


Wet Tropics Management Authority—Report for 2000-01. Motion of Senator Bartlett to take note of document agreed to.

Aged Care Standards and Accreditation Agency Limited—Report for 2000-01. Motion of Senator Buckland to take note of document agreed to.


Torres Strait Regional Authority—Report for 2000-01. Motion of Senator Ludwig to take note of document called on. On the motion of Senator Buckland debate was adjourned till Thursday at general business.


Australian Postal Corporation (Australia Post)—Report for 2000-01. Motion of Senator Mackay to take note of document agreed to.

Centrelink—Report for 2000-01. Motion to take note of document agreed to.

Department of Immigration and Multicultural Affairs—Report for 2000-01, including reports pursuant to the Immigration (Education) Act 1971 and the Australian Citizenship Act 1948. Motion of Senator Bartlett to take note of document agreed to.

Department of Reconciliation and Aboriginal and Torres Strait Islander Affairs—Report for the period 30 January to 30 June 2001. Motion of Senator Ludwig to take note of document agreed to.

Australian Customs Service—Report for 2000-01. Motion of Senator Ludwig to take note of document agreed to.


Department of Foreign Affairs and Trade—Reports for 2000-01—Volume 1—Department of Foreign Affairs and Trade. Motion to take note of document agreed to.

Department of Foreign Affairs and Trade—Reports for 2000-01—Volume 2—Australian Agency for International Development (AusAid). Motion to take note of document agreed to.

Insolvency and Trustee Service Australia—Report for 2000-01. Motion of Senator Ludwig to take note of document agreed to.


Office of Film and Literature Classification—Classification Board and Classification Review Board—Reports for 2000-01. Motion of Senator Ludwig to take note of document agreed to.

Department of the Environment and Heritage—Report for 2000-01, including the report of the Supervising Scientist and reports on the operation of the Hazardous Waste (Regulation of Exports and Imports) Act and the Ozone Protection Act 1989. Motion of Senator Bartlett to take note of document agreed to.


Defence Force Retirement and Death Benefits Authority—Report for 2000-01. Motion to take note of document agreed to.

Department of Family and Community Services—Report for 2000-01. Motion to take note of document agreed to.

Health Insurance Commission—Report for 2000-01. Motion to take note of document agreed to.

Crimes Act 1914—Report on controlled operations for 2000-01. Motion of Senator Hogg to take note of document agreed to.


Australia New Zealand Food Authority—Report for 2000-01. Motion to take note of document agreed to.


Refugee Review Tribunal—Report for 2000-01. Motion of Senator Hogg to take note of document agreed to.
Australian Radiation Protection and Nuclear Safety Agency—Report for 2000-01. Motion of Senator Bartlett to take note of document agreed to.

Department of Employment, Workplace Relations and Small Business—Report for 2000-01. Motion of Senator Hutchins to take note of document agreed to.

Inspector-General of Intelligence and Security—Report for 2000-01. Motion of Senator Bartlett to take note of document agreed to.

Australian Fisheries Management Authority—Report for 2000-01. Motion of Senator Bartlett to take note of document agreed to.

Fisheries Research and Development Corporation and Fisheries Research and Development Corporation Selection Committee—Reports for 2000-01. Motion of Senator Bartlett to take note of document agreed to.

Grains Research and Development Corporation—Report for 2000-01. Motion of Senator Bartlett to take note of document agreed to.

Migration Review Tribunal—Report for 2000-01. Motion of Senator Bartlett to take note of document agreed to.

Attorney-General’s Department—Report for 2000-01. Motion of Senator Ludwig to take note of document agreed to.

Defence—Report for 2000-01. Motion of Senator Ludwig to take note of document agreed to.


Australian Industrial Relations Commission and Australian Industrial Registry—Reports for 2000-01. Motion of Senator Hogg to take note of document agreed to.

Australian Research Council—Report for 2000-01. Motion of Senator Tierney to take note of document agreed to.

Social Security Appeals Tribunal—Report for 2000-01. Motion of Senator Bartlett to take note of document agreed to.


Forest and Wood Products Research and Development Corporation—Report for 2000-01. Motion of Senator Bartlett to take note of document agreed to.

Federal Magistrates Service—Report for 2000-01. Motion of Senator Hogg to take note of document agreed to.

Family Court of Australia—Report for 2000-01. Motion of Senator Hogg to take note of document agreed to.

Australian Communications Authority—Report for 2000-01. Motion of Senator Mackay to take note of document agreed to.


General business orders of the day Nos 53-268 relating to government documents were called on but no motion was moved.

COMMITTEES
Consideration

The following orders of the day relating to committee reports and government responses were considered:


Rural and Regional Affairs and Transport Legislation Committee—Interim report—Administration of AusSAR in relation to the search for the Margaret J. Motion of Senator Calvert to take note of report agreed to.

Rural and Regional Affairs and Transport Legislation Committee—Interim report—Proposed importation of fresh apple fruit from New Zealand. Motion of Senator Calvert to take note of report agreed to.
Rural and Regional Affairs and Transport Legislation Committee—Interim report—Administration of the Civil Aviation Safety Authority. Motion of Senator Calvert to take note of the report agreed to.

Rural and Regional Affairs and Transport Legislation Committee—Report—The introduction of quota management controls on Australian beef exports to the United States by the Minister for Agriculture, Fisheries and Forestry. Motion to take note of report agreed to.

Community Affairs References Committee—Report (on the inquiry into nursing) Community Affairs References Committee agreed to.

Forestry . Motion to take note of report by the Minister for Agriculture, Fisheries and Australian beef exports to the United States production of quota management controls on Forestry . Motion to take note of report agreed to.

Legislation Committee —Rural and Regional Affairs and Transport note of the report agreed to.

Authority . Motion of Senator Calvert to take note of report Administration of the Civil Aviation Safety Administration of the Civil Aviation Safety Legislation Committee—Rural and Regional Affairs and Transport Legislation Committee—Technology and the Arts Legislation Committee—Environment, Communications, Information Environment, Communications, Information agreed to.

Privileges—Standing Committee—105th report—Execution of search warrants in senators’ officers—Senator Harris. Motion of the chair of the committee (Senator Ray)—That the Senate endorse the finding at paragraph 22 of the 105th report—agreed to.

Privileges—Standing Committee—104th report—Possible false or misleading evidence before the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund. Motion of the chair of the committee (Senator Ray)—That the Senate endorse the finding at paragraph 65 of the 104th report—agreed to.

Privileges—Standing Committee—103rd report—Possible improper influence and penalty on a senator. Motion of the chair of the committee (Senator Ray)—That the Senate endorse the findings at paragraphs 1.60 to 1.62 of the 103rd report—agreed to.

Privileges—Standing Committee—102nd report—Council to the Senate. Motion of the chair of the committee (Senator Ray) to take note of report agreed to.

Senators’ Interests—Standing Committee—Report—2/2002: Proposed changes to resolutions relating to declarations of senators’ interests and gifts to the Senate and the Parliament. Motion of the chair of the committee (Senator Denman) to take note of report agreed to.


Rural and Regional Affairs and Transport Legislation Committee—Report—Administration by the Department of Transport and Regional Services of Australian Motor Vehicle Standards under the Motor Vehicle Standards Act 1989 and Regulations. Motion of Senator Harris to take note of report agreed to.


Parliamentary Joint Committee on ASIO, ASIS and DSD—Advisory report—Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002. Motion of Senator Calvert to take note of report agreed to.

Legal and Constitutional References Committee—Report—Outsourcing of the Australian Customs Service’s Information Technology. Motion of Senator Ludwig to take note of report agreed to.


Motion to take note of reports agreed to.

Legal and Constitutional References Committee—Report—Inquiry into s. 46 and s. 50 of the Trade Practices Act 1974. Motion to take note of report agreed to.

Regulations and Ordinances—Standing Committee—110th report—Annual report 2000-01. Motion of the chairman of the committee (Senator Tchen) to take note of report agreed to.

Legal and Constitutional References Committee—Report—Human Rights (Mandatory Sentencing for Property Offences) Bill 2000. Motion to take note of report agreed to.

Economics References Committee—Report—Inquiry into mass marketed tax effective schemes and investor protection. Motion to take note of report agreed to.

Superannuation and Financial Services—Select Committee—Report—Early access to superannuation benefits. Motion of Senator Sherry to take note of report agreed to.

Employment, Workplace Relations, Small Business and Education References Committee—Report—Universities in crisis: Report into the capacity of public universities to meet Australia’s higher education needs—
Addendum: Motion to take note of document agreed to.
Foreign Affairs, Defence and Trade References Committee—Report—Recruitment and retention of ADF personnel. Motion of Senator Hogg to take note of report agreed to.
Employment, Workplace Relations, Small Business and Education References Committee—Report—The education of gifted children. Motion of Senator Tierney to take note of the report agreed to.
Community Affairs References Committee—Report—Healing our hospitals: Report on public hospital funding—Government response. Motion to take note of document agreed to.
Orders of the day Nos 1-4, 19, 20 and 24-28 relating to committee reports and government responses were called on but no motion was moved.

DOCUMENTS

Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report No. 16 of 2001-02—Performance audit—Defence Reform Program management and outcomes: Department of Defence. Motion of Senator Hogg to take note of document agreed to.

Auditor-General—Audit report No. 24 of 2001-02—Performance audit—Status reporting of major defence acquisition projects: Department of Defence. Motion of Senator Hogg to take note of document agreed to.

Auditor-General—Audit report No. 26 of 2001-02—Performance audit—Management of fraud and incorrect payment in Centrelink. Motion to take note of document agreed to.

Auditor-General—Audit report No. 30 of 2001-02—Performance audit—Test and evaluation of major defence equipment acquisitions: Department of Defence. Motion of Senator Hogg to take note of document agreed to.

Orders of the day Nos 5-45 relating to reports of the Auditor-General were called on but no motion was moved.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Mclucas)—Order! Consideration of committee and other documents has now concluded, and I propose the question:

That the Senate do now adjourn.

Unauthorised Publication of Photograph

Senator ABETZ (Tasmania—Special Minister of State)  (6.06 p.m.)—Last evening it was asserted by an honourable senator that a picture in a brochure—incidentally, mailed out only to Liberal Party members in the electorate of Denison—had ‘brought considerable pain’ to someone living in Far North Queensland. The honourable senator who raised the matter last evening raised the person’s name publicly in this place on an evening that, as the senator would have been aware, the Senate was being broadcast, thus ensuring that any pain suffered by the lady who was in the photograph would be multiplied a hundred times over.

The fact that it was raised more than two months after the event and after the total brochure was publicised by another left-wing Labor MP raises the issue of credibility. That is especially the case when one notes this: if the honourable senator were genuinely aggrieved, why on earth would the honourable senator seek to publicise the matter and trawl the person’s name across the airwaves and provide exposure of that person’s name to tens of thousands of her fellow Australians? The damage from that stunt will, of course, be far greater than a very small mail-out in the second most southern electorate of Australia about someone residing in the northernmost electorate in Australia. The honourable senator who raised the matter has, unfortunately, an unenviable reputation amongst other left-wing MPs for being patronising of our Indigenous community.

Senator Crossin—Madam Acting Deputy President, I rise on a point of order. I believe Senator Abetz is casting some aspersions on a sitting member of the Senate and I think he should withdraw those comments.
The ACTING DEPUTY PRESIDENT (Senator McLucas)—I think that, given the circumstances, there is no point of order.

Senator ABETZ—The crocodile tears that were shed yesterday highlight this. Why broadcast and multiply the alleged hurt hundreds of times over and to thousands of people and thus occasion, allegedly, even more hurt? A genuine approach would have been to approach me—the author of the brochure—to ascertain the extent of its distribution and then indicate a particular course of action. But why the senator would trawl the name through on a broadcast day as a political stunt months after the brochure was published is beyond me. I think it exposes the speech last night as being not genuine but a stunt. As the senator indicated, the brochure did have a photo on the back page. I will read the back page of the brochure into the Hansard. It said:

As a former chairman of the Joint Statutory Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund, I have often been asked my view on ‘Rabbit Proof Fence’. I viewed the film with great interest. Unfortunately, I came away feeling that in an effort to sensationalise an already incredible story truth was the first thing to go. It would seem that the movie’s subject, Molly Craig, feels the same way. When shown a special screening of the film she stated, ‘That’s not my story.’ The facts of Australia’s shared past can often be hard and unpalatable to address but untruths and exaggerations only complicate the matter. Someone once said that if you add to the truth you subtract from it.

Yours truly, Eric Abetz, Special Minister of State and Liberal Senator for Tasmania.

We can go into the ins and outs of this situation. I was honoured to be able to meet this particular person in Far North Queensland in the circumstances outlined by the honourable senator in her speech to the Senate last night. The person who was named—and I have no intention of naming the person this evening—is a renowned artist. When I first came to this place eight years ago I spotted a piece of her artwork in the parliamentary collection and have had it displayed in my office ever since, never having known or met the artist—I simply liked the piece of artwork. Whilst I was with this person in Far North Queensland, photographs were taken. As always, I indicated that the photographs may be used in conjunction with my work as a senator and a member of the joint native title committee et cetera, and there was no problem with that, as expressed to me.

Senator McLucas—She didn’t ever say that to you.

Senator ABETZ—I know the discussion that I had and I also know that the aim of my work with the native title committee has always been to try to get the best possible result for our Indigenous community. The brochure was entitled A rabbit proof fence full of holes. It did detail that Molly Craig said, ‘That’s not my story.’ The brochure contained an article by a former distinguished minister for Aboriginal affairs, Peter Howson, and by Des Moore from the Institute of Public Affairs. I believe it is a sound and reasoned article.

Senator McLucas—Nobody else does.

Senator ABETZ—I hear the interjection: ‘Nobody else does.’ I can assure you that I do, and I can assure you that a lot of other people do. The actual person, Molly Craig, after a special screening of the film, was quoted in the media as saying, ‘That’s not my story.’

Senator McLucas—You are quoting her out of context.

Senator ABETZ—The Sun Herald, on 17 February 2002, is also guilty of that. That means, therefore, that a few people, other than just those two people, were of that particular view. What we have seen from the senator in question is the pulling of a stunt. If it were a genuine matter, private contact would have been made with me to ascertain the extent of the distribution and dialogue would have been entered into. Instead we had the shameless stunt of naming this person publicly—to tens of thousands of Australians, no doubt—courtesy of the Labor senator. It highlights the lack of credibility of the honourable senator in raising it. As I said, it was a little brochure that had very limited circulation in the second most southern electorate in Australia.

Senator McLucas—How is that relevant?

The PRESIDENT—Order! Continued interjections and comments from the left in-
vite answers from my right and I do not believe that is in order. I ask the minister to ignore the interjections and address his remarks through the chair. Interjections on my left are not acceptable either.

Senator ABETZ—Thank you, Mr President. Anybody who knows me will be fully aware that I—

Senator Crossin—That you are cunning and sly and use Aboriginal people for your own advantage.

The PRESIDENT—Order! I would ask you to withdraw those remarks please.

Senator ABETZ—that is very offensive, Senator Crossin.

Senator Crossin—I withdraw.

The PRESIDENT—Thank you.

Senator ABETZ—Thank you for withdrawing that. Those people who know of my service on the native title committee would be aware of my commitment for practical reconciliation for our Indigenous community. My service on that committee was something that I took very seriously, because I am one of those people who believes that our Indigenous community is without doubt the most disadvantaged group within our community and needs the assistance of all parliamentarians in this place. Trying to use them as political footballs is patronising, manipulative and demeaning. To broadcast the person’s name publicly as a political stunt to tens of thousands of Australians via the airwaves, as the senator did, shows that what she was on about was nothing but a cheap stunt. It lacks credibility and I do not think it does the cause of our Indigenous community any benefit.

(Time expired)

Workplace Relations: Small Business

Senator BUCKLAND (South Australia) (6.16 p.m.)—Mr President, I take this opportunity of congratulating you on your elevation to the presidency. It is the first opportunity I have had. Tonight I would like to speak on the concerns of small business and the various workplace relations bills we have seen in this chamber in recent times. I rise tonight because, during earlier debates, it was suggested that some, including me, did not know enough about small business and that I was giving a one-sided or union based opinion on some of those bills. I thought I was right and in fact I have proven myself to have been right—I did know what small business was worried about.

We have seen the ‘more jobs, better pay’ bill. We have seen the fair dismissal and the fair termination bills—I am not too sure of the difference between those; I have never known a fair dismissal—both of which, paradoxically, permit dismissal and termination without remedy. Earlier this week we saw the compulsory union fees bill, which is a non-issue when there is a whole range of other important issues to consider for small business—important issues that small business raise. The real issues that I have found in talking to small business since the earlier debates are the extra administration costs and workload required as a result of BAS, concerns about public liability insurance and the confusion small business have over the Commonwealth privacy legislation, to name but some.

The unfair dismissal laws are not the main issues of concern for small business operators. In fact, of those I spoke with—and there were many—it did not rate a second mention. This leads me to believe, and confirms my own belief, that the government is failing to address the real issues and is trying to distract us with these various workplace relations reforms. They are reforms designed to go nowhere apart from bashing unions and disadvantaging Australian workers. It is quite obvious that proper recruitment and staff management practices both lead to minimising the risk of unfair dismissal claims, and they are also an important element in the growth of a successful business. How often do we find small business without the ability and the skills to properly recruit their staff and do checks on those staff before employing them, or where their own business practices must be questioned?

Many a fine tradesperson has started a small business to practise their trade, but upon employing another person to assist have found that they do not have the skills to manage and grow the business or to properly select those who work for them. It is my belief that a new employer should always get
good advice as to their responsibilities in relation to prospective employees. We have to ask: what is the government doing about educating, and making themselves accessible to, small business owners to assist them with their responsibilities? It would appear to me that the government is doing very little. Labor has always seen unfair dismissal laws as being as much educative as regulatory.

In talking to employees, it is interesting to note that they understand their obligations to the employer. These same people, the workers, always believe that they can turn to their union for advice and, if they are not in a union, to the department of labour in its various guises state to state—in South Australia I think it is the Department of Workplace Relations. They can get assistance from their union and, generally, they are directed to a union anyway. But the employer does not seem to have that same feeling of obligation to get sound and good advice. They feel that what they do has to be right and therefore cannot be challenged. This government, with its industrial relations reforms, is promoting that very thing. Whatever the boss says must be right, when many times it is proven that the boss and his views are quite wrong. To take away the right of appeal of a worker who has been dismissed is negligent on the part of the government.

So whilst the work force understands the system and whilst Labor believes that it is really a matter of education more than regulation, the government just does not seem to share the same view. There is no shared or mutual obligation within the workplace under the legislation this government wants to impose. It is very one-sided and unfair and gives the worker no right of appeal.

The government should be focusing its energies on the problem that business face with the BAS. It should be focusing on the problems it has caused for small business and small business accountants. Last week Kerry O’Brien aired a story on Lateline about accountants threatening mutiny against the tax system. Apparently, any backpedalling the Howard government did on the BAS rules last year has not fixed any of the problems. Thousands of accountants are now threatening mutiny against the tax system which they describe as overcomplicated, inefficient and poorly administered. Accountants delivered an ultimatum and 300 letters of complaint to the Australian Taxation Office. That is cause for concern no matter who is in government. But it does one thing: it shows that the focus of this government is yet again on the wrong thing.

The Institute of Chartered Accountants complain of inconsistent and incorrect advice from the ATO, an avalanche of unnecessary paperwork and ridiculous compliance requirements under threat of penalties. They complain about duplication of demands due to lack of integration of the ATO’s systems and hours wasted on hold on the ATO helpline, hoping for a response. It just goes to highlight yet again that lack of focus on the real issues. This government has this great ambition to hurt the workers. (Time expired)

Sugar Industry: Queensland

Senator McLucas (Queensland) (6.26 p.m.)—At the outset I want to say that I absolutely refute the shameless response by Senator Abetz to my call last night for an apology to my constituent whose photograph he published in a brochure without her permission. I will respond more fully to Senator Abetz’s comments next week.

Tonight I rise to send a message to government. The sugar industry is a $1 billion industry which is facing a crisis. It is an industry that needs help and it needs it now. In fact it really needed it some months ago. Two weeks ago I visited sugar communities between Mackay and Cairns with the Labor spokesperson for primary industries, Senator Kerry O’Brien. Senator O’Brien and I heard first-hand about the difficulties the industry is facing and the associated impacts on local communities.

Since 1998 the industry has been battling poor seasons, floods, and now, drought, and major pest infestations including devastating orange rust and cane grubs. More than $700 million has been wiped from the industry since 1998. Four bad seasons and unprecedented low world prices have left cane farmers struggling and many of the associated communities facing economic chaos. Many
of these communities are in North Queensland, a region which I am proud to say I am from. The sugar industry are not asking for a handout, but they do need assistance. They are asking the federal government for support, recognising that they do need to change and restructure.

Let us put that request for support in context. Recently I received a letter from Mr Ian Ballantyne, the general manager of the organisation Canegrowers, in Queensland. He says:

It has become apparent that many are of the view that the raw sugar industry has been propped up by government financial support over many years.

He then goes on to say that this view is ‘quite unfounded’, and he provides documentation to say that the ‘net support to the industry from 1986-2001 has been, after repayments, $123.7 million.’ I would be pleased to provide a copy of that letter to any senator that has an interest.

During our visit the industry made it clear to us that they took the issues raised in the Hildebrand report seriously. Every region we visited has already established some sort of strategic industry organisation or board to look at the local district’s future. Millers and growers are actively beginning to work together to develop more efficient, effective and sustainable ways to grow, harvest, transport and crush cane within their mill areas. In many respects, Clive Hildebrand has not really told the industry anything that it did not already know. The delay in responding to the Hildebrand report though has acted as a convenient stalling tactic for the Howard government and in particular for the Minister for Agriculture, Fisheries and Forestry, Mr Warren Truss.

Mr Hildebrand was commissioned to write the report on 15 February this year. He reported on 28 June and it is now 22 August. He was specifically given a short time frame to report, apparently in recognition of the pressing need of the industry. So the question needs to be answered: why hasn’t the Howard government acted on this report? It has delayed long enough. Without help, Canegrowers, the organisation representing almost 95 per cent of growers, warns that 25 per cent to 30 per cent of more than 6,500 cane farmers in Queensland could leave the industry in the next few months. I am concerned about the impact that this will have not only on individual farming families but also on the local communities and towns from Nambour to Mossman who depend on the sugar industry for so many local jobs.

Labor understands the interconnection of communities and this is so clearly demonstrated through an industry like the sugar industry. You just cannot have 20 per cent to 30 per cent of growers from a mill area not plant cane or have their production collapse—because they cannot afford general crop management, procedures like fertilising and weed control—without putting at risk the other 70 per cent of farmers and the associated mill and communities. Labor understands that. That is why it has already responded to calls by canegrowers and other industry leaders. Senator O’Brien came to North Queensland because the Leader of the Opposition, Simon Crean, recognises that the sugar industry needs support and wanted a first-hand briefing at Labor’s shadow cabinet meeting in Darwin. Labor is taking, and has always taken, the crisis facing the sugar industry seriously. We met with not only cane farmers but also millers, local government representatives, women associated with the industry and young farmers representatives, who all articulated their hopes and visions for the future of the industry.

Labor’s plan commits immediate support for the industry. It recognises that the sugar industry is vital to Australia and especially important to regional communities in Queensland and, in particular, North Queensland. Labor will work with the industry to secure a long-term sustainable future for farmers and communities in North Queensland. Labor recognises that a commitment is needed from farmers to restructure, gain further business skills and deliver better environmental outcomes. But sugar communities cannot be left to do it all on their own. Matching the already evident industry commitment must be a commitment by the federal government to engage in proper consultation, planning and funding for lasting change. Labor calls on the Howard government to immediately
make funds available to provide income support to cane-farming families who are at their financial wits end.

Sugar growing families who are eligible and ready to leave the industry should be able to immediately access exit packages and re-establishment grants. The Howard government must also immediately make available business support measures equivalent to those currently available under the exceptional circumstances program. International trade is vital to the survival of this industry. The industry and Labor expect the Howard government to ensure that sugar has a place in any free trade agreement with the USA and in any international or World Trade Organisation negotiations.

One thing that farmers made clear to me during our visit is that the industry needs to diversify its risk. At present, over 80 per cent of the industry’s income is derived from the New York No. 11 futures price. This futures price, as we all know, is distorted by subsidies in Europe and the US. The industry needs to develop new markets and by-products from sugar. Sugar growing areas like Mossman and the Burdekin in particular are leading the way with millers and growers actively working together to investigate the potential for ethanol production. I commend them for taking this initiative. Labor recognises that the industry needs to diversify risk and has called on the Howard government to immediately form a task force with industry and state governments to explore the potential of ethanol as a viable and friendly option for the sugar industry.

Matching the industry’s commitment to change should be a Howard government commitment to improving export market access for our sugar farmers. Just contrast Senator O’Brien’s visit to North Queensland and Labor’s quick response with John Howard’s cabinet visit to Cairns on 12 and 13 August. Cane growers only received a meeting with the Prime Minister at the last minute and I expect that that was only because Labor—and the media—made it impossible for him—

Senator Abetz—Don’t flatter yourself!

Senator McLUCAS—I’ve got to take that one, mate.

Senator Abetz—It’s a pity that Hansard doesn’t show you laughing!

Senator McLUCAS—It was only because of the pressure that my office and the media put on your government that cane growers met with the Prime Minister on Monday, because on Saturday they were not.

Senator Abetz—You believe that?

Senator McLUCAS—The Minister for Agriculture, Fisheries and Forestry commissioned the Hildebrand report in February. It was delivered to him in June and since then he has done nothing to effectively consult with the industry on the ground. Minister Truss took the trouble to fly all the way to Cairns—and I must say it is very beautiful in August—but did not take the trouble to respond to the Hildebrand report when he was in sugar country. You have to ask why not? The minister has had the report for two months and we have heard nothing from him. Instead of dealing with the serious issues facing the industry, the Howard government used the visit to pull $100,000 in funds out of the region for Liberal Party fundraising for the Leichhardt federal executive. I know cane farmers do not want the industry politicised, but I find it a bit rich when the Howard government visits a region where the major primary industry is in crisis and rather than meet with local people and deal with the crisis facing the industry it focuses on Liberal Party fundraising. I have no problems with political parties fundraising but that approach was a bit rich.

The coalition has been taking primary producers and regional communities for granted for far too long. Labor has announced a response to the current crisis facing the industry to ensure that farmers and local communities will have a future. (Time expired)

New South Wales: Education

Senator TIERNEY (New South Wales) (6.36 p.m.)—Mr President, as this is the first occasion I have had the opportunity, let me congratulate you on your election to the presidency. In the last six months in New South Wales there has been the conclusion of
an inquiry into the New South Wales education system. You might think that such an inquiry would have been set up by the Carr government in order to figure out ways in which it could move forward in education. The inquiry was actually set up by the Teachers Federation and the Federation of Parents and Citizens Associations. They set up this inquiry because they were so concerned about the state of public education in New South Wales. The very respected Professor Vinson from the University of New South Wales headed the inquiry and the inquiry’s report is called the Vinson report. Professor Vinson suggests that yet again we restructure public education in New South Wales. The particular way in which Professor Vinson suggests the restructuring should occur will be met with dismay by parents, particularly by pupils, and by many teachers.

When you remove the froth and bubble of what Professor Vinson is advocating, if the proposal were to be adopted by the Carr government, we would have the wholesale re-establishment of the one size fits all comprehensive school which the Greiner government changed in 1988 to create a more diverse and competitive model for education than existed under the previous Labor government.

When Professor Vinson was reviewing education, it is curious that he only went back to 1988. It would have been more sensible to go back to 1962. In 1962 the Wyndam scheme started in New South Wales. It dismantled a very large number of single sex schools, junior high schools, selective schools and it created the one size fits all comprehensive school which the Greiner government changed in 1988 to create a more diverse and competitive model for education than existed under the previous Labor government.

When Professor Vinson was reviewing education, it is curious that he only went back to 1988. It would have been more sensible to go back to 1962. In 1962 the Wyndam scheme started in New South Wales. It dismantled a very large number of single sex schools, junior high schools, selective schools and it created the one size fits all comprehensive school which the Greiner government changed in 1988 to create a more diverse and competitive model for education than existed under the previous Labor government.

Research shows that gifted children shine when they study with others of a like nature and, when they do not, 40 per cent of our gifted children drop out—if not physically, they certainly drop out mentally because they are not being extended. Why dismantle selective schools when they work and when parents want to send their children to such schools? For many parents of the gifted who cannot afford private schools, the selective high schools and the O Cs—opportunity classes—in primary schools are their best hope. If the government doubled the number of academically selective high schools, it still would not cater for all the gifted children in New South Wales, because place availability means that only one in five gets in. That is why some of the suggested reforms in the Vinson inquiry, such as academic extension programs, selective classes in comprehensive schools, centres of excellence in gifted education and lighthouse schools, should be seriously considered as part of the provision for the academically gifted in comprehensive schools. None of those suggested changes are in any way incompatible with the current system of selective high schools. We have to cater for the gifted in all situations.

However, to work effectively, Professor Vinson’s new innovations would require more resources, particularly in in-service training for gifted children across New South Wales. Would the Carr government provide
such resources? If you look at the last seven years of the Carr Labor government, its track record is very bad in this area. As Chair of the Senate Standing Committee on Employment, Workplace Relations and Education, which inquired into the state of gifted education 18 months ago, I witnessed a very poor provision of gifted education across all states, especially in New South Wales.

Teachers receive very little preparation in the identification and the teaching of the gifted. The one exception in New South Wales is the outstanding GERRIC centre at the University of New South Wales. In-service training of teachers is practically nonexistent and the teaching of the academically gifted rarely gets a guernsey on the very few in-service days that teachers attend.

If the Vinson reforms were accepted, the most likely outcome would be that they would not work because of insufficient funding to train the teachers properly to cater for the needs of these children. The academically gifted would be worse off and parents would continue to drift to private schools. The ultimate outcome of these suggested reforms could be that the structure of public education in New South Wales would turn full circle back to the sixties, with not a new fad, but the recycling of a previous fad—a system-wide comprehensive system of public education.

**Battle of Milne Bay: 60th Anniversary**

**Senator MARK BISHOP** (Western Australia) (6.44 p.m.)—Tonight I rise to remind the Senate that next week—specifically, 26 August—marks the 60th anniversary of the Battle of Milne Bay in 1942. Senators will recall from the extensive media coverage two weeks ago that the war against the Japanese armed forces in 1942 reached a turning point 60 years ago, commencing with the reversal of the Japanese invasion of Papua New Guinea across the Owen Stanley Range along the Kokoda Track.

I had the honour to attend the commemorative ceremony at the village of Isurava on 14 August, at which a magnificent memorial was unveiled to those lost in action in what must have been the most inhospitable environment in the history of warfare. The occasion was a very emotive one both for the veterans making their first return to the site of so many traumatic memories and for the native people, some of whom walked through that precipitous terrain for many days. Their participation and the celebration of their role as the fuzzy wuzzy angels were most appropriate, and there are many diggers still alive today who can thank them for saving their lives.

I also pay tribute to the officers from the Department of Veterans’ Affairs, the ADF and the PNG government who made the occasion possible. In fact, the logistics of doing this high in the mountains, where travel is largely by foot, meant it was a magnificent achievement. It was also a magnificent achievement of those veterans, who bravely made the trip and who no doubt reacted emotionally to the flood of memories evoked by the sight of the scene of bloody battle so many years ago. On this I must compliment the media for their reporting of the significance of the occasion and for reminding our fellow Australians of the importance of the battle and of the severity of the conditions in which the fighting took place.

It is, of course, difficult to make comparisons on the historic contribution individual battles made to the conclusion of war, to the defeat of an enemy or to the saving of Australia from invasion. I intend to make no such comparisons, simply because they were all important and all consumed large numbers of Australian lives. Nor will I attempt to portray, as some are inclined to do, or interpret any one battle as part of the formation of our national character—*(Time expired)*

**Senator MARK BISHOP**—I seek leave to incorporate the rest of my speech.

**Senator Abetz**—Mr President, if the honourable senator assures us that there is nothing controversial in the rest of the speech, we are happy for it to be incorporated and we take his word on that.

**Senator MARK BISHOP**—I so assure the Senate.

Leave granted.

*The speech read as follows—*

or to breed some kind of mythology about the so-called Anzac tradition.
The fact is that we as a nation were at war and everyone pitched in to do their bit. Some certainly did it tougher than others and thousands never came back—but at the end of it all it was a total commitment.

And so it is worth reflecting that next Monday is the 60th anniversary of the battle of Milne Bay. Like Kokoda it is described by some as the forgotten battle, as one in which Australia’s character was again forged, and with the same ingredients of poorly trained and supplied troops with little experience, a high command a long way away with little idea of what was going on, but on the ground a desperate group of young Australians—and Americans—doing what they had to do because they had no choice.

Mr Deputy President, I don’t wish to restate the detail of the history of Milne Bay, but on the 25th and 26th of August 1942 the Japanese landed on the northern side of Milne Bay with the clear intention of taking the local airstrips as a base for their push south.

Fortunately the Australian and American forces there were a little better placed than those who struggled along the Kokoda Track, with the 75 and 76 squadrons of the RAAF flying Kittyhawks to give them some support.

The members of the 25th and 61st militia battalion were also supplemented by elements of regular Battalions.

The defence of Milne Bay continued unabated for 5 days with the Japanese making strong progress towards the capture of the first airfield. But by September 1 the retreat of the Japanese began and for another week they were pursued relentlessly until by 7 September they had been vanquished.

161 Australians died in the action, as well as 700 Japanese.

These Australians, like all others who died in battle and thereafter from wounds are all heroes. They are the sole focus of our commemoration.

Much is drawn from this battle, as it has been from Kokoda, with respect to the turning point in the war on land in the Pacific, and in the defence of Australia from invasion.

I will leave that discussion to the historians, but in closing, Mr Deputy President, I simply wish to draw the attention of the Senate to the bravery and the exploits of those who fought.

I also ask that the families of those left behind be remembered—not to mention the people of Papua New Guinea who, as a result of the war, have a special relationship with all of us.

**Senate adjourned at 6.47 p.m.**

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:

- **Broadcasting Services Act**—Broadcasting Services (Events) Notice No. 1 of 1994 (Amendment No. 3 of 2002).
- **Civil Aviation Act**—Civil Aviation Regulations—Civil Aviation Amendment Order (No. 12) 2002.
- Instrument No. CASA 493/02.
- **Remuneration Tribunal Act**—Determination—
  - 2002/12: Remuneration and allowances for holder of public offices.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Indigenous Land Corporation: Roebuck Plains Cattle Station

(Question No. 80)

Senator Harris asked the Minister representing the Minister for Immigration and multicultural and Indigenous Affairs, upon notice, on 13 February 2002:

(1) What was the purchase price paid by the Indigenous Land Corporation to acquire the Roebuck Plains cattle station.

(2) What was the price paid by the vendors of the Roebuck Plains when it was purchased some 12 months prior to the resale to the Indigenous Land Corporation.

(3) What was the reason for the substantial increase in sale price over that 12-month period.

(4) Was the price paid by the Indigenous Land Corporation for Roebuck Plains within commercial valuation at the time.

(5) Was a commercial valuation of Roebuck Plains undertaken prior to its purchase by the Indigenous Land Corporation.

(6) Why did the Indigenous Land Corporation purchase Roebuck Plains when there was no registration of a land need or application by proponents.

(7) Was there an assessment of Roebuck Plains against National Indigenous Land Strategy criteria before the Indigenous Land Corporation Board considered a purchase proposal.

(8) Who negotiated the purchase price of Roebuck Plains.

(9) Why did the Indigenous Land Corporation not utilise its usual service provider, KFPW, in negotiating a purchase price.

(10) Was a cattle muster conducted prior to the Indigenous Land Corporation’s purchase of Roebuck Plains.

(11) Why did the Indigenous Land Corporation enter into a 15-year management agreement with the vendors of Roebuck Plains that effectively locked Aboriginal people out of the arrangement.

(12) What capital investment did the vendors of Roebuck Plains (Great Northern Pastoral Company) make to entitle their retaining about 50 per cent of all profits for the 15-year period of the management agreement.

(13) Why did the Indigenous Land Corporation pay the Great Northern Pastoral Company $1 million to extricate itself from the 15-year management agreement that still had 14 years to run.

(14) Who negotiated the 15-year management agreement.

(15) Was a commission paid to the person or persons who negotiated the purchase price and management agreement.

(16) (a) Who are the directors of the Great Northern Pastoral Company; and (b) do any of them have a criminal record.

(17) Was there any relationship between the Great Northern Pastoral Company and the deceased Max Green.

(18) Is there any relationship between David Baffsky, a director of the Indigenous Land Corporation, and the Great Northern Pastoral Company.

(19) Is there any relationship between David Baffsky and John Vereker, a director of the Great Northern Pastoral Company.

(20) Was there a relationship between David Baffsky and Max Green.

(21) Have there been any money laundering activities evident at Roebuck Plains, or investigations into such activities.

(22) Has a commercial crop of marijuana been grown at Roebuck Plains whilst that station was owned or jointly managed by the Great Northern Pastoral Company.
When the Indigenous Land Corporation purchased a related cattle property, Cardabia Station, did the corporation assist the vendor in avoiding a taxation obligation by attributing false valuations to land and stock.

Did two directors and the Chief Executive Officer of the Indigenous Land Corporation enter into negotiations with the former owners of Roebuck Plains (Great Northern Pastoral Company) to strip the station of its stock without the knowledge or consent of other directors of the corporation.

Was the price proposed by the Great Northern Pastoral Company for the purchase of the entire cattle herd of Roebuck Plains in accord with then current market prices.

Senator Ellison—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable senator’s question:

(1) The price paid for Roebuck Plains Station land; infrastructure; plant and equipment; and cattle in May 1999 was $8 million subject to adjustments for cattle numbers after completion of the muster required under the contract.

(2) I am advised by the ILC that it has no direct knowledge of the price paid by the vendors, however it understands that the total price paid by them on 30 December 1997 was $6.35 million but included less cattle numbers than acquired by the ILC.

(3) I am advised by the ILC that part of the increase in price may be reflected in an increase in cattle numbers. In addition, the two sales were in fact 17 months apart (not 12 months as suggested in the question).

(4) I am advised by the ILC that the ILC did commission an independent valuation, and the price paid for the land was within the recommended range.

(5) Yes.

(6) The ILC considered the acquisition of Roebuck Plains Station to be strategically important and unique. A number of groups had clearly enunciated their interest in Roebuck Plains Station. The ILC is not limited to acquiring land if, and only if, there is a registration of land need or an application although this is the more usual course.

(7) At the time of the acquisition decision the ILC Board was of the view that the purchase of Roebuck Plains Station met the National Indigenous Land Strategy.

(8) I am advised by the ILC that a considerable number of officers and employees of the ILC were involved in the purchase of Roebuck Plains Station including negotiating the purchase price. They included the then Chairman, Mr David Ross; Mr Peter Yu; Mr Murray Chapman (then General Manager); Mr John Wilson, Dr Stuart Phillpot; and Ms Sally Skyring.

The Board’s decision to acquire the property was executed by Chairman Ross and Director Djerkurra.

(9) I am advised by the ILC that it does not exclusively use the services of any service provider.

(10) No. However, I am advised by the ILC that it was a condition of the purchase that a muster take place after completion and appropriate adjustments to cattle numbers and the final price made. Part of the purchase price was withheld for this purpose.

(11) I am advised by the ILC that it entered into a 15-year management agreement for Roebuck Plains Station, consistent with commercial advice it received at the time. It is not correct to state that the management agreement “effectively locked Aboriginal people out of the arrangement”, as that agreement allowed for rights of occupation and use of the land by Traditional Owners.

(12) The matters referred to in the question have been the subject of an examination and the ILC is awaiting the outcome.

(13) I am advised by the ILC that the continuing Directors and the new Board were extremely dissatisfied with the terms of the management agreement. In addition, there were disputes in relation to the terms and conditions and the performance thereof. The ILC Board resolved to take full control of the property and after legal advice, termination was negotiated.

(14) The management agreement was negotiated primarily by Chairman Ross and John Wilson.

(15) I am advised by the ILC that it paid no such commission or commissions.

(a) I am advised by the ILC that it understands the Directors at the relevant time were Mr John Vereker, Mr Peter McCoy and Mr Rodney Illingworth. (b) I have no knowledge of their backgrounds.
(17) I have no knowledge of this matter.
(18) I am not aware of any such relationship.
(19) I am not aware of any such relationship.
(20) I am not aware of any such relationship.
(21) The ILC advises me there has been no such activities.
(22) The ILC advises me it is not aware of this.
(23) The matters referred to in the question have been the subject of an examination and the ILC is awaiting the outcome.
(24) The ILC advises me it is not aware of this.
(25) The ILC advises me it is not aware of such a proposal by the Great Northern Pastoral Company.

Environment: Rabbit Calicivirus Disease
(Question No. 372)

Senator Brown asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 13 June 2002:

(1) Is the Minister aware of the Taiwanese study by Shien and Lee in 2000 which illustrated that Rabbit Calicivirus Disease (RCD) pigs inoculated with RCD suffered fever and still had live virus present in their lungs and livers after 14 days.
(2) Can the Minister give an unequivocal assurance that RCD will never spread from Australian rabbits to Australian pigs.
(3) Given that the use of RCD on food baits would expose a much wider range of non-target species to ingestion of the live virus than has occurred with RCD inoculation, can the Minister give an unequivocal assurance that RCD will not spread from Australian rabbits to humans and any other species of animal.

Senator Hill—The Minister representing the Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

(1) I have not seen this study. My Department advises me that it is aware of the study.
(2) The National Registration Authority, the decision maker under the Agricultural and Veterinary Chemicals (Administration) Act 1992, has yet to make a decision on registration of the use of RCD on food baits. Environment Australia advises the Authority in relation to environmental risks associated with these applications. Decisions on the use of chemicals, pharmaceuticals and biologicals are based on risk assessments. Through these processes, any risks to non-target species are taken into account.

Environment: Saemangeum Wetlands
(Question No. 385)

Senator Brown asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 18 June 2002:

With reference to the Saemangeum wetland reclamation proposal in South Korea:

(1) Is it the case that the reclaimed land is to be used for industrial development and farmland, not housing.
(2) Is the proposed migratory birds agreement between South Korea and Australia a treaty similar to those between Australia and Japan and Australia and China; if not, what form will it take.
(3) How significant are the Saemangeum wetlands to Korea, the Yellow Sea and the Australasian-East Asian flyway and to Australia’s migratory birds.
(4) (a) Is the Minister aware that Hyundai is the main contractor for the reclamation project which is destroying the wetlands; and (b) has the Minister had any contact with Hyundai Australia to express concerns.
(5) Will the Minister ensure that the Saemangeum wetlands are protected as part of any migratory birds agreement negotiated between Australia and South Korea.
(6) What other action will the Minister take to help ensure that Saemangeum is protected, including through the Ramsar Treaty.

Senator Hill—The Minister representing the Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

(1) I understand that the reclaimed land is planned to be largely used for agriculture.
(2) It is envisaged that the migratory bird agreement is likely to be similar to Japan-Australia and China-Australia Migratory Bird Agreements.
(3) I cannot comment on the significance of the Saemangeum wetlands to Korea: this is a matter for the government and people of Korea.

In regard to their importance to migratory species from other areas, the Saemangeum site supports up to 250,000 shorebirds each year. The wetlands are also an important staging site for several species of globally threatened waterbirds.

The Saemangeum wetlands have been identified as an internationally significant staging site for migratory shorebirds in the East Asian-Australasian Flyway, including those that spend the non-breeding season in Australia. Of the 50 species of migratory shorebirds which traverse the East Asian-Australasian Flyway to and from Australia, twelve species (24%) are known to use the wetlands of South Korea, including Saemangeum.

(4) (a) I have been informed that Hyundai is the main contractor.
(b) No. Australia has made representations directly to the Government of Korea. Australian officials have raised our concerns directly with the Korean Ministry of the Environment.
(5) The conclusion of an agreement will provide a framework for closer dialogue on the protection of important habitat in our two countries.
(6) Australia has supported action taken by the Ramsar Bureau which has expressed its concerns about the impacts of the Saemangeum project to the Government of Korea. The conclusion of an agreement will facilitate dialogue between Australia and Korea on the conservation of migratory shorebirds and their habitat.

Environment: Priorities
(Question No. 387)

Senator Brown asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 18 June 2002:

(1) (a) On what basis did the Minister decide that oceans, national governance and sustainable land management are the key issues for Australia; and (b) what is meant by ‘national governance’.
(2) Will the government oppose water privatisation, including through the GATS agreement.
(3) Will the Government support setting targets and timetables for a substantial global shift to renewable energy sources.
(4) Will the Government support the creation of an independent international renewable energy agency.
(5) (a) What environmental treaties has the Government signed but not ratified and (b) when will they be ratified.
(6) Will the Government support placing international environmental and social rules ahead of trade rules, with the final power of arbitration transferred from the World Trade Organisation to an independent international court.
(7) Will the Government support the creation of an international legal framework for corporate social and environmental responsibility and accountability of private corporations.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

(1) (a) The agenda for the World Summit on Sustainable Development covers a very broad range of issues. In determining Australia’s priorities, consideration was given to the important sustainable development issues which Australia could make a positive and strategic impact in inter-
national debate. Our success in ensuring in particular that oceans management receives appropriate attention has been widely acclaimed.

(b) National governance is the exercise of power or authority – political, economic, administrative or otherwise – to manage a country’s resources and affairs. Good national governance means competent management of a country’s resources and affairs in a manner that is open, transparent, accountable, equitable and responsive to people’s needs. It includes the creation of domestic policy settings that are supportive and conducive to strengthening law and justice systems; increasing public sector effectiveness; and developing civil society.

(2) Responsibility for regulation of the allocation and use of water in Australia vests with the States and Territories. In 1994, the Council of Australian Government (CoAG) agreed on a National Water Reform Framework to achieve an efficient and sustainable water industry, including through a comprehensive system of water allocations, backed by separation of water property rights from land title, provision of water for the environment, and the adoption of pricing regimes based on full cost recovery. The GATS treaty features no mandatory obligation for governments to privatise or open up public service to competition and it does not dictate any specific role for the public and private sectors.

(3) Australia has opposed this proposal in preparatory meetings of the WSSD believing it to be inappropriate and impractical. Future positions will be determined in the context of the negotiations as a whole on this issue and other issues under discussion.

(4) Australia has resisted proposals for new institutions in preparatory meetings of the WSSD, on the grounds that existing institutions are adequate for the purposes envisaged. Future positions will be determined in the context of the negotiations as a whole, on this issue and other issues under discussion.


(b) There is no timetable for the ratification of the Rotterdam Convention or Stockholm Convention. Australia will not be ratifying the Kyoto Protocol unless and until it is demonstrated that it is in Australia’s interest to do so. At present, it is not in the national interest to ratify the Protocol because there is as yet no clear pathway for emissions control commitments by key developing countries under the Kyoto process.

(6) The World Trade Organisation provides for a dispute settlement system between its members with regard to the interpretation of WTO rules only. Multilateral environmental agreements also contain provisions for their parties to resolve any differences. Current international trade and environmental and social rules can all be implemented in a mutually supportive manner. The Government does not believe that the present situation needs to be changed.

(7) No.

**Agriculture: Wool Industry**

*Question No. 454*

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 11 July 2002:

(1) What is the total quantum of Commonwealth funding expended on the project to develop the Optim fibre.

(2) Does the Commonwealth expect to recoup its investment in Optim fibre; if so, over what period of time.

(3) What is the quantum of investment provided to the project by Woolmark.

(4) What modelling has been done to ensure that Optim will not ‘cannibalise’ the traditional domestic and international markets of traditionally-grown and harvested Australian wool.

(5) What is the quantum of international marketing support to be provided by the Commonwealth to the Optim project for each of the next 5 financial years.

(6) What is the quantum of domestic marketing support to be provided by the Commonwealth to the Optim project for each of the next 5 financial years.
(7) What is the quantum of international marketing support to be provided by the Commonwealth to the traditionally-grown and harvested wool industry for each of the next 5 financial years.

(8) What is the quantum of domestic marketing support to be provided by the Commonwealth to the traditionally-grown and harvested wool industry for each of the next 5 financial years.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) The Department of Agriculture, Fisheries and Forestry – Australia (the Department), has reviewed annual reports of Australian Wool Research and Promotion Organisation (AWRAP) (prior to 1 January when it was privatised) to ascertain the level of its overall expenditure on the development of Optim. Annual reports from 1997-98 to December 2000 record approximately $3.4 million as having been spent on Optim. This figure includes research and development, overseas technology transfer and commercialisation options.

Since the privatisation of AWRAP, the Department understands that a total of $1.895 million has been spent by The Woolmark Company on Optim from funds accumulated from wool tax payments made by woolgrowers prior to the AWRAP privatisation. They have not attracted any Commonwealth matching contributions since the privatisation. Therefore, the only Commonwealth contribution to the development of Optim would have occurred prior to the AWRAP privatisation.

(2) The Commonwealth’s contribution to research and development in agricultural industries is through the application of compulsory statutory levies and a matching R&D grant system. The Government relies heavily on the judgement of the Boards of statutory funding organisations that the returns from R&D outcomes (in this case Optim) lead to a more competitive, profitable and sustainable industry.

The Woolmark Company has advised the Department that it expects to recoup woolgrower investment in Optim on behalf of shareholders within a 4 to 5 year period from privatisation on 1 January 2001.

(3) As The Woolmark Company is a private company, decisions made in relation to Optim and its other projects are of a commercial nature and do not involve the Commonwealth. The Government does not provide direct levy funds to The Woolmark Company, only to AWI, now a separate company from Australian Wool Services Limited (AWS) and its subsidiaries.

(4) The Woolmark Company has advised the Department that extensive market analysis has been done on the potential of Optim. However, it should be noted that Optim is a “new” fibre, not just stretched wool. It has distinctive characteristics and physical structure that distinguishes it from similar micron wool. It is much closer to cashmere in these characteristics. The Woolmark Company does not consider that Optim will in any way cannibalise the market for superfine wool. Indeed, the company believes it will open up the luxury fibre market by increasing competition in that sphere and also increasing the critical mass of non-cashmere fibre that can be used on that sector.

(5) and (6) The Commonwealth does not envisage providing international or domestic market support for the Optim project.

(7) and (8) Under current wool industry arrangements, no excise levy or customs charge revenue is raised specifically for marketing. The Government’s approach is that this is a matter for individual levy payers and the board of AWI to determine.