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

PETITIONS

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

**General Agreement on Trade in Services**

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

The Petition of the undersigned shows our concern that:

(a) all “requests” under the General Agreement on Trade in Services (GATS) must be lodged by 30 June 2002;
(b) formal offers must be concluded by March 2003;
(c) the Australian Government has so far not revealed what it proposes to put on the table at GATS;
(d) our democracy and the future of our public services are under threat from other countries which are pressuring Australia to open up telecommunications, postal services, water supply, health and education services, banking and the professions to foreign corporations, and to accelerate privatisation.

Your petitioners respectfully ask that the Senate urgently request the Australian Government to publicly release all demands and concessions it proposes to make to other countries for opening up trade in services as part of negotiations on a new General Agreement on Trade in Services (GATS).

by Senator Cherry (from 60 citizens)

**Foreign Affairs: Iraq**

To the Honourable the President and Members of the Senate in Parliament assembled. The Petition of the undersigned calls on the Australian Government to publically release all demands and concessions it proposes to make to other countries for opening up trade in services as part of negotiations on a new General Agreement on Trade in Services (GATS).

by Senator Cherry (from 60 citizens)

**Workplace Relations: Paid Maternity Leave**

To the Honourable the President and Members of the Senate in Parliament assembled. The Petition of the undersigned shows:

• Our concern that Australia is now one of only two OECD countries without a national scheme of paid maternity leave;
• Our concern about the two-thirds of Australian working women who currently lack any paid support on the birth of a child;
• Our strong support for the adoption of a national scheme of paid maternity leave for Australian working women at the earliest opportunity;
• Our belief that paid maternity leave is an employment-related measure that recognises, first and foremost, the benefits of at least 14 weeks paid leave for working mothers, their children and their families, along with its contribution to equal opportunity at work, productivity, and women’s employment security and attachment.

Your Petitioners request that the Senate should at the earliest opportunity pass legislation to provide a national system of paid maternity leave which recognises the principles of ILO Convention 183, and provides at least a 14 week payment for working women at the level of their normal earnings (or at least at the minimum wage), with minimal exclusions of any class of women, and a significant contribution from Government.

by Senator Stott Despoja (from 20 citizens)

Petitions received.

NOTICES

Presentation

Senator Brown to move on the next day of sitting:

That the Senate calls on the Government of Indonesia to ensure the swift release and, if necessary, repatriation of Lesley McCulloch and her party, now detained in Aceh.

Senator Allison to move on the next day of sitting:

That there be laid on the table by the Minister representing the Minister for the Environment and Heritage, no later than 5 pm on Wednesday, 25 September 2002, the following:
(a) the further studies, ordered by Senator Hill on 1 February 2001 to be conducted by the proponent of the Honeymoon trial mine, on ground water and waste disposal issues;
(b) the independent reviews of these further studies ordered by Environment Australia;
(c) the Honeymoon trial mine reports for 1998 to 2000, as reported to the South Australian Government by the proponent;
(d) the evidence of ground water monitoring and waste disposal records from the trial mine; and
(e) any South Australian Government reporting to the Federal Government on the trial mine.

Senator Conroy to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Trade Practices Act 1974 to give the Australian Competition and Consumer Commission power to deal with any price exploitation arising from changes in the law in relation to public liability, and for related purposes.


Senator Conroy to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Corporations Act 2001 to improve corporate governance, and for related purposes.

Corporations Amendment (Improving Corporate Governance) Bill 2002.

Senator Conroy to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to amend the Trade Practices Act 1974 to give the Australian Competition and Consumer Commission power to deal with any price exploitation arising from changes in the regulation of credit card fees, and for related purposes.

Trade Practices Amendment (Credit Card Reform) Bill 2002.

Senator Tierney to move on the next day of sitting:

That the Senate—

(a) deplores comments made in the New South Wales Parliament on Tuesday, 17 September 2002, by the State Minister for Education and Training (Mr Watkins), which misrepresented the future direction of universities in Australia, in particular the role of rural and regional universities;
(b) notes that the Minister for Education, Science and Training (Dr Nelson) has put on the record that regional universities will not be disadvantaged by the current reform process;
(c) further notes that the Federal Minister told all state education ministers, including Mr Watkins, in July 2002 that Australia would not be returning to second tier, teaching-only, higher education institutions; and
(d) congratulates the Federal Minister for his comprehensive and inclusive review of higher education in Australia.

BUSINESS

Rearrangement

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.31 a.m.)—I move:

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

No. 9 Customs Legislation Amendment Bill (No. 1) 2002
Import Processing Charges (Amendment and Repeal) Bill 2002

No. 10 Plant Health Australia (Plant Industries) Funding Bill 2002

Question agreed to.

Rearrangement

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.32 a.m.)—I move:

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

(1) general business notice of motion No. 165 standing in the name of Senator Mackay relating to the government’s inquiry into regional telecommunications services; and
(2) consideration of government documents.

Question agreed to.

Rearrangement

Senator FERRIS (South Australia) (9.32 a.m.)—by leave—At the request of the Chair of the Finance and Public Administration Legislation Committee, Senator Mason, I move:
That 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 postponed to a later hour of the day.

Question agreed to.

LEAVE OF ABSENCE

Senator FERRIS (South Australia) (9.33 a.m.)—by leave—I move:
That leave of absence be granted to Senator Heffernan for the period 23 to 26 September 2002 inclusive, on account of parliamentary business overseas.

Question agreed to.

NOTICES

Postponement

Items of business were postponed as follows:

General business notice of motion no. 162 standing in the name of Senator Stott Despoja for today, relating to the meeting of Commonwealth leaders on Zimbabwe, postponed till 23 September 2002.

General business notice of motion no. 164 standing in the name of Senator Allison for today, relating to the sponsorship of drug education programs in Asia by tobacco companies, postponed till 23 September 2002.

KYOTO PROTOCOL (RATIFICATION) BILL 2002

First Reading

Senator BROWN (Tasmania) (9.34 a.m.)—I move:
That the following bill be introduced: A Bill for an Act to ratify the Kyoto Protocol to the United Nations Framework Convention on Climate Change.

Question agreed to.

Senator BROWN (Tasmania) (9.34 a.m.)—I move:
That this bill be now read a second time.

Second Reading

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

Leave granted.

The speech read as follows—

The Kyoto Protocol will not save the world’s climate. It is the first step, which demonstrates the willingness of the world’s nations to acknowledge the threat of global warming and to form a global alliance in response. Australia and the United States, the highest per capita greenhouse gas polluters in the world, stand isolated in refusing to accept their responsibility to ratify the Protocol.

The Labor Party supports ratification and the state Labor government of NSW is prepared to go it alone. A growing number of businesses support ratification, including British Petroleum whose Australasian Chief Greg Bourne fears companies will be left in the lurch by the government’s failure (AAP, 5 September 2002). Two hundred and fifty-four Australian economists from all of Australia’s major universities have urged ratification, saying ‘As economists, we believe that global climate change carries with it serious environmental, economic and social risks and that preventive steps are justified (AAP, 14 August 2002). Australia’s Catholic Bishops are calling for ratification—‘We urge the Australian Government to join in solidarity with the other 190 nations of the world who have signed the Kyoto Protocol and to commit the Australian nation to meeting the noble ideals of the Johannesburg Earth Summit’ (Media Release, 13 September 2002). The Australian people overwhelmingly want Kyoto ratified—over 70% in a recent opinion poll conducted by Greenpeace (AAP, 9 July 2002).

This bill requires the Australian government to ratify the Kyoto Protocol within 60 days of it passing the parliament. It is simple. It is necessary. It is overdue. It should be passed.

Senator BROWN—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

PARLIAMENTARY ZONE

Approval of Works

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.35 a.m.)—I move:
That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone, being the construction of external waste enclosures in Commonwealth Place.
Question agreed to.

FOREIGN AFFAIRS: CHINA

Senator BROWN (Tasmania) (9.35 a.m.)—I move:

That the Senate calls on the Government of China to immediately remove the block on the Australian Broadcasting Corporation’s website in China.

Question put:
The Senate divided. [9.40 a.m.]
(The President—Senator the Hon. Paul Calvert)

Ayes…………….. 13
Noes…………….. 41
Majority……… 28

AYES
Allison, L.F. * Bartlett, A.J.J.
Brown, B.J. Cherry, J.C.
Greig, B. Harradine, B.
Harris, L. Lees, M.H.
Murphy, S.M. Murray, A.J.M.
Nettle, K. Ridgeway, A.D.
Stott Despoja, N.

NOES
Bishop, T.M. Brandis, G.H.
Buckland, G. Calvert, P.H.
Campbell, G. Carr, K.J.
Chapman, H.G.P. Colbeck, R.
Collins, J.M.A. Conroy, S.M.
Dennan, K.J. Eggleston, A.
Ellison, C.M. Evans, C.V.
Ferguson, A.B. Ferris, J.M. *
Hill, R.M. Hogg, J.J.
Hutchins, S.P. Johnston, D.
Kemp, C.R. Kirk, L.
Ludwig, I.W. Lundy, K.A.
Mackay, S.M. Marshall, G.
Mason, B.J. McLucas, J.E.
Moore, C. O’Brien, K.W.K.
Payne, M.A. Ray, R.F.
Reid, M.E. Scullion, N.G.
Sherry, N.J. Stephens, U.
Tchen, T. Tierney, J.W.
Watson, J.O.W. Webber, R.
Wong, P.

* denotes teller

Question negatived.

COMMITTEES

Select Committee on Superannuation
Extension of Time

Senator FERRIS (South Australia) (9.44 a.m.)—At the request of Senator Watson, I move:

That the time for the presentation of the report of the Select Committee on Superannuation on the provisions of the Superannuation Legislation Amendment (Choice of Superannuation Funds) Bill 2002 be extended to 16 October 2002.

Question agreed to.

Legal and Constitutional Legislation Committee
Extension of Time

Senator FERRIS (South Australia) (9.44 a.m.)—At the request of 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 24 October 2002.

Question agreed to.

WESTERN AUSTRALIA: SEXUALITY DISCRIMINATION LEGISLATION

Senator GREIG (Western Australia) (9.44 a.m.)—as amended, by leave—I move the motion as amended:

That the Senate—

(a) notes that the Western Australian Acts Amendment (Lesbian and Gay Law Reform) Act 2002 is expected to be proclaimed on Friday, 20 September 2002, providing comprehensive law reform for gay and lesbian people in that state in a range of areas, including anti-discrimination protections, equal age of consent, parenting rights and responsibilities, and partnership recognition;

(b) congratulates the Parliament and people of Western Australia for advancing the human rights of its citizen;

(c) notes that similar legislation now exists, to varying degrees, in most states and territories;

(d) recognises that sexuality anti-discrimination laws and same-sex partnership recognition does not exist in any adequate or comprehensive way in
Australia’s federal jurisdiction, and that redressing this will require Commonwealth legislation; and
(e) calls on the Government to initiate or support the passage of necessary legislation to end sexuality discrimination in Commonwealth law.
Question, as amended, agreed to.

BUDGET
Consideration by Legislation Committee
Additional Information

Senator FERRIS (South Australia) (9.45 a.m.)—On behalf of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I present additional information received by the committee relating to hearings on budget estimates for 2002-03.

COMMITTEES
Foreign Affairs, Defence and Trade References Committee

Reference

Senator BARTLETT (Queensland) (9.47 a.m.)—I move:
(1) That the following matter be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report:
All matters related to a possible military attack against Iraq by the United States of America, with particular emphasis on Australia’s potential role.
(2) That the committee call for public submissions and hold public hearings as promptly as possible, with the aim of ensuring as much information as possible is made available to the Australian public to ensure the most comprehensive and informed public debate on the matter can occur.
(3) That the committee report to the Senate at a time, or times, and in a form it deems to be appropriate, taking into account any local or international developments, as long as a report is presented by 13 December 2002.

This motion has been on the Notice Paper for a little over a month. The motion attempts to refer the issue of possible military attack against Iraq to a specialist Senate committee—the Foreign Affairs, Defence and Trade References Committee. The intention of this is fairly self-evident: the committee will try to look at all matters relating to a possible military attack against Iraq, with particular emphasis on Australia’s role.

The Democrats have been attempting to play a constructive role in this debate whilst also putting our own views very firmly in the public arena. It goes back as far as June, when a motion was passed by this chamber calling on the Prime Minister to ensure parliamentary debate on the issue—a request that he subsequently agreed to—with other motions then being put in relation to ruling out a first strike. Again, I think that is a crucial issue which, whilst not being ruled out, has now become less likely with the shift by the Australian government and other governments in an attempt to utilise the United Nations. We had the motions passed by the Senate earlier this week, again highlighting the importance of making the case for any action against Iraq and the importance of utilising the United Nations processes in ensuring that any potential action occurs in accordance with international law. So the Democrats and the Senate more broadly have been active in continuing to try to push this government and the general public debate in as constructive a direction as possible.

What has been absent, though, from the public debate is a broad range of information about all the issues that might need to be taken into consideration. There has been an unwillingness on the part of the government to ensure that those issues are put on the table, and that is why the Democrats have put forward the concept of a Senate committee inquiry. It is not my intention for it to be a Senate committee inquiry which simply enables parties to extract information that reinforces their public positions or to use it for political posturing. The intention really is to enable the information to get out in the public arena: to provide the opportunity for public input on this important matter as well as enable the public display of information from the government’s side of things.

As all senators would know, there are many people in the community who have strong views on this issue and expertise that would not only assist senators and political parties in our approach to this issue but assist the public in having as informed a discussion
and as informed a viewpoint as possible. There are so many issues that have not even been flagged by the government—let alone detailed or outlined. The Democrats believe these issues desperately need to be not just flagged but explored, whether you are talking about getting input from people who have expertise in the history and the politics of the region surrounding Iraq or people who have expertise in the potential military consequences for Australia—how far are our defence forces stretched already; what implications would there be for them; what sort of ongoing role would be required, not just by Australia but by the global community if there were any action against Iraq; would it mean maintaining an ongoing presence on the ground, such as there has been since the 1991 Gulf War in various ways? Let us not forget that there are still UK and US military personnel patrolling a no-fly zone over a large proportion of the country. There are still bombings occurring of various facilities in Iraq; there have been 30 or 40 alone in this year so far. How much ongoing requirement would there be for a presence on the ground in that region if there were an escalation of military involvement?

We need to hear the views from the veterans community. The very important point is that there are many issues relating to current veterans that are not being adequately addressed, yet our government is openly talking about creating a whole new generation of veterans that have been engaged in military action overseas. We need to hear the views from organisations like the RSL who have been very sceptical publicly about what is being proposed. Those groups are obviously able to contribute to public debate in general, but to have it through a formalised process—the widely recognised and respected process of a Senate committee inquiry—would not just give extra weight to those views but provide an appropriate forum for them to be displayed and for them to be considered by the parliament as well as the public.

What has been requested repeatedly by the Democrats and others is that we have a parliamentary debate and vote on the potential committing of Australian military personnel or Australian facilities, prior to any decision being made by this government. That is an issue that has been repeatedly dodged by government ministers when the question has been put to them, although I note that Senator Ferguson yesterday indicated to this chamber that there would be a debate and a vote prior to any decision being made. I hope that his power and influence in the coalition ensures that that will occur. If we are to have a debate and a vote—which the Democrats will continue to push for—then it should be as informed a debate as possible. A committee inquiry or examination would enable that debate and that vote to be as informed as possible.

Again, I repeat the Democrats’ call that any vote on that issue be a conscience vote amongst all parties because it is an issue that I think should be examined by parliamentarians in that context. You do not get many more important issues than whether or not to commit a country to military involvement against another. I think the case for having a more informed public debate has basically been won in the public arena. There is no doubt that there is a large degree of public scepticism, of public opposition, to unilateral action and to a first strike. The sorts of concerns that the Democrats and others have been putting forward for three or more months now mirror the concerns in the Australian community. The government’s slow move back from its sabre-rattling rhetoric—particularly from the Minister for Foreign Affairs—has been in response to that public opinion. In that sense, the argument about the need for putting the case on the table, for getting all the issues out in the public arena, has basically been won. The only trouble is that the government is still refusing to do it. Agreeing to this reference would enable that to happen, regardless of the recalcitrance or willingness of the government. We would not all be sitting back and continuing to rely on pressuring the Prime Minister to enter the debate and to put issues on the table, which is basically where we are at at the moment.

The Senate, all parties and the public have been continuing to call on the Prime Minister to put the case on the table, to outline the evidence, to put all the different issues out in the public arena. There have been some
small successes with that. We have had the statement by the foreign affairs minister this week, but that was pretty widely acknowledged as being only a very small first step, and it contained a lot of information that was already widely known. This motion would enable the Senate and the public to set the agenda and to get moving on that issue, rather than just all sitting back and continuing to hassle the Prime Minister and the coalition on it. By refusing to support this motion, that is basically what we would be doing. We would be sending a message saying: ‘We will leave the running of this debate completely in the hands of the Prime Minister. We will leave it to him to decide when he speaks, how much information he provides, what sorts of details he will put out to the public, what sorts of issues he wants to use to frame the debate.’ We would basically be saying, ‘We will leave it to Mr Howard.’ We might continue to provide advice or suggestions, or to pressure him strongly about what we would like him to do, but we would basically be in his hands. If we support this motion, then we put the Australian people and the parliament on the front foot in getting the issue out in the public arena and getting the debate covering all the issues that need to be examined.

It is important to emphasise that this proposal by the Democrats, in my name, is not simply an attempt to have a politicised Senate inquiry where we can get people along who will make statements that we can then use to reinforce our position. We do not need a Senate inquiry for that—not from the Democrats’ point of view, anyway. Our position has been strong and clear about what we would like him to do, but we would basically be in his hands. If we support this motion, then we put the Australian people and the parliament on the front foot in getting the issue out in the public arena and getting the debate covering all the issues that need to be examined.

We have had this issue on the Notice Paper for over a month because it has been the aim of Democrats to try to get consensus on it, whether that be in relation to the terms of reference or that it should go to a different committee. It has been the Democrats’ view all along that any examination of this issue should be by a committee that has specialist expertise in the defence area. That is why we were not supportive of setting up a brand new committee from scratch. Whether it is this committee or the Joint Standing Committee on Foreign Affairs, Defence and Trade really is of no concern to me; the issue of concern to me is that there be an opportunity to get the issues out on the table. Similarly, the terms of reference have been up for consideration for over a month. Again, it does not particularly worry me if they are amended or modified in some way, as long as the process is initiated to enable setting the agenda on this issue, rather than all of us—parliament and public alike—sitting back and just putting ourselves in the hands of the Prime Minister as to how he wants to frame the debate.

It is certainly the Democrats’ intention that this be an opportunity and a mechanism for getting the issues into the public arena, for having all the many different potential consequences of military action against Iraq, and of Australia’s potential involvement in it, out on the table. There are issues that have barely been acknowledged, including even the issue of our own region and stability in our own region. We have the world’s largest Muslim nation, Indonesia, as a neighbour, of course, and it is no secret that the government there and the Indonesian society are having extra difficulties with some of the extremist fundamentalist elements that are adding to instability in that country. A full-blown war against Iraq could well have significant implications for stability just in Indonesia alone. That obviously would have big consequences for Australia. That whole issue is not even being acknowledged, let alone examined. Those sorts of things really need to be put clearly and firmly on the public agenda and in the public arena. That is what this motion is about. That is what this proposal for referral is about.

We have had this issue on the Notice Paper for over a month because it has been the aim of Democrats to try to get consensus on it, whether that be in relation to the terms of reference or that it should go to a different committee. It has been the Democrats’ view all along that any examination of this issue should be by a committee that has specialist expertise in the defence area. That is why we were not supportive of setting up a brand new committee from scratch. Whether it is this committee or the Joint Standing Committee on Foreign Affairs, Defence and Trade really is of no concern to me; the issue of concern to me is that there be an opportunity to get the issues out on the table.

Similarly, the terms of reference have been up for consideration for over a month. Again, it does not particularly worry me if they are amended or modified in some way, as long as the process is initiated to enable
better public discussion, consideration and awareness of the range of issues. That is what this motion is all about. One of the key concerns repeatedly expressed by the public, by organisations and by most political parties has been that the issues have not been put out firmly on the table. We have had limited debate and engagement from the government and from the leadership of this country on what is a key issue. We all know that, whether we like it or not—and the Democrats do not—if the United States at any stage decide to engage in military action, they will ask for Australia’s support, and everybody knows that this government will give it, whether we like it or not.

There is no doubt that, should the US choose to act, Australia will be involved. The government may continue to say, ‘That is a hypothetical point. We won’t discuss that; we won’t respond to that until and if we are asked.’ But the whole of the Australian public knows that, if the US go in, they will ask Australia for support and the Australian government will give it. Many Australians will not support that, but that is what this government will do. It is within their right to do that, of course, even if it is not supported by the Democrats or others. So we need to have the debate and the issues examined in advance. There is no point in saying, ‘We’ll wait and see what happens and then we’ll have a debate afterwards.’ By then it will be too late. As soon as the US decide to do something in relation to Iraq, the inevitable consequence will be Australian government support and involvement.

So we have to have the debate now; we have to have the issues out on the table now. If the government believe they have a sound case, it is in their interests to outline that to the public in advance. They might even change the public’s view, which is currently clearly and firmly against Australian involvement in an attack on Iraq without UN ratification. Maybe the government can change the public’s mind. They will certainly need to; it would be particularly appalling in the view of the Democrats if our armed forces were required by this government to enter into a conflict that is not supported by the Australian public. Our armed forces will go where they are sent, as is their duty. They will perform their job well, I am sure. But they do not deserve to be sent to engage in military activity in a conflict that is not supported by the Australian public. They deserve to have the reasons why they would be going into such a conflict made clear and to be publicly available to the Australian people, and their families deserve that even more.

I think the reasons why it is so crucial to have proper public examination of these issues are manifestly clear. They are many and they are indisputable. All that is required is to set a process in train. We cannot just continue to sit back and wait and pressure the Prime Minister to do more about making that debate happen, because we know that he will do what is in his political interests first and foremost. Our duty is to do what is in the public’s interest first and foremost—that is, to get a clear and proper examination of the issues, to get them out on the table and to have other people involved in setting the agenda, not to just sit back and let occasional leaks of satellite photographs be splashed on the front pages of the tabloids and influence public opinion by that sort of usual nationalistic propaganda.

Let us have a proper debate about what is an important issue. It is about time that issues of military engagement and global conflict were properly examined and debated in advance rather than being manipulated by the usual tired tricks of public opinion manipulation and nationalistic propaganda. This is a mechanism for doing that. I can certainly commit on behalf of the Democrats that any inquiry such as this would not be run as part of a separate counterpropaganda operation. My interest in pushing this proposal is to enable the public in particular, and the many organisations and experts, to have the opportunity for input and the opportunity to assist in shaping public debate. The Democrats and others in this chamber have ample opportunity to attempt to shape the public debate as we wish via this chamber and the platforms that we have available to us as members of parliament. We do not need a Senate inquiry to do that, but the public needs the opportunity and the organisations
and various people with expertise, concerns and views from all sides of the debate need to have that opportunity.

In the view of the Democrats it would be a tragedy if that opportunity were not provided, if we were to simply sit back and allow the Prime Minister to set the agenda and to shape the debate. That is what we will be doing if we do not support this approach or one that is similar to it. As always, I am open to other views, but to simply abrogate our responsibilities and sit back and continue to use political means to pressure the Prime Minister would be a poor option and one that would not serve the public of Australia well.

Senator Hill (South Australia—Leader of the Government in the Senate) (10.07 a.m.)—The government supports broad based public debate on matters of national interest and, in particular, matters of Australia’s national security. On the issue of Iraq and the threat posed by Iraq’s program of weapons of mass destruction, the government has encouraged and facilitated debate during the course of this week. It did so by putting down a comprehensive statement on these issues on Tuesday and encouraging debate in both chambers. As I understand it, all senators who wished to participate in this place had the opportunity to do so. In the other place the debate is still continuing, and a large number of the members of the House of Representatives have participated.

There is no issue here of one party wanting a discussion of the issues and others, in effect, holding a different view. But the tactic that is being adopted today to refer the specific question to a Senate committee is not, in the government’s view, designed to encourage and support that broad based public debate. One need only look at the terms of reference that have been presented by the Australian Democrats to see that is in fact the case. It is a limited reference that relates solely to the question of matters related to a military response by the United States, possibly with the support of Australia, to this threat. The motion, in the terms in which it has been drawn up by the Australian Democrats, does not look at all at the threat. It does not look at the weapons program of Saddam Hussein. It does not look at how he has used those weapons in the past against his own people. It does not look at the record of his regime in terms of its continuing human rights abuses and its invasion of other countries. It does not seek to assess the threat in any way. So, in those terms, it is clear that it is not a debate on how the international community should be responding to this particular situation created by Saddam Hussein and his continued refusal to meet the requirements of the Security Council and his continued breaches of many of its resolutions. It is in fact a thinly disguised inquiry for purposes of America bashing and trying to win a few short-term political points against the government.

In those circumstances, we cannot see that it would serve any public interest at all. Added to that—and emphasising the point—it is wholly hypothetical. The motion refers to all matters related to a ‘possible military attack’. How can one debate all matters related to a possible military attack when there has been no decision by the United States to take military action? One can have no real understanding of the nature of the military response and the consequences that would flow from that. Any debate of that type is clearly premature.

We would say, firstly, because it is hypothetical, secondly, because it does not address the totality of the issue and in fact does not address the primary issue that we should be concentrating on at the moment—which is how the international community can effectively respond to this weapons program in order to reduce or remove the threat—that we do not think such an inquiry will serve any worthwhile purpose and we would not therefore be prepared to support it.

What we have indicated is that we believe the focus and emphasis at the moment should be on encouraging the international community collectively, through the United Nations and the Security Council, in particular, to respond effectively to the threat—to take such action through its resolutions and to authorise such actions as are necessary to remove the threat. That is where we believe the Australian parliament and the Australian government can and should be concentrating their efforts. We would also respectfully sug-
gest that the Australian Democrats could possibly be contributing to that as well. If they did so, they would be serving a more useful purpose.

In the event of a failure of that United Nations system to effectively respond to this threat, it does raise other important issues that would need to be debated at that time, and we do not shy away from that. If, unfortunately, it does get to the situation—and it is certainly not one that we would wish to see—that the only remaining effective response is a military response and the United States decides to take such action and requests Australia’s support, the Prime Minister has indicated that, in the event of Australia agreeing to such a request, he would bring that decision to the parliament and seek, in effect, the parliament’s support in the same way that Labor Prime Minister Bob Hawke did before the Gulf War just over a decade ago. If it unfortunately reached that circumstance, the parliament would be again brought within the process in the way that has become the precedent for our Australian system. In those circumstances, whilst not wanting to shy away from debate—in fact, rather preferring to encourage debate on these issues—the government feels that it is unable to support this proposal by the Australian Democrats.

Senator CHRIS EVANS (Western Australia) (10.14 a.m.)—I rise to speak on behalf of the Labor opposition and, in doing so, indicate that we will not be supporting the motion moved by Senator Bartlett on behalf of the Democrats today. While I concur with a lot of what Senator Bartlett has had to say, I think he has missed a couple of crucial developments in recent days. The clear fact that he ought to start with is that the parliament is still debating the question of Iraq, the United Nations responses and the threat of war in Iraq. In a sense, we have moved on from when Senator Bartlett first considered having a committee of the parliament inquire into these issues. Labor has been successful in getting some of our objectives met. We have had developments which have seen the government finally agree to a proper debate in the parliament. That has been a very good thing. We have had a good debate in the Senate and there has been a good debate in the House of Representatives. This is by no means the end of the process of discussion in the Australian community, but it has been important that the parliament has engaged.

In a sense, all of those three issues have come to a head in the last few days. We have moved on from when Senator Bartlett first considered having a committee of the parliament inquire into these issues. Labor has been successful in getting some of our objectives met. We have had developments which have seen the government finally agree to a proper debate in the parliament. That has been a very good thing. We have had a good debate in the Senate and there has been a good debate in the House of Representatives. This is by no means the end of the process of discussion in the Australian community, but it has been important that the parliament has engaged.

It has been a really good debate. The contributions from both chambers have focused on different aspects of the dilemmas and have engaged in the issues in a very constructive way. In that sense, they reflect the broader Australian community, who have also engaged in this issue in the last few months in a very real way. There is a lot of interest, engagement and debate in the Australian community about these issues and people are very well informed about them. The government made the mistake of underestimating the Australian people’s interest and involvement in these issues and has been forced to come back and treat them with more respect, because they do have intelligent, well-formed views.

My main point today is to stress that Labor argued for a UN-led solution. We argued
for a parliamentary debate and we have argued for the government to present any new evidence on Iraq. In the last few days we have had a decision by the United Nations to engage in these issues. We have had the offer by Iraq to let the weapons inspectors back in. While we all treat that with some caution, it is a very important development. If you like, the committee that is now considering this issue is the United Nations Security Council; perhaps the most powerful committee in the world is actually engaged in this issue. That is clearly what Labor has argued for months now—that the UN ought to engage. That is a very important development.

We have had the parliamentary debate and we have had assurances about further debate if any decision about military action is contemplated. I think we have had the answer to the question of whether or not the government have any new evidence—clearly, they do not. They had the opportunity in this debate to provide new evidence and they have not provided that evidence. I think it has been important for people’s understanding of the issue that, in fact, the government were not able to produce any new evidence about developments in Iraq.

We are now in a position where the Labor Party feels that it is not appropriate at this stage to support a committee inquiry because, in a sense, the debate has moved on. We have had engagement by the parliament, we have got engagement by the United Nations and the Security Council and we are in a fairly fast-moving stage in terms of developments. We do not see any real benefit in the committee engaging at this stage in an inquiry in the terms suggested by the Democrats.

We do think it is important that the parliament continue to be engaged with the issue. At this very moment, as far as I know, the House of Representatives is still debating the question, so we do have that parliamentary engagement. But much more importantly—quite frankly—we have United Nations engagement with the issue. We have the United Nations seriously dealing with the threat of Iraq and seriously dealing with engaging with the US about how we respond as an international community to those issues. So in all those respects, it seems to me that there is no need to support the inquiry in the terms moved by Senator Bartlett at this stage. I agree with his arguments in terms of public debate, but I suggest to him that that is actually occurring. We have seen a range of groups, including the RSL and others, out there in the public debate. There is a very broad public debate occurring and I do not see any great advantage in the Senate committee looking to try and manage that at the moment.

So, based on the fact that we have had a range of developments, we have got the UN engaged and we have engaged the parliament in a debate, Labor is not at this stage inclined to support the committee reference, but we will continue to argue for ongoing parliamentary focus. We will encourage the Joint Foreign Affairs, Defence and Trade Committee to use its charter to take an interest in the issues, as I am sure it will, and we will continue to argue for the role of parliament in debating developments as they occur and continue to pressure the government to provide to the parliament and the Australian people any evidence that they say justifies Australian military involvement.

While I am on my feet I want to respond to an article in the Sydney Morning Herald this morning. I do not usually do this and I would not have except for the fact that I have the opportunity in this debate. The headline in the paper this morning on page 4 says, ‘Labor changes course on Iraq attack’. I want to put it on the record that that is clearly not right. There was some attempt to compare what one of our members in the lower house, Daryl Melham, the member for Banks, said and what I said in the Senate in relation to our commitment.

Senator Jacinta Collins—Who wrote that tripe?

Senator CHRIS EVANS—I think the author was Tom Allard. I put it on the record that there has been no change in Labor’s position; we have argued the same position since April this year. We have always argued for UN processes and diplomacy first. What we have said in terms of a UN-led military commitment to involvement in Iraq is that the capability of the Australian defence
forces would mean that we would be involved in a fairly limited or niche way in terms of any contribution we made.

The point we have always tried to make is that that is because we are stretched at the moment. We have a very large military commitment overseas—the largest for Australia since the Vietnam War. In the Senate yesterday, I tried to engender debate about some of those issues—what the reality of Australia’s contribution would be; what our current commitment is—and also to put them in the context of our strategic interests. We have very keen strategic interests much closer to home than Iraq or Afghanistan that are being neglected at the moment. Australia has very real interests in the immediate region—New Guinea, the Solomons and Timor—and we ought to be concentrating on those. Even the government’s own defence white paper argues for us to give priority to those issues.

At the moment, we have military engagement in Afghanistan, and there is a discussion about a possible military engagement in Iraq. We have to have a serious debate about where Australia’s national interest lies, and I was trying to do that yesterday. I have always encouraged a focus on what Australia’s national interest is, where it lies and how we ought to pursue that national interest. What is clear is that the government is looking at reducing our commitment to Afghanistan. The point I made in the chamber the other day was that that would free up some capacity to be involved in some military involvement in Iraq, if the government of the day chose.

The other thing I want to point out to the Sydney Morning Herald journalist is that the Labor Party will not be determining these things. I am very much aware that we are actually in opposition. In relation to the question of Australia’s capability and what could be applied in the event of a UN-led military involvement in Iraq, it is important that Australians understand what our capabilities are, what our other commitments are and what that means for our own national interest and our interests closer to home. It is fair to say that, while we pursue interests in Afghanistan and potentially Iraq, it does limit our ability to influence issues much closer to home, and people also have to focus on our ongoing commitment to East Timor and stability in that country.

I just wanted to correct the record to indicate that there has been no change in Labor’s position on Iraq. We have always argued for a UN solution. We have argued for diplomacy first. I was commenting on what forces the government may deploy or could possibly deploy in support of any UN-backed military involvement in Iraq. It is fair to say that, if the SAS were withdrawn from Afghanistan towards the end of the year and there were some conflict in Iraq which Australia committed to, there would be a very real prospect that the SAS would be the sort of capability that we might be asked to contribute. That is the point I was making, and I think it is fairly self-evident.

As I said, I wanted to start a broader discussion about Australia’s national interest, about where our interests lie and about the issues that lie closer to home. The other point that I tried to make in my contribution was to raise the issue which Senator Bartlett raised as well—that is, the interests and views of our near neighbours. How this issue is viewed in Indonesia, Malaysia, Singapore et cetera is very important strategically for Australia. I took the opportunity last week to travel to those countries specifically to discuss this issue and the war on terrorism with those governments so I was better informed about their views and perspectives. The other day I tried to raise the issue again, because there is a very different view in those countries. They are seriously concerned that any involvement in Iraq is an attack on Islam rather than an attack on Iraq. We have to understand that and we have to understand the perspective of our neighbours. They have a very different view to us on some of these issues. We need to understand that because it is important to our ongoing relations with them and the ongoing stability of the region. That is another argument for consistency in our approach when dealing with the United Nations and supporting resolutions of the UN. We should not be picking and choosing which particular resolutions we like or our
key allies like; we should be consistently supporting the UN’s endeavours.

I wanted to clarify that issue, given that it appeared in today’s press. The key issue here today is that, while I support much of what Senator Bartlett has said about the need for public debate et cetera, we have been successful in achieving that. The Australian public have engaged in the debate; the parliament is engaged in the debate; and, more importantly, the UN Security Council has now engaged in the debate. The greatest fear we had was of a unilateral response from the United States. The fact that the UN has now engaged in the debate and that the US is now at the UN trying to argue how we as an international community can resolve the issues is the most appropriate solution and the one that we have always argued for. In all those circumstances, as I have discussed with Senator Bartlett privately over recent months—we have been keen to get this debate going—we do not support the need for such a reference at this time. We will continue to pursue the issues in relation to Iraq inside the whole parliament, engaging all senators and members.

Senator BROWN (Tasmania) (10.28 a.m.)—It is a bad democracy day in the Senate. The submission we just heard from the Labor Party compounds that. If you are going to have debate, it should be informed debate. The whole point being missed by the government and the opposition in opposing a Senate inquiry into Iraq and the possibility of war in Iraq is that we should be having that inquiry so that we can inform future debate in this place and we can help inform debate in the nation. When the Labor Party say, ‘No, let’s not be informed, but we need to know more about defence preparedness and so on,’ as Senator Evans just said, they are caught in a contradiction of their own making. Of course we should have a Senate inquiry; of course we should be calling in defence personnel and experts; of course we should be calling in experts on Iraq and Saddam Hussein’s regime; of course we should be seeing what the economic, social, environmental and other impacts will be on the Middle East and the whole world, including our own country, if a war occurs with Iraq.

Let us not shy away from the fact that if there is an attack on Iraq—and the Bush regime seems absolutely determined on that, witness Defense Secretary Rumsfeld’s comments broadcast in Australia this morning—there will be huge loss of life in Iraq and possibly elsewhere in the Middle East. If Australia is to support a UN strike in Iraq it will involve Australians losing their lives, so it is absolutely essential that we have a Senate committee. Just two weeks ago, when Senator Nettle and I moved for the establishment of a special committee to look at this matter, not one senator in this place supported us, not even the Democrats. Now that there is a Democrat motion to have this referred to the Foreign Affairs, Defence and Trade References Committee we support it, but it is obviously going to fail because the opposition does not. The opposition is running scared on this issue—scared of the information that may be gathered in such an inquiry.

There is no other argument. It is specious of Senator Evans to say the debate is nearly over in this place. It is not. We all know that, even though the Prime Minister is not going to allow a decisive vote by the parliament on whether or not Australian personnel should be involved, as he should be doing, he has committed the parliament to another debate if and when Australia is involved in a war in Iraq. He has arrogated the right to have Australians involved in a war in Iraq to himself, with no right and no constitutional basis—just a presumption that the executive is the centrepoint of the Australian democratic system. That is not mentioned in the Australian Constitution. The executive is not the centrepoint; this parliament is. This parliament should be making the determination, and when that time comes it should be informed. What the Labor Party and the government are saying is, ‘No, let us not be informed.’ We can have a Senate inquiry into a whole range of things to do with political parties, to do with funding, to do with issues affecting even single persons in the Australian community, but when it comes to an inquiry into an impending invasion of Iraq or the alternatives to that, the Labor Party joins the government, saying, ‘We won’t have one; we’re going to block it.’
That is undermining the very fundamental of democracy, that you must be informed if you are going to be able to vote wisely. We, as representatives, should take up the responsibility to be informed. It is hollow arrogance to say that we know, from what we read in the newspapers or what we hear on the airwaves, what the Australian people are thinking or the right thing to do in this very complex issue. What I do know is that there are experts who can inform us. The Senate committee and inquiry system is an extraordinarily good one, but the Labor Party and the coalition are saying that, while it is good enough for the United States to be holding a congressional inquiry into this matter, here in Australia we are going to stick our head in the sand. Or, they want to be able to make political decisions on this and the fundamental information which should guide that decision making process might get in the way of their making such decisions. I notice that Senator Evans said:

The greatest fear we had was of a US unilateral response...

Why doesn’t the Labor Party put that fear to bed? The Labor Party has still opened the way to supporting a unilateral US response, which means a US invasion. Make no mistake about it, that is what is coming down the line. George Bush is determined. He does not have the wit or the wisdom to see what a dangerous course of action that is, to see that it is internationally illegal and that it is adventurism that potentially will have huge consequential costs. We all know that there is a matter of imperial pride and of oil driving the White House on this. We all know that after 1998, when the UN authorities withdrew from Iraq, Washington did nothing to insist that those inspectors go back in there or put pressure through the United Nations on Saddam Hussein. We all know that this is a reaction to September 11, even though there is no hard evidence of any connection between Saddam Hussein and the events of September 11. We all know that this is a misguided venture if it leads to war in Iraq. The consequences are unthinkable. They are huge. They involve a massive loss of life to Iraqi civilians who have suffered and tens of thousands of whom have died under the ruthless, brutal regime of Saddam Hussein.

The Labor Party should do better. It should join the Greens in saying this country ought not be involved in an adventurous war into Iraq. The Labor Party should make it clear that it is opposed to Australian involvement in a war in Iraq. It is absolutely being driven because of US interests, not because of global interests. It is being driven because of US interests in oil in the Middle East, not in the interests of peace around the world. The government has said that it always encourages debate—what about informed debate? Senator Hill, who has now left the chamber, said that this motion is not designed to encourage debate. He is wrong on that score. He then took the point that the debate does not specifically involve—although it clearly and inherently involves—an investigation into the situation in Iraq and anything to do with the Saddam Hussein regime. To cover that point I will move that after the words ‘related to’ in Senator Bartlett’s excellent motion we insert the words ‘Saddam Hussein’s regime, UN resolutions and action’ so that those matters are specifically named in this motion and the government cannot get away with trying to sidestep its responsibility to see that we have a Senate inquiry and that it is properly done.

I move:

After ‘related to’, insert ‘Saddam Hussein’s regime, UN resolutions and action’.

I think the Labor Party should think very carefully through its mistake in opposing this motion, and its mistake in opposing the Greens’ motion three weeks ago. The best approach now, and we should be taking this rapidly, may be for the Labor Party to join with the Greens and the Democrats—and Senator Harradine and anybody else who may want to join—in putting a joint proposal for an inquiry into events involving Iraq to the Senate next week so that we can have a properly informed debate, a better informed parliament and therefore a better informed populous as we tangle with this extraordinarily important, overarching issue in world affairs that will involve every Australian in the months and years ahead. The climate is dangerous and the thinking is constricted, not
least in the White House. We must move out of that blinkered thinking, open our eyes wider and get in the best evidence and information available to inform our ability to make the right decision. We should not have a knee-jerk reaction to a US invasion but a well-informed decision right down the line on behalf of the Australian people. Our responsibility to those who voted us into this place demands that.

I said it is a bad democracy morning. A while ago the Labor Party joined the government to vote down the Greens' motion calling for an end to the block on the ABC web site in Beijing. What an extraordinary grovelling to Beijing by the government and the ALP! What an extraordinary failure to defend basic democratic freedoms! Effectively, the government and the Labor Party are backing the blocking of an ABC web site in Beijing so that the people in China, including our own correspondents there, do not have access to that web site. What a low point in democratic and political rights it is for the Labor Party and the government to sell out to Beijing and effectively endorse their block of that web site. What a low point in democratic and political rights it is for the Labor Party and the government to sell out to Beijing and effectively endorse their block of that web site. It is incredible that the Labor Party and the government should grovel to Li Peng, the Butcher of Beijing, while he is in this country and say, ‘Yes, we endorse you blocking the ABC web site in Beijing.’ It is just incredible! Astounding! I cannot believe that the Labor Party opposed that motion; but oppose it they did.

Maybe that points to the fact that they need to be far better informed on the issue of Iraq. They might have their head in the sand on the issue of democratic rights in China and Tibet, but they should not have their head in the sand on the extraordinary dangers in a whole range of economic, political, military and democratic issues that are at stake—not just in Iraq or the Arabic world in the Middle East but for the whole world—in how we handle the crisis which has been brought on following 1998, S11 and now the incumbency of George Bush in the White House. They should totally support this motion. It must be supported. It will go to a division, and it is going to see every member of the Labor Party, and equally reprehensibly every member of the government, effectively voting to say, ‘No, we do not want to be informed on this issue; we think we know the matter well enough as it is.’ That is a totally unjustified position to have. It is not acceptable, and the government and the Labor Party ought to have been moving this motion to ensure that we have a Senate inquiry into this extraordinarily important matter.

I congratulate the Democrats for bringing this motion forward. I am disappointed that nobody supported the motion that Senator Nettle and I put forward for an inquiry three weeks ago, but I have to inform both the Labor Party and the government that this is not the end of this. We will continue to push for an inquiry in this place into the impending war with Iraq. Mr Acting Deputy President, I believe you will find by speaking to Australians that they will be pushing for it too. The feedback I get right around this country as I speak to people is of high anxiety and opposition to Australia being involved in a war in Iraq. When we have this conflict between the Prime Minister’s subservience to the White House and the Australian people’s abhorrence of Australia being involved in a war in Iraq, the best thing we can do is to bring more information to the surface. That is what this motion is about and that is why it should be endorsed.

Senator BARTLETT (Queensland)
(10.43 a.m.)—I firstly express extreme disappointment that there is not support for this Democrat motion; I think it is very much a lost opportunity for the Australian people. There are a number of issues that need to be addressed in response to comments people have made. I think it needs to be emphasised that this is a tragic lost opportunity. We all know that at some stage or another, if military engagement happens, there will be a debate on this in this chamber and in the House of Representatives, and there will be a vote. It is similar to knowing that some legislation is coming up. We know what the issue will be: should parliament support Australia contributing troops or support in some way?

Let us have an inquiry, an investigation, into that issue before we have the debate and the vote, particularly given that—and, as I
said, no-one could credibly deny it—if the US government decide to engage in an attack on Iraq, in whatever way, with or without UN ratification, they will seek the support of other nations, including Australia, and this coalition government will give that support. The type of support, whether it involves Australian troops or other military personnel, is obviously not clear and I do not expect that the government should specify now what type of support that would be, but there is no doubt that the US will ask us and this government will agree.

Let us not forget that the US debate on this issue is being informed by committee hearings. The US Congress have had extensive committee hearings on this issue going back at least to July. They are able to explore all the different consequences, even though the fine detail of what might precisely happen and when is obviously up in the air. That does not mean that you cannot have hearings into all the potential consequences. Why is Australia not doing the same? Why are we just sitting back and letting ourselves be led by the US?

Let us also not forget that there is an incredibly significant mid-term election coming up in the US in about six or seven weeks time in which potentially the Republican administration has the opportunity to regain control of the US Senate. That has incredibly important ramifications for US politics and there is no doubt that the debate and the statements in relation to US action against Iraq are being influenced enormously in the run-up to that election. Not only is Australia’s government and now Australia’s parliament sitting back and letting themselves be directed by the US but also they are doing so in a context of state electoral politics in the US—at least in part. We are still willing to sit back and let our eventual decision be driven solely by that dynamic because the US, if it decides to act, will ask Australia and this government will support them. The Democrats would not support them—I am sure others in the community would not support them—but this government will, and therefore any troops of ours will be required to offer their support. There are many issues in relation to that that need to be examined in advance, and publicly.

Senator Evans gave a contribution that justified enormously why this motion is in need of support, except for the fact that he is obviously not supporting it. Every word he said highlighted why an inquiry such as this is needed. Senator Evans said that we will successfully achieve public debate. He is right, we have had some success in public debate, thanks to the efforts of the Democrats, the Greens, the Labor Party and others in the community, and there is no doubt that the government has acted partly in response to that pressure, but it has not been comprehensive public debate, it has not been fully informed and it has not involved the Australian people as fully as it should. We can have a motion every day of the week in this chamber to debate the issue if we want—and maybe that is what we will need to do, seeing as we are not going to have an inquiry—but there needs to be more than just politicians engaged in this debate. We can always speak as often and for as long as we like as everybody is well and truly aware—probably painfully aware—but the Australian people cannot. Organisations such as veteran organisations, defence organisations and other community organisations do not have that opportunity.

There is great concern amongst, for example, the Muslim community in Australia, who remember what they were subjected to by some parts of the Australian community when Australia was involved in the war in 1991. A lot of antagonism and a lot of vitriol was directed to the Muslim community in Australia as a consequence of that action. Their concerns are not being properly addressed. Senator Evans rightly raised the issue of Australia’s strategic interests in our own region being neglected. They are being neglected; they are not part of the debate. The fact that we might mention them a couple of times in this chamber is still not going to make them part of the debate unless we can find other ways of getting them higher up the agenda, such as enabling others in the community to put forward those concerns via the respected mechanism of a Senate inquiry. Whilst we might have successfully achieved
some public debate, we are not as successful as we need to be, and we will not be unless we go down a path such as this. We will not get the broader discussion that is required. We will not get the serious debate. If it stays solely in the arena of politicians making statements in this chamber, then it will not be as broad ranging as it needs to be and it will inevitably be seen to be, in part, driven by politics rather than the national interest.

There is any number of reasons why this is very much a lost opportunity. Certainly the Democrats, and I am sure others such as the Greens, will continue to push for a mechanism such as this, and I do urge the ALP in particular to reconsider and look for an opportunity in the future to support an action such as this. Again, whether it is a different committee or different terms of reference, I really do not particularly care, as long as there is a mechanism that is as effective as possible.

I should take the opportunity to indicate why the Democrats did not support the previous proposal from the Greens about the Senate inquiry. We did not have the opportunity for a debate at the time; it was just put to a vote without debate. Firstly, at the time we had this Democrat proposal on the table, which I think is preferable because it was for a Senate committee with specialty in defence issues rather than a select committee. A references committee obviously allows participating members so all senators can participate, whereas only those who are appointed to a select committee can participate. With all due respect to Senator Brown’s chairing skills, the Senate committee that this is going to would be chaired by the usual relevant committee chair rather than Senator Brown, as was the case with the previous proposal. Whilst I am sure he would be an excellent chair, I think that would be perceived as being a politicised inquiry with him as chair. So that was not an ideal way. Any debate on this needs to be as de-politicised as possible. That does not mean that the Democrats will not continue to make strong political and policy points about this issue, but it needs to be a debate that engages the Australian community as much as possible and is not seen to be purely driven by partisan political interests. There were solid reasons behind the Democrat decision in relation to that. We believe this approach would be a more effective way. It was on the table at the time, and now we are bringing it forward and we welcome the Greens’ support for it.

Obviously, we still do not have an inquiry happening because we do not have ALP support. That was the other intent—to try and put forward a model that would be more likely to attract support from other parties so that we could get an inquiry under way. That is obviously the main motivation. The Democrats are not moving this so that we can score a political point against the ALP for not supporting it. We are going to make a political point about the fact that the ALP do not support it, I can assure you of that, because I think it is a very unfortunate decision on their part and one that has let down the parliament and the Australian people. But the aim is not to score political points; it is to have a proper public debate.

We know, and everyone in the country knows, despite any denials that the government may make, that our government’s position on this will be fundamentally determined by what the US government decides to do. The very least that should occur as a result of that reality, unfortunate though it may be, is that as many of the issues as possible should be on the table in the widest range of forums prior to our Australian government making that decision. I do not want to just sit back and wait until the call comes from George Bush to Mr Howard—and we all know what the answer will be. I think that we need to have a full examination of the issues before that phone call comes, if it comes—and there is still a pretty good chance that it will come at some stage—and that needs to be through a proper mechanism. An inquiry with public hearings is a proper mechanism.

The public is probably not aware that there is also another committee—the Joint Standing Committee on Foreign Affairs, Defence and Trade, of which I am a member—that is already having briefings on issues to do with the war on terror and Iraq. But they are private briefings—the public cannot even see them, let alone engage with them. Those
senators who are not members of that committee cannot attend and cannot be aware of them. The ability is there—the government can give these sorts of briefings. I have not been to all of them, but I do not think there has been any top secret, high-security intelligence in the ones I have been to. It is basic information and it is useful, but it is only available to those of us who can get to those meetings. It is not available to other parliamentarians or to the public. The public are not able to come along and speak to members of the committee about their views. The fact that those briefings happen is an acknowledgement on the part of the government that it is appropriate to inform members of parliament about issues relating to this matter. That is good, but let us inform the public. I am not saying that we should open up all of the top secret intelligence data from around the world—I recognise that that is not appropriate—but there are plenty of issues that the public should be made aware of and should have the opportunity to have input into. That is not happening.

Information from the last Gulf War in Iraq about the impact on the personnel that had to go in is still being disputed—for example, Gulf War syndrome, the use of depleted uranium and what the environmental and health consequences of that will be. That is good, but let us inform the public. I am not saying that we should open up all of the top secret intelligence data from around the world—I recognise that that is not appropriate—but there are plenty of issues that the public should be made aware of and should have the opportunity to have input into. That is not happening.

The final vote that will happen in this place, if George Bush ever picks up that phone, should be as informed as possible. I repeat the Democrats’ call that that vote, if and when it happens, be a conscience vote. I call on the leaders of all political parties to give that commitment as well, because I think that the least the Australian public deserve—particularly our Defence personnel, our veteran community and their families—is to know that any decision of this parliament on an issue as important as this actually reflects the beliefs of the members of parliament rather than the beliefs or political necessities of the leaders of political parties of the day. Obviously, I am disappointed that this opportunity will be lost. I should mention in passing that the Democrats support Senator Brown’s amendment. We do not have a problem with that. That is academic, obviously, but I state that for the record. I do hope that the Senate reconsiders its position on this issue and that we can actually get some useful process put forward. I think it is very much a lost opportunity. If it is good
enough for the US Congress, then surely it is
good enough for Australia and the Australian
people. It is a very unfortunate outcome that
this opportunity has not been grasped at this
time. I urge parties to reconsider and to try
and grasp that opportunity as soon as possible
down the track.

The ACTING DEPUTY PRESIDENT
(Senator Hutchins)—The question is that
Senator Brown’s amendment be agreed to.

Question negatived.

Original question put:
That the motion (Senator Bartlett’s) be
agreed to.

The Senate divided. [11.04 a.m.]
(The President—Senator the Hon. Paul
Calvert)

Ayes………… 11
Noes………… 42
Majority…….. 31

AYES
Allison, L.F. *  Bartlett, A.J.J.
Brown, B.J.  Cherry, J.C.
Greig, B.  Harradine, B.
Lees, M.H.  Murray, A.J.M.
Nettle, K.  Ridgeway, A.D.
Stott Despoja, N.

NOES
Bishop, T.M.  Brandis, G.H.
Buckland, G. *  Calvert, P.H.
Campbell, G.  Carr, K.J.
Chapman, H.G.P.  Colbeck, R.
Collins, J.M.A.  Denman, K.J.
Eggleston, A.  Evans, C.V.
Ferguson, A.B.  Forshaw, M.G.
Hill, R.M.  Hogg, J.J.
Hutchins, S.P.  Johnston, D.
Kemp, C.R.  Kirk, L.
Knowles, S.C.  Ludwig, J.W.
Lundy, K.A.  Marshall, G.
Mason, B.J.  McGauran, J.J.J.
McLucas, J.E.  Moore, C.
O’Brien, K.W.K.  Patterson, K.C.
Payne, M.A.  Ray, R.F.
Reid, M.E.  Scullion, N.G.
Sherry, N.J.  Stephens, U.
Tchen, T.  Tierney, J.W.
Troeth, J.M.  Watson, J.O.W.
Webber, R.  Wong, P.

* denotes teller
sioner in the event that the Legislative Assembly is dissolved by the Governor-General because it is incapable of effectively performing its functions, or it is conducting its affairs in a grossly improper manner. The Head of Administration was a transitional position that existed from self-government in 1989 until the formation of the ACT Public Service in 1994. Therefore, the first amendment contained in Schedule 1 of the bill replaces the old subsection 16(9) with a new subsection stating that the present equivalent to the Head of Administration, the Chief Executive of the Chief Minister’s Department, cannot be appointed Commissioner under section 16 of the Self-Government Act. An additional subsection has been added providing that any future change of name for that position will not affect the operation of subsection 16(9).

The second amendment contained in Schedule 1 of the bill provides for an amendment to subsection 46(1) of the Act, which deals with the circumstances in which a Chief Minister and a Minister vacate office. The amendment substitutes two subsections—46(1) and 46(1A)—spelling out separately and thus more clearly, the circumstances of vacating office for a Chief Minister and a Minister. This amendment does not change the content of the subsection. It rewrites the subsection in plain English to make the meaning clear.

The bill also aligns the Self-Government Act with the Electoral Act 1992 (ACT) as amended in 1997. Subsection 48(4) precludes an election being called by the Minister for Territories from August to February in a ‘pre-election year’ when the Legislative Assembly fails to elect a Chief Minister after a vote of no-confidence and subsequently the Governor-General does not dissolve the Assembly within 30 days. The intent of subsection 48(4) is to prevent an election being called in the six months prior to a scheduled general election.

However, amendments to the Electoral Act 1992 (ACT) changed the timing of ACT elections from February every third year to October every third year. The Electoral Act 1992 (ACT) as amended in 1997, also specified in subsection 100(3) that a scheduled general election will not be held if an ‘extraordinary election’ is held in the preceding six months. Consequently, the provisions contained in subsection 48(4) of the Self-Government Act are not only outdated but also redundant because of more recent ACT legislation. The subsection is therefore repealed.

The repeal of subsection 48(4) makes subsection 48(1) which defines a ‘pre-election year’ redundant and it is also repealed. The Electoral Act 1992 (ACT) as amended in 1997 makes several other clauses of the Self-Government Act redundant including subsections 67(2) to (5), section 67E, and section 68. These were all transitional clauses, designed to administer certain electoral matters in the ACT until the Legislative Assembly had enacted their own electoral legislation. These sections and subsections are therefore redundant and are repealed. Other minor amendments contained in Schedule 1 include removing references to positions which no longer exist in subsection 70(1) and Schedule 4 of the Self-Government Act.

Schedule 2 of the bill amends the PALM Act. That Act sets out the requirements for meetings of the National Capital Authority. Specifically, section 43 currently requires that the full-time member, normally the Chief Executive of the National Capital Authority, be present at meetings of the Authority for a quorum to be formed. This conflicts with section 42 which requires that a member who has a pecuniary interest in a matter being considered by the Authority shall disclose that interest and not take part in any deliberation or decision related to that matter.

The amendments are designed to address the situation where a full-time Chief Executive of the Authority or a full-time Chairperson is the member who declares a direct or indirect pecuniary interest in a matter to be considered by the Authority and is therefore unable to be present at any deliberation of the Authority with respect to that matter. In that situation, under the current legislation, a meeting of the Authority cannot be held unless the Minister appoints a person to the acting position of full-time member, or if the Minister or the Authority determines that the member can be present.

The amendments in Schedule 2 of this bill remove the requirement for the full-time member to be present at meetings for there to be a quorum when the full-time member has disclosed a pecuniary interest. Under these amendments, if the full-time member is the Chief Executive and is unable to be present for deliberations and any subsequent decision by the Authority on a matter because of a declared pecuniary interest, a quorum will be formed by the part-time Chairperson and two other members. If the full-time member is also the Chairperson and the Chief Executive is unable to attend a meeting because of a declared pecuniary interest, a quorum will be formed by any three members.
CUSTOMS TARIFF AMENDMENT BILL (No. 2) 2002

Customs Tariff Amendment Bill (No. 2) 2002 contains amendments to the Customs Tariff Act 1995.

In brief, the changes in this Bill:

- give effect to the Government’s decision to exempt certain goods from the Product Stewardship Oil levy;
- amend customs rates of duty for certain beer to give effect to the Government’s decision to introduce a national scheme for low alcohol beer;
- amend section 19 of the Customs Tariff as a consequence of the removal of indexation provisions for those goods subject to the Product Stewardship Oil levy; and
- implement other minor related amendments to the Customs Tariff.

These amendments are equivalent to amendments to the Excise Tariff Act 1921 contained in Excise Tariff Amendment Bill (No. 1) 2002.

EXCISE TARIFF AMENDMENT BILL (No. 1) 2002

The Excise Tariff Amendment Bill (No. 1) 2002 contains amendments to the Excise Tariff Act 1921.

Some of the amendments contained in the bill have been previously tabled as Excise Tariff Proposals Nos. 1, 2 & 3 of 2002. The proposals now require incorporation in the Excise Tariff Act. A further amendment to remove Product Stewardship Oil products from the application of the indexation provisions of the Excise Tariff Act has also been included. Complementary changes to Customs legislation are being addressed through Customs Tariff Amendment Bill No. 2 (2002).

This bill contains various Government initiatives. The special provisions for emulsified diesel/water blends are an environmental initiative designed to encourage clean fuel technology. Amendments in the bill allow the water component of emulsified diesel/water fuel blends produced by licensed Excise manufacturers to be free of excise duty. The changes commenced on 25 October 2001.

The exemptions from the Product Stewardship Oil levy support the original intention of the levy to reduce the impact of waste oil on the environment. The changes exempt from the levy those products which have been identified to be solely used for the manufacture of other products and do not result in waste oil. The amendments commenced on 15 April 2002.

The change to beer excise rates is a measure agreed with the States and Territories which replaces various State subsidies for low alcohol beer, with national assistance now delivered through the mechanism of lower excise rates. Amendments in the bill introduce new rates of excise duty for certain beer which commenced on 1 July 2002.

The removal of the indexation provisions from oils provides for consistency of treatment between petroleum fuels and certain oils for non-fuel use, and reduces costs to business. The amendments in the bill give effect to the Government’s decision by altering the indexation provisions of the Excise Tariff Act to exclude all oil products from the application of the provisions for the first indexation period following Royal Assent, that is commencing on 1 February 2003 and any subsequent indexation period.

The then Government introduced the automatic six monthly indexation of excise in 1983. On 30 June 2001, legislation took effect that abolished the half-yearly indexation of fuel excise. An inconsistency arose as a result of this legislation, which covered petroleum products but not oils and lubricants dutiable under the Product Stewardship (Oil) arrangements. Abolition of indexation in respect of oil products will restore consistency between the treatment of fuels and oils for non-fuel use, and further reduce costs to business. Full details of the measures in the bill are contained in the explanatory memorandum.

I commend the bill.

Ordered that further consideration of these bills be adjourned to the first day of the next period of sittings, in accordance with standing order 111.

Ordered that the Australian Capital Territory Legislation Amendment Bill 2002 be listed on the Notice Paper as a separate order of the day.

HIGHER EDUCATION FUNDING AMENDMENT BILL 2002

In Committee

Consideration resumed from 18 September.

Senator STOTT DESPOJA (South Australia) (11.10 a.m.)—The Democrats oppose schedule 1, part 2, in the following terms:

(1) Schedule 1, Part 2, page 6 (line 2) to page 9 (line 20), TO BE OPPOSED.
The Australian Democrats amendment (1) seeks to oppose part 2 in relation to accessing PELS. The purpose of this amendment, which is identical to the Greens amendment, is quite clear. It seeks to knock out in entirety the proposal to extend PELS to Bond University, MCD, Tabor and Christian Heritage College. There are a number of reasons, as I have articulated previously, as to why the Australian Democrats and others in the chamber do not believe that this is good policy. Firstly, it pre-empts the minister’s review of higher education—the Crossroads review; secondly, it sets a very clear precedent to extend PELS and eventually other forms of direct public subsidy to private providers; thirdly, the rationale for selecting these four institutions is somewhat unfounded—in fact, it is quite weak—and, in the case of the two non-self-accrediting Christian colleges, it is quite spurious; fourthly, the selection criteria are not in accordance with the national protocols; and, lastly, we are concerned that the quality of accreditation processes is not adequate.

I emphasise that our objection—contrary to some of the rhetoric we have heard in the chamber, particularly from Senator Tierney in his contribution in the second reading debate—is certainly not based on ideological objections. It is not an ideological rejection of the public support for private providers. For 25 years, as the Senate would know, the Democrats have unashamedly maintained and developed a principled commitment to public education. Our legislative and policy record is second to none in this place in relation to support for public education, and our legislative history is a long and proud one. However, we do accept it is reasonable for there to be public funding of private universities in specific circumstances where there is no public provision of higher education.

That is why, as the chamber would know and as I have mentioned in my previous contributions, the Australian Democrats supported Notre Dame in its receipt of funding for the Indigenous education program at the remote Broome campus. It is also why we did not support Notre Dame receiving general funding for its Fremantle campus. However, we do not believe that a credible argument has been put forward by the coalition government as to why there should be public support for these four institutions that we have been considering. The closest that the government has come, in our opinion, to addressing any specific concerns is in relation to the notion of teacher training and even then, as I have put on record previously, we believe this argument is at best spurious.

But rather than talking about ideology as the minister has done, or holy writs or level playing fields as we have heard from others, if the government had endeavoured to provide a good reason for this measure to the Senate it may have received a more favourable hearing from people in this chamber. The government has painted this as a minor measure to overcome some anomalies on the margins of the whole higher education framework, but we reject that position. We believe it is actually quite a significant development that we have before us today. It is a significant development in part not only because it muddies the distinction between universities and non-universities but also because it creates a significant policy precedent to extend public funding to private providers.

As we have already discussed in this chamber at some length, this extension is occurring in a significant quality, accreditation and accountability vacuum—hence the efforts by Senator Carr on behalf of the opposition to put forward some amendments to those areas. As I have already noted, and people in this chamber have recognised, the Higher Education Funding Amendment Bill 2002 does pre-empt the broad ranging inquiry that is set to occur; namely, the Crossroads inquiry initiated by the Minister for Education, Science and Training, Dr Brendan Nelson. So on procedural grounds alone we should not be dealing with the legislation that is before us today.

I would like to acknowledge that there is potentially a logical flaw in the argument that procedurally the extension of PELS to these four private institutions pre-empts the Crossroads review. And that flaw is a tacit assumption that Crossroads will in fact be a credible review. So I am quite happy to argue that procedurally there may be some grounds
for that, but that is on the assumption that this review is going to be a credible, quality, broad ranging review, not one that is simply set up in an attempt to implement decisions or ideological positions that may be held by some members of this government. I do not want to assume that that is Minister Nelson’s position. I look forward to discussing it with him and seeing how he proceeds with the Crossroads review, but I think some of us in the chamber can afford to be a little cynical about the motives of some in this debate on the government side. I want to know whether that review is really going to consider some of the pressing, most important issues affecting the higher education sector. These issues have been provoked by the bill that we have before us today—issues such as what defines a university, to what extent should the higher education sector become deregulated, should private providers have wider access to public subsidies on the same basis as public institutions as a means of stimulating differentiation and what criteria should private institutions be required to meet?

We can only make a definitive assessment of the Crossroads review when we see the outcome; however, I think we are entitled to give it a mid-term assessment. Thus far, I think the very best we can say is that the reviews are decidedly mixed. The process got off to a very bad start—even tactically speaking—with the failure to include students and practising academics in the reference group. I do not know if that was intended or was simply a massive oversight, but one way of ensuring a degree of participation from key groups in the sector would have been to include practising academics and student representation. I do acknowledge James Moody’s role in that inquiry, but I do not believe he was there as a student representative as such. I have high respect for that young man, but he was there as an individual representative, which is different from representing academic and student groups. Marginalising the crucial voice of stakeholders like students and academics is, if nothing else, poor politics. I am really surprised by that oversight by the government.

I do acknowledge that there has been some attempt at even-handedness in some of the discussions, but by no means all of them, of the very important issues raised in the discussion documents published by the minister. However, as I have put on record before, both in this place and in the public arena, I think they are misrepresentations that have been deliberate in some cases. The example that I used previously, and I will put on record, is Dr Nelson’s claims about enrolments in courses and subjects. He has made a lot of this factoid that one university offers 167 courses but that 96 courses have fewer than five students enrolled. We have all heard that rhetoric time and time again through the debate, and time and time again some of us have tried to counter this. The minister constantly cites the raw data that there are more than 20,000 subjects or units with fewer than five students and 4,200 with only one student. Perhaps if we add Tabor College to that we get 4,201! This enrolment data has been held up as an example of some kind of inefficiency that needs to be eliminated before additional funding can be considered but, on the face of it, it seems the minister has a point. However, course enrolments are vacuous as an indicator of efficiency. They are just as silly as assertions about the financial state of universities when income and assets are cited but expenditure is not.

Administratively, a course or award is the aggregate of subjects or units that students need to complete. The number of subjects per course varies but typically ranges from four subjects for a graduate certificate to 24 subjects for a three-year degree. While some courses are quite prescriptive as to what subjects need to be taken, most tend to be more flexible and students choose from a range of subjects, including those offered by different faculties. In the past five years or so, as people would know, there has been an explosion in the number of courses offered to students. Of course there is a variety of reasons for this—including universities identifying niche markets to attract fee paying students—but the primary reason is the desire of students to have greater recognition of specialisations than revealed in generic titles, such as a Bachelor of Business. There are a number of ways universities can respond to this demand. One of these is to offer course titles that identify specialisations. Go to any
university web site and you can see literally hundreds of these so-called badge courses on offer, such as the Bachelor of Business, Tourism and Finance.

While there are some administrative costs in offering a multiplicity of courses, the real costs occur at subject level. This is where questions of efficiency in delivery, such as staff-student ratios, are relevant. It is very common that one subject will include students from a range of courses, both postgraduate and undergraduate. Flexibility allows many courses to be offered from the same pool of subjects. The reason we put this on the record again is that we believe there have been serious misrepresentations by the government, indeed even myth peddling if you like. It is an area about which I am keen to get some responses from the minister, and we have a series of questions. The fact is that many universities use different codes for the same subject, and there is a good reason for this too. It enables universities to track different groups of students—for example, postgraduate, undergraduate et cetera. It enables universities to track different modes of study—for example, full time, part time, distance, online, block modes et cetera—or students enrolled in different courses and at different campuses. In these cases, students may have enrolled in units which have different codes. They appear to be separate subjects when they are in fact the same. This different coding of subjects is necessary for administrative purposes and for data collection purposes. This is the same data on which the minister bases his claims, but behind the data are facts—facts that we believe have been conveniently ignored by the government. In doing so, there has been a misrepresentation, either intentionally or unintentionally, of the real situation.

It is not the raw data that we are challenging—I make this very clear to the minister—but the interpretation, the representation, or indeed the misrepresentation, of this data. This issue, we believe, goes right to the integrity of the review that this bill before us potentially and partially pre-empts. I know that people—including the minister, I am sure—have other contributions to make to this part of the debate and to this amendment in particular, because this is a significant amendment in the context of the bill that we are discussing. So I ask whether the minister is aware of the practice of multicoding of subject codes.

Senator Nettle (New South Wales)
(11.23 a.m.)—I rise to speak in favour of this amendment put forward by the Australian Greens and others in the chamber. This amendment seeks to remove the PELS section of the Higher Education Funding Amendment Bill 2002. The Greens oppose those aspects of this bill which extend PELS to these private institutions, because we see that as a direct public subsidy, taking taxpayers’ money and putting it into the pockets of the private institutions. The Greens recognise the difference in quality and accessibility between self-accrediting and non-self-accrediting institutions dealt with in this bill. However, our reasons for opposition go well beyond these differences. The Greens believe that it is the responsibility of government to provide the best, fairest, most accessible and holistic education system possible. This responsibility will not be achieved by heading down the road towards the private market in education provision that this government is so committed to pursuing. This legislation is ‘thin end of the wedge’ legislation and seeks to go down the path of deregulation and privatisation of the education sector, which we know is the agenda of the current government. The Greens, however, recognise that the universal and free public provision of education is the only way to ensure these responsibilities are met. It is only through the public education system, where people come together regardless of race, religion, background, sex or ability to pay, that we can help to build the tolerant and cohesive society that we need right now, especially while we have a threat of war on the horizon.

Why is it that the public education system is able to provide this excellent service? There are a range of reasons, as I have just outlined, but also it is through the public education system that we can have long-term appropriate funding models implemented. It is also through the public education system that we can continue to have the democratic accountability that currently exists within the
public system. It is how we can meet our goals in terms of equity, both in affordability and eligibility requirements. Also, the continuation of a long and successful track record of public provision of higher education, both in Australia and overseas, needs to be protected and enhanced. The crisis in public education is not about a failure of the public education system that this government is seeking to redress but rather about a failure of this government and previous governments to recognise the special value that public education provides to our community and to therefore invest in this sector appropriately. The current failure is leading to pressures that are already attacking the quality and the reputation of Australian universities. We are seeing this in the increased casu- alisation of staff in higher education provid- ers around the country. We are also seeing this in a squeeze towards a more cost-effective, more market driven model whereby we have an emphasis on full fee paying students, at the same time taking away that emphasis on quality teaching and learning that we so desperately need in our universities. The increased emphasis that we also see on industry funded research is destroying the independence of universities and their ability to provide an unfettered voice of social critique.

The push for alternative funding streams for higher education provision is symptomatic of a loss of focus on the essential reasons why we have universities. They are about investing in the long-term public good of this country. They are about higher education rather than focusing purely on vocational education and training. Attempts to furnish this long-term need by cost-shifting to private enterprise and to students are failing and were always going to fail, because the long-term objectives of higher education are not best served by these short-term focused funding streams. It is only through generous public funding that we can ensure the long-term best interests of the higher education and university sector.

Even were this legislation not an attack on the public education system, it would be totally inappropriate, in that it pre-empts—as others have said in this chamber—the current Crossroads review that the government is undertaking into funding models for higher education. So why the rush? We have heard Senator Carr in previous aspects of this debate referring to the election promises that led to this legislation. That is certainly no way to deal with the education needs of the future generations of this country. Even the reasons put forward by the government in regard to religious teaching needs have been exposed as rubbish, with Christian Heritage College and Tabor College not having credible postgraduate courses in the teacher training field. Why then is the government extending subsidies to them? These election promises have delivered us a sneak preview of what is coming up in the Crossroads review.

Whichever way you look at the bill, it is inappropriate and ill thought out, and it repre- sents a betrayal of our responsibility to future generations of this country—a betray- al that this government seems hell-bent on pursuing, irrespective of the long-term damage. The Greens do not support the ex- tension of PELS to these private institutions and we do not support the privatisation of our higher education system. Rather, we will continue to stand up and articulate the value of our public education system for the long-term future of this country and for genera- tions to come. I commend the amendment to the Senate.

Senator JACINTA COLLINS (Victoria) (11.29 a.m.)—Labor oppose the remaining amendments to the bill because, while we share some of the concerns expressed by the minor parties, we believe that our amend- ments adequately address them. In the case of Bond University, this is a reputable insti- tution; it is well recognised and established under state legislation. Already Notre Dame University is listed on a table of HEFA, the Higher Education Funding Act, which means that it has access to PELS for its students. Bond is not significantly different. The Mel- bourne College of Divinity is a long- established institution that provides theology and ministry courses for mainstream Chris- tian denominations. It is well regarded. Its establishment had a lot to do with the fact that the University of Melbourne’s act pre-
cludes them from providing such courses, but MCD has a close link with that university and has had for many years. The link was formalised only a relatively short time ago but it has always existed. In the case of the two non-self-accrediting institutions, as we have argued, we believe that the Labor amendments providing for accountability and establishing a formal assessment process deal adequately with the concerns that people have expressed.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.30 a.m.)—For the benefit of Senator Stott Despoja, the answer is yes—but not enough to invalidate the central point.

Senator STOTT DESPOJA (South Australia) (11.31 a.m.)—I thank the minister for acknowledging that the practice of multicoding of subject codes happens. Can the minister give us his views in relation to the fact that there are very good reasons why universities multicode individual subjects? Is that an acknowledgment that he is willing to share with us? Minister, isn’t it the case that the raw data that Minister Nelson in particular refers to, such as the 4,200 subjects with one student enrolled, is quite misleading if the practice of multicoding is held up, as it has been, as a gross inefficiency? So will the minister acknowledge that there are good reasons and that to utilise this data and present it in the way that it has been is inappropriate?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.32 a.m.)—I do not know whether ‘many’ is a helpful term. The point still remains that there are a number of multicoded courses, but I am not in a position to say whether the government have a preference. I think we are more interested in having a clear understanding of precisely what is going on. Accepting that practice as a perfectly proper one, you nonetheless still end up with the same proposition that it is often a very inefficient allocation of resources to have very small numbers in course participation.

Senator STOTT DESPOJA (South Australia) (11.34 a.m.)—I acknowledge the minister’s point about the use of the word ‘many’. Perhaps the department would be in a position to define whether or not there are ‘many’ courses that share common subjects. Will the minister confirm whether it is the case that the department actually proposes to introduce a new group unit code to facilitate the reporting of student loads that are fundamentally the same unit of study? I am just trying to get to the heart of whether or not the department does know. In my opinion the department is well aware of the shortcomings of the data, and that is exactly why it proposed to introduce a group unit code that would facilitate the reporting of student loads that are fundamentally the same unit of study.

As I understand it, unfortunately but perhaps understandably this was rejected by universities, because of the additional reporting requirements, presumably administrative, involved. But for the record today, can the minister confirm that the department sought to introduce a new data collection system that would allow the aggregation of data into actual subjects or units?
Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.36 a.m.)—No, I cannot, but I will take it on notice. We will obviously tell you as much as we can to provide some light on the issue of new group unit coding.

Senator STOTT DESPOJA (South Australia) (11.36 a.m.)—I appreciate the minister’s willingness to get that information and I ask whether he will give me a time line as to when he could provide the information. In light of that, I would like the minister to confirm, then, that the department is well aware that unit codes do not tell us anything about the actual numbers enrolled in a subject and therefore no inferences of efficiency of subject delivery can be legitimately drawn from the raw data. Is the minister willing to put on record that the relevant department actually acknowledged that it recognises that unit codes do not tell us about the actual numbers enrolled in a subject and, therefore, this government and its ministers cannot make the inferences we have seen in relation to the efficiency of subject delivery based on that raw data?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.37 a.m.)—As soon as we can—hopefully today. Beyond that I cannot be any more precise.

Senator STOTT DESPOJA (South Australia) (11.37 a.m.)—I will make a final point in relation to this issue, because I want to make it quite clear why we have brought up this issue yet again and why I have asked those questions of the minister. My understanding is that the department is well aware of the data issue. My concern is not the department; it is the fact that Minister Nelson and other ministers have been allowed to misrepresent the raw data in the way in which I have referred in my comments. I would go so far as to suggest there has been a deliberate misrepresentation of that data—a politicisation of it, if you like—and, because of that, I am worried that there is a very clear agenda here. It has been used to paint a picture of gross inefficiencies within our university system. Why is this being done? It is an attempt to build popular support for rationalisation in relation to a higher education system. I wonder whether the minister is prepared to accept that that is the agenda of this government in relation to the myth peddling.

The Australian Democrats believe that this misrepresentation of data, this agenda, undermines the government’s own alleged desire to have a mature and comprehensive investigation and debate about higher education and its future in this country. We believe that the motives of this government can be seriously questioned in relation to that review. There are a number of reasons—not just the misrepresentation of data but also the fact that this bill is probably enough evidence before us today. That is why we are moving this amendment. That is why we seek the support of all members of the chamber, particularly the Labor opposition. Senator Collins contributed to this debate on behalf of Senator Carr and I certainly acknowledge Senator Carr’s amendments. That is why you have had our support in your efforts in relation to accountability and other mechanisms, but you have raised a number of issues that we believe—certainly Senator Nettie and I believe—would be addressed by your support of this amendment.

Once again, we ask you to support the amendment before you. We know that this is a difficult issue for you. We know that you have an interesting and, perhaps, difficult history in relation to this debate. We are aware of the opposition’s connection in the past on this issue. We do not forget the opposition stance on Notre Dame. We remember the personal intervention of the member for Brand, then Leader of the Opposition, Kim Beazley, who wrote to the Prime Minister personally. He lobbied for public funds for Notre Dame’s campuses back in June 1998 and, I believe, again in late 1999. The then shadow education minister Michael Lee addressed the parliament. He told the House of Representatives that the status of Notre Dame had not been discussed in the party room. I understand that, yet again, the same thing seems to have occurred in relation to the recent advocacy of the member for Griffith. I think it was the member for Griffith; I stand corrected if I have that wrong. I do not want to see education policy
in this country hijacked for personal political reasons and certainly not as a consequence of personal intervention by politicians, whether it be in relation to this bill or previous policy decisions that we have seen made in relation to higher education. Senator Carr, I feel that you are with us on this one. I hope that you are. Senator Collins outlined the position of the Labor Party that there is still time. I am glad to see you in the chamber, and I would like you to support this amendment.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (11.42 a.m.)—I think I was asked, essentially, to concede improper motives. The answer is that we do not. I acknowledge that politics can be defined as the art of questioning people’s motives—I myself have defined it on more than one occasion as a strict exchange of prejudices. I think that what Senator Stott Despoja ought to be aware of is that the Beazley regime was probably a much softer touch than the current lot and to appeal to Senator Carr’s heart on this issue is fundamentally misplaced.

Question put:

That schedule 1, part 2, of the Higher Education Funding Amendment Bill 2002 stand as printed.

The committee divided. [11.47 a.m.]

(The Chairman—Senator J.J. Hogg)

Ayes………………… 39
Noes………………… 10
Majority…………… 29

AYES

Alston, R.K.R. Barnett, G.
Brandis, G.H. Buckland, G.
Campbell, G. Carr, K.J.
Chapman, H.G.P. Colbeck, R.
Collins, J.M.A. Conroy, S.M.
Denman, K.J. Eggleston, A. *
Evans, C.V. Ferris, J.M.
Forshaw, M.G. Hogg, J.J.
Hutchins, S.P. Johnston, D.
Kirk, L. Knowles, S.C.
Ludwig, J.W. Lundy, K.A.
Mackay, S.M. Marshall, G.
Mason, B.J. McCrues, J.E.
Moore, C. O’Brien, K.W.K.
Ray, R.F. Reid, M.E.
Scullion, N.G. Sherry, N.J.

Tchen, T.
Treeth, J.M.
Webber, R.

NOES

Allison, L.F. * Brown, B.J.
Cherry, J.C. Greig, B.
Harris, L. Lees, M.H.
Murray, A.J.M. Nettle, K.
Ridgeway, A.D. Stott Despoja, N.

* denotes teller

Question agreed to.

Senator HARRIS (Queensland) (11.51 a.m.)—One Nation opposes schedule 1, item 10, in the following terms:

(1) Schedule 1, item 10, page 6 (lines 10 to 19),
TO BE OPPOSED.

Earlier in the debate, we deferred consideration of One Nation amendment (2) to a later date. Subsequently, the opposition amended that part of the bill, so that now makes the deferred amendment defunct. As I explained earlier in this debate, the purpose of my amendment is not to delay or in any way withdraw PELS from any of the institutions that are self-assessing. It is to convey to the chamber, again, with clarity, the concerns of higher education institutions. Firstly, two institutions which are not self-assessing are being granted access to the PELS program. The concern of the universities that are self-assessing is that they will see a further erosion of the funds that they have available for postgraduate students. As I said yesterday in an earlier part of this debate, we believe that, when the higher education review outcomes become much clearer, that is the time for the minister, if the government so wishes, to alter the criteria. Secondly, One Nation’s preferred option is to provide a different allocation of funds to those institutions which would be removed by this amendment.

It is not about not supporting higher education; it is very clearly expressing the wishes and the concerns of the Vice-Chancellors Committee that have raised this issue when we have taken the bill to them for their comment. It is very clear that they do have a concern. As I said earlier, I believe approximately $18.5 million is available in PELS. When this is allocated to the approximately 120 higher education facilities
that are eligible—and we believe that is stretched to the limit—it should not be further eroded by other institutions having access to it. It would be far better for the government, when the higher education review is completed and its findings have been provided to the government, to then take action. I commend the amendment to the chamber.

**Senator STOTT DESPOJA (South Australia) (11.56 a.m.)—**The Australian Democrats have similar concerns and amendments, and we will be supporting One Nation in this final bid to improve the legislation. The amendment before us removes Tabor College and Christian Heritage College from the list of eligible institutions. We recognise that it is a compromise but, given the serious concerns that we have with the bill, we think at this last stage it is a necessary compromise. It says that there is a distinction between self-accrediting and non-self-accrediting institutions. Tacitly, it also says that Bond University and Melbourne College of Divinity are credible institutions, but that does not mean that we assert that Tabor College and Christian Heritage College are not credible. I think that is an important point that we have to put on the record. Perhaps that is an argument for a different day.

The argument against Tabor and Christian Heritage includes concerns that neither were accredited under the national protocol—a document that the Democrats strongly support and, as I understand it, that everybody in this chamber strongly supports. It says that there is a distinction between self-accrediting and non-self-accrediting institutions. The argument before us removes Tabor College and Christian Heritage College from the list of eligible institutions. The amendment before us removes Tabor College and Christian Heritage College from the list of eligible institutions. We recognise that it is a compromise but, given the serious concerns that we have with the bill, we think at this last stage it is a necessary compromise. It says that there is a distinction between self-accrediting and non-self-accrediting institutions. Tacitly, it also says that Bond University and Melbourne College of Divinity are credible institutions, but that does not mean that we assert that Tabor College and Christian Heritage College are not credible. I think that is an important point that we have to put on the record. Perhaps that is an argument for a different day.

One of the concerns that has been raised by people in this chamber, and obviously through the submissions to the Senate inquiry into this legislation, is that the provisions of this bill create a highly flawed precedent, because the only real reasons—if you can describe them as that—that have been provided by this government in relation to these two institutions seem to be political lobbying and the provision of teacher education, as I said, for non-Catholic Christian colleges. They are reasons that have been well and truly exposed in this debate. They are certainly a furphy as far as the Australian Democrats are concerned. Therefore, we are entitled to review the performance of the government in relation to keeping its promises of support to private providers.

I mentioned in the previous debate the example of Notre Dame, and I bring that example to the chamber’s attention again. Senators will recall that, in November 1998, this chamber discussed at some length the proposal to place Notre Dame in list A of section 4 of the Higher Education Funding Act. We were told repeatedly by the government that this measure was to provide some degree of funding stability to Notre Dame’s Broome campus, which provided education targeted at Indigenous students. Funding the Broome campus for this reason was supported by the opposition and by the Australian Democrats. I have put that on record a number of times. The Democrats did not support Notre Dame going onto list A, but tried to amend the legislation, as you may recall, to ensure that they went onto list B, the point being that the Australian Democrats recognised a need, and recognised a constructive way of addressing that need. However, it seems that the government has gone way beyond its initial ambit for funding for Notre Dame, and now provides Notre Dame with funded places for their Fremantle campus. It has given them 50 additional science, maths and IT places from one of Backing Australia’s Ability programs. Indeed, at a time of great financial stress in the sector, Notre Dame’s funding has increased fourfold since that decision back in 1998. In short, the government has acted in bad faith, and certainly the Australian Democrats believe that the government has misled the parliament.
It was made quite explicit by the government that changes to Notre Dame’s status were specifically for Broome. They were not for general funding at Notre Dame’s main campus at Fremantle. At that time, as senators may recall, I asked the minister representing the minister, Senator Ellison, how the government would ensure that funds were only used for the Broome campus. I will quote from page 587 of the Hansard of Wednesday, 25 November 1998. Senator Ellison stated:

I understand that there is an agreement with the university through the profiles process which can accommodate this, and it will be based on the places. That can be readily identified in relation to the Broome campus. I restate what I said earlier: this is only in relation to the Broome campus. That is what he said. In the House of Representatives on 11 November 1998 the member for Adelaide, speaking as the Parliamentary Secretary to the Minister for Education, Training and Youth Affairs, said—and I quote from page 242 of Hansard:

The amendment will ensure that the University of Notre Dame Australia will receive funding for operating purposes ... for its Broome campus ... This is consistent with the government’s intention to provide a stable funding base for the university’s Broome campus.

On 25 November 1998—and again I quote from the Hansard—Senator Ellison assured the Senate that:

In relation to its public funding, the university has to acquit the money in the way it has been provided and for the purposes for which it has been provided ... I take it that you are not suggesting that the university would in any way try to fiddle the books or fudge the figures. The department will ensure that that does not take place, as it does in relation to other matters. I can give the Senate every assurance that the funding will relate to only the Broome campus.

Minister—through the chair—despite those repeated assurances in both houses, in answer to specific questions from the Australian Democrats, that is not what happened. In relation to the funding provision, that funding has not been restricted to the Broome campus. Minister, do we have an example here of the grave offence of a misleading of parliament? Do we have an example of the parliament being misled—possibly unintentionally—in relation to the funding of that institution? The government told this chamber, and the other place, that the purpose was to provide funding for Notre Dame Broome only. That was explicit. It was spelt out here, and there. But that is not what has happened. The government decided to fund Notre Dame Fremantle in 1999, and that funding has increased significantly since. Can I get on record an acknowledgment from the minister that that is what happened. I would like the minister to explain why, despite explicit statements from members of both houses, the decision to fund Broome only was not respected and not reflected in funding decisions.

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.05 p.m.)—The bill does not allow for HECS places or operating grant funding. For these institutions to get anything else would require legislative changes.

Senator STOTT DESPOJA (South Australia) (12.05 p.m.)—I understand that the minister is referring to the legislation before us—on which we have very strong views. In the absence of sensible, rational and credible criteria for extending PELS to these institutions, we believe that this amendment is appropriate. It is prudent and sensible, and it is supported by an interesting group of so far minor parties. It is also entirely consistent with the arguments put forward by the AVCC, a point that Senator Len Harris made in the chamber today. For that reason we are very keen to see the opposition support it.

I go back to my question to the minister, which is not in relation to this legislation but in relation to the possibility that parliament has been misled as a consequence of guarantees that were explicitly made in this place. In response to questions from me and in debate on issues, Senator Ellison and the parliamentary secretary in the other place made statements guaranteeing that the funding was for Notre Dame Broome only. Is it not the case that since that decision was made in 1998—indeed, since the following year—we have seen the funding to Notre Dame extended to the Fremantle campus? How has it happened? Why has it happened? Has the parliament been misled?
Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.07 p.m.)—I am not in a position to go back and look carefully at what assurances Senator Stott Despoja says were given at the time but, in the normal course of events, it may well be that going beyond that point was not in contemplation. If that were the case, then there is nothing wrong with the government revising its position and subsequently bringing in legislation that went further than it might have originally intended or certainly that Senator Stott Despoja anticipated. But I am not in a position to make any further judgments about whether Senator Ellison or anyone else is in breach of any original commitment.

Senator HARRIS (Queensland) (12.08 p.m.)—If we cannot have a response to the previous incident that Senator Stott Despoja is referring to, and if our amendment fails and Christian Heritage College and Tabor College in South Australia have access to this program, will the minister give a clear and unequivocal assurance to this chamber that no institutions that have not been named in the Higher Education Funding Amendment Bill 2002 will have access to the PELS system other than those accredited?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.09 p.m.)—I do not think governments ever give unequivocal commitments that they will never, ever make any future policy changes, particularly when the Crossroads review process is well and truly under way. I would have thought the sensible thing to do would be to wait and see what emerges from that process. There may be overwhelming support for a lot of propositions that you and I might think are not terribly deserving. All I can say is that we have an open mind: we will await the outcome of that review and we will make judgments at that time. If we seek to take those proposals further by way of legislation, then there will be every opportunity for people to debate the merits of those issues at that time.

Senator STOTT DESPOJA (South Australia) (12.10 p.m.)—I briefly want to endorse some of the comments of the minister. You are right, Minister, the sensible thing would be to wait. The sensible thing would be to have the review and not pre-empt the review. So you have been hoisted with your own petard: your own logic defeats you in this debate. We do not expect governments to give unequivocal guarantees on a whole range of things. We understand that policy evolves and we understand that there are budgetary constraints. That is why we do not understand the decision that the government is reaching in putting forward this legislation. There is no credible economic, teacher, research, academic or educational—political maybe—rationale for extending PELS to these institutions. The minister came to the chamber with a bill that had inadequate accountability and other mechanisms built into it. People have endeavoured in the debate in the committee stage of the Higher Education Funding Amendment Bill 2002 to ensure that some of those flaws were actually redressed.

The central point remains that the government is making significant policy decisions, because the minister knows, by virtue of the example I have just provided and by the way government policy works, that it is providing a precedent for the funding of private institutions using taxpayers’ dollars and is doing so on really shaky foundations with a spurious rationale in at least a couple of cases. Yes, the sensible thing to do is to wait. The minister has said that he will wait for the outcomes of the Crossroads review process. We are happy to do that. We are not pre-empting the decisions and the recommendations of Crossroads; we have been very careful in our analysis of that process and we have been very flexible in being prepared to work with the government, and in particular the Minister for Education, Science and Training, Dr Nelson, in that inquiry and review despite acknowledging some of the flaws in that process. Let us wait. It is sometimes pointless putting counterarguments to government when even the government’s own representations to the chamber defeat its own position.

Senator HARRIS (Queensland) (12.12 p.m.)—I return to the assurance that I was requesting from the minister, and the minister’s response. The request for clarity was in no way intended to impede the government
from making decisions—that is the right of
the government. What we are debating today
is a head of power for the government to
appropriate taxpayers’ funds to four institu-
tions in total, two of which we believe are
inappropriate. The question I put to the min-
ister was about the head of power that the
Higher Education Funding Amendment Bill
2002 will raise. Will the minister guarantee
that no other institutions will be funded out-
side of those that are nominated in the bill? If
the minister cannot give an assurance on
that, then the government does not need to
bring legislation into this place; it can go off
and do whatever it wants to. We are looking
for clarity that the head of power that this bill
raises if our amendment is voted down will
apply only to the four institutions that the bill
applies to and will not be used to extend that
to any other institution.

Senator ALSTON (Victoria—Minister for Com-
unications, Information Technology and the
Arts) (12.14 p.m.)—I am sorry if
I have misunderstood Senator Harris’s earlier
contribution. I can certainly say to him that it
will not be possible to do that, so it is not a
matter of whether the government would like
to do that or not. You are quite right in say-
ing that the Higher Education Funding
Amendment Bill 2002 allows only for four
identified institutions to get funding. It does
not allow the government to go any further.
We would need additional legislation to do
that. So I can give you an unequivocal guar-
antee that this legislation will not be used to
extend the ambit. If and when we decide to
go further, based on the Crossroads outcome,
then it will need further legislation.

I say to Senator Stott Despoja that I un-
derstand her logical point. I think she should
also acknowledge that we went to an election
in which, presumably, she opposed our pro-
sal at the time. Our position having pre-
vailed, we take the view that we are therefor
entitled to proceed to implement our election
promises, and that does not compromise the
review process. If we did not—put yourself
in our position—we would be quite rightly
criticised by all and sundry for being mean
and sneaky and whatever else for saying one
thing at election time, getting elected and
then saying, ‘Hang on, everything’s up in the
air; we’ll just have a review.’ The die was
cast when we made those promises. You had
your opportunity then to argue against them.
Presumably you did, but I think you have to
acknowledge that we have a mandate which
entitles us to take these matters through to
finality. Having done that, let us have an
open-ended review.

The TEMPORARY CHAIRMAN
(Senator Chapman)—The question is
that—

Senator CARR (Victoria) (12.16 p.m.)—I
hate to inconvenience you, Mr Temporary
Chairman, but we have a view on these
questions which I am sure the chamber will
be interested to hear.

Senator Mark Bishop—More! More!

Senator CARR—You would like an ex-
tensive discussion? I do not know whether it
will be that detailed, given the hour. There
are a couple of points that need to be made.
The debate here goes to the issue of policy
inconsistency. We have had extensive can-
vassing of the Australian Vice-Chancellors
Committee. I am not surprised that, in the
context of policy inconsistency, the Austra-
lian Vice-Chancellors Committee should
come up in that discussion. I would have
thought that the Australian Vice-Chancellors
Committee would welcome the interest of One
Nation in higher education policy. The fact
that the Democrats and One Nation are of a
similar mind on this is another point of inter-
est that I am sure we will see a lot more of as well.

The point we have noticed here is that in the past the government has given commitments about the extension of subsidies to private entities within higher education and those commitments have been abandoned within a very short time—Notre Dame in Broome and Fremantle being the case in point. The problem is that we cannot rely on what the government says when it gives commitments. Senator Alston is perfectly right to say, ‘I cannot commit a future government to any particular policy position.’ But within the space of such a short time it is unusual for the same government to actually turn on its head commitments that it has given with regard to a particular matter. After all, the original commitments with regard to the Broome campus of Notre Dame were made in 1999 and now we have this new proposition emerging about the Fremantle campus of Notre Dame.

The more substantive problem with the Higher Education Funding Act is that on table A there are currently two private institutions—the Australian Catholic University and the University of Notre Dame. On table B, there are a further two institutions—Avondale College and Marcus Oldham College. We have no consistency in the application as it currently stands. This was Dr Kemp’s agenda; I do not think it is really Dr Nelson’s agenda. Dr Kemp undertook unilaterally through a private arrangement to fund a couple of Christian colleges. That is the basis of the election commitment we are talking about. There were no criteria established and there were no bases for proper assessment as to who should get this government subsidy and who should not. It was clearly a political arrangement entered into by Dr Kemp and made the subject of a Liberal Party election promise—which we have discussed on previous occasions.

However, we have a commitment from the private providers—the Australian Council of Private Education and Training. Mr Tim Smith argued this case. Senator Alston knows Mr Smith only too well. They are long associates in the Liberal Party. We know that. They share the senior ranking in the Liberal Party in Victoria. Mr Smith is a very effective advocate for ACPET. He is a former adviser to Mr Honeywood in Victoria and a former public servant in the Victorian public service in higher education. He says:

I concede that if you talk about the extension of the HECS scheme to private providers—and that is what we really want; I guess that is our end objective—then you would be talking larger numbers.

Here he is referring to the potential for this program to be extended through to possibly as many as 90 additional providers. When Mr Smith says that on behalf of ACPET I can only assume that he says it with some authority. I can only assume also that this is a position that would be discussed within the Liberal Party. I can only assume that the government may well be contemplating this policy change in the future, despite what we are being told here today. What we are being told in effect is: ‘We can give you no commitment whatsoever about the future. All we will say to you is that, if we want to offer subsidies to more private colleges, it will require changes to the legislation.’ That is all we are being told. That is of course a statement of fact. If you want to amend schedule 1 or schedule 2, you will require legislation. There is no commitment from this government other than that they will abide by the law. Well, big deal.

The policy problem that we face is: how do we respond to this situation? This is where we differ from One Nation. There are many things that we differ from them on, but in relation to this particular matter I can say to them—and to the Democrats as well—that a more comprehensive response is required here. It is no good saying to each and every one of them, ‘Sorry, no, it is not on.’ What we need to do is examine those that are applying for public subsidies. After all, we acknowledge that what we are talking about here is handing out a market advantage to a small number of people. We say that if you are going to do that—and we have already done it in the case of four private institutions with regard to the current law—then there needs to be some policy consistency, given the hotch-potch that we have at the moment. That is a difficult problem.
We could continue, I suppose, along the lines that have been suggested. The option that has been put before us is that we say no—just a straight out, ‘No, you cannot have it.’ What we say, though, is that there needs to be a better approach than that. We argue that we need to not just assess these particular courses that have been presented to us but to consider the question of the institutions. We need a proper accountability mechanism and a quality assurance regime that allows us to have some confidence that the institutions that are offering these particular programs, and that are offering students qualifications on behalf of the Australian higher education system, can be measured against other institutions. This would give some protection both for the students and for the system as a whole. That is why we are proposing a regime of quality assurance that will in fact allow for a more rational assessment of institutions applying for public subsidies.

We are saying therefore that we need to seek a process and a structure for forming proper, well-informed views about the nature of any of these institutions. The chamber has already carried some amendments—and if this were to be carried I suggest that we would be in sharp contradiction to the matters that have already been dealt with by the committee—and there ought to be a proper process or a panel to make assessments about these providers, not just the self-accrediting providers but the non-accrediting providers as well. That is why we have suggested that measures that can attract public confidence need to be entered into which will allow public scrutiny and accountability and which will ensure that, if you are a private provider that is not getting the money, you will know at least why your competitor is getting it. That is a problem that this free-market government seems to have avoided. It has avoided facing up to its obligations. Why is it giving particular favoured treatment—market advantage—to such a small group of people? We say that there needs to be an assessment process that allows us to have confidence that money is not being handed out on the basis of private arrangements. There are four private providers within the HEFA Bill at the moment, so in some senses the genie is out of the bottle and it has been out for a while.

I note that Senator Stott Despoja enjoyed drawing attention to Mr Beazley’s involvement in these matters in 1999. I would point out to her that there are a number of private providers on HEFA, not just Notre Dame. What we need therefore is a broader approach than the one being proposed by One Nation and the Democrats. That is why we are not going to be supporting the amendment.

Senator STOTT DESPOJA (South Australia) (12.27 p.m.)—I would like to respond briefly to Senator Carr, because I do not want any misrepresentation of our position to linger in this chamber after we have finished this debate. First of all, the Democrats are not saying, ‘No, never.’ We are saying, ‘Get your criteria right.’ Senator Carr is right to refer to the fact that a number of private institutions are already included. We agree that there have to be tighter mechanisms for accountability and quality et cetera. This is why we were quite happy to support the amendments put forward by the Labor Party. Can I state for the record that the Democrats and other minor parties, including One Nation, supported those amendments. I think that in this place we are well beyond the kind of puerile debate where cheap shots are taken at minor parties when they do not choose to support you at times.

I also want to make the point to Senator Carr and Senator Alston that, yes, broader debate is welcomed, hence the argument that I think has been proffered at various times by the opposition: why pre-empt a broad-ranging review? Because I have not put this on record, I wish to do it clearly now. I acknowledged the assurance that Senator Alston gave to Senator Harris. I understand the context in which he can do that. The debate that we are having now is dealing particularly with four institutions. The example that I used was about the extension of funding to one institution—one university; different campuses. That was why, for a number of reasons, the Democrats were concerned about that breach of promise or breach of guarantee. More importantly, any misleading of the chamber should be dealt with in a se-
rious fashion. We look forward to the minister’s response on that issue.

But, please, can we have no misrepresentation of the Democrats on this issue in this debate. As you know, we have in the past approved, specifically in the case of Notre Dame Broome campus, the extension of public funding of a university course. That goes to the heart of the fact that the Democrats are prepared to consider cases put forward by government. But give us a rationale, give us a credible criteria, give us a broad-ranging set of circumstances so that we can prevent a repeat of decisions that we have seen most recently and, indeed, in the past, in 1998 notably, where political intervention has resulted in funding provided by the taxpayer to a private institution.

Senator HARRIS (Queensland) (12.30 p.m.)—I would like to briefly comment on Senator Carr’s contribution to the debate, in which he has clearly articulated the problem that we are facing—that is, by this legislation allowing those two institutions access to PELS, we are creating a precedent where the other 80-odd institutions also then have a legitimate argument to be able to access PELS as well. Senator Carr clearly said that we had let the genie out of the bottle. Senator Carr has the opportunity to whack the genie back into the bottle, because the proposed section of the bill that this amendment refers to very clearly is only an indication of the ability of the Christian Heritage College or Tabor College to access the program. The higher education group are clearly saying that they do not oppose those other institutions having public funding, that they believe it is inappropriate for them to access PELS and that there should be a process put in place by the government to provide additional funding to those other institutions. With those very brief comments, I call on Senator Carr to put the genie back into the bottle and support the amendment.

The TEMPORARY CHAIRMAN (Senator Hutchins)—The question is that item 10, as amended, be agreed to.

Question agreed to.

Bill, as amended, agreed to.

HIGHER EDUCATION LEGISLATION AMENDMENT BILL (No. 2) 2002

Bill—by leave—taken as a whole.

The TEMPORARY CHAIRMAN (Senator Hutchins)—The question is that the bill stand as printed.

Question agreed to.

Bill agreed to.

Higher Education Funding Amendment Bill 2002 reported with amendments; Higher Education Legislation Amendment Bill (No. 2) 2002 reported without amendment; report adopted.

Third Reading

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (12.34 p.m.)—I move:

That these bills be now read a third time.

Bills read a third time.

MARRIAGE AMENDMENT BILL 2002

In Committee

Consideration resumed from 19 August.

The CHAIRMAN—The committee is considering the Marriage Amendment Bill 2002 and amendments (1) to (3) on sheet 2583 moved by Senator Greig. The question is that the amendments be agreed to.

Senator GREIG (Western Australia) (12.36 p.m.)—I seem to recall that when we left the discussion on the Marriage Amendment Bill 2002 some weeks ago I was speaking to my amendments (1) to (3), and I take this opportunity to continue with that. I was advocating, interestingly, along the lines of that which we saw in notices of motion this morning. This morning I asked the Senate to recognise—and it agreed—the comprehensive law reform that we have experienced in my home state of Western Australia in this area and also to congratulate both the people and the parliament for what they have achieved in that area. Much of what has been done at a state level not just in my home state but also in Queensland, Victoria, Tasmania, New South Wales and South Australia relates to basic decriminalisation issues, issues around age of consent and sexual privacy, but in recent years state jurisdictions
have expanded their law reform agendas in much broader ways, bringing up a much clearer level of equity in the way in which the states under their jurisdictions relate to partnerships, whether they be married partnerships, de facto partnerships or, as is the case we are discussing here today, same sex partnerships.

The law reform which has been passed in the Western Australian parliament will happily be proclaimed tomorrow, I understand. It will ensure that Western Australia will have gone from having the most backward and draconian antihomosexual legislation in the country to taking up a position of equality with most other states and territories, at least in its antidiscrimination provisions and protections, and of leading the country in partnership recognition in areas such as access to IVF and the adoption of children. Those measures have not yet been debated, discussed or introduced in some other states. I note that Tasmania, for example, passed legislation at least two years ago ending discrimination against same sex couples in the area of superannuation but has not gone further in recognising same sex relationships in other areas of state law.

The point I have been trying to make for some time is that the states and territories, for the most part, have come on in an extraordinary way in dealing with these issues. All states and territories have now abolished antihomosexual laws and have introduced antidiscrimination laws and partnership recognition laws to varying degrees of effectiveness and adequacy or have said that they plan to. I note that Tasmania and South Australia have some way to go, but the parliaments in both those jurisdictions have said that they are keen to look at that. The new Clare Martin Labor government in the Northern Territory has also indicated that it too is looking at reform in this area. Yet the Commonwealth significantly lags behind.

While we have seen terrific and progressive law reform around the states and territories in the areas of superannuation and, in some cases, property rights, settlements, wills and intestate situations, it has not yet been echoed at a Commonwealth level. So, as it stands, Australia is one of the very few Western countries that has no national antidiscrimination provisions, unlike comparable jurisdictions such as Canada, South Africa, Britain and New Zealand, and has absolutely no level of recognition of same sex couples under federal legislation. This results in discrimination in areas as diverse as superannuation, social security, immigration, taxation, veterans' affairs, industrial relations and so on. In other words, every area of Commonwealth law that deals with relationships discriminates against same sex relationships by not recognising them.

Interestingly, there are a couple of exceptions to that and one is relocation expenses for some staff who work in some Commonwealth departments and staffs who work for federal members of parliament. If a Commonwealth staffer working for an MP or for some departments, including the Department of Foreign Affairs and Trade, should be posted interstate or overseas, the Commonwealth will recognise their partner whether they are of the same or opposite sex for the purposes of moving the couple together.

It was not so long ago that we were engaged in a census throughout Australia. For only the second time the census recorded the number of same sex couples who chose to declare their status. For many people, the first attempt at this by the census was gone about in a clumsy and difficult way because it did not give people the opportunity to register specifically and unambiguously as a same sex couple. The usual practice has been that where two people of the same sex were cohabiting—were living in the same accommodation—and considered themselves to be in a relationship and ticked the box that said either married or de facto, the Australian Bureau of Statistics regarded that as an error and it was not counted. The ABS has decided that it will no longer count those as errors but as same sex relationships. So, for only the second time, this was done recently.

On 16 July this year, a report in the Australian noted—and this was also covered in other areas of the media—that some 19,594 same sex couples registered in the recent census. Interestingly, that was double the number of people since 1996 who declared themselves as being in a same sex partner-
ship. It would be very interesting to find out why that extraordinary jump occurred. I think in part it was because many lesbian and gay people around Australia—for understandable reasons—were still very reluctant to volunteer information to government authorities, given the long history of discrimination that many of these people had experienced and the distrust that many of them had of authorities. The Australian also reported that, of the 19,594 same sex couples recorded in the ABS figures, just over 11 per cent were raising children. It is critical to recognise and understand this.

It has often been said by critics of gay and lesbian people and gay and lesbian law reform that in some ways this legislation is antifamily. It is very important to recognise that many same sex couples—and according to the ABS some 11 per cent of them around Australia—are in fact raising children. In some cases, these are children born into previous heterosexual relationships, but increasingly lesbians are having children through artificial insemination programs or IVF, and I am conscious that that is a topical and ongoing issue within the Australian parliament. But we must also recognise that any discrimination that results against same sex couples who have children also ensures that that discrimination is placed upon the children. So, as a consequence, you can find that children can be raised in relationships that are not subject to the tax breaks or family tax advantages that apply to other relationships. The Commonwealth is actually imposing financial discrimination upon the children being raised in same sex relationships. That is inappropriate and it is time that we looked at every avenue to address this issue of reform. One way to do that is by looking at amendments, as I propose today, to not just this bill but others where the opportunity arises where we can eradicate discrimination against gay and lesbian people and their relationships.

Progress reported.

B U S I N E S S
Rearrangement

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.45 p.m.)—I move:

That, after consideration of government business orders of the day Nos 9 and 10, the following government business orders of the day be called on to enable second reading speeches to be made till not later than 2 p.m.:

No. 3 Proceeds of Crime Bill 2002 and a related bill.
No. 4 Space Activities Amendment Bill 2002.
No. 8 Plant Breeder’s Rights Amendment Bill 2002.

Question agreed to.

CUSTOMS LEGISLATION AMENDMENT BILL (No. 1) 2002
IMPORT PROCESSING CHARGES (AMENDMENT AND REPEAL) BILL 2002

Second Reading
Debate resumed from 22 August, on motion by Senator Troeth:

That these bills be now read a second time.

Senator LUDWIG (Queensland) (12.46 p.m.)—My colleague the shadow minister for justice and customs has already indicated that the opposition has no desire to impede the passage of the Customs Legislation Amendment Bill (No. 1) 2002. One of the key purposes of the customs bill is to ensure that the various acts to which it refers are consistent with the Criminal Code. This bill expressly states which offences are strict liability offences; these deal primarily with reporting requirements for failure to comply with conditions.

The Scrutiny of Bills Committee found reasons to query several of the matters relating to strict liability. The committee did draw attention, in its Alert Digest No. 6 of 2002, to the question of the exact nature of the strict liability offences and sought from the Minister for Justice and Customs a clarification of these provisions. The minister responded to the committee, and that response is recorded in the ninth report of the committee, dated 28 August 2002. The minister indicated that there were a number of offences...
contained within the Commonwealth acts in the Attorney-General’s portfolio which were expressly stated to be strict liability offences. The government then in effect conducted an audit of the acts to establish which offences were strict liability offences. This bill clarifies which offences in the Customs Act are strict liability offences. The minister’s response to the committee stated in part:

The process described in that letter of determining whether in each instance Parliament originally intended that the subject offence be one of strict liability was applied in this case.

The opposition, while not promoting the notion of strict liability, accept the minister’s response to the committee. We have been informed of the amendments proposed by the Democrats to three strict liability items in schedule 1 of the bill in these specific instances, including item No. 6 and item No. 36. The opposition agree with the amendments proposed by the government to resolve these matters. In the matter of item No. 87, the opposition again support the government’s position, or at least do not oppose it.

I will take this opportunity, however, to draw the attention of senators to the principles for the protection of people affected by strict liability provision and for the administration of such provisions. It is worth while articulating that in the sense of ensuring the parliament is informed of the opposition’s view of strict liability offences. Strict liability offences raise particular concerns that have been highlighted in, as I said earlier, the Scrutiny of Bills Committee’s sixth report of 2002. It is worth while going to that report, which stated:

- the process of deciding whether to introduce strict liability for an offence should recognise that this may have adverse effects upon those affected; the legitimate rights of these people should be paramount and take precedence over administrative convenience and perceived cost savings in program administration

I recall former Senator Barney Cooney, who chaired that committee and promoted the rule of law, ensuring that these issues were aired appropriately and correctly. I remind the Senate of the importance of imposing such safeguards, as I am sure he would have done.

Schedule 2 of the bill deals with the effects of the Toyota case, as it perhaps is commonly called. It replaces the words ‘value unrelated matter’ in the definition of ‘price’ in section 154(1) of the Customs Act with the word ‘rebates’. The effect of this change will be to prevent the deduction of warranty costs from the customs value. Concerns have been raised about the impact of this section on our international obligations under GATT and agreements under the World Trade Organisation, or the WTO as it is more commonly called. The opposition drew the government’s attention to these concerns and we have since received assurances from the government that Australia will not be in contravention of its obligations. The opposition accept the comments provided by the Australian Customs Service that Australia, as a member of the World Trade Organisation, is obliged to ensure that its customs valuation legislation is consistent with the valuation agreement. More broadly, we concur that this section of the legislation is necessary to save Australian taxpayers some $300,000 per month.

Schedule 3 provides amendments to the Customs Act 1901, dealing with provisions as they will be introduced or amended by the trade modernisation act. It will repeal the Import Processing Charges Act 1997, which will be replaced by the Import Processing Charges Act 2001. Most of the amendments have not yet commenced.

Schedule 4 deals with matters relating to the rights and privileges of Torres Strait Islanders operating in the protected zone—an extremely important matter to the opposition and, I am sure, parliament. Under the Customs Act, officers can only seize special forfeited goods without a warrant if those goods are at, or in a container at, a customs place.

Certain vessels operating in the protected zone are exempt from these provisions—those manned by the traditional inhabitants undertaking traditional activities. Thus the traditional inhabitants are able to move freely within the protected zone, which is the relevant part of the Torres Strait, Papua New Guinea and Australia. These vessels are not required to enter an appointed port and are not required to have a certificate of clear-
ance, nor be brought to a boarding station prior to departure—there would be little commonsense in applying customs legislation to that area. Customs officers are not able to search these types of vessels in an appointed port and thus are not able to seize special forfeited goods other than narcotics without a warrant. Given the nature of these special forfeited goods, there is a belief that Customs officers’ safety is at risk while they spend time telephoning for a warrant or otherwise trying to obtain communications with the necessary authorities.

The process of obtaining a warrant—particularly in adverse weather conditions, we are informed—can take several hours, if not longer. I am advised that the desire to ensure the personal safety of both the Customs officer and the traditional inhabitants underpins this section of the bill. These amendments will allow Customs officers to seize special forfeited goods and evidential material without a warrant on board exempt ships and, in limited circumstances, on land in the protected zone. The government’s second reading speech noted:

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

Therefore I am pleased that consultation has occurred.

Schedule 5 of the customs bill deals with the issue of remail. Couriers or freight forwarders will import mail and then place it into the domestic mail system in Australia or deliver the mail articles themselves. Due to the nature of remail items, Customs considers it less likely that they will be imported in contravention of Commonwealth laws. The proposed amendments will allow registered remail reporters to provide Customs with less detail in respect of remail items.

The purpose of the Import Processing Charges (Amendment and Repeal) Bill 2002 is to continue the operation of the Import Processing Charges Act 1997 after it is repealed by the Customs Legislation Amendment and Repeal (International Trade Modernisation) Act and to clarify the amount payable as a result of self-assessment declaration in respect of reportable documents. They have been integral to one another during the process of this debate. According to the government, it has recently become apparent that the industry may not be ready to use the integrated cargo system by July 2003. I think the government has put out a number of articles and time lines to explain that process. As a result of using the Customs Legislation Amendment Bill (No. 1) 2002, this date is to be extended until 21 July 2004.

Many of the provisions of the trade modernisation act depend directly or indirectly on the introduction of Customs’s new integrated cargo management system. It should be noted that the very fact that this bill is currently before the parliament could be seen to indicate that there has been insufficient planning for implementation of a new computer system. This has implications not only internally for the Customs Service but for industry as a whole. The timetable was questioned by industry in both the Senate committee hearing into the original legislation and a later Senate inquiry into the outsourcing of the Customs Service information technology. The government and the Australian Customs Service indicated that the change in the timetable enacted by this legislation is to assist industry. Mr Paul Zalai of the Customs Brokers Council of Australia is quoted in the Financial Review of 30 April 2002 as saying:

The extension provides Customs and industry with a more realistic ability to adequately develop, test and implement the software and communication changes associated with the cargo management re-engineering initiatives.

This comment was made in the context of welcoming the new timetable and seems to imply that the initial time frame was not realistic. The Senate obviously will get an opportunity during the estimates process to ensure that the process is going well. I can assure the Senate that it is a matter that I will pay particular attention to, to ensure that the time frames that we have allowed are adequate and will be met by Customs, and industry will be consulted and ensure that the process seems both realistic and fair.

It seems obvious to us that appropriate consideration was not given to the ramifications of a project of such magnitude, particularly in its implementation schedule.
How is it that such a major change, affecting a large government department and all the businesses which import into and export from Australia, was not more thoroughly examined? I guess it remains a matter that the department needs to address internally and that the minister should pay some regard to. There may have been unforeseen side winds that extended the program, but that certainly has not been explained fully to the opposition. We do accept that the development process has been larger than what may have been guessed at originally. Despite these concerns, as I indicated earlier the opposition will support this bill. Nonetheless, while our concern in this case has been resolved, the government and the Australian Customs Service are on notice that the opposition will continue their scrutiny of upcoming bills to ensure that the best interests of the country are served through the Customs Service.

Senator MURRAY (Western Australia)

(12.57 p.m.)—I will first address the Import Processing Charges (Amendment and Repeal) Bill 2002. The Import Processing Charges Act 1997 imposes three charges: a cargo report processing charge, an entry processing charge and a screening charge. In 2001, parliament passed a package of three legislative measures, the purpose of which was to modernise the way in which the Australian Customs Service manages the movement of cargo into and out of Australia. The three acts in this modernisation package were the Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001, the Customs Depot Licensing Charges Amendment Act 2001 and the Import Processing Charges Act 2001.

Many of the provisions of the trade modernisation act depend directly or indirectly on the introduction of Customs’s new integrated cargo management system. The government proposes to extend the time that those provisions can be proclaimed from two years to three, until 21 July 2004. The government also proposes amendment to the trade modernisation act in order to allow the new reporting and processing requirements to be phased in. The trade modernisation act also introduces a moratorium period during which documentary reports may continue to be made, and the bill makes consequential amendments so that the 1997 charges act continues to apply during those moratorium periods. I think the opposition have made the clear point that this shows that the process of introducing this has been more difficult than was forecast, and the government’s bill is a necessary consequence of a recognition of that difficulty. We accept, therefore, that it is not controversial and we will support it.

The second bill that we are dealing with is the Customs Legislation Amendment Bill (No. 1) 2002. That 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 and restores the way imported goods are valued to make this consistent with Australia’s international trade obligations. It improves customs border security measures by allowing the seizure of certain goods in the Torres Strait and providing for simplified reporting of remail 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 Legislation Amendment (Application of 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 equivalent penalty units.

The opposition has drawn attention to the Scrutiny of Bills Committee reports on these
The customs minister has responded well to those. In turn, we as the Democrats have raised a number of issues with the government. I note the government’s amendment which is before us and which we will support. We will put forward two amendments in that area ourselves, which we will allow to be carried on voices.

The second set of amendments I wish to deal with 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 Organisation Agreement on the 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 and 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.

Another set of amendments made by these bills will ensure that the way in which imported goods are valued is consistent with Australia’s international obligations under the World Trade Organisation Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994. In relation to the concerns that Senator Ludwig raised, I am advised that these amendments will ensure that customs valuation legislation is consistent with the WTO valuation agreement in relation to the treatment of warranties. The WTO agreement requires the customs value of imported goods to be the total of payments made for the goods, with specific exceptions. These exceptions do not cover payments for warranty costs. The amendments in this bill clarify that the warranty component of the price paid for goods imported into Australia is included in the customs value.

Another set of amendments improve border security in the Torres Strait by allowing Customs to seize, without a warrant, prohibited imports and exports found on a vessel in the Torres Strait protected zone. These amendments have received support from the Torres Strait Regional Authority. The bill provides a registration scheme for the reporting of remail cargo, as the potential for this type of cargo, as defined, to harbour prohibited goods is low. A person who registers as a remail reporter will be required to
provide fewer details about this type of cargo when reporting to Customs. The Customs Legislation Amendment Bill (No. 1) 2002 also clarifies the existing exemption to the passenger movement charge for persons who make more than one departure from Australia during a journey incorporating both air and sea legs and extends the exemption from this charge to persons covered by the Overseas Missions (Privileges and Immunities) Act 1995.

Finally, amendments in both this bill and the Import Processing Charges (Amendment and Repeal) Bill 2002 continue the process of modernising Australia’s cargo management systems. This process began with the passage of the Customs Legislation Amendment and Repeal (International Trade Modernisation) Act 2001. The amendments in these bills allow for an extension of the proclamation period for the trade modernisation act from two years to three years—until 20 July 2004—and ensure that the import processing charges imposed by the Import Processing Charges Act 1997 will continue to apply during that extended period of time. The extension of the proclamation period will allow sufficient time for the trading community to be in a position to use Customs’s new cargo management computer system, the integrated cargo system.

Since the trade modernisation act was enacted, it has become apparent that, due to the scale of change involved in the replacement of Customs’s current cargo management computer systems, a phased approach to implementation is preferred. The trade modernisation act currently requires all provisions to be repealed on the same day, and these amendments allow for the repeal of provisions that govern the operation of the current systems to commence on different days. By repealing provisions on different days, a phased implementation of the new cargo management computer system can be undertaken in consultation with industry. I commend these bills to the Senate.

Bill—by leave—taken as a whole.

**In Committee**

CUSTOMS LEGISLATION AMENDMENT BILL (No. 1) 2002

Bill—by leave—taken as a whole.

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.09 p.m.)—I table a supplementary explanatory memorandum relating to the government amendment to be moved to this bill. The memorandum was circulated in the chamber on 19 September 2002. The government opposes item 6 in schedule 1 in the following terms:

(1) Schedule 1, item 6, page 8 (lines 16 and 19), TO BE OPPOSED.

**The CHAIRMAN**—The question is that item 6 in schedule 1 stand as printed.

Question negatived.

**Senator MURRAY** (Western Australia) (1.10 p.m.)—The Democrats oppose items 35 and 36 in schedule 1 in the following terms:

(1) Schedule 1, item 35, page 11 (lines 8 and 9), TO BE OPPOSED.

(2) Schedule 1, item 36, page 11 (lines 10 to 17), TO BE OPPOSED.

**The CHAIRMAN**—The question is that items 35 and 36 in schedule 1 stand as printed.

Question negatived.

**Senator MURRAY** (Western Australia) (1.10 p.m.)—The Democrats oppose items 35 and 36 in schedule 1 in the following terms:

(1) Schedule 1, item 35, page 11 (lines 8 and 9), TO BE OPPOSED.

(2) Schedule 1, item 36, page 11 (lines 10 to 17), TO BE OPPOSED.

**The CHAIRMAN**—The question is that items 35 and 36 in schedule 1 stand as printed.

Question negatived.

Bill, as amended, agreed to.

**IMPORT PROCESSING CHARGES (AMENDMENT AND REPEAL) BILL 2002**

Bill—by leave—taken as a whole.

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

Question agreed to.

Bill agreed to.

Customs Legislation Amendment Bill (No. 1) 2002 reported with amendments; Import Processing Charges (Amendment and Repeal) Bill 2002 reported without requests; report adopted.

**Third Reading**

**Senator TROETH** (Victoria—Parliamentary Secretary to the Minister for Agri-
culture, Fisheries and Forestry) (1.12 p.m.)—
I move:
That these bills be now read a third time.
Question agreed to.
Bills read a third time.

PLANT HEALTH AUSTRALIA (PLANT INDUSTRIES) FUNDING BILL 2002

Second Reading

Debate resumed from 22 August, on motion by Senator Troeth:

That this bill be now read a second time.

Senator O'BRIEN (Tasmania) (1.13 p.m.)—The Plant Health Australia (Plant Industries) Funding Bill 2002 will enable new levies and charges to be paid to Plant Health Australia Ltd through the normal appropriation from consolidated revenue. The bill also provides a mechanism for moneys collected in excess of a plant industry’s liability to Plant Health Australia to be appropriated for research and development activities. Plant Health Australia 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. In 1996 Professor Malcolm Nairn reported, following a review of quarantine in Australia. That review was commissioned by the last Labor government.

The concept of a national coordinating body to deal with plant health flowed from the Nairn review, and I am pleased that the incoming Howard government followed up on this Labor-initiated strategy. In early 1998 the industry and government, through a ministerial council senior officers group, began working on the concept of a national coordinating body to address plant health issues. That process eventually led to the registration of Plant Health Australia in April 2000. The role of this organisation has four key features. Firstly, it is an adviser to both industry and governments on plant health issues. Secondly, it is the promoter of international and domestic confidence in Australia’s plant health status. Thirdly, it is charged with the responsibility to develop effective, consultative, transparent and auditable plant health management systems. Fourthly, it is charged with the responsibility to develop and manage plant health programs. It is an important organisation that has a key role to play in the future of some of our major export industries. Industry members of Plant Health Australia cover the grains, cotton, vegetable and potato, sugar, wine grape, nursery, apple and pear, rice, banana, fresh stone fruit, nut, honey and strawberry industries.

The purpose of the bill is to help plant industries fund their share of Plant Health Australia’s costs. Plant Health Australia’s running costs of approximately $1.5 million per annum are shared between its members. The plant industries’ share of Plant Health Australia’s costs is approximately $500,000 per annum. As the minister pointed out in his second reading speech, there has been an interim measure in place pending the development of these new arrangements. Industry members of Plant Health Australia have been funding their share of Plant Health Australia’s costs either directly from industry association moneys or through their industry’s research and development corporation. Under Plant Health Australia’s constitution, these costs are shared between its plant industry members, based in part on the value of production of the various crops.

The minister has advised that the legislative mechanism was developed in consultation with Plant Health Australia’s plant industry members. It is designed to limit the appropriation made to Plant Health Australia to exactly that of each plant industry member’s share of Plant Health Australia’s annual costs. Once an industry’s share of its annual contributions to Plant Health Australia has been met, the bill provides for moneys collected in excess of this amount to be redirected to that industry’s research and development corporation and deemed a research and development levy or charge. This research and development component will be matched by the Commonwealth, as is currently the case. The new Plant Health Australia levies and charges component will not be matched. Clearly, the benefit of returning any excess levy contributions to research activities is that the industries will benefit immediately from the government’s match-
The bill also contains measures that will enable a plant industry member to raise additional funds for special projects that the member wishes Plant Health Australia to undertake on its behalf. In accordance with Plant Health Australia’s constitution, its 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 Plant Health Australia from a new Plant Health Australia levy and charge, there will be no increase in the overall levy and charge burden on industry members.

The minister advised in his second reading speech that this is because the proposed operative rate of a Plant Health Australia levy or charge for initial participants will be exactly offset by a corresponding decrease in that industry’s existing research and development 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 changes to the paperwork required of businesses and producers already paying levies and charges. The minister has also advised that this legislation has the full support of industry groups and producers. It establishes arrangements for the long-term funding of Plant Health Australia’s plant health activities.

Mr Acting Deputy President, as you would be aware, Animal Health Australia now has in place a funding arrangement to meet the cost of managing an exotic disease outbreak. As I recall it, that process took some time to negotiate within the membership of that organisation, but there was a satisfactory outcome and that is to the credit of all concerned. Plant Health Australia is working through a similar process at the moment and I am confident that a similar satisfactory outcome will be achieved. It therefore seems to me that provision could have been made in this bill for the collection of funds from members to meet the cost of managing a disease or pest incursion.

The minister may recall the Australian Meat and Live-stock Industry Bill 1997. That bill contained what I would call a housekeeping provision, which allowed for the government to collect future levies under the act. With the backing of industry, the ability of the Commonwealth to collect levies was inserted into the legislation, but the amount was set at zero. This gives the government the ability to collect a levy, if and as needed, up to a predetermined maximum amount without the need to amend the act, with all the time and effort that that can involve. I would appreciate advice from the minister as to why a similar arrangement is not a feature of this bill, given the advanced stage of negotiations between members of Plant Health Australia on a funding formula to meet the cost of exotic or endemic pest incursions.

At any time, the health of Australia’s production plants and animals is crucial to our ongoing international market access in a disease-worried world. I think this bill would be bettered by the inclusion of levy provisions not dissimilar to those in the Australian Meat and Live-stock Industry Bill 1997. This would enable the Commonwealth to rapidly provide funding to Australia’s plant industries to cope with such a disease emergency, in the comfort that those funds could be reimbursed over time by the industry through a Commonwealth levy. However, it is not the intention of the opposition to delay this bill, although I would commend this approach again to the government when it is considering and drafting future bills of this type.

Finally, I recently had the pleasure of meeting Professor Reuben Rose, the Dean of the Faculty of Veterinary Science at the University of Sydney, and Professor Lonnie King of the United States. In our discussions, both of those gentlemen focused on agri-terrorism and reinforced my belief that home security in terms of livestock and plant health, as well as our ability to react quickly to emergency disease outbreaks, is fundamental to our future. I might say that Plant Health Australia is well placed to make an important contribution to securing a safe and productive future for our plant industries. Having said that, I indicate that the opposition will support this bill.
The bill is to allow the Commonwealth to pay amounts of levies and charges it has collected on behalf of certain plant industries to Plant Health Australia Ltd. The bill will also impart a mechanism for any excess levies or charges that are collected to be redirected to the relevant plant industry research and development bodies.

The minister has advised that the legislative mechanism was developed in consultation with PHA plant industry members. The bill is designed to limit the appropriation made to PHA to exactly that of each plant industry member’s share of PHA’s annual costs. When the industry’s share of its annual contribution to PHA has been met the bill affords for any moneys collected in excess of its annual contribution to PHA to be redirected to that industry’s R&D corporation and be deemed to be an R&D levy and charge. The new PHA levies and charges component will not be matched. It is clear that the primary benefit of returning any surplus levy contributions to research activities is that the industries involved will benefit from the government’s matching dollar for dollar research and development funding.

Included in this bill is also a component that will facilitate plant industry members to raise additional funds for special projects that a member wishes to be undertaken by PHA on its behalf. The bill includes a ruling that allows consequential amendments to be made to the Horticultural Marketing and Research and Development Services Act 2000 and the Primary Industries and Energy Research and Development Act 1989.

The issues that need to be considered in this bill are that the PHA was established in April 2000 with a primary aim to be accountable for coordinating national plant health matters. Its members are from a variety of plant industries and all state, territory and Commonwealth governments—and I think that is what makes this bill particularly attractive. Consequently, the cost of any activities pursued by PHA is jointly the responsibility of its members based in part on the value of production of the various crops. Industry members of PHA belong to parts of the industry that include grains, cotton, vegetable and potato, sugar, wine grape, nursery, apple and pear, rice, banana, fresh stone fruit, nuts, honey and strawberries—a very diverse range of food products.

The minister has advised that the legislation has the full support of industry groups and producers—and, again, it is particularly attractive that the full range of industry groups and producers are working together. Labor, through Plant Health Australia, has established this to be true and it is one of the reasons—probably the primary reason—that we are supporting this bill. As a consequence, we have no major concerns with this particular bill before the chamber today. There will be a slight reduction in the Commonwealth contributions to research and development because of the diversion of some industry funds to PHA that would otherwise have been matched dollar for dollar by the Commonwealth if used for R&D purposes. However, there are really no other financial implications for the Commonwealth, and on these grounds Labor will be unequivocally supporting this bill.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.26 p.m.)—in reply—The Plant Health Australia (Plant Industries) Funding Bill 2002 provides a mechanism, as has been said, to enable plant industry members of Plant Health Australia Ltd to pay their share of PHA’s costs by diverting a portion of existing levies and charges to PHA. The legislative changes proposed give effect to the plant industries’ request not to increase the overall levy and charge burden on producers.

PHA members consist of plant industries and all state, territory and Commonwealth members and it was established in April 2000 as a Corporations Law company responsible for coordinating national plant health matters. The matter was raised in Senator O’Brien’s speech as to why we had not made provision in this legislation for eradication levies. Provision for eradication levies can be provided for after completion of negotiations on cost sharing. It was not included as the government did not wish to prejudice the cost sharing arrangements and negotiations which are always a reasonably delicate matter. However, I assure Senator
O’Brien that I also met with Professor King recently and I certainly appreciate the importance of the Commonwealth covering these matters.

There has been the full support of industry for this bill and its design to limit the appropriation made to PHA to exactly that of each plant industry member’s share of PHA’s annual costs. We are to use existing levy and charge collection arrangements, and it will also contain measures that enable additional funds to be raised for special projects. In accordance with PHA’s constitution, the members have to agree to this before the start of the year.

It is difficult to set a levy rate that will collect a precise amount of money and no more, so those plant industry members expected to use these arrangements are intending to seek the imposition of operative levy and charge rates at a level that will comfortably collect funds in excess of their liability to PHA. The bill makes provision for these excess funds to be redirected to fund research and development activities. Obviously, because some industry funds are being diverted to PHA, there will be a slight reduction in the Commonwealth contributions to research and development because of the matching dollar for dollar. As the intention of the bill is to facilitate the disbursement of levies and charges to PHA, there will be no further financial implications for the Commonwealth. I thank honourable senators for their contributions and I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

PROCEEDS OF CRIME BILL 2002
PROCEEDS OF CRIME (CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISIONS) BILL 2002

Second Reading

Debate resumed from 16 September, on motion by Senator Coonan:

That these bills be now read a second time.

upon which Senator Ludwig had moved by way of an amendment in respect of the Proceeds of Crime Bill 2002:

At the end of the motion, add:

“but the Senate:

(a) notes that the courts have recently affirmed the principle that a drug dealer may be allowed a tax deduction where the proceeds from illegal drug dealing are stolen;

(b) further notes that this treatment effectively frees from tax the proceeds of illegal drug dealing;

(c) confirms that this grave matter was brought to the attention of the Parliament more than 2 years ago by Labor;

(d) condemns the Treasurer for his inaction in attacking drug dealing by allowing this anomaly to stand for years; and

(e) calls on the Government to amend the taxation law to ensure criminals and drug dealers are no longer able to claim a tax deduction where the proceeds of drug deals are stolen”

Senator WEBBER (Western Australia) (1.30 p.m.)—When I made my earlier contribution to this debate on the Proceeds of Crime Bill 2002 and the Proceeds of Crime (Consequential Amendments and Transitional Provisions) Bill 2002 I outlined the fact that it is our view that the amendments that have been agreed to by the government, in addition to the contribution of Senator Ludwig, have made what could have been very bad legislation into acceptable and, in the long run, hopefully quite good legislation. I was saying that there is now an onus on all of us to ensure that this legislation will apply to the proceeds of all crime, no matter whether it is white-collar or blue-collar crime, as legislation of this ilk is traditionally seen as applying to the proceeds of blue-collar crime.

In seeking to make those points, I was drawing the attention of the Senate to a recent article by Ross Gittins in the Sydney Morning Herald on 26 August this year. If it turns out that the proceeds of crime legislation does not apply to white-collar criminals then, in my view, it will have failed, as there is as much misery caused to the victims of white-collar crime as there is with any other
kind of crime. As Mr Gittins pointed out in his article, the separating line between white- and blue-collar crime can normally be put down to the secondary role that emotion plays in corporate crime as the underlying motivation in corporate crime is greed. Gittins goes on to say:

In the case of corporate crime, however, where emotion plays a secondary role to calculated greed—where they’re just doing it for the money—you’d expect the size of the penalty and the chances of apprehension to have a big effect on people’s behaviour.

He goes on to state that the super-rationalists of the Chicago school would claim:

... it’s perfectly rational for people to steal or cheat whenever the expected benefit exceeds the expected cost. The expected cost is the probability of being caught multiplied by the size of the penalty if you are.

If you accept that as a proposition, the onus is on all of us to ensure that legislation like this applies to the proceeds of that kind of crime. All this means is that, if the Proceeds of Crime Bill does not apply equally to the corporate as well as to the street criminals, then the expected penalties will not be high enough.

This legislation should be used to restrain the assets of the corporate criminal to ensure that they cannot be used to defend criminal matters. This legislation must be used to stop the transfer of assets from one party to another to avoid the consequences of the law. No more should we see a situation where assets are moved from one member of a family to another to hide wealth. After all, that is wealth that is ill-gotten by any definition.

Finally, this raises the question of corporate crime investigations. The government should adequately finance the investigation of the operations of the corporate sector. ASIC must have the resources to investigate the behaviour of the rogue elements in the corporate world. The amounts involved are truly staggering, as can be seen in the HIH fiasco and other recent instances of corporate collapse. However, it is not possible to investigate these matters effectively if the relevant law enforcement agencies are not fully financed. The operation of the Proceeds of Crime Bill should ensure that this can be done without affecting budget bottom lines.

We should look at using the money received under the seizure provisions of these bills to fund the activities of law enforcement agencies, rather than simply passing it into consolidated revenue. That is absolutely critical and it is an issue that those of us on this side of the chamber intend to monitor very closely. This legislation must—and I emphasise ‘must’—operate regardless of whether the criminal wears a business suit or a tracksuit, regardless of whether the criminal uses a weapon or a dodgy calculator, regardless of whether it is an attack on a person’s body or to a person’s dignity through the loss of their job or retirement savings.

Senator KIRK (South Australia) (1.35 p.m.)—The Proceeds of Crime Bill 2002 and its cognate bill, the Proceeds of Crime (Consequential Amendments and Transitional Provisions) Bill 2002, introduce a set of laws that empower the Commonwealth to deprive persons of the proceeds of, and benefits derived from, their criminal activities. The bills emerge from the 1999 report of the Australian Law Reform Commission entitled Confiscation that counts. Recommendation 2 of the report stated that the principal objectives of a civil forfeiture scheme should be, firstly:

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To provide for forfeiture of property used in or in connection with the commission of offences against the laws of the Commonwealth or the Territories.

This report underpins the legislation before the Senate today.

In 2000, the member for Denison, my colleague in the other place, introduced a private member’s bill reflecting the ALP’s position on civil confiscation. The government introduced an earlier version of this bill, the Proceeds of Crime Bill 2001, into the House of Representatives in the last parliament on 20 September. However, this bill lapsed. The bill was reintroduced in its current form in this parliament on 13 March
2002. Both the 2001 and 2002 bills were referred to the Senate Legal and Constitutional Legislation Committee. The committee provided an extensive and thorough report in April of this year. The committee identified key weaknesses in the legislation and proposed amendments that are included in the bill before this place today.

The most notable feature of the legislation is the introduction of civil forfeiture. Limited civil forfeiture provisions currently exist in Commonwealth law in the Customs Act 1901. These provisions provide for the forfeiture of cash, cheques or goods proven to the civil standard—that is, on the balance of probabilities—to be derived from dealings in prohibited narcotic imports, without the need for a criminal charge or conviction. These provisions are ineffective because, according to the Australian Law Reform Commission report on the Proceeds of Crime Act 1987, they 'were too narrowly drawn'.

Civil forfeiture provisions have been introduced in three states of Australia, the first being New South Wales in 1990. In New South Wales, the civil forfeiture legislation has produced very effective results. The success of this legislation was highlighted in a submission by the National Crime Authority to the Senate Legal and Constitutional Legislation Committee. It advised that the number of orders made and the amounts recovered under the New South Wales legislation have surpassed the combined totals under all other confiscation laws throughout Australia. Similar legislation has also been introduced in Victoria and Western Australia.

The legislation before us today seeks to give effect to Australia's international obligations in relation to two treaties that it has ratified. These treaties require Australia to adopt such measures as may be necessary to deal with the proceeds of crime. The first of these treaties is the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances 1988. The second is the European Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime 1990. The provisions of these bills we are looking at today, which relate to the freezing of assets and confiscation of property associated with terrorism, implement the relevant provisions of the International Convention for the Suppression of the Financing of Terrorism and United Nations Security Council resolution 1373.

Labor is always willing to support legislation proposed by the government that will provide measures to discourage and deter crime by reducing profits from crimes. The Proceeds of Crime Bill 2002 aims to prevent criminals from benefiting from their crimes and prevent reinvestment of the proceeds and benefits into future criminal activities. The bill provides for the restraint and confiscation, on the civil standard of proof, of property and assets that are the proceeds of crime. It provides for civil forfeiture to allow the confiscation of unlawfully acquired property without first requiring a conviction.

Organised crime reflects a desire to achieve large profits through any possible means. As was stated in the spring 2002 volume of the Journal of Money Laundering Control:

The first thing to remember is that the organisation of crime is directed to the accumulation of money and with it power. The possession of power that flows with great wealth is, to some people, an important matter in itself, but this is secondary to the primary aim of accumulating money.

These bills relating to the proceeds of crime demonstrate an understanding of the purpose and process of organised crime. More importantly, however, these bills are a commitment to identifying the perpetrators of organised crime and making sure that they are held accountable for their unlawful acts. As was further stated in the Journal of Money Laundering Control:

Two conclusions flow from this fact. The first is that the most successful method of identifying and ultimately convicting major organised criminals is to follow the money trail. The second is that once you have identified and convicted them you take away their money; that is the money that is the product of their criminal activities.

These bills relating to the proceeds of crime mean that, once the money trail has been followed and the culprits identified, the courts will have the ability to confiscate assets that have been derived from the proceeds of crime, irrespective of whether a
criminal conviction has been secured. This is important, because today’s criminals operate in a technological and global environment that enables them to stand at arm’s length from crimes and the profits of those crimes.

This legislation allows the law to get closer to the centre of organised crime and ensure that people who are involved in organised crime are not given the opportunity to benefit at the community’s expense. Our law enforcement agencies need to be fully equipped with the tools they need to disable those in our community who would be advantaged by the proceeds of their crimes. Evidence to the Senate Legal and Constitutional Legislation Committee hearings indicated that conviction-based schemes were becoming less effective with the advent of new technologies and with the effects of globalisation, permitting criminals to distance themselves from their criminal activities. As my colleague the member for Banks said in the other place, ‘We cannot fight crime with dated weapons.’

Profits created from organised crime are inevitably used to finance further criminal activity. One such example is the cycle of drug trafficking. The movement of drugs from the drug lords to the sellers and then to the buyers produces significant profits that, in turn, influence the repetition of the cycle, on an ever-increasing scale. Drug trafficking represents one of the worst forms of illegal activity, paralysing the economic and social fabric of the community. This legislation before us today will help to reduce drug trafficking and other organised crime by targeting the profits of the drug lords. This legislation will be tough on these drug lords. It will ensure that at no stage in the cycle will people benefit from the proceeds of the crime, therefore limiting the desire of the drug lords to fuel the cycle. This legislation will ultimately serve to protect those who fall victim to vicious criminals and the drugs they push. The ultimate goal of this legislation is to protect the community.

This legislation is in accordance with the fundamental Labor values of equity, fairness and social justice. In speaking in its favour, I wish to recognise the work of my Labor colleagues in getting the bills to this stage. In particular, I would like to recognise the member for Denison, who put this issue on the agenda with his private member’s bill in 2000, which reflected Labor’s position on civil confiscation. That bill became part of Labor’s policy platform prior to the last federal election. It is pleasing to see that the government is taking note of the many good policies that my Labor colleagues proposed prior to the last election. The Labor Party went to the last election with policies designed to protect community safety. In particular, it went to the last election with the community safety zone policy, which sought to get law enforcement teams, as well as the various state and federal agencies, working together. The platform that the Labor Party took to the last federal election demonstrated a complete approach to community safety that did not walk away from federal responsibilities and attempt to hide behind the states’ primary responsibility for the operation of criminal law.

Labor continues to work to produce policies that protect our communities. The Leader of the Opposition’s recent announcement of a new shadow portfolio of community security is testament to that. The new portfolio will seek to further develop a national approach to community security. In the words of the new shadow minister for community security, the member for Werriwa:

People ... do not care where the solution comes from—local, state or federal government—they just want a solution. All levels of government have a responsibility for community security.

I also wish to highlight the work of other Labor colleagues of mine—particularly the shadow minister for justice and customs, the member for Banks; the former Labor senators Senator McKiernan and Senator Cooney; and Senator Ludwig. They sat on the Senate Legal and Constitutional Committee and proposed the amendments to this legislation that have ultimately led to the improvement of these bills.

One concern of my fellow senators on the Senate committee was the reversal of the onus of proof that this legislation introduces. The concern was that the presumption of innocence is removed when individuals are
forced to prove the legitimacy of their assets. This loss of presumed innocence is contrary to a fundamental principle of Australian law—that is, innocent until proven guilty. However, from the Senate committee hearings it has become evident that the reversal of onus provisions are very narrowly circumscribed in this bill. The National Crime Authority’s submission identified a number of factors which it claimed justified the reversal of the onus of proof and it pointed out that such provisions are widely used, both in Australia and overseas, in comparable situations.

I particularly note the steps that my Labor colleagues took in ensuring that these bills did not create an overly heavy-handed law that could exploit the civil liberties of our citizens. The report of the Senate committee—and, in particular, my Labor colleagues on that committee—noted a number of possible infringements on civil rights that the bills may bring about. I am pleased that the government is supporting the amendments proposed by my Labor colleagues to ensure that the legislation does not unnecessarily impede the civil liberties and freedoms of our citizens. Protecting the rights and freedoms of people in Australian society is the key to the Labor Party values of social democracy. Individuals have the right to a fair trial and to be able to live their lives without undue interference by the state.

Another aspect of this legislation that I would like to highlight today is the legal assistance provisions of the bill. Under these provisions, people facing restraint or forfeiture of their assets will be able to seek legal assistance by applying for legal aid. Restrained property will be excluded from the means test and the application for legal assistance will be considered against the usual legal aid criteria. All members of the Senate committee agreed that it would be unreasonable for a person who was subsequently found to have acquired their property legitimately to be required to bear the burden of the legal costs associated with proving their innocence. The committee recommended that consideration be given to amending the legal aid provisions of the bill to address this issue. Amendments to the bill before us today should achieve this and thereby remove what would otherwise be a significant injustice.

By way of closing, I wish to say that it is quite clear that organised crime is a multinational problem. The use of technology and globalisation means that criminals are able to distance themselves from the individual crime, making it more difficult to identify the perpetrators. These bills relating to the proceeds of crime are, in the words of the shadow minister for justice and customs, the member for Banks, a ‘multifaceted approach to a multinational crime’. The concepts of community security, the protection of individual rights and the provision of legal aid are embodied in this government-sponsored legislation. These are the values that my Labor colleagues rose to speak on over two years ago and which are given effect by these bills. I commend the government on implementing Labor policy and eagerly anticipate the adoption of further Labor initiatives.

Senator HARRIS (Queensland) (1.49 p.m.)—I rise to speak on the Proceeds of Crime Bill 2002. In my introduction, I would like to quote Lord Acton, who could have been thinking of asset forfeiture when he penned his famous dictum. He said:

Power tends to corrupt, and absolute power corrupts absolutely.

The bill before us in the Senate at this time constitutes the most significant and far-reaching reform to Commonwealth proceeds of crime legislation since its inception in 1987. The Proceeds of Crime Bill 2002 enables the government to confiscate assets without a criminal conviction. A judge can order assets to be frozen and confiscated where the Director of Public Prosecutions, the DPP, can prove on the balance of probabilities that a person has engaged in serious criminal activity in the previous six years. No criminal conviction would be required before confiscation occurred. The judge can order assets to be frozen and confiscated where the Director of Public Prosecutions, the DPP, can prove on the balance of probabilities that a person has engaged in serious criminal activity in the previous six years. No criminal conviction would be required before confiscation occurred.

The bill—that is, all 262 pages—overturns the traditional common law principle ‘innocent until proven guilty’. The balance of probabilities, which arguably amounts to little more than a suspicion of guilt, will be deemed enough to result in the serious and apparently irrevocable loss of people’s life
support systems—that is, their homes, their properties, their cars and other possessions.

There are two types of law relating to asset forfeiture. Firstly, criminal forfeiture requires the defendant to be found guilty of a crime in a criminal court before property can be seized. In Australia, this action comes under the Proceeds of Crime Act 1987. In these cases, legal representation is a right and the jury must find beyond a reasonable doubt that the property was integrally connected with the crime.

Secondly, civil forfeiture treats the question of confiscation as a completely separate issue from the imposition of a criminal penalty. With civil forfeiture, proceedings are conducted in civil courts according to civil standards of proof and civil rules of procedure. Since the forfeiture is a civil proceeding, not a criminal proceeding, the right to a trial by jury is denied. In some cases, defendants may not be entitled to legal representation unless they can pay for it themselves—a difficult task, since often the seized property is the defendant’s only asset.

The concept of forfeiture can be traced back to antiquity and is rooted in English common law. One early manifestation of forfeiture was in the federal law of deodand, originating in Norman times. The effect of deodand was to render forfeited any instrument or animal that was the cause of accidental death of a person. This in turn had its genesis in the earlier Anglo-Saxon concept of brana—the slayer—where the object causing death was forfeited and given to the family of the deceased. Most of the ancient forms of forfeiture were formally abolished in the 19th century.

Assets forfeiture raised its ugly head in several communist and European totalitarian states throughout the 20th century. Establishing control over a population entailed creating money crimes that were punishable by forfeiture and imprisonment. The forfeiture laws amounted to a legal way for despotic governments to plunder and confiscate the peoples’ assets. They also enriched the debt-ridden coffers of government.

Today, the push for civil asset forfeiture laws is part of a global trend in democratic states. A growing number of jurisdictions around the world, including America, Italy, Ireland, South Africa and the state of Ontario in Canada, have civil forfeiture schemes—although they vary in scope and nature. Asset forfeiture laws have existed in the USA for more than 20 years and have enabled law enforcement agencies to strip citizens of billions of dollars in cash and property with little or no recourse.

The United Nations has played a key role in the development of civil and criminal assets confiscation. Over the past decade, Australia has ratified several international treaties that require us to adopt forfeiture measures. These treaties include: the 1998 UN drug convention and the 1990 European money laundering convention, as well as Article 12 of the UN Convention against Transnational Organised Crime, which provides that states parties shall adopt measures enabling the tracing, freezing or seizure of the proceeds of crime.

The Proceeds of Crime Bill originates from the recommendations of the Australian Law Reform Commission report entitled Confiscation that counts: a review of the Proceeds of Crime Act 1987. In proposing this regime, the commission rejected the notion that recovery of profits from unlawful conduct is an adjunct of the criminal law process and, as such, should apply only to conduct that is criminal and has been proven beyond reasonable doubt. The commission argued its position based upon the principle that no-one should be entitled to be unjustly enriched on the basis of conduct that is criminally or civilly unlawful. I would like to point out that the commission’s report appears to be lacking hard evidence in relation to the need for a civil forfeiture regime. In chapter 4 of the report, the perceived shortcomings of the existing legislation are summarised. The report details only a few cases that provide any real basis for asserting that, if civil forfeiture is introduced, the returns from successful cases will be substantially increased.

This bill, like the government’s antiterrorism bills, is characterised by broad and sweeping definitions. The definition of ‘serious offence’ in the bill is very widely
drawn. Sweeping definitions are demonstrated by the fact that, while a person’s property may be the subject of a forfeiture order on the basis of a mere suspicion of criminal activity, they will only be permitted to have the property excluded from a forfeiture order if the court is satisfied that the property is not the proceeds of unlawful activity. The terms ‘proceeds’ and ‘unlawful activity’ are also extremely widely defined. Unlawful activity, for example, includes any Commonwealth offence, state and territory indictable offences and foreign offences. All of these changes assist the Commonwealth and increase the difficulties of the individual in proving their innocence. The bill is a clear case of the government versus the people.

According to part 4-3 of the bill, the revenue from confiscated assets will be deposited into a confiscated assets account, and the relevant minister, that is the Attorney-General, can pay out funds from that account for various purposes. These include programs for expenditure on law enforcement, drug treatment and crime prevention measures. At this stage, there is no estimate of the costs involved in terms of bringing confiscation proceedings.

The New South Wales Bar Association, which represents practising barristers, has raised concerns over the fact that this legislation does not provide any means whereby a person, who has not been convicted of a criminal offence, can utilise their property in defence of either criminal or civil proceedings brought against them by the Commonwealth. In its submission to the Senate committee, the association notes:

Any person whose property is restrained under the Bill’s provisions, ought to be able to access their property, subject to the supervision of the Court or an independent person appointed by the court, such as a costs assessor, to defend themselves against criminal proceedings, and proceedings seeking forfeiture of property interests.

Under the current Commonwealth law—the Proceeds of Crime Act 1987—a person may apply to a court to unfreeze assets, once assets are restrained or frozen. This enables the person to meet reasonable expenses in defending a criminal charge. According to the government, the problem with the unfreezing practice under the POCA 1987 is that a person may mount a very expensive and time-consuming defence that gobbles up all of his or her assets that were initially frozen, even though they may know they have very little chance of success, since they know these assets will be confiscated if they are found guilty.

There is no such unfreezing provision in this bill that we are looking at today. Rather, a person would have to apply to the relevant legal aid commission for funds to defend the criminal charges potentially giving rise to the confiscation proceedings. As noted on page 29 of the Bills Digest, the government has said:

Legal assistance in confiscation proceedings will be made a Commonwealth priority under the Commonwealth legal aid guidelines and priorities.

Of course, it is possible that not all of a person’s assets would be frozen and obviously the unfrozen assets could be used to mount a defence.

Debate interrupted.

QUESTIONS WITHOUT NOTICE

Telstra: Service Charges

Senator STEPHENS (2.00 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. Can the minister confirm that, in March 2000, Telstra’s phone rental fee for most customers was $11.65 per month? Isn’t it also true that, under the Howard government’s new Telstra pricing arrangements, line rentals have now increased to $21.90 per month and will eventually rise to around $32 per month? Why is the government letting Telstra squeeze more money from struggling families already under financial pressure in order to fatten up Telstra for full privatisation, using precisely the same presale tactic as it used for the sale of the airports—that is, jack up the charges to sweeten the sale?

Senator ALSTON—It does not take long for the new recruits to get the hang of the ideology, does it? I suppose when you run for preselection you are probably sworn to secrecy about the Commonwealth Bank and Qantas and how Labor ratted on the public
on a regular basis about their true love of privatisation. Their hatred of competition is very well known. We believe in maximising competition wherever possible, trying to ensure that the competitors get a fair crack of the whip. The classic balanced playing field never appeals to the Labor Party. They would rather be pulling the strings, putting in high taxes and giving them back to their mates; that is basically their fundamental political strategy.

We recognise, and so does the ACCC, that the current pricing arrangements are not conducive to maximum competition. What you have are very low line rentals, which means there is a very significant access deficit—I think it is about $1.2 billion—and that means that interconnect charges have to be higher than they would otherwise be, I think by about 30 per cent. That means that it is much more difficult for competitors to get a fair go.

I know you do not believe in competition. You would like to, before you strangle Telstra completely—I presume you have not ruled out buying it back yet, have you? That is about all you have not ruled out. You have certainly ruled in breaking it up into little pieces; two million shareholders will be very rapt in that proposition! But even if you do not break it up into little pieces or if you do not just hold on to the network and flog the rest, which seems to be Mr Tanner’s latest approach, the fact is that there do need to be price controls until you get competition working effectively, to the optimum level.

With respect to the price control regime that we announced, Labor has now foreshadowed it will be opposed—in other words, it will be all or nothing. You would actually be relaxing a number of the price controls on Telstra, because you will revert to the status quo. What you will also do is make it much more difficult for those second- and third-tier carriers to be able to compete on local call services, which I presume is what you would claim to be of importance. The fact is that prices for local calls have come down from about 25c to something like 15c to 18c. That is very good news.

ACOSS is supporting the latest package of price measures. But, of course, this opportunistic lot on the other side think that they can somehow ignore the rest of the equation, focus on one little aspect and say, ‘We’re against price increases.’ We know full well that their economic illiteracy is well understood by the electorate. But what they do not understand is that they will actually force up prices. They will make it much more difficult. If you really think you want to constrain Telstra the best way to do it is to have serious competition.

Senator ALSTON—I am entitled to talk about ‘we’. (Time expired)

Senator STEPHENS—Mr President, I ask a supplementary question. Can the minister also confirm that ordinary families are not being compensated for these new increases by lower local call costs as the minister promised, and that Telstra’s total increased line rental revenue will outweigh any reductions from lower call costs by up to $100 million?

Senator ALSTON—Again, there is simply no willingness to understand the concept of rebalancing. So why don’t you get the ACCC in for a briefing and you will understand that it is actually in the best interests of consumers. That is what it is about. The way in which other carriers can offer lower call rates, which is pretty much the main game—if you do not make too many calls and you think that line rentals are too high you do not
have a phone, do you. No-one is forcing you to be on the line.

Opposition senators interjecting—

The PRESIDENT—Order!

Senator ALSTON—In fact, about 11 million people actually choose to have mobile phones, to pay for timed local calls and to bear much higher telephone charges as a result. That is their choice, and good luck to them; it is very convenient. But we are interested in looking after the lower end as well, so when we came up with this rebalancing we were very careful to ensure that Telstra consulted with ACOSS and others. (Time expired)

Economy: Household Savings

Senator EGGLESTON (2.06 p.m.)—My question is to the Minister for Revenue and Assistant Treasurer, Senator Coonan. Will the minister advise the Senate of how the government’s strong economic management is improving the wealth of Australian families. Is the minister aware of any alternative policies?

Senator COONAN—I thank Senator Eggleston for his question and his longstanding interest in improving the economic lot of Australian families. As many senators know, yesterday the Financial Planning Association released a report by the National Centre for Social and Economic Modelling looking into the levels, patterns and trends in Australian household saving. The study pointed out that the average wealth of Australian households had increased by 41 per cent in the past nine years and that this translated into an average annual increase in real terms of 3.9 per cent. But the key point is that this steady increase in wealth was accompanied by a relative shift towards greater household savings being held in shares, the family home and superannuation.

It is not hard to see why the shift has occurred under the Howard government. When you have the Labor Party in power, Australians are understandably nervous about shifting their hard-earned savings away from security of cash deposits and into other assets. The FPA suggested that the dramatic growth of shares was due to its increased acceptance as a form of investment by the general public, and it is no accident that this has occurred under a coalition government. Our strong and sound economic record has given Australians the sense of confidence they needed to directly enter the stock market. A strongly growing economy with high productivity and growing profits has directly encouraged participation in the market but, importantly, it has also given Australians the confidence to direct more of their savings into superannuation to capture the benefits of the strong growth in the markets.

I am asked about some alternative policies. We know that Labor’s economic legacy damaged the confidence and hip pockets of Australians. The savage recession, high interest rates, high unemployment and gaping hole in the budget all contributed to a negative outlook. This undoubtedly curtailed the ability and the incentives for hardworking Australians to try to build their wealth. The shift away from cash into increased equity in the family home and rental properties was also an important development in helping Australians to build their wealth. Again, this is a classic example of how a strongly growing economy with low and steady interest rates can assist families in building a better and more secure future.

When a government manages the economy well and delivers low interest rates, high employment growth and strong growth in real wages, it is no surprise that families will want to enter into the market or will boost their presence in the housing market. The government’s recent help on this front through the introduction of the First Home Owners Scheme was a particularly successful initiative. We should remember, of course, that mortgage interest rates peaked at 17 per cent under Labor, compared with their current level of around 6.5 per cent. This has a huge impact on family budgets. A family with a $100,000 mortgage is currently saving $10,450 a year in mortgage costs as a result of the falling interest rates. Benefits like this do not flow to Australians by chance. They are the result of sustained hard work by government. They require a strong and single-minded commitment to deliver policies which ensure the viability and sustainability of growth over a longer term.
This government’s record stands in very stark contrast to that of Labor. Why would wealth increase when you have a Labor government chronically committed to deficits? Can anyone really imagine a sustained increase in family wealth when a federal government is sitting on a $10 billion hole in its finances? Why would you risk investing in these circumstances? Unfortunately, Labor’s legacy has meant this government has had to work doubly hard to repair the damage created.

_Telstra: Service Charges_

Senator MACKAY (2.11 p.m.)—My question is to Senator Alston, the Minister for Communications, Information Technology and the Arts. When the government recently gave Telstra the tick to increase its phone line rental fees from approximately $11 per month around two years ago to over $30 per month progressively over the next few years, isn’t it the case that the government pushed Telstra’s Homeline Classic plan as an alternative for low-income earners to this massive price hike? Can the minister confirm that Telstra later sneakily converted this plan to the rejigged Homeline Budget plan, thereby hiking up local call costs from 22c to 30c per call, abolishing the 15c neighbourhood call but reducing line rental fees in many cases by only 20c per month? How can the government claim that low-income earners are being looked after by Telstra when the only alternative to paying the government’s enormous line rental increases involves paying 30c for every local call?

Senator ALSTON—We have yet another inaccurate diatribe.

Senator Lundy—It is not; answer it.

Senator ALSTON—It is—and let me explain it. If you profess to have some concern for low-income earners, first of all you have to explain why ACoss thinks this is a good idea. It is a progressive phasing in of measures to get line rental charges up to cost recovery levels. That is the normal way you run a business. You do not normally run things at a loss. That is a separate area of activity which has impacts on other carriers. I do not know about your rhetoric that we pushed Telstra to do anything in particular; we did not push them. I think they certainly had a range of products which they would have run past ACoss and which, once we were satisfied that welfare organisations thought this was a fair outcome, we were happy to endorse. But I am not aware of Telstra having sneakily converted anything into anything else. To the extent that there are 30c local calls on offer—and, again, I am not aware of that, because the price cap fixes them at 25c untimed—

_An opposition senator interjecting—_

Senator ALSTON—Just a moment; a shake of the head like that generally suggests—

The PRESIDENT—Order! Minister, would you address your remarks through the chair.

_An opposition senator interjecting—_

Senator ALSTON—That is fine, if you are agreeing with me. Obviously I misunderstood your body language.

The PRESIDENT—Minister, I remind you to address your remarks through the chair.

Senator ALSTON—Perhaps I had better look at you. There have always been arrangements in place that provide that, as long as you offer an untimed local call option, you can offer a package of measures. There may well be people—

_An honourable senator—_Oh, yes.

Senator ALSTON—I must have missed the joke. There may well be people who think it is in their interests to pay a lower line rental and higher local call charges because they make very few phone calls. If that is the case, that is their choice, but it is quite incorrect to imply that somehow Telstra is forcing some people to pay 30c for a local call, because the price cap ensures that ordinary local calls cannot exceed 25c. If there are a range of packages on offer, I am happy to obtain more details for you.

Senator MACKAY—Mr President, I ask a supplementary question. Can the Minister for Communications, Information Technology and the Arts confirm that since the federal election Telstra has increased its prices for telephone line rentals, directory assis-
tance, wake-up and reminder calls, mobile phone flag falls, text messaging, Internet access and white pages dual listing, in some cases well above inflation level? How can you justify removing price controls for text messaging, when all three major mobile phone companies, led by Telstra, increased their fees from 22c to 25c per message and the overall use of text messaging is soaring? If Telstra is privatised, won't Australian consumers just get hit with even more unfair price increases?

Senator ALSTON—That is one of the biggest non sequiturs I have heard for quite a while. What affects price increases in the marketplace is overwhelmingly the level of competition. It has nothing to do with ownership. In other words, if the Singapore government owns Optus or if shareholders own Optus it has nothing to do with the way it operates in Australia. If Primus is owned by American interests that has nothing to do with the way it runs its business here. If AAPT has New Zealand control that has nothing to do with the way it runs its business here. Similarly, Telstra runs its business in a commercial way, as required by Mr Beazley in 1991 when, as the Minister for Transport and Communications, he required that it be corporatised and made to operate like any other business organisation, as you well and truly know and understand. But you seek to continue to mislead the Australian public into thinking it has some sort of welfare obligation—it does not. But there are a whole range of obligations in place—(Time expired)

Health: Heart Disease

Senator BARNETT (2.16 p.m.)—My question is addressed to the Minister for Health and Ageing, Senator Patterson. Will the minister update the Senate on the latest report from the Australian Institute of Health and Welfare, which shows that about 99 per cent of Australians suffering heart attacks fell by one-fifth, or 20 per cent. This is a tremendous result in terms of public health outcomes and I think it is something we all ought to be very proud of. During the same period, the death rate from heart disease has fallen by over 30 per cent. People who suffer heart attacks have a much better chance of survival now, as the fatality rates fell by between 12 and 16 per cent. There has been a 12 per cent decline in hospital admissions for heart attacks, which is also an excellent result.

This latest report by the AIHW builds on the findings of a previous report by the AIHW entitled Australia’s Health 2002 which was released in June this year. It showed that since 1996 the incidence of heart disease has fallen six per cent and that death rates from heart attack have fallen by two-thirds in the past 30 years. Unfortunately, heart disease still remains one of the biggest killers of Australians, but we can say from these results that we are heading in the right direction.

The institute credits a number of factors for the improvements that we have seen. They include a rapid increase in medical procedures such as coronary angioplasty and cardiac bypass surgery. All of us admire the work of cardiac surgeons—the very delicate work that they do. This sort of surgery overcomes blockages that occur in the heart’s arteries and the increased skill and abilities of our surgeons are reflected in these figures. The other issue which has contributed to the
decline in deaths from heart disease is a decline in smoking, and I remind those people around this chamber who smoke that they should give up.

Senator Mark Bishop—Stand up!

Senator PATTERSON—They should stand up and give up. I am not only speaking about members of parliament; I know there are some attendants here whom I remind on a daily basis that they should give up smoking. The decline in smoking has been a factor. It has gone from 23 per cent in 1997—and one of the major factors has been our national anti-smoking program—to 19.5 per cent today, which is one of the lowest rates in the Western world.

Significantly, the other factor that the report also credits is the large increase in the prescribing of cholesterol lowering medicines and some blood pressure lowering medicines. Since 1994, PBS spending on cholesterol lowering medicines has increased from $112 million to $632 million. The most commonly prescribed medication on the PBS is a statin, which is a cholesterol lowering medication. That costs $80 per person per script, a fact that most Australians are not aware of. These medicines are effective, as long as they are prescribed within the guidelines set by our expert committee, the Pharmaceutical Benefits Advisory Committee, which we task with setting appropriate prescribing guidelines. We are now spending $632 million on cholesterol lowering medicines, and evidence shows that they work when prescribed appropriately. I want this to continue and I am sure that everyone in this chamber would also want heart disease and heart attacks to continue to fall. (Time expired)

Senator BARNETT (Tasmania) (2.21 p.m.)—Mr President, I rise to ask a supplementary question. What action is the Howard government taking to support the Pharmaceutical Benefits Scheme? Is the minister aware of any alternative policies to support a sustainable Pharmaceutical Benefits Scheme?

Senator PATTERSON—As I said, I want to be able to afford the next type of medicine to deal with heart disease. This is exactly why, in this year’s budget, the government announced a range of measures to secure the future of the PBS, to bring it under control and make it sustainable. The fact is that since 1990 the cost of the PBS has increased from $1 billion to over $4.5 billion in the past year, going up at a rate of 14 per cent per year. This is unsustainable and it cannot continue.

We are committed to Australians having subsidised access to medicines at an affordable price. Just the other day, we approved Glivec going onto the PBS. That costs $50,000 per person per year—about $4,000 per script. In the budget, amongst a range of other measures, we asked people to pay a small increase in the cost of their prescriptions to enable us to continue to fund drugs like statins and Glivec. We are asking everyone to make a contribution—the industry, pharmacists, doctors and consumers—to make the PBS more sustainable. (Time expired)

Workplace Relations: Paid Maternity Leave

Senator FORSHAW (2.22 p.m.)—My question is to Senator Minchin, the Minister for Finance and Administration. Is the minister aware that the joint government submission by the Department of the Prime Minister and Cabinet, the Department of Employment and Workplace Relations and the Department of Family and Community Services to the Senate inquiry into the paid maternity leave bill states that only seven per cent of all current certified agreements made provision for paid maternity leave in 2000-01? Why then, in a letter in the Australian on 18 September, did you state that ‘family friendly companies should voluntarily seek to incorporate paid maternity leave into their workplace agreements’? Minister, isn’t it a fact that the government’s own official figures clearly demonstrate that voluntary provision for paid maternity leave is a complete failure?

Senator MINCHIN—Yes, I have stated publicly and privately—and it is a view reflected widely in the community and in the government—that, prima facie and primarily, the question of paid maternity leave is a workplace relations matter. It is best dealt with between employers and employees by a
voluntary arrangement in terms of the remuneration provided in their workplaces. I think that is the appropriate way to deal with it.

A secondary question being raised is whether or not, in the light of the rate of application of that procedure, taxpayers should pay for it. I have said here twice this week, and I have said before, that the government is considering the question of whether taxpayers should pay for paid maternity leave. It is being considered in the context of the government’s review of its workplace and family policies, against the backdrop of some $19 billion of expenditure already and against the backdrop that any basic scheme of taxpayer funded paid maternity leave, even at the basic minimum wage, would cost another half a billion dollars. If you were going to do it, how would you pay for it? Is it appropriate that the taxpayer should pay for it?

If companies are going to pay for it, they will have to build that into their remuneration arrangements, and that is not cheap for companies to do. It is an impost on small business. We have said, quite clearly, that we are not going to mandate companies to pay paid maternity leave. Our whole essence in relation to industrial relations is that workplace relations are best dealt with at the enterprise level to determine what sort of remuneration arrangements are most appropriate for the nature of the work, the nature of the business and the nature of the employees who are in that business. This is a matter best left to the employers and employees in a particular business, in a particular industry, to determine how best the employees want to be remunerated.

As someone who, quite overtly, is a strong supporter of Australian families, I think it is in businesses’ interests to develop family friendly arrangements. The fact is that a lot of women who have young children do want to continue their connection with the work force to sustain their skills and to sustain their career opportunities. Increasingly, we are seeing businesses recognise the virtue for their own businesses of family friendly workplaces. I think this is one of the real reasons why maximum flexibility in labour relations is important to the capacity of women in the paid work force to balance their work and family responsibilities and aspirations. I would like to see more businesses adopt such a practice voluntarily.

Senator FORSHAW—Mr President, I ask a supplementary question. I thank the minister for that answer. Minister, are you aware that this figure of seven per cent is actually a decrease in the number of certified agreements containing paid maternity leave since 1998-99 when, at that time, 10 per cent of agreements contained paid maternity leave provisions? Don’t these figures demonstrate the ongoing failure of this government’s reliance on voluntary action by companies to incorporate paid maternity leave into their workplace agreements, which is clearly not advancing the position of women in the work force, nor accommodating the needs of Australian families?

Senator MINCHIN—A mere set of statistics is not a reason to immediately leap to compulsion, either compelling employers to pay for paid maternity leave or compelling taxpayers to pay for paid maternity leave. I know it is the normal retreat of the Labor Party to immediately resort to compulsion of one kind or another; that is not our preferred option. We are a party that try to encourage voluntary behaviour and to use incentives rather than the force of law to encourage particular behaviour. I know it is the resort of the Labor Party; it is not ours.

Business: Corporate Governance

Senator MURRAY (2.28 p.m.)—My question is to the Assistant Treasurer. The government now has last October’s Ramsay report, months of evidence from the HIH royal commission, yesterday’s JCPAA report 391 and the CLERP 9 proposals. Does the government accept that there are a number of common conclusions in those documents and in informed public opinion? Does the government recognise that there is a crisis of public confidence in corporate governance and auditing standards and that there is a need to act? When will the government bring to the parliament the first urgent changes now demanded and needed, and what will those be?

Senator COONAN—Thank you, Senator Murray, for your question. First of all, I ac-
knowledge the fine work done by the Joint Committee of Public Accounts and Audit, of which you are member, and your longstanding interest in this issue. However, I cannot accept that there is a crisis of public confidence in corporate governance in this country. If you said that there was a crisis of public confidence in the United States, you might be nearer the mark. With the government’s CLERP program—it is now up to CLERP 9—this government addressed these issues and has put in place a comprehensive range of measures, both legislative measures and now, with the release of CLERP 9, an exposure, in effect, of what will be necessary to enhance regulation in this very important area.

Turning first of all to the JCPAA report— you were asking about common conclusions—the government has said in the CLERP 9 policy proposal paper that final implementation of CLERP 9 will need to take account of the work undertaken by the JCPAA. The government will examine the detailed proposals contained in that report as part of its consultative process on CLERP 9. It will also, of course, provide a response to the JCPAA report. As you would know, the CLERP 9 paper is open for consultation until 22 November. A number of the proposals in the JCPAA report have also been proposed in CLERP 9.

You also mentioned the HIH Royal Commission. Obviously, it will be necessary for the royal commission to conclude its hearings and make its recommendations so that we can have a look at what those recommendations are to ensure that, if anything else needs to be added to CLERP 9—the legislation will have been introduced by then—that will be able to be added. It is important that I inform the Senate about the timetable. First of all, CLERP 9 is being released for consultation. The consultations close on 22 November. An exposure draft will then be released for comment. It will no doubt take up all of the common areas that have been mentioned and delineate any points of difference. It is proposed that the legislation will be introduced early next year. This will give the government an opportunity to look at the conclusions and recommendations of the HIH Royal Commission so that anything that has been left out or needs to be addressed as a result of the HIH Royal Commission can be included. Whilst I do not want to elaborate in any detail on the evolving position in relation to the HIH Royal Commission, I think it is fair to say that the causes of the collapse of HIH appear to be related to a number of factors. It is a bit difficult at this stage to be picking out auditing problems alone and to respond to recommendations relating to audit at this stage. That would be pre-empting other issues which might need to be dealt with in order to give a considered response to a number of recommendations in this most important area.

Senator MURRAY—Mr President, I have a supplementary question. Whilst it is important to be calm in a crisis—and the government seems to be very calm—nevertheless there is a crisis. Minister, does the government accept that independence is the key to audit committees? How does it propose to legislate so that directors on audit committees are not representatives of, or under the patronage of, the dominant management or financial interests in the company?

Senator COONAN—Thank you for the supplementary question, Senator Murray. A number of recommendations have been made across the board and across a number of reports. This is not the appropriate time or place to be picking out bits of these recommendations and for me to be announcing policy responses when a consultation paper which was released yesterday, the CLERP 9, contains 41 recommendations, many of which address that very problem. You have raised a very important point, and there are a number of ways in which this government proposes to deal with it. At the moment we want to hear what is said by industry, business, the ASX, ASIC and all of the other people who have a stake in ensuring that we have the very best corporate governance system available. Obviously that will be dealt with in that context.

Fuel: Ethanol

Senator HUTCHINS (2.34 p.m.)—My question is to Senator Minchin, representing the Treasurer and the Minister for Industry,
Tourism and Resources. Is the minister aware of reports of fuel retailers selling fuel containing considerably more than the international benchmark of 10 per cent ethanol? Can the minister confirm that the use of such blends in motors such as the Honda GX200, which is commonly used to power agricultural pumps, will damage their fuel system and void their warranty? If the use of high ethanol blends can damage motors and void warranties, why won’t the government agree to a 10 per cent cap on ethanol blending to protect Australian consumers?

Senator MINCHIN—That is a good question. I appreciate such a question. It is certainly true that excessive levels of ethanol in petrol can damage motors. It can be quite damaging to two-stroke motors. Indeed, the manufacturers—with whom I am very familiar as a senator for the great state of South Australia—do make the point that any blend in excess of 10 per cent is likely to damage most Australian motors. Therefore the government is considering very seriously the proposition that a maximum limit of 10 per cent in the blend should be put in place. That is a matter under active consideration, and we are doing that in the context of our general review of biofuels and their place in the Australian fuel mix. We have indicated, as we did in the lead-up to the last election, that we have a target of 350 million litres of biofuels in the fuel mix, I think by 2010. That amounts to about two per cent. The environment department is conducting a review as to how best to achieve that sort of target, and in that context we are examining ways of putting in place a maximum limit of 10 per cent. It is important for consumers to know, if they are buying fuel that has ethanol blended into it, the proportion of the fuel taken up by ethanol. In the context of looking at the sugar industry, we have indicated also that we will examine the place for an Australian ethanol industry. We are, as you know, applying to ethanol the excise regime that applies to petrol. We will then provide, at least for a 12-month period, a subsidy to Australian producers of ethanol, because we believe that a biofuels industry has a place in the Australian fuel mix.

It is not the answer to Australia’s declining self-sufficiency in fuels. Most of us see hydrogen powered vehicles as probably the future and any use of ethanol may just be a temporary step down that path. Nevertheless, I think we have made some very positive steps to enable an ethanol industry to develop, against the background of knowing there are limits to that for the very reasons that Senator Hutchins raises and also remembering that ethanol provides only about 60 per cent of the energy that petrol does and, therefore, you have to use more of it to get the same energy output. Its environmental blessings are mixed, given that you have to grow the stuff. And, in terms of the life cycle of ethanol, there is a mixed message of its environmental benefits.

Senator HUTCHINS—Mr President, I ask a supplementary question. Minister, isn’t it the case that more than six months ago the Chairman and Managing Director of Holden wrote to a number of departmental secretaries, including the head of the Prime Minister’s department, warning them that the use of more than 10 per cent of ethanol in fuel would cause vapour lock and carburettor boiling in hot weather, corrode metallic components, increase fuel consumption in Holden motor vehicles and result in Holden warranties being voided? If the use of high ethanol blends is damaging Holden motor vehicle engines and voiding their warranties, why doesn’t the government agree to a 10 per cent cap on ethanol blending to protect Australian consumers now?

Senator MINCHIN—I have already said we are seriously considering the application of a 10 per cent ceiling in the context of our general review of biofuels and our examination of the state of the sugar industry, about which we are most concerned. We have already taken steps to stimulate the domestic ethanol industry for that reason. The extent to which ethanol blends are available is very limited in Australia, and indeed our actions would appear to mean that the likelihood of Brazilian imports is far less than would have been the case before, but we are seriously examining the question of applying a ceiling of 10 per cent on the mix.
Environment: Protected Migratory Bird Survey

Senator NETTLE (2.39 p.m.)—My question is to the Minister representing the Minister for the Environment and Heritage. Can the minister tell the Senate if it is a requirement of the Environment Protection and Biodiversity Conservation Act for a population survey to be undertaken of a protected migratory bird species that could be affected by a proposed residential development, such as the one at Sandon Point, just to the north of Wollongong?

Senator Abetz—Mr President, on a point of order: standing order 73(1)(j) states that a question shall not ask for legal opinion. Senator Nettle’s question asks whether the provisions of a certain act place a certain requirement, which is clearly seeking a legal opinion and therefore should not be allowed.

Senator Brown—Mr President, on the point of order: Senator Nettle did not ask for a legal opinion; she asked for the minister’s opinion and for information on this matter. If the minister is unable to answer it, he can say so.

The PRESIDENT—There is no point of order. I believe the minister will cover this in his answer with some clarity.

Senator HILL—I do not think it is a requirement of the EPBC Act to conduct population studies as such. The underlying issue in the question is whether there is to be Commonwealth involvement in protecting the birds, as it might amount to a matter of national environmental significance under the terms of the EPBC Act. That would depend on the circumstances: if it is an endangered species under the Commonwealth legislation, then it could certainly trigger the Commonwealth legislation. Whether the proposed action would be of such consequence that it might have a significantly detrimental effect upon the species is another matter to be determined. If the honourable senator is genuinely serious about the issue, she can provide me with the full details and I will refer it to the minister for the Environment and Heritage and see whether, in his view, the Commonwealth legislation is triggered by the proposed action.

Senator NETTLE—Mr President, I ask a supplementary question. My understanding is that it is a requirement. Minister, is it acceptable for such a survey to be undertaken when the migratory species in question is known to be not in the area? Why did the minister accept a population survey of Latham’s Snipe that was taken when the species, protected under two bilateral agreements, was known to be flying north for the winter? Why did the minister rely on this survey when exempting Stockland Constructions from an environmental impact assessment for the 420-lot housing development on one of the bird’s roosting sites at Sandon Point, in the electorate of Cunningham?

Senator HILL—The intrigue is overwhelming.

Senator Sherry—It’s a desperate attempt to win the Cunningham by-election!

Opposition senators interjecting—

The PRESIDENT—Order! This is a very important question and I want to hear the answer.

Senator HILL—On the basis of the supplementary question, it sounds as if the act was in fact triggered but that the minister, in giving consideration to whether the action had a significantly detrimental effect upon the species, decided in the negative. It seems that the honourable senator questions that judgment. As I said in answer to the first question, if she provides me with the full details I will refer it back to the minister and ask him to have another look at it.

Fuel: Ethanol

Senator ROBERT RAY (2.44 p.m.)—My question is to the Minister for Revenue and Assistant Treasurer, Senator Coonan. Can the minister confirm that there is no requirement on fuel retailers to declare whether their fuel is blended with ethanol or the amount blended and that there is no limit on the amount of ethanol that can be added to fuel? Isn’t it a fact that almost 12 months ago the ACCC warned the government to set a 10 per cent limit and force disclosure of ethanol blending? Can the minister point to any action this government has taken to protect Australian motorists from serious damage to
their cars as a result of high levels of ethanol fuel?

Senator COONAN—I thank Senator Ray for his question.

Senator Abetz—And his longstanding interest.

Senator COONAN—I do not think he has a longstanding interest. As to whether there is any kind of cap on ethanol, the government has recommended that we use not more than 10 per cent. In fact, anyone passing off more should be prosecuted—it is as simple as that. There should not be misleading and deceptive conduct in relation to the sale of ethanol and any corporation so offending should be referred to the relevant authority. Senator Minchin has already said that we are giving serious consideration to legislating and requiring 10 per cent, but at the moment there is no recommendation that it go any further. Anyone who uses fuel outside a manufacturer’s warranty risks voiding that warranty and obviously anyone in the government would recommend against it. Why would you do it? But, if there is evidence that a corporation is trying to pass off ethanol as petrol or if they are exceeding the recommended limit, I am sure there would be great interest in them being prosecuted. The Trade Practices Act protects against misleading conduct.

Senator ROBERT RAY—Mr President, I ask a supplementary question. The minister says that motorists may in fact void their warranties. How in fact do they know that they are voiding their warranties when this government does not require the disclosure of the ethanol level? Isn’t it a fact that a corporation is trying to pass off ethanol as petrol if they are exceeding the recommended limit, I am sure there would be great interest in them being prosecuted. The Trade Practices Act protects against misleading conduct.

Senator FERGUSON—My question is to Senator Kemp, Minister for the Arts and Sport. Will the minister update the Senate of the progress of the independent review of soccer in Australia? Will the minister inform the Senate of the likely timeframe for the review and also if there are any alternative policies concerning soccer in Australia?

Senator KEMP—I thank Senator Ferguson for his continuing interest in soccer. I can inform the senator that the Commonwealth has undertaken to assist this extremely popular sport to fulfil its potential and become a force, hopefully, on the international stage. It is no secret that Soccer Australia in recent years has experienced fairly serious management and other problems. On 2 September I announced the terms of reference for an independent review of soccer in Australia. We are very pleased with the response to that review from, particularly, the grassroots of soccer. Senator Lundy will be very pleased with one quote that I can share with the Senate that was made in welcoming the review. It is in a press release that was issued by Soccer Canberra on 9 September. It says—

Senator Sherry interjecting—

Senator KEMP—This is an exact quote, Senator Sherry—not the sort of quote that you like to give in this chamber.
The PRESIDENT—Order! Senator Kemp, address your remarks through the chair.

Senator KEMP—The Soccer Canberra press release said:

... unanimous support from the Canberra junior and senior member clubs to support the Sports Commission inquiry into our code.

That, I believe, is a fairly typical response around Australia to the announcement of the terms of reference. The review will be conducted in a whole-of-sport manner and will look at the management, governance and structure of all levels of the sport, including men’s soccer, women’s soccer, junior soccer and indoor soccer. We hope to release the report in the middle of next year. Importantly, the review will allow all those who love soccer to contribute to its future. The committee of review will be chaired by Mr David Crawford, who is very well regarded I believe in the business and sporting community and who conducted a similar and very successful review of the Australian Football League a few years ago. Joining Mr Crawford on the committee is Johnny Warren, a very well known former captain of the Socceroos, Mr Bruce Corlett and Ms Kate Costello.

I would like to take this opportunity to reiterate to the chamber that the review has been established to consider the management, governance and structure of soccer in Australia. It is not a royal commission. This is where Senator Lundy, in her continuing campaign against the ASC and the AIS, has got herself rather confused. It does not have the power to require or compel witnesses to attend or provide evidence, nor can it receive material on a privileged basis.

All of us, I believe, want soccer to become a major force in the domestic area and on an international scale. I believe that the reforms that result from this inquiry can dramatically, and hopefully, boost soccer at all levels of the game, from the many thousands of juniors who enjoy their soccer and take part in it through to the elite soccer teams. It is the government’s hope that the review will lay down the foundations for the future success of soccer and indeed, as I said, the success of our teams at the international level. It is above all about placing one of our most popular sports on a firm footing for the future. (Time expired)

Fuel: Ethanol

Senator O’BRIEN (2.53 p.m.)—My question is directed to Senator Coonan, the Assistant Treasurer and Minister for Revenue. I refer to the government’s failure to take up the ACCC’s recommendation for a cap on ethanol blending in automotive fuel. Is the minister aware of a recent meeting between the Chairman of the Australian Institute of Petroleum and the Minister for Agriculture, Fisheries and Forestry to discuss the regulation of ethanol blending in petrol? Did the ACCC provide advice to any minister prior to this meeting? Is the minister aware that, according to this leaked record of the meeting, Minister Truss made it ‘quite clear that the Prime Minister would not agree’ to a 10 per cent limit on blending ‘if it affected the operations of Manildra’? Why won’t the government now admit—

Senator Ian Macdonald—Mr President, I raise a point of order. Is it not against standing orders to ask in this chamber exactly the series of questions that has been asked in the other chamber all day?

The PRESIDENT—I do not believe that is a point of order.

Senator O’BRIEN—Why won’t the government now admit that the real reason it is not protecting motorists from having their engines wrecked by high-ethanol fuel is the prime ministerial protection of the commercial interests of the Manildra group?

Senator COONAN—I thank Senator O’Brien for his question, although he is still having trouble getting the right portfolio minister on ethanol. He is not asking about excise; he is asking about conduct. It is a very different issue. As I said in my earlier answer, we do not recommend using more than 10 per cent and, indeed, anyone passing off should be prosecuted. It is as simple as that. As I said in my earlier answer, if there is misleading or deceptive conduct by any corporation it should be referred to the appropriate authorities. Anyone who uses fuel outside a manufacturer’s warranty risks voiding that warranty, and that should be
recommended against. If there is evidence that a corporation is otherwise behaving improperly or trying to pass off ethanol as petrol, then we would be very interested in prosecuting them. The Trade Practices Act does provide adequate protection. If some necessary action is required following the Prime Minister’s announcement on ethanol, then in those circumstances 10 per cent would be considered as the measure to be imposed, as Senator Minchin said in his earlier answer. I have no knowledge of any meetings between Manildra and the Prime Minister.

**Senator O’BRIEN**—Mr President, I ask a supplementary question. Is the minister not aware that, in the absence of government regulation, as pointed out by Senator Minchin, there is no legal limit and there is no deceptive conduct? Is the minister aware that the leaked record of the meeting demonstrates the active role that the Prime Minister and the Deputy Prime Minister have been playing in mandating compulsory ethanol use in automotive fuel in direct contravention of the advice from the ACCC? Doesn’t the record of the meeting state ‘in the original cabinet submission a mandate was not recommended but at the direction of the Prime Minister was sent back to have the question of a two per cent mandate re-examined’? Why has the Prime Minister been so actively engaged in advancing the commercial interests of his mates at the Manildra group at the expense of consumers?

**Senator COONAN**—As I said, I have no knowledge of any contact between Manildra and the Prime Minister and I do not intend to speculate about whether it took place or not. The position is—and I think this is the most fundamental point in this series of questions that has been bandied backwards and forwards between the Senate and the House—that no individual company has benefited from the measure announced by the Prime Minister. That puts paid to the inferences that seem to be being made as the opposition searches around to try and find somebody to answer a question where it really does not arise, at least in relation to my portfolio.

**Workplace Relations: Small Business**

**Senator KNOWLES** (2.58 p.m.)—My question is to the Minister—

**Senator Carr**—It’s in your back pocket!

**Senator KNOWLES**—At least I have it. My question is to the Minister representing the Minister for Small Business and Tourism, Senator Abetz. Is the minister aware of any recent support for the Howard government’s plans to remove unfair dismissal laws that hurt small business and destroy jobs? Will the minister inform the Senate of any alternative policies that threaten small business viability?

**Senator ABETZ**—I thank Senator Knowles for her longstanding interest in matters of small business and for asking this important question that deals with Australia’s 1.2 million small businesses. The Senate will be interested to hear that a recent survey of 500 small business people showed overwhelming support for the government’s economic management and policies for small business. The economic management provided by the Howard government delivers a safe, secure and good trading environment for our nation’s small business. Wages are higher; inflation, interest rates and industrial disputes are down. This is a great story for all small businesses. Employment is up, with the creation of one million new jobs since the Howard government came into office.

Recently, the Franchise Council held their annual conference and surveyed the members in attendance. The franchise industry is rapidly growing and covers 50,000 small businesses in Australia, with 678,000 employees. Question 1 to the 500 small business people was—and I would invite the opposition to listen to this: do you support the federal government’s exemption of small businesses from the unfair dismissal laws? Of the 500 small business people questioned, 78 per cent responded with a yes. In other words, 78 per cent endorse the federal government’s approach on that issue.

Even more interestingly, question 2, which is potentially more difficult for the government, was: are you happy with the GST and the new tax system? Given the cries of doom and gloom from those opposite, you
would be wondering what the response may have been. In fact, 80 per cent of the small business respondents said that they were quite happy with the GST and the new tax system. Only 20 per cent expressed dissatisfaction, and we as a government will of course seek to work with them to make them more comfortable with the system, as 80 per cent already are. It just goes to show what a moribund policy roll-back was for the opposition, as was question after question they asked in this place in their cheap political shots before the last election.

Labor’s opposition to the fair and balanced changes to unfair dismissal laws, which are a great burden on small businesses, has stopped the creation of up to 50,000 jobs for our fellow Australians. So not only do they have small business against them; they also have to answer to the 50,000 Australians who might have a job but for the fact of the Australian Labor Party’s absolute commitment to doing the bidding of the trade union movement as opposed to doing what is good for the nation. It is about time that Mr Crean and the Labor Party stood up to the union movement and did what was good for small business, good for workers, and created more jobs by assisting the government in implementing its policies.

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

DISTINGUISHED VISITORS

The PRESIDENT—Order! I would like to point out to honourable senators the presence in the public gallery of the former very distinguished minister and senator the Hon. Tony Messner. On behalf of senators, I welcome you back to Canberra and to this chamber.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE:
ADDITIONAL ANSWERS

Sport: Australian Women’s Soccer Association

Senator KEMP (Victoria—Minister for the Arts and Sport) (3.02 p.m.)—Senator Kate Lundy recently asked me a question without notice regarding federal government funding for women’s soccer. I undertook to look at the figures that she provided to the chamber. I have sought the advice of the Australian Sports Commission. I seek leave to incorporate my answer in Hansard.

Leave granted.

The answer read as follows—

Federal Government funding for Women’s Soccer for the financial year up to June 2000 and in the lead up to the Sydney Olympic Games totalled:

- $711,434 in 2000/01;
- $1,142,973 in 1999/2000;
- $1,100,681 in 1998/99 and $1,065,121 in 1997/98.

Federal Government funding for Women’s Soccer is provided through the Australian Sports Commission.

QUESTIONS WITHOUT NOTICE:
TAKE NOTE OF ANSWERS

Fuel: Ethanol

Senator O’BRIEN (Tasmania) (3.03 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Revenue and Assistant Treasurer (Senator Coonan) and the Minister for Finance and Administration (Senator Minchin) to questions without notice asked by Senators Hutchins, Ray and O’Brien today relating to the use of ethanol in automotive fuel.

Senator Minchin was correct when he described the question he received as ‘a very good question’. Unfortunately, you could not say the same about his and Senator Coonan’s answers. What was revealed today in question time is a scandal about what is allowed to be sold in our petrol. Senator Minchin confirmed to the Senate today that this government has been sitting on its hands for over 12 months, knowing that there was a difficulty with the regime that operated in terms of ethanol addition to petrol but declining to act, even in the face of recommendations by the ACCC that there be a limit placed on the amount of ethanol contained in petrol sold to the public. Why did that happen? It happened because one of the government’s mates, the person who runs Manildra, a company that makes ethanol from wheat starch—

Senator Ferguson—So this is what it is about; it is about Manildra.

Senator O’BRIEN—Yes. The government is well aware of this, because it is about
a favour being done for Manildra, and it has been demonstrated in a number of ways. The scandal is that this government is prepared to see motorists have their warranties voided by the use of a petrol which contains an amount of ethanol in excess of the amount that motor vehicle manufacturers will permit before the warranty is voided. The government has known this for over 12 months, and it has known it specifically, if for no other reason—I suspect there are other reasons—because the ACCC has drawn the matter to the government’s attention.

It is important that this serious situation is drawn to the public’s attention, because warranties are being affected. The warranties of those motorists who use this petroleum product have been made null and void. Rather than assisting motorists by setting a fair limit and by requiring mandatory labelling, the Prime Minister has been caught out actively assisting those who are secretly selling petrol containing large amounts of ethanol. The Prime Minister had been caught out actively assisting those who are unwittingly buying that petrol.

General Motors Holden advised the government months ago that using more than 10 per cent ethanol would cause vapour lock and carburettor boil in hot weather, corrode metallic components, increase fuel consumption in Holden motor vehicles and result in Holden warranties being voided. The government knows this. The Prime Minister is knowingly allowing people to risk their cars in order to protect the business interests of a mate. We know that because of what has occurred within Manildra recently—and it is interesting that Senator Coonan, as the Minister for Revenue, did not know about this. The government has applied an excise to ethanol and then given a subsidy to the producers of ethanol, and as I understand it about 95 per cent of the ethanol produced in Australia is produced by Manildra.

So who is the beneficiary of both these acts? The first and important act for motorists—many of whom are in Sydney and, I am sure, in the electorate of Cunningham—is that they are using petrol which contains more than 10 per cent ethanol, thereby voiding their warranties and risking the life of their vehicle. Senator Minchin told us today that the government were considering this matter. They have been considering it for over 12 months but have been declining to act. The consumers and the voters will put one and one together, which is that the government have done that which benefits one company—and Mr Honan, the chief owner of that company, is a major contributor to the Liberal Party. They have done it to benefit him and his company and they have done it to protect his interests, but they have done nothing to protect the interests of those motorists in Australia who have been denied the right to know how much ethanol has been added to their fuel and denied the right to know that as much as 20 per cent ethanol has been added. There has been no mandating by this government of an ethanol limit, and the reason is that they want to protect their mate Manildra. (Time expired)

Senator MASON (Queensland) (3.08 p.m.)—It is good that the parliament looks again at motor cars and petrol. I do not think it has been a big issue in the parliament since Robert Menzies took off the petrol rationing in 1949—50 years later we are back. This could become a big topic.

Senator O’Brien—That is an interesting invention.

Senator MASON—It is a fact.

Senator O’Brien—It is an invention.

Senator MASON—No, it is not. I will make a couple of points on the background of this issue and then hit the points made by the opposition. Pressure for ethanol production has occurred for two primary reasons: to assist sugar producers and for the environment. That is why we are doing it. The government have introduced a subsidy. They have formed a broad package of initiatives to address concerns in the sugar industry and the alternative fuel sector. Senator Minchin said today that this cuts both ways: while it does help the sugar industry, we are also concerned that it does have other environmental impacts. I accept that it is not perhaps the panacea that it may appear to some to be. I accept all that.
Senator O’Brien has raised the issue of the amount of ethanol that can be added to petrol such that it does not affect the engines of motor vehicles. I think that is the issue. That is the issue that has been raised but it has been rolled up in another issue. Senator O’Brien, I just wish the Labor Party would not do this. I accept that that may be a fair policy issue. But, as always, there is wound up in this some plot that the Liberal Party is involved in protecting. What was it? Manildra and Mr Honan. People and corporations are attacked under parliamentary privilege by the Labor Party. I do not know why Senator O’Brien does that—

Senator O’Brien—You know it is true.

Senator MASON—The interjection is: ‘You know it is true.’ I can honestly say, ‘I don’t.’ I know nothing about it. While the policy issue may be a fair one—I do not know that—I do not know why they do it. From the time I got into the Senate three years ago, every time the Labor Party want to score a point—they do not attack policy because they do not do very well on policy—they attack people or corporations or businesses under parliamentary privilege. That is the modus operandi of the Labor Party. It is a pity. Do you know why, Senator O’Brien? Because when the opposition do make fair policy points, they get carried away with the personalities and the plots, and then they lose the policy debate.

Senator Payne—And then they lose the plot.

Senator MASON—Indeed, they lose the plot. When we were debating the GST, the Labor Party made some reasonable policy points and expressed concerns about the GST. But instead of articulating their concerns about the GST, what did they do? They said that the government had bought off the economists who were doing the modelling. You see, they never attack the policy; they always attack the people that make the policy. It is pathetic, and all it ever does is undermine the credibility of the Australian Labor Party. I do not know why they do that.

Senator Ferris—And the polls show it.

Senator MASON—Indeed, the polls do show it. One of the most pathetic and ridiculous things—in fact, all it does is make it easier for the government—is when the opposition attack people, whether they are the Bailleaus or people who do GST modelling—

Senator O’Brien—The Bailleaus.

Senator MASON—It is always done under parliamentary privilege and, Senator O’Brien, it is always without proof. You say that I know it is true. I do not know that it is true. I do not even know who Mr Honan is. I stand here and defend the government because you are attacking corporations and people under parliamentary privilege when you do not know the truth. Senator O’Brien should take the personalities out of it—

Senator McLucas—Talk about ethanol.

Senator MASON—You say ‘talk about ethanol’. It is funny: you are not talking about ethanol; you are talking about attacking Liberal Party funding and those people who support the Liberal Party—not the policy, always the people. That is why the Labor Party never score any policy points. As I have said so often, Senator O’Brien, when the opposition come in here—I do not care if they are the best and brightest of your side—and they want to debate policy, we will match you. You know that. But you never do that. What the Labor Party do is attack people under parliamentary privilege and think it is a clever political manoeuvre. It is not. Occasionally when they attack policy, they do quite well; but, sadly, they have not got the guts to do that. (Time expired)

 Senator McLucas (Queensland) (3.13 p.m.)—I also rise to take note of answers to questions about the use of ethanol as an alternative fuel. But I have to say that Senator Mason has spent his five minutes referring to one line from Senator O’Brien’s contribution.

Senator Ferris—A very important line.

Senator McLucas—I absolutely agree that it is a very important line; however, 4½ minutes of Senator O’Brien’s comments were about the use of ethanol as an alternative fuel—something that the government is trumpeting as the saviour of the sugar industry. It is important that we put this in absolute context. In the past week, we have seen
the government scratching together a so-called package—ostensibly to assist the sugar industry, which, as we all know, is in a serious condition.

If you believe the government, there are two parts to this industry’s support proposal. Firstly, there is the sugar industry assistance package. Let us look at the reality of this package: no detail has been announced. There has been no information on how the package is to be funded; there is no certainty for growers—the people whom the government are apparently trying to assist; and there is no indication of a time line on when the package is meant to deliver.

You do not have to just believe me. In a press release earlier this week from the organisation Canegrowers, Mr Ian Ballantyne, the General Manager, said:
The Board of Directors of CANEGROWERS, the peak body representing approximately 6000 Queensland cane growers, has expressed serious reservations that the Sugar Industry Assistance Package, in its present form, will deliver the outcomes sought by government and the industry.

If I selectively quote from this document, he goes on to say:
The Board expresses extreme disappointment ... Grower representatives are gravely concerned ... The industry’s immediate future will remain under threat ... the viability of entire mills and communities in jeopardy ... funding in the package is grossly inadequate ... That is no confidence boost to the government’s sugar industry assistance package.

We heard from Senator Mason earlier that the second part of the proposal—the proposal to change the excise and importation arrangements on ethanol importation—was part of saving the sugar industry. That is not a view shared by most people in the industry in Queensland. We have heard much fanfare about the changed excise and subsidy arrangements on importation and production of ethanol as an industry support mechanism for the sugar industry. However, sugar communities are extremely sceptical, and rightly so, about the effectiveness of such a measure if its aim is to truly provide assistance to cane-farming families. Canegrowers, the organisation, initially welcomed funding, but the Chairman of Canegrowers put a condition on that welcome. Their press release states:

Mr Pedersen urged the government to continue to back ethanol research and to finalise arrangements for the producer rebate for ethanol production as soon as possible.

We need to look at some of these facts. Last week the government changed its excise arrangements but it did that with the knowledge that 90 per cent of ethanol is currently produced from wheat. You cannot say that this is an industry support mechanism for the sugar industry.

Senator McGauran—So you’re against it.

Senator McLucas—I am here to support the sugar industry; I am not here to allow there to be a cloud of secrecy over this package that you are saying is out there to support sugar when you know absolutely it is there to support the production of ethanol from wheat. The subsidy that is going to be provided can only be provided to existing growers. You should know as a National Party senator that farmers do not in fact directly benefit from the establishment or the production of ethanol at a mill. Ethanol is produced from molasses, which is a by-product of sugar production. The owner of that molasses is not the farmer; it is the mill owner. We currently do not have arrangements in place that will ensure that any change to—

Senator Hill—But it has got to add to the value of the farmer’s product, surely.

Senator McLucas—That means that you do not understand the way the payments are operated between the farmers and the mills.

Senator Hill—I respectfully submit that you don’t understand it.

Senator McLucas—Well, let us pursue that. (Time expired)

Senator McGauran (Victoria) (3.18 p.m.)—Mr Deputy President, I congratulate you on being elected to that position—I do not think I have congratulated you yet. I want to pick up on the final points made by Senator McLucas, who was mercifully put out of her misery by Senator Hill—whose interjections killed a good 15 to 20 sec-
onds—on something she simply could not answer. Senator Hill’s interjections—superb as they always are—were about matters that she obviously does not understand.

Senator McLucas, before you pack up and leave, where do you think the mill owner gets his molasses? You cannot teach those on the other side basic economics and good management. It is impossible. Senator McLucas, you are a Queenslander. Surely at some time while representing the Queensland people you have rocked up to a sugar farm. Surely you must know where that mill owner buys his molasses.

This is now in perspective. We all know now that the opposition are utterly against the sugar package, because they have spent the last two days raising this matter in the two most important parliamentary periods that an opposition can use: one was question time today and the other was the matter of public importance debate yesterday. They have used both those parliamentary periods to condemn, attack, pick apart and not support—let alone put up an alternative policy—this government’s sugar package. In one of the darkest moments of the sugar industry, all the opposition can do is pick at the short- and long-term $150 million rescue package for the sugar industry, which is made up of predominantly small family farmers. All they can do is pick that package apart. We can only believe that they are serious. They simply do not support a sugar package. They do not support the government’s $150 million sugar package.

Senator O’Brien—Are they the ones that you want to get rid of?

Senator McGauran—Well, I am reliably informed that any more than 10 per cent at that level will create the problems you talked about. Isn’t it a joke? Normally you come in here knocking us, accusing us of being too aligned with the top five oil companies because we accept the favours of the oil companies. Now that we happen to represent the small family farmers, we are meant to be in the pockets of the mill owners. Forget the five oil companies; we are now in the pockets of the mill owners. You just jump from one side of the street to the other according to your own standards. This government’s sugar package stands up with all the integrity that it was delivered with: $150 million to save, we hope, the sugar industry, to restructure the sugar industry for the short, medium and long term.

Senator Kirk (South Australia) (3.22 p.m.)—I also rise to take note of answers in relation to ethanol in fuel. Today we have heard of the government’s failure to take steps to protect the interests of Australian consumers because of their concern to promote the interests of their industry mates. The Prime Minister’s recent announcements regarding the revised excise arrangements and subsidies for producers of ethanol are extremely poor public policy. As a consequence of this poor public policy, consumers will pay the price, through higher fuel prices, and the benefit will go to existing wheat based ethanol producers, including the industry mates of the Prime Minister. There will not be benefits to the sugar industry arising from these developments.
The Senate was told during question time today of reports of fuel retailers selling fuel containing considerably more than the understood benchmark of 10 per cent ethanol. Motorists are, as we speak, buying fuel in Sydney and Wollongong which contains 20 per cent ethanol. Senator Minchin, the Minister representing the Treasurer and the Minister for Industry, Tourism and Resources, was asked to confirm that use of such a blend will damage the fuel systems and engines of cars. The minister acknowledged this fact here today. The Senate was also told that, more than six months ago, the chairman and managing director of Holden wrote to a number of departmental secretaries, including the head of the Prime Minister’s department, stating that the use of more than 10 per cent ethanol in fuel would cause vapour lock in carburettors and boiling in hot weather, corrode metallic components, increase fuel consumption in Holden motor vehicles and result in Holden warranties being voided.

Although the use of high ethanol blends can damage motors and void warranties, the government will not agree to a 10 per cent cap on ethanol blending to protect Australian consumers. If the use of high ethanol blends is damaging motor vehicle engines and voiding their warranties, why hasn’t the government agreed to this 10 per cent cap on ethanol blending to protect Australian consumers? The minister said here today that the government is seriously considering such a limit. At present there is no requirement on fuel retailers to declare whether their fuel is blended with ethanol, or the amount blended, and there is no limit on the amount of ethanol that can be added to fuel. This is despite the fact that the Chairman of the ACCC, Allan Fels, warned the government almost a year ago to set a 10 per cent limit and force disclosure of ethanol blending. The government has failed to act on this advice. It has done nothing to protect Australian motorists from serious damage to their cars. This is not good enough. The government must do more than seriously consider a 10 per cent cap on ethanol blending.

The Senate was today reminded of a statement some 18 months ago by the then Minister for Financial Services and Regulation, who said:

Consumers have a right to know the extent their petrol is being mixed with ethanol, and they also have a right to know if their engines are at risk of being ruined.

Despite this public statement by the then minister, the government has done absolutely nothing to inform and protect Australian consumers of petrol. Australian consumers have a right to be warned if they are buying fuel that the government knows is going to damage their engines and void their warranties. This is not a matter of corporations engaging in misleading and deceptive conduct contrary to the Trade Practices Act, as the Assistant Treasurer suggested today. That completely misses the point. The point here is the failure of the government to protect consumers and impose a 10 per cent cap on ethanol blending.

Today the Senate’s attention was also drawn to a recent meeting between the Chairman of the Australian Institute of Petroleum and the Minister for Agriculture, Fisheries and Forestry to discuss the regulation of ethanol blending in fuel. There was a quote from a leaked record of this meeting, and this quote reveals the real reason for the government’s reluctance to impose this 10 per cent cap. The reason is that more than 90 per cent of the benefit from the government’s decision to impose an excise on ethanol and a subsidy to current domestic producers will flow to wheat based ethanol production. As we have heard today, the dominant existing wheat based producer is the Manildra Group, run by Dick Honan, who is a close personal and political friend of the Prime Minister. Today the government would not admit to this, the real reason it is not protecting motorists from having their engines damaged by high ethanol fuel. The true reason is quite simply prime ministerial protection of the commercial interests of the Manildra Group. The Prime Minister has been actively engaged in advancing the commercial interests of his mates at Manildra at the expense of consumers. (Time expired)

Question agreed to.
COMMITTEES
Reports: Government Responses

Senator HILL (South Australia—Leader of the Government in the Senate) (3.28 p.m.)—I present five government responses to committee reports as listed on today’s Order of Business at item 13. In accordance with the usual practice, I seek leave to incorporate the documents in Hansard.

Leave granted.

The documents read as follows—

June 2002

Responses to recommendations of the Report by the Senate Legal and Constitutional Reference Committee ‘Order in the Law—The Report of the Inquiry into the Management Arrangements and Adequacy of Funding of the Australian Federal Police and the National Crime Authority’

Recommendation 1:
The Committee recommends that the procedures for dealing with complaints and allegations be examined with a view to their being simplified and made more transparent, and to ensuring that employees are not disadvantaged by the use of administrative instead of disciplinary processes.

Response to Recommendation 1:
Noted. For some time the AFP has been examining its disciplinary regime with a view to streamlining its processes to enable management action to be taken rather than the option of disciplinary proceedings which have tended in the past to be lengthy and complicated.

In response to the recommendation an independent review of the AFP Professional Standards and associated provisions has been initiated by the Commissioner. This review will be conducted by the Honourable William Kenneth Fisher, AO, QC. The terms of reference have been developed and were endorsed by the Commissioner on 3 May 2002.

Recommendation 2:
The Committee recommends that the NCA implement its proposed performance measurement framework as a matter of priority.

Response to Recommendation 2:
Agreed. The Government considers the timely implementation of an effective performance measurement framework by all Commonwealth agencies as an essential aspect of good management.

The Committee’s recommendations and comments will be taken into account in the development of the Australian Crime Commission, which will replace the NCA from 1 January 2003.

In the meantime, the NCA has been implementing a more integrated performance measurement regime, bringing together a business planning framework and the Government’s outputs and outcome framework.

This approach has been endorsed by the Department of Finance and Administration.

Recommendation 3:
The Committee recommends that the Government examine the best means of providing a point or body for the effective peak management and coordination of the Commonwealth law enforcement effort, and work to its expeditious implementation.

Response to Recommendation 3:
Noted. The Commonwealth’s law enforcement strategies are formulated recognising whole of government national and international influences that shape the law enforcement environment. The strategies also take account of the interrelationship between law enforcement agencies under the control of Commonwealth, State and Territory Governments and international law enforcement organisations.

Law enforcement issues involving strategic direction or significant issues of coordination are generally considered by the Secretaries Committee on National Security, and as appropriate, by the National Security Committee of Cabinet or the full Cabinet.

Recommendation 4:
The Committee recommends that, in light of recommendation 3, the party responsible for the effective coordination and oversight of the Commonwealth law enforcement effort develop, and regularly update, a quantified estimate of the ‘criminal environment’, into which law enforcement bodies provide input.

Response to Recommendation 4:
Noted. Assessments and estimates of the criminal environment are undertaken by Commonwealth law enforcement agencies as a regular part of their functions and by the Office of Strategic Crime Assessments (OSCA), within the Attorney-
General’s Department. Coordination is facilitated by the Commonwealth Law Enforcement Intelligence Consultative Committee (CLEICC) and other law enforcement coordinating mechanisms. OSCA functions will be transferred to the Australian Crime Commission.

The Australian Crime Commission is to be focused on criminal intelligence collection, analysis and reporting and establishing national criminal intelligence priorities. It will be a cooperative arrangement with the States and Territories and will provide a better basis for the coordination of national criminal intelligence and the targeting of organised crime.

GOVERNMENT RESPONSE TO JCPAA REPORT NO. 384: REVIEW OF COASTWATCH

The Government welcomes the JCPAA inquiry in relation to the operations of the Coastwatch Division of the Australian Customs Service (Customs). The Committee’s report provides a basis on which to heighten the awareness of the valuable work Coastwatch is undertaking.

This report builds on the significant improvements to Coastwatch operations already made by the Government in response to the 1999 Prime Minister’s Coastal Surveillance Task Force. Taken together, the two reports form the basis for further fine-tuning of the civil maritime surveillance and response service already in place.

As announced in the pre-election period, the Government is committed to further strengthening Australia’s civil maritime surveillance and response service. In particular, over the next four financial years, the Government intends to invest in technology that will support and direct Coastwatch operational activity, including for the latest digital and satellite technologies which will enhance Coastwatch’s communications capabilities, and for an operational evaluation of new High Frequency Surface Wave Radar technology which, in part, should significantly increase the surveillance coverage of high threat approaches in the Torres Strait. Additional funding will be allocated to effectively double the current operational availability of the Customs Bay Class vessels, and to provide a further 1600 hours of flight surveillance over the northern approaches to Australia.

These new initiatives, together with those already in place, will lay the foundation on which to address the current pressures and future demands on Coastwatch; and will further reinforce its role in protecting Australia’s borders.

Recommendations of the Committee

Recommendation 1. Coastwatch should undertake a comprehensive campaign to inform the public of its role in protecting Australia’s borders. The campaign should be focused on the effectiveness of Coastwatch and how Coastwatch contributes to the outcomes of its client agencies. (Paragraph 2.19)

Supported.

Coastwatch is developing a public information campaign concept that, when implemented, will address the concerns raised by the JCPAA.

Recommendation 2. Customs should use public relations or media liaison officers to manage and promote media reporting of Coastwatch activities. (Paragraph 2.20)

Supported.

This recommendation is an extension of Recommendation 1. Customs’ Corporate Communications will be responsible for implementing the Public Information campaign, when it is approved, and will manage and promote media reporting of Coastwatch activities.

Recommendation 3. The Government should provide Coastwatch with a charter outlining the Government’s expectations. This information should be made publicly available. (Paragraph 2.40)

Supported.

Although the Government’s expectations of Coastwatch are clear and widely understood within official circles, and within those elements of the community that have followed the evolution of the civil maritime surveillance and response program in recent years, the provision of a publicly available Charter articulating these expectations would be beneficial.

The Charter will be made publicly available on the Internet, and will become a key message for dissemination as part of the proposed Coastwatch Public Information campaign.

Recommendation 4. The practice of seconding a uniformed Australian Defence Force officer to the position of Director General Coastwatch be retained. (Paragraph 4.37)

Supported.

Coastwatch has benefited from the secondment of a serving Australian Defence Force (ADF) officer to the role of Director-General Coastwatch. The second senior military incumbent is now in place. The Chief of the Defence Force has also agreed to maintain the three other existing Defence-filled positions within Coastwatch and to provide a fourth ADF member to assist Coastwatch in
maximising the opportunities available to Coastwatch as a result of increased access to a range of intelligence systems.

Coastwatch and Defence are negotiating a Memorandum of Understanding (MOU), which will consolidate in one document the various components of Defence involvement in Coastwatch coordinated activities. This MOU will address all Defence contributions, including personnel, intelligence, assignment of forces (Fremantle Class Patrol Boats and P3C Orions), and responsibilities for certain actions associated with matters of mutual interest, such as Unidentified Aircraft Movements (UAMs) and training.

**Recommendation 5.** Coastwatch should be able to access in a timely manner, vessel monitoring system data, therefore:

- **Commonwealth legislation enabling the automatic monitoring of vessels should be amended to ensure the information passes on to Coastwatch;** and
- **The Commonwealth Government should enter into negotiations with State Governments with a view to enabling Coastwatch to have access to vessel monitoring system data. (Paragraph 4.76)**

Supported.

Access to Vessel Monitoring Systems (VMS) data would further enhance Coastwatch operations. Coastwatch has been involved in negotiations with the Australian Fisheries Management Authority (AFMA) with the aim of securing access to VMS data collected by that agency. Commonwealth legislation, requiring or authorising, by or under law, the use of this information by Coastwatch with appropriate safeguards, for the purpose of maintaining border integrity, will achieve the necessary clarity to make the information available.

Legislation to give effect to the vessel monitoring measure was passed in the Winter 2002 Sittings of Parliament.

The Government agrees that there would be benefit in arrangements to enable Coastwatch to have access to VMS data provided to States and Territories, and will initiate discussions with relevant State Governments.

**Recommendation 6.** Based on Coastwatch’s review of surveillance requirements in the Torres Strait, the Government should consider providing additional resources to increase surveillance coverage of the Torres Strait. (Paragraph 6.62)

Supported.

Additional resources for increased surveillance in the Torres Strait were provided following the recommendations of the Prime Minister’s Coastal Surveillance Task Force (PMTF). These resources provide support to all agencies that have a requirement for surveillance in the Torres Strait area.

The operational evaluation of the new High Frequency Surface Wave radar will, in part, further support operational outcomes in the Torres Strait.

**Recommendation 7.** Defence, Coastwatch, and Customs with advice from the Australian Fisheries Management Authority should review options for increasing Australia’s ability to respond to illegal fishing in northern waters. If warranted, the Government should consider increasing Australia’s response capability in northern waters. (Paragraph 6.79)

Supported.

The response capabilities in northern waters have been increased with three of the Customs ‘Bay Class’ vessels currently operating out of Darwin. Customs is proceeding to take action to enable the Bay Class vessel fleet to be double crewed, increasing their annual operational availability from the current 150 sea days per vessel to 300.

To further enhance response capability in the north, Defence is moving four Fremantle Class Patrol Boats from southern Australia to Darwin. Coastwatch will continue to monitor and review the response requirements in conjunction with AFMA, with a view to informing management of emergent response capability requirements.

**Recommendation 8.** Defence should investigate, with subsequent advice to the Government, the cost of acquiring and outfitting a vessel to patrol the Southern Ocean and other remote areas, and the feasibility of mounting joint patrols of the Southern Ocean with other countries with an interest in the region. (Paragraph 6.124)

Supported.

Work is currently being undertaken by Defence and other relevant agencies, to assess the threat and risk to Southern Ocean fisheries and identify the infrastructure necessary to establish response options. As part of that process, and in the context of the Heard and McDonald Islands Operational Group (HIMIOG), the various response options, including the requirements for a vessel to patrol the Southern Ocean and other remote areas will be produced. This requirement will be the basis on which Defence and other relevant agencies
will determine the size, type and characteristics of the required vessel, and therefore its cost. As individual countries are responsible for patrolling and enforcing the law within their own exclusive economic zones, there are limitations on achieving truly ‘joint’ patrols of the Southern Ocean. In particular, the apprehension of illegal vessels can only be undertaken legally by the authorities of the particular country infringed. Notwithstanding these limitations, there are a range of joint activities that can be progressed with other countries with an interest in the region. Cooperative efforts, such as the exchange of intelligence and surveillance information with other countries with interests in the Southern Ocean regions, have the potential to significantly enhance efforts in this area. For example, Australia has already contributed to the successful prosecution by the flag state, for breaches of international fisheries, of a vessel detected in the Southern Ocean. In September 2000, a UK registered vessel was reported for illegal fishing in the Heard Island and McDonald Island (HIMI) area by an Australian fishing vessel. The UK authorities prosecuted the vessel in accordance with the Convention for Conservation of Antarctic Marine Living Resources. An additional instance of a successful joint operational approach occurred in April 2001, when the Togo-flagged South Tomi was successfully apprehended after fishing illegally in the HIMI area. This carefully planned operation involved AFMA and the ADF, acting with the assistance of a third party, in this case, South Africa. The AFMA charter vessel, Southern Supporter, with the assistance of the South African Navy, stopped the South Tomi about 250 nautical miles off Cape Town. Subsequently ADF personnel, embarked in South African Navy vessels, boarded the South Tomi and escorted it back to Fremantle. **Recommendation 9.** Defence and Coastwatch should continue to analyse the potential threats posed by unauthorised aircraft movements and develop response strategies. Once JORN is fully operational there should be an assessment of the frequency of unauthorised aircraft movements in the Torres Strait and Cape York. (Paragraph 6.155) Supported. As part of their on-going cooperative arrangements, Defence, Coastwatch and Customs have procedures in place for the exchange and analysis of information in relation to potential unauthorised aircraft movements. JORN, when fully operational, will be an integral component of these arrangements. In addition, a UAM event will continue to be an important element of the annual ADF exercise in Northern Australia that tests the coordination of civil and military activities; and national and State/Territory policy. Procedures for mounting a response to suspect UAMs have been promulgated and will be further tested and refined during these combined civil/military exercises **Recommendation 10.** Defence and Coastwatch should develop contingency plans for the siting of sensors in the Torres Strait and Cape York to meet any identified unauthorised aircraft movement threat. (Paragraph 6.157) Supported. Defence is responsible for the provision of air-space surveillance and aircraft control operations and is capable, to some extent, of providing air-space surveillance operations within the Torres Strait and Cape York areas. This capability will improve with the introduction of new microwave radars and JORN over the next two years, and with new project work to improve the Mobile Sector Operations Centre capability. Tasking for additional surveillance activity will be actioned through existing links between Coastwatch and Defence, as will contingency plans for the siting of sensors. Defence has identified a number of microwave radar sites in the Cape York area and is working with Coastwatch to identify suitable sites for the operational evaluation of High Frequency Surface Wave Radar. Provision of surveillance data between Defence and Coastwatch can be extended to include surveillance of Torres Strait and Cape York when appropriate sensors, including JORN, are able to provide coverage in that area. **Recommendation 11.** Customs should promote the use of the Customs Watch free telephone line in remote areas for reporting suspicious aircraft movements and other activities. (Paragraph 6.158) Supported. Use of the Customs Watch free telephone line continues to be promoted nationally, including its use for reporting suspicious aircraft movements. The recent transfer of the call centre from Canberra to the Customs National Monitoring Centre in Melbourne has strengthened the benefits of the free phone system. **Recommendation 12.** Customs, in consultation with other agencies, should create links and agreed protocols with law enforcement agencies of Australia’s northern neighbours to enable the timely investigation of suspicious air-
craft leaving Australian airspace. (Paragraph 6.160)
Supported.
Mutual cooperation and assistance Memoranda of Understanding between Australian Customs and counterpart Customs agencies in New Zealand, Papua New Guinea and Indonesia are being reviewed to determine whether their provisions are sufficient to cover the timely investigation of suspicious aircraft leaving Australian airspace.

Australian Customs also sponsors the Customs Asia Pacific Enforcement Reporting System (CAPERS). CAPERS is being trialed in the Pacific with 17 countries, including the US and Canada. As the system matures, Customs will look to extending the application to other regional nations, including Papua New Guinea and Indonesia.

When fully developed, CAPERS will provide the basis for more timely exchange of information in relation to border infringements, including information relating to suspicious aircraft movements.

Recommendation 13. Customs, with advice from other agencies, should prepare a contingency plan for recommending to Government that the use of transponders on non-commercial aircraft be mandatory in areas where there is a demonstrated problem due to unauthorised air movements. (Paragraph 6.162)
Supported in principle.
Customs will consult with the Department of Transport and Regional Services, and with civil aviation authorities, to develop joint recommendations on the feasibility of the use of transponders on non-commercial aircraft.

Recommendation 14. Customs should review existing border legislation to determine whether it adequately allows Customs jurisdiction over UAMs entering and leaving Australia and the ability for Defence personnel, acting on Customs’ behalf, to respond to UAM flights. The legislation should be amended if required. (Paragraph 6.173)
Supported.
Section 184D of the Customs Act allows for identifying an aircraft and requesting it to land for boarding, including penalties for non-compliance. The Act allows these powers to be applied by the commander of a Commonwealth aircraft, so that Defence may act on Customs’ behalf. Section 185 of the Customs Act allows for the boarding, search, detention and movement of aircraft. Customs will continue to work with Defence in relation to contingency planning for the identification, interception and, as appropriate, prosecution of those involved with UAMs entering or leaving Australia.

GOVERNMENT RESPONSE TO RECOMMENDATIONS 2 TO 5 OF THE JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT REPORT 386: REVIEW OF THE AUDITOR-GENERAL ACT 1997

Recommendation 2
The Committee recommends that the Government amend section 19(3) of the Auditor-General Act 1997, to read:

- After preparing a proposed report on an audit under sections 15, 16, 17 or 18, the Auditor-General must give a copy or an extract of the proposed report to any person who, in the Auditor-General’s opinion, has a special interest in the report.

The Government will need to ensure that all consequential amendments arising from this amendment are made.

Government response
Agreed, noting the form of the amendment would be a matter for the Office of Parliamentary Counsel.

Recommendation 3
Subsection 19(4) of the Auditor-General Act 1997 should be amended to read:

- If the recipient of the proposed report gives written comments to the Auditor-General within 28 days after receiving the proposed report, the Auditor-General must consider, and include, those comments, in full, in the final report and any summary documents.

Government response
Agreed in part. While it is appropriate to include agency comments in full in final reports, the inclusion of those comments in full in summary documents could defeat the purpose of such documents. The Government considers that the Auditor-General should be required to include, in summary documents, the substance of agency comments and an indication of where the agency comments may be found in the final report.

Recommendation 4
The Committee recommends that the Government amend section 37(4) of the Auditor-General Act 1997, to read:
• When the Auditor-General is required to omit particular information from a public report because the Attorney-General has issued a certificate under paragraph (1)(b) in relation to the information, the Auditor-General must state in the report:
  (a) that information (which does not have to be identified) has been omitted from the report; and
  (b) the reason or reasons (in terms of subsection (2)) why the Attorney-General issued the certificate.

Government response
Agreed.

Recommendation 5
The Committee recommends that the Government amend section 15(2) of the Auditor-General Act 1997, to read:

• As soon as practicable after completing the report on the audit, the Auditor-General must:
  (a) cause a copy to be tabled in each House of Parliament; and
  (b) give a copy to the responsible Minister; and
  (c) to any other Minister who, in the Auditor-General’s opinion, has a special interest in the report.

Government response
Agreed, noting the form of the amendment would be a matter for the Office of Parliamentary Counsel.

Agreement on the Privileges and Immunities of the International Tribunal for the Law of the Sea (New York, 23 May 1997)
The Government is pleased that the Committee supported the Agreement and recommended that binding treaty action be taken (2.34). Binding treaty action has been taken with the deposit of an Instrument of Ratification for Australia in May 2001.

The Government offers the following response to the second recommendation (2.49) put forward by the Committee in relation to this Agreement.

Recommendation 2
The Government should amend its treaty development and review procedures to require that all draft legislation proposing to give domestic effect to international obligations arising from treaty actions be referred to the Joint Standing Committee on Treaties for consideration at the same time as the Committee reviews related National Interest Analyses.

The Government does not consider that it is feasible to refer all draft legislation proposing to give effect to international obligations arising from treaty actions to the Committee. However, the Government is committed to the treaty review process and to the work of the Committee. The Government is keen to support the role of the Committee and believes there may well be merit in referring certain legislative proposals linked to the implementation of a treaty to the Committee at the time it is considering the national interest analysis of that treaty. These circumstances could arise where the proposed legislation has already been introduced into Parliament or where an exposure draft bill is publicly available. While draft bills and associated materials are confidential to the Government, consideration can be given case-by-case to whether the advance exposure of a bill would serve the public interest.

Australia’s Relations with the Middle East
GOVERNMENT RESPONSE
The Government thanks the Joint Standing Committee on Foreign Affairs, Defence and Trade for the comprehensive review of the relationship between Australia and the Middle East region. The report is a welcome and timely follow-up to the last report on the ‘Gulf and Australia’ in 1982.

The report makes thirty eight recommendations regarding political, strategic, economic and social issues. The Government’s response to these recommendations is provided below. Additional observations in relation to education and visa requirements for overseas students are at Annex A.

List of Recommendations
SECTION ONE- Political and Strategic Issues
Australia’s Contribution to the Middle East Peace Process
Recommendation 1
The Committee recommends that the Australian Government:

• make comprehensive policy statements at much more frequent intervals in the UN General Assembly and the Western European and Other States Group, on developments in the Middle East;
• use those occasions to demonstrate Australia’s contribution to international efforts for a just and lasting peace; and
• report to the Parliament each time statements on the Middle East are made in international forums.

An important element of the Government’s engagement in the Middle East is to take opportunities to make statements on developments which support the peace process or to condemn actions that obstruct the peace process. The Government makes a comprehensive policy statement on the Middle East during the plenary session of the UN General Assembly and where necessary makes explanations of vote on specific resolutions. The Western Europe and Others Group (WEOG) is not an appropriate forum for making policy statements, but we consult closely with like-minded member states in promoting a positive and constructive approach to Middle East issues in the UN.

The Government includes in its policy statements confirmation of Australia’s commitment to supporting a just and lasting peace in the Middle East and regularly draws attention to Australia’s efforts to this end.

The range and breadth of international forums whose work touches on the Middle East makes it impractical to table every statement on the Middle East made by the Government. The Government makes statements in Parliament in response to significant developments in the Middle East. Australian statements made at the UN are given wide distribution, and are published on the website of our Mission to the UN in New York, which is linked to the DFAT home page.

**Recommendation 2**

The Committee recommends that the Australian Government give further consideration to reopening the Australian Embassy in Damascus which was closed in August 1999.

The Government’s decision to close the Embassy in Damascus was prompted by an examination of our network of overseas posts as part of a continuing scrutiny of the allocation of resources within DFAT. The decision was a result of financial and other factors in times of limited financial resources. We are still in a climate of financial resource constraints and there is no prospect of our re-opening in Damascus in the near future.

Nevertheless, we continue to keep all of Australia’s overseas representation under review in order to make the best use of resources in Australia’s national interests.

**Recommendation 3**

The Committee recommends that:

• in addition to the official Australian parliamentary delegations to the various nations of the Middle East, the Australian Government give consideration to including the region in overseas visits by senior political leaders, in order to give a regular focus for expressing Australia’s views on the Middle East conflict; and
• at the conclusion of such high-profile visits by political leaders, a comprehensive statement be made in the Parliament.

The Prime Minister visited Israel in 2000, and Mr Downer and Mr Vaile visited the region in 2000 and 2001. Senior political leaders to visit the region during 2000-01 included Senator Alston, Mr Ruddock, Mr Brereton, Mr McMullan and Mr Tanner.

A comprehensive statement in the Parliament after such visits may be appropriate depending on the scope of the visit and developments in the region at the time. The Prime Minister delivered a major speech on the Middle East at the United Israel Appeal dinner in Melbourne on 22 November 2000. Mr Downer has issued media releases in response to developments in the Israeli-Palestinian conflict as well as responding to questions on notice in the Parliament. While parliamentary delegations make statements in parliament on their return from visits abroad, in recent times political leaders have tended not to do so. The reason is that a statement would have to be delivered in both the House of Representatives and the Senate and it has proved difficult to schedule this in a busy parliamentary program.

**Recommendation 4**

The Committee recommends that, notwithstanding the setbacks which have been experienced in the peace process since the second half of 2000, the Australian Government support revival of the multilateral working groups in which Australia has particular expertise—the Arms Control/Regional Security Working Group and the Water Resources Working Group.

The Government continues to support the revival of a multilateral Track I dialogue on Middle East security issues. However, against the backdrop of the stalled peace process, the Government has channelled its support into a range of informal Track II activities aimed at maintaining the momentum of dialogue on regional security issues. This included support for a Middle East Arms
Control Conference hosted by Monash University in 1999.

The Government also supported a series of Track II workshops on regional security organised by the University of California Los Angeles (UCLA) Burkle Centre for International Relations, the first of which was held in November 1999. The Government contributed to this process by making Australian officials available to participate in Track II workshops and supporting the involvement of Australian academics.

The rationale for the Track II workshops is to establish an informal network of regional security experts and institutions and to promote dialogue while the multilateral Track I process remains in abeyance. It is envisaged that output from the Track II process could feed into the formal Track I process when it resumes. It has been suggested, for example, that recommendations arising from the UCLA workshops could be adopted by a revived Arms Control Regional Security (ACRS) Working Group. However, the ACRS Working Group stalled in 1995 because of a deadlock over weapons of mass destruction (WMD)-related issues, and a resolution to that impasse is not expected in the current political climate.

Against that background, the possibility of the Track II process evolving into a new form of Track I dialogue has been contemplated. The UCLA project has already taken on the character of a “one-and-a-half track” process, with officials attending workshops and conferences in a non-official capacity. At present the UCLA project is the only on-going forum for discussion of regional security in the Middle East. The Government will continue to support the Track II process, with a view to encouraging the eventual revival or evolution of a multilateral Track I dialogue.

The Government also supports the revival of the Water Resources Working Group but sees no benefit in doing so until the peace process is significantly advanced. When this occurs, the Government will examine areas of expertise and assistance to offer the Water Resources Working Group from other sources.

**Recommendation 5**

The Committee recommends that:

- the Australian Government review the formal arrangements through which the Palestinian General Delegation currently represents Palestinian interests in Australia, in order to ascertain whether those arrangements sufficiently reflect the maturing relationship between Australia and the Palestinian authorities; and
- preparation be made by the Australian Government for establishing a permanent Palestinian mission with full diplomatic status as soon as significant progress has been made in the ‘final status’ negotiations between the parties.

**Response to Recommendation 5 (a)**

The Government recognises the Palestine Liberation Organisation (PLO) as the legitimate representative of the Palestinian people and the General Palestinian Delegation as the representative of the PLO in Australia. The Government regularly reviews the formal arrangements of the General Palestinian Delegation. The Government has recently agreed to include details of the General Palestinian Delegation on the DFAT internet website in order to facilitate its operations.

The Government opened the Australian Representative Office in Ramallah in September 2000 as a substantial contribution to facilitating Australia’s dealings with the Palestinian Authority. This decision was taken without prejudice to the outcome of direct negotiations between Israel and the Palestinians on important issues in the peace process.

**Response to Recommendation 5 (b)**

The deeply distressing violence we have witnessed in the Middle East has undermined the efforts of those working for a negotiated peace. Real progress in preventing violence on the ground and in the relations between the parties will be necessary before the situation could improve to the extent that the Government would need to consider the appropriate level of its relations. However the Government has consistently recognised the legitimate right and aspiration of the Palestinian people to self-determination. As affirmed in Security Council Resolution 1397, the international community welcomes a vision of two states, Israel and Palestine, living peacefully side by side. As part of its support for a just and enduring negotiated settlement, the Government would be open to the establishment of an official mission when the final status negotiations have made the necessary progress.

The Government notes that the Minority Report agrees with the first part of Recommendation 5. The Government also notes its objections to the second part, but considers that Recommendation 5 (b) remains appropriate and consistent with Government policy.
Recommendation 6
The Committee recommends that the Department of Defence review its international engagement priorities in order to ensure that spare capacity in ADF courses, including those provided by commercial training organisations, is available in sufficient quantity to students from Middle East countries with which Australia has established close defence ties.

Australia seeks to strengthen its bilateral relationship with Middle East countries through provision of quality military courses and training, particularly at the Australian Defence College (ADC). Other Service-specific training opportunities are being actively explored. These military exchanges will facilitate increased access and influence with future military leaders in a number of Middle East states. Military training and educational linkages will be an important element of Australia’s representation in, and engagement with the broader region.

This recommendation is already in place, with students from several Gulf countries attending the ADC in 2001, and further invitations for 2002 attendance at the ADC sent to Kuwait, United Arab Emirates, Oman and Qatar. Efforts are also underway to develop an umbrella Memorandum of Understanding on Defence Education between the ADC and counterpart institutions in Kuwait, Saudi Arabia, Qatar, Bahrain, the United Arab Emirates and Oman.

Recommendation 7
The Committee recommends that Defence representation in the Middle East (including the Persian Gulf region) be reviewed in order to provide a resident source of information and advice relating to regional security issues and Australia’s contribution to current and future international peacekeeping and monitoring operations.

The Government is actively considering resident Defence representation in the Persian Gulf region.

Recommendation 8
The Committee recommends that all Australian political and official public statements condemning terrorism and violence in the context of the Middle East conflict continue to be framed in terms which clearly apply to all the parties in conflict.

The Australian Government will continue to ensure that public statements condemning terrorism and violence in the context of the Middle East conflict are appropriately balanced.

Regional Stability and Strategic Issues
Recommendation 9
The Committee recommends that the Australian Government pursue all available avenues to achieve greater universal application of effective verification mechanisms for international arms control and disarmament in relation to the Middle East, as well as our own region.

The Australian Government gives high priority to effective verification mechanisms as a component of its arms control, disarmament and non-proliferation policies towards the Middle East and our own region. The Government is committed to promoting universal adherence to and compliance with:

- The Chemical Weapons Convention (CWC). Australia remains concerned that Egypt, Iraq, Lebanon, Libya, Syria and Israel (Israel is yet to ratify the Convention) remain outside the CWC and consistently calls on them to join the CWC and submit to its verification regime.
- The Biological Weapons Convention (BWC). Egypt, the UAE and Syria have signed but not ratified the BWC. Israel has not signed this instrument.
- The Nuclear Non-Proliferation Treaty (NPT). Australia consistently calls on states not party to the NPT (Cuba, India, Israel, and Pakistan) to accede to it. Universal adherence to the NPT is a priority objective of the Australian Government. Australia is also a strong supporter of the International Atomic Energy Agency and is active in efforts to achieve universal application of nuclear safeguards measures, including those developed to address shortcomings in the safeguards system exposed by Iraq’s clandestine nuclear weapons program. Australia played a prominent role in negotiation of the Additional Protocol on strengthened safeguards and was the first country to ratify an Additional Protocol.

The Government continues to call upon Iraq to cooperate fully with UNMOVIC. We regret that, owing to Iraq’s refusal to cooperate, UNMOVIC has been unable to undertake verification activities in Iraq consistent with its UN Security Council mandate.

Australia maintains an active program to secure further signatures and ratifications of the The Comprehensive Nuclear Test Ban Treaty (CTBT) from countries in the Middle East and in our re-
gion. Australia is also taking a lead role in the International Monitoring System (IMS) being developed to verify the CTBT. Australia will host 20 IMS stations, the third largest number of any country after the United States and Russia. Australia at present has the most certified stations of any CTBT signatory. Australia is also host to the Pacific region communications hub, which is an important link in the Global Communications Infrastructure, servicing 60 of the 321 monitoring stations being established world-wide.

Australia has made, including through the Australian Safeguards and Non-Proliferation Office, a substantial contribution to international discussion of verification requirements that will be needed for a treaty to end the production of fissile material for nuclear weapons. Australia will continue to press for a start to Fissile Material Cut-Off Treaty (FMCT) negotiations, progress on which remains blocked because of disagreements over the Conference on Disarmament work program. The Government will also work to ensure that a FMCT has appropriate and effective verification mechanisms.

The United Nations and the Sanctions Against Iraq

Recommendation 10
The Committee recommends that, under the auspices of the United Nations, the Australian Government urge the international community to accelerate its review of the sanctions regime currently applied to Iraq. Such a review should include seeking modifications which would target more effectively the Iraqi leadership and would therefore minimise the impact on the civilian population.

The Government welcomes UN Security Council Resolution 1382 of 29 November 2001, which contains proposals to tighten controls on prohibited goods while improving the flow of humanitarian supplies and civilian goods to Iraq.

The Resolution provides, inter alia, that from 30 May 2002, subject to any refinements to a list of sensitive goods known as the Goods Review List (GRL) all exports to Iraq will be approved automatically, unless included on the GRL. Even items on the GRL could be approved, depending on their end use. Under existing arrangements, all exports to Iraq are prohibited unless specifically approved, case by case.

UNSCR 1382 is the result of extensive discussions which began in the first half of 2001, when the UK introduced a draft resolution proposing changes to the administration of sanctions. Australia strongly supported this draft resolution, speaking in the Security Council open debate on 28 June 2001 and also making bilateral representations to Russia to urge its support for the UK’s proposed changes. In the event, Russian opposition meant that the UK’s draft resolution did not proceed to a vote in July 2001, as the UK originally intended. However, further discussion of the proposed changes in the Security Council led to the adoption of UNSCR 1382, which is essentially a modified version of the UK draft resolution.

Recommendation 11
The Committee recommends that the Australian Government use its participation in multilateral discussions at the United Nations to ensure the international community considers ‘qualitative’ as well as ‘quantitative’ compliance measures in any revision or replacement of Security Council Resolution 1284. Compliance with Security Council Resolutions is, of necessity, generally assessed in both qualitative and quantitative terms, and this applies in respect of Security Council Resolutions concerning Iraq. There is, however, considerable doubt about the Iraqi Government’s commitment to compliance with its Security Council Resolution obligations.

The clearest evidence of this lack of commitment was the Iraqi Government’s decision on 31 October 1998 to cease cooperation with UNSCOM, which led to the withdrawal of UNSCOM staff from Iraq in December 1998. UNMOVIC, the successor to UNSCOM, has now been in existence for two years, but the Iraqi Government has consistently refused to allow UNMOVIC staff to enter Iraq in order to discharge their responsibilities.

This suggests that the Iraqi Government is not committed to complying with UNSCR 1284 and other relevant resolutions. The Government is of the view that the onus remains on the Iraqi Government to demonstrate its willingness to comply with relevant Security Council resolutions.

Recommendation 12
The Committee recommends that the Australian Government support consideration by the international community of practical mechanisms to give effect to the establishment of a Weapons of Mass Destruction-free zone in the wider Middle East region, as originally envisaged in Security Council Resolution 687 of 1991 (paragraph 14).

The Australian Government has consistently joined the consensus in the UN General Assembly in support of a resolution calling for establishment of a Nuclear Weapon Free Zone (NWFZ) in the Middle East. Australia was also party to the consensus Final Document adopted at the 2000 NPT Review Conference which in-
cluded strong support for the early establishment of a Middle East zone free of nuclear weapons and all other WMD and their delivery systems. Australia’s efforts to promote universal membership of and adherence to the CWC, BWC, CTBT and the NPT are consistent with efforts to develop a more comprehensive WMD-free zone in the Middle East. While countries of the Middle East would need to take the initiative in developing any such zone, membership of and adherence to existing WMD treaties would constitute positive steps towards this goal. The verification regimes for multilateral arms control instruments are likely to form essential components of the control system for a Middle East WMD-free zone.

Australia actively supports the development of an International Code of Conduct (ICOC) against the proliferation of ballistic missiles. Such missiles serve as delivery vehicles for WMD. We have urged Middle East countries to participate in the development of the Code and to sign up to it when it is formally launched. Broad international support for the Code would encourage increased transparency and information exchange and would represent a positive step towards reducing the destabilising effects of the threat of the proliferation of ballistic missiles both within the Middle East and globally. It would thereby contribute to a climate where a WMD-free zone could be agreed.

The Australian Government would support the consideration of practical mechanisms to give effect to the establishment of a WMD-free zone in the Middle East if these were consistent with Australian support for existing treaties and were capable of attracting the support of all relevant countries.

SECTION TWO—Economic and Social Issues

Australia’s Trade Relationship with the Region

Recommendation 13

The Committee recommends that the Department of Foreign Affairs and Trade examine the methodology developed by the Australian Chamber of Commerce and Industry for analysing trade relationships, with a view to incorporating it in all future departmental reviews and briefs.

The methodology to determine Australia’s export market shares was developed by DFAT in 1995 and used by the Australian Chamber of Commerce and Industry (ACCI) in their submission to the inquiry. The methodology has been and will continue to be developed by DFAT and the Australia Arab Chamber of Commerce and Industry (AACCI) and will be used in future departmental reviews and briefs.

Recommendation 14

The Committee recommends that the Department of Foreign Affairs and Trade discuss the use of the category ‘Confidential Items’ for both exports and imports with the Australian Bureau of Statistics, to produce more meaningful trade statistics.

Under provisions of the Census and Statistics Act 1905, the Australian Bureau of Statistics (ABS) is required to protect confidentiality of information provided to it. The release of international merchandise trade statistics is covered by the Statistics Determination made under clause 2 (2) (b) of the Act.

This clause permits disclosure of detailed international trade information in the form of statistics, unless an individual or organisation has shown that such disclosure could identify that particular person or organisation. If an organisation requests a confidentiality assessment and it is determined that their data would otherwise be identifiable, the ABS is obliged under legislation to apply a form of confidentiality restriction that protects the activities of the organisation concerned. Within that constraint, the ABS endeavours to release maximum information to the public. The ABS maintains on its website an updated Confidential Commodities Listing of all restrictions applied within the last 12 months.

Total import and export figures for most Middle East countries are unaffected by confidentiality restrictions, with the exception of Egypt and Bahrain, for which exports of alumina are excluded from the totals. It is the country by commodity detail of trade that is more seriously affected by the confidentiality restrictions applied.

Current practice is consistent with ABS legislative obligations and provides appropriate safeguards to ensure that information which a business considers to be of a sensitive commercial nature is protected. In this regard, the confidentiality restrictions applicable to international trade statistics are less restrictive than those applied to most other ABS statistics. The ABS relies heavily on the cooperation of businesses in its data collection activities. Protection of confidential trade data is critical to the relationship of the ABS with the business community.

Recommendation 15

The Committee recommends that the Department of Foreign Affairs and Trade establish a Business Advisory Group on the Middle East, comprising the Department of Foreign Affairs and Trade, Austrade, and relevant Chambers of Commerce, to more effectively coordinate export strategies for the region.
The Government supports the establishment of a Middle East Business Advisory Group (BAG). The precise modus operandi and scope of activities of a BAG will need to be determined by DFAT, Austrade, relevant chambers of commerce and industry in the light of available resources. The Government would like the BAG to consult with the Trade Policy Advisory Council (TPAC), the Minister for Trade’s pre-eminent source of advice from the Australian business community on trade issues. The BAG would also be a useful complement to other consultative forums, such as the Market Development Task Force and Austrade’s Export Advisory Panels.

A key role for the BAG would be to develop a strategic approach to diversifying Australia’s export base in the Middle East as well as to develop defensive marketing strategies to protect Australian market share in the region, including monitoring commercial activity following the September terrorist attacks.

**Recommendation 16**

The Committee recommends that:

- the Department of Foreign Affairs and Trade spread the load more evenly between the Australian Embassies in Riyadh and Abu Dhabi; and
- Austrade include Israel in the Middle East/Indian Ocean Region, to enhance coordination within the region, and with the Department of Foreign Affairs and Trade.

Response to Recommendation 16 (a)

DFAT has already taken action to distribute more evenly the workload between its Embassies in Riyadh and Abu Dhabi. In December 2000, Australia’s accreditation to Qatar was transferred from Riyadh to Abu Dhabi. This allows the Ambassador in Abu Dhabi to work closely with the Senior Trade Commissioner in Dubai to ensure that Australian companies take advantage of significant commercial opportunities in Qatar.

Response to Recommendation 16 (b)

Austrade is of the view that whilst travel between Israel and Arab countries has improved in recent years, there are still sensitivities which would make it difficult for Austrade to incorporate Israel into the Middle East Indian Ocean region. These include dealing with both Arab and Israeli counterparts in the region where tension still exists even though countries are not officially at war.

In economic and business terms (as opposed to political) Israel has few links with its Middle East neighbours, but strong links with Europe. From an international business perspective, Israel’s prime importance to Australia is as a source of investment, innovation and intellectual property as well as a market for sophisticated manufactures and services. This market profile aligns Israel with Europe rather than the Middle East. It means that Israel’s interest and potential is of more relevance to Australian businesses involved in Europe than those dealing with the Middle East.

Austrade’s particular arrangements for Israel do not in practice impede coordination with DFAT.

**Recommendation 17**

The Committee recommends that:

- Joint Ministerial Commissions be held more frequently and with more countries;
- The Government negotiate free trade agreements with Israel and with the Gulf Cooperation Council; and
- The Government negotiate double taxation agreements and investment protection agreements with key countries in the Middle East.

Response to Recommendation 17 (a)

While Joint Ministerial Commissions (JMCs) can foster bilateral trade and investment relationships, the Government’s experience is that they are highly resource intensive and may not always be the most effective forum for achieving particular outcomes. Accordingly, the Government does not support the Committee’s recommendation that JMCs be held more frequently with more countries, but favours a more pragmatic case-by-case approach. JMCs are held regularly with Iran and the UAE. Consideration is being given to reinvigorating the Australia-Saudi Arabia JMC.

The Government believes that JMCs should be held where outcomes can reasonably be expected to justify the significant resources they require. They should be held on a regular basis only with those countries that offer significant trade and investment prospects.

The Government believes that JMC agendas should be sharply focused. More frequent meetings of senior officials, with the support of the private sector, could help to bring a sharper focus to key issues in important bilateral trade relationships and act as a clearing house for issues which may not need to be brought to Ministers.

Response to Recommendation 17 (b)

The Government pursues an integrated multilateral, regional and bilateral approach to trade policy. It is open to concluding free trade agreements if they would deliver substantial gains to Australia that could not be achieved in a similar time
The Committee recommends that:

Recommendation 18
made in negotiations with one of those countries.

negotiations program and some progress has been
norms.

consider whether the other country
ties with major trading partners. Given the defer-
moment to our multilateral objectives.
The Government’s initial assessment, made some
time ago, of a free trade agreement with Israel
was that the proposal was unlikely to meet the
criteria set by the Government for such agree-
ments. The Government would be prepared to
consider free trade agreements with countries of
the Gulf Cooperation Council (GCC) if it were
possible to reconcile trade policies and legislative
requirements with the respective countries. The
AACCi agrees it would not be possible currently
to conclude a free trade agreement with the GCC
as a whole.

Response to Recommendation 17(c)
The Government supports Investment Protection
and Promotion agreements (IPPAs) with our ma-
ajor regional partners where significant benefits
can be identified. Senator Alston signed an IPPA
with Egypt on 3 May 2001. Mr Vaile announced
on 21 August 2001 that the text for an Australia-
UAE IPPA had been agreed. We expect to com-
mence negotiations on an IPPA with Saudi Arabia
shortly.

The Committee’s recommendation in respect of
double taxation agreements (DTAs) is noted. The
Treasurer, in response to the recommendations of
the Ralph Review of Business Taxation, an-
nounced in November 1999 that priority would be
given to renegotiating Australia’s ageing DTAs
with major trading partners and that the Govern-
ment would review its tax treaty policy to ensure
that Australian DTAs reflect an appropriate bal-
ance of source and residence based taxing rights.

Future negotiations on the Government’s program
have been deferred pending renegotiation of trea-
ties with major trading partners. Given the defer-
ral, the Government is reluctant to add new
countries to the program at this stage. This does
not preclude doing so in the future, subject to the
availability of resources and competing priorities.
However, we would need to consider the benefits
to Australia in concluding a DTA with any par-
cular country. We would need, for example, to
consider whether the other country’s tax system
and treaty practices accord with international
norms.

Two Middle East countries are already on the
negotiations program and some progress has been
made in negotiations with one of those countries.

Recommendation 18
The Committee recommends that:

Research and Development Funds be established
to foster cooperation, particularly in information
technology and agriculture, between Australia
and Israel; and

Opportunities to develop closer research and de-
development links in agriculture with other coun-
tries in the Middle East be actively pursued.

Response to Recommendation 18(a)
The Government is currently considering a pro-
posal to conduct an Israeli—Australian research
study to assess the potential for industrial R&D
cooperation.

Initial discussions between Israel’s Ministry of
Industry and Trade and the then Department of
Industry, Science and Resources focused on the
establishment of a joint fund for industrial R&D
cooperation. However, since then, the Ministry’s
Chief Scientist has decided to review the opera-
tion of Israel’s existing and future joint R&D
funds before establishing any further joint funds.
The Australian Government agrees with this ap-
proach, and the Department of Education Science
and Training (DEST) and the Chief Scientist of
Israel’s Ministry of Industry and Trade are cur-
rently considering the feasibility of conducting an
Israeli—Australian Research Study of Industrial
R&D Cooperation. The study would be a precur-
or to any decision to enter into an agreement
regarding establishing a joint fund for industrial
R&D cooperation.

AACCi supports the concept of R&D Funds, but
more importantly the promotion of Australian
skills in IT and agriculture within the Middle
East. AACCi believes this should fall within the
ambit of the BAG

Response to Recommendation 18(b)
The Government has agricultural cooperation
agreements with a number of countries which
foster greater cooperation on agricultural research
and development. These agreements and the op-
portunities for agreements with other countries
are reviewed periodically. In July 2001, key in-
dustries were consulted about the possibility of
developing an agricultural cooperation agreement
with Israel. There was limited interest in pursuing
it at the time. The Government will continue to
monitor opportunities for closer cooperation on
agricultural research and development with Israel
and other Middle East countries.

Recommendation 19
The Committee recommends that the Department
of Foreign Affairs and Trade, in conjunction with
relevant agencies such as the Australian Quaran-
tine and Inspection Service, be proactive in as-
sisting the Gulf Cooperation Council establish
common food standards, including quarantine. DFAT should then encourage the adoption of those standards by other countries in the Middle East.

In conjunction with AFFA and AQIS, DFAT has long worked with GCC countries to encourage them to recognise that Australia’s food standards’ regulatory regime gives them assurance that Australia’s food exports are safe for consumption and of high quality.

Australia participated in a symposium on genetically modified foods in Riyadh in October 2001 to explain our regulatory and inspection regime for genetically modified foods. The Government continues to consult Saudi authorities about their new regulatory and inspection regime for genetically modified foods which was introduced on 29 November 2001.

The Government recognises that, due to significant differences in the rationale and administration of food regimes among them, the GCC countries may take some time to develop a common food standards regime. In the meantime, the Government will continue to encourage the adoption of common food standards in the GCC and throughout the Middle East and agrees to the AACCI proposal that the matter be placed on the agenda of the proposed BAG.

**Recommendation 20**

The Committee recommends that the Australian Government direct the Department of Foreign Affairs and Trade to formally raise with the representatives in Canberra of the UAE, Iran and Egypt (embassies) the level of charges for legalisation of commercial documents.

The Government agrees with the Committee’s view that the cost of legalising commercial documents for some Middle East countries is excessive and can act as an unintentional non-tariff barrier. DFAT will continue to make representations to have such costs reduced.

**Recommendation 21**

The Committee recommends that DFAT and Austrade develop a joint strategy to utilize fully the power of the Internet to:

- promote Australia and Australian products and services in the Middle East, and
- publicise export opportunities identified by Austrade staff

DFAT and Austrade currently promote each other’s services online, and work together to provide a seamless service to exporters and investors. At present, each organisation’s website has links to the other’s website, and each organisation markets the other’s, including their online services. Work is in progress to improve Austrade’s website to promote business opportunities in the Middle East to Australian clients and to make the site more informative and user-friendly for international customers. The site’s services will include, with extensive links to DFAT and other agencies:

- improved trade-related content on the Middle East;
- enhanced sections on business culture when visiting the region;
- an enhanced database of Australian exporters called Australian Suppliers Register (previously known as Australia on Display);
- improved information on events related to the Middle East, including missions, trade fairs, and seminars;
- improved information on inward and outward investment to and from Australia and the Middle East; and
- regular updates, news items and ‘date stamps’ to indicate the currency of information on the site.

Austrade markets export opportunities to Australian companies through its Export Advisory Marketing Unit, and through seminars and visits to Australia by its overseas-based marketing staff.

**Recommendation 22**

The Committee recommends that the proposed Business Advisory Group establish mechanisms to enhance the coordination of trade missions, particularly to the Persian Gulf region of the Middle East.

The Government recognises the importance of coordinating trade missions to promote Australia to the Middle East. The proposed BAG could encourage State and Federal agencies to coordinate more closely their trade and investment mission strategies to ensure maximum benefit. Greater coordination of Federal and State trade missions to the region would enhance Australia’s standing in the region and complement coordination work undertaken by the National Trade Consultations process.

Austrade supports the recommendation as enhanced coordination of trade missions allows for a greater leveraging of Australia’s resources and expertise and ensures a more cost effective and efficient service delivery for business. The recommendation is also consistent with the Federal Government’s 1997 Investing for Growth policy statement, which assigned Austrade “a key role in coordinating and advising on the development of export programmes across the Commonwealth” and the lead role in coordination of
export promotion activities of Commonwealth agencies. The 1999 ANAO Report, Coordination of Export Development and Promotion Activities Across Commonwealth Agencies, further underlined Austrade’s responsibilities in this area.

**Recommendation 23**
The Committee recommends that Austrade develop proactive strategies to promote the Middle East region to Australian exporters - incorporating seminars and workshops, webcasting, the Internet, export opportunities, and regular visits by marketing staff and overseas buyers.

Austrade is executing a proactive program to promote the Middle East region to Australian exporters. For example:

- seminars promoting business opportunities in the Middle East Indian Ocean Region were held in Perth, Brisbane and Canberra in July 2001, presented by the Executive General Manager and several Senior Trade Commissioners. 230 people attended the seminars. They will be held again in 2002;
- during July 2001, Senior Trade Commissioners participated in seminars highlighting business opportunities in the Middle East in Melbourne, Sydney, Brisbane, regional Queensland and regional New South Wales, in conjunction with State Governments and the AACCI. These types of activities are held regularly, as a key component of any Senior Trade Commissioner or Trade Commissioner visit to Australia;
- the Executive General Manager and Senior Trade Commissioner Dubai presented at seminars across Australia in December 2001. Eight events were attended by 868 Australian companies and organisations;
- briefings to promote business opportunities in the oil, gas and petrochemical sectors in the Gulf region will be held across Australia in March 2002. The events will include Austrade oil & gas specialists from the region and representatives of major companies from the region;
- a regional strategy for the agribusiness sector is being developed and will include market opportunity promotional activities in Australia during 2002;
- the Executive General Manager delivered a presentation on doing business in the Middle East Indian Ocean Region to the TradeStart network using webcasting technology on 29 November 2001. More of these types of broadcasts are planned for 2002;
- Austrade’s Middle East Indian Ocean Region includes targeted visits to Australia by its marketing staff to deliver expert in-market knowledge and advice to Australian companies as well as undertaking business skills training in Australia; and
- Austrade’s Business Development Manager from Dubai visited Australia in February-March 2001 with a group of buyers from the automotive aftermarket sectors of Saudi Arabia and the United Arab Emirates. The Government recognises the importance of visits by overseas buyers to Australia as demonstrated by the inclusion of the expenditure under the Export Market Development Grants scheme administered by Austrade.

Austrade agrees that more information about areas of business opportunity should be included in material on the Austrade website, but disagrees that specific export opportunities should appear on the website. It also disagrees with the Committee’s assessment that “…international commerce moves so quickly these days that third parties would have difficulty keeping up, even in the unlikely scenario that the Austrade office was the only agency in that country to identify that particular import opportunity.”

Austrade’s knowledge of Australian industry capability, combined with an overseas network dedicated to obtaining in-market knowledge and establishing relationships with industry and government, is uniquely placed to identify opportunities for Australian companies. Some of the opportunities stem from personal relationships established with overseas customers and buyers, and in some cases these customers want to be introduced only to Australian companies. The inclusion of opportunities on the Austrade website may affect these relationships and those between Australian companies and overseas buyers.

Austrade places a high emphasis on the qualification of business opportunities and makes a distinction between specifically targeted and public domain tenders. Austrade is committed to ensuring that well-defined opportunities are directed to the most appropriate Australian companies. In some cases, opportunities arise as a result of capital expansion or diversification by overseas companies, which requires discretion to ensure that their local competitors are not informed.
senting these opportunities in a public forum could damage relationships between Austrade and these overseas companies which provide these opportunities.

**Recommendation 24**

The Committee recommends that the Department of Foreign Affairs and Trade arrange a minimum of two visitors per annum from the Middle East under both the Special Visits Program and the International Media Visits program, as part of a comprehensive public affairs strategy for the region.

Scheduled visitors in 2002 under the Special Visits Program (SVP) include Dr Mustafa Barghouthi (Director Health, Development, Information and Policy Institute) from Ramallah, Dr Jamileh Kadivar (MP) from Tehran and Dr Mahmoud Mohieldin (Adviser to Minister of Foreign Trade) from Cairo. Dr Barghouthi’s visit was originally planned for December 2001, but due to events in the region, it had to be postponed.

The volatility of the Middle East region is such that despite DFAT’s best efforts to plan and ensure an appropriate number of visitors to Australia from the region, visits are very often postponed. During 2001 two editors from Egypt and Israel were invited by DFAT under the International Media Visitor (IMV) program. Both had to postpone their visits. We expect they will visit during 2002. DFAT ensures that media visits fit strategically with the Government’s objectives in the Middle East. The IMV program is used as part of a broader comprehensive public affairs strategy for the region. Editors who visit Australia from the Middle East become important long-term contacts for our posts. As resources permit, we will continue to invite senior editors from the Middle East to Australia under the program.

**Recommendation 25**

The Committee recommends that Austrade introduce an award scheme to recognise the vital contribution made to Australia’s export success by outstanding overseas importers. This already exists in the form of the Australian Export Awards’ International Exporter of the Year Award, which was inaugurated in 1999. The Award recognises an outstanding contribution to Australia’s international business performance by an overseas organisation or individual. This year’s nominees included a business leader from Egypt.

**Recommendation 26**

The Committee recommends that the Australian Tourist Commission add an Arabic version to the australia.com website.

The ATC recognises the growing role of its consumer internet site in marketing Australia internationally and the importance of providing content in languages other than English. The content is now delivered in nine languages: English, French, German, Italian, Spanish, Portuguese, Japanese, Traditional Chinese and Simplified Chinese.

Other languages, including Arabic, will be considered in future developments to the site, based on an assessment of tourist volumes, the degree of internet penetration in the market, the preferred language of the market segments and the potential for market growth.

**Recommendation 27**

The Committee recommends that the Department of Immigration and Multicultural Affairs review some of the new visa regulations for overseas students, particularly as they pertain to the Middle East.

DIMIA is monitoring the new student visa regime closely in consultation with the education export industry peak bodies and has already indicated that it will undertake a formal review of the student visa arrangements twelve months after their implementation.

**Promotion and Protection of Human Rights in the Middle East**

**Recommendation 28**

As recommended in the Committee’s recent majority report on United Nations reform, the Committee urges the Australian Government to ratify as soon as possible the Rome Statute, to establish the International Criminal Court.

The Government made public its support for the establishment of an International Criminal Court in the White Paper on Foreign and Trade Policy “In the National Interest”, in submissions to public inquiries into the United Nations, by the Joint Standing Committee on Foreign Affairs, Defence and Trade and by the Joint Standing Committee on Treaties into the Statute itself.

Australia was actively involved throughout the long negotiation process to create an International Criminal Court which culminated in the adoption of the Statute of the Court at a diplomatic conference in 1998. Australia signed the Statute on 9 December 1998 and announced its intention to ratify the Statute on 12 December 1999. The Statute is before the Parliamentary Joint Standing Committee on Treaties. That Committee recom-
mended further examination of the implications of Australia ratifying the Statute. An Exposure Draft of the legislation to enable Australian ratification was publicly released in September 2001. Since the Statute was adopted, Australia has been active in encouraging its signature and ratification among other states. Primarily, this has been through chairing the “Like-Minded Group” of 67 states committed to the establishment of the International Criminal Court.

Recommendation 29

The Committee recommends that the Australian Government pursue bilateral discussions with governments in the Middle East, with a view to establishing formal dialogue mechanisms on human rights matters similar to the arrangements which have been discussed with Iran.

The Government makes regular representations to countries in the Middle East on human rights issues of concern to us. At present, however, the Government does not have the resources to expand its existing program of bilateral human rights dialogues.

Recommendation 30

The Committee recommends that the Australian Government increase its commitment to the development of national human rights organisations in the Middle East by providing technical and other assistance to multilateral programs such as the UN Human Rights Strengthening project (HURIST), and by promoting such initiatives in bilateral dialogue with countries of the region.

The Australian Government’s aid program funds a number of bilateral and multilateral human rights initiatives in the Middle East that focus on the development of national human rights organisations.

In 2001-2002, the Human Rights Small Grants Scheme, which is administered by DFAT, will fund organisations in Israel, the Palestinian Territories, Lebanon and Iran to develop domestic capacities to respect, promote and protect human rights.

The aid program provides an annual contribution of $200,000 to the Office of the High Commissioner for Human Rights to fund projects aimed directly at strengthening national human rights institutions in the Asia-Pacific region. It also provides an annual grant of $500,000 to the Asia-Pacific Forum of National Human Rights Institutions, which has been assisting human rights organisations in the Middle East.

The bilateral Middle East Capacity Building NGO Program and the locally managed Australian Community Assistance Scheme focus on capacity building within local Palestinian NGOs (including Palestinian refugees in Lebanon) and all eligible activities must encourage good governance and respect for human rights.

Further funding for human rights initiatives in the Middle East will be determined in the context of overall aid budget priorities.

Recommendation 31

The Committee recommends that the Australian Government enhance the priority given to human rights concerns in formulating foreign policy with Middle East states, including active pursuit of ratification of the international human rights treaties and the relevant optional protocols—especially the two Optional Protocols to the International Covenant on Civil and Political Rights. The first Optional Protocol entitles individuals to make complaints to the monitoring committee concerning violations of their civil and political rights. The second Optional Protocol is aimed at the abolition of the death penalty.

Australia is a party to the main human rights conventions (including the International Covenant on Civil and Political Rights and its two Optional Protocols) and the Government encourages other countries to become party to these conventions. While at present DFAT does not have the resources to engage in a formal dialogue on human rights issues with countries in the Middle East, representations encouraging countries to adhere to relevant human rights conventions are made when opportunities arise.

Social and Cultural Links Between Australia and the Middle East

Recommendation 32

The Committee recommends that the Government establish an Australian Arabic Foundation within the Foreign Affairs and Trade portfolio.

The Government believes there is value in broadening and promoting Australia’s relations with the countries of the Arab world in the Middle East and North Africa.

As noted in the Report of the Committee, there is already one regional body in DFAT: the Council on Australia Latin America Relations (COALAR) which was established in 2001. In light of experience gained from the operation of COALAR, the Government will examine the feasibility of establishing an Australia-Arabic Foundation within the Foreign Affairs and Trade portfolio. This examination will include consideration of the financial and resource requirements to establish a body capable of achieving the aim of encouraging and supporting increased levels of understanding and cooperation between Australians and Arabs.
DEST is willing to assist DFAT with information about student exchanges, if the Foundation is established.

Recommendation 33
The Committee recommends that the National Library of Australia establish formal links with the new Alexandria Library in Egypt, to the mutual benefit of both organisations.

The NLA’s main link in Egypt is the National Library of Egypt. All national libraries belong to the Conference of Directors of National Libraries (CDNL) which meets annually. The NLA is willing to establish a link with the Alexandria Library in Egypt through its gift and exchange program. This will entitle the Alexandria Library to receive gratis copies of certain library publications, such as the NLA annual report and news magazine, which contain articles on Australian literature and history and Gateways magazine which outlines the NLA’s activities and latest projects.

Australia’s response to Asylum-Seekers from the Middle East

Recommendation 34
The Committee recommends that the Australian Government increase its efforts, in conjunction with other members of the international community, to focus world attention on measures to reduce the huge burden placed on countries of first asylum, which are supporting large numbers of asylum-seekers from the Middle East.

The Government has been seeking for some time to highlight the burden placed on countries of first asylum, many of which are facing their own development challenges. Disproportionate flows of asylum seekers into these countries can cause deterioration of conditions for citizens and asylum seekers alike. This may cause new outflows, both of citizens and of those who had entered to seek asylum. The resultant financial and humanitarian burdens are properly the concern of the global community, not just of the country of first asylum.

There is significant potential to improve the capacity of the international protection system to provide greater support to countries of first asylum, as demonstrated by the imbalance between expenditure on domestic asylum systems in destination countries and the resources provided to refugees. It is conservatively estimated that destination countries spend around US$10 billion per annum to deal with claims made by around 500,000 asylum seekers. By comparison, UNHCR operates with a budget of less than US$1 billion per annum for nearly 22 million refugees and people of concern worldwide.

Accordingly, Australia has sought, through bilateral discussions and involvement in UNHCR’s Executive Committee, to promote an agenda of reform that will strengthen the international protection system and UNHCR’s ability within that system to:

- plan for the creation and funding of durable solutions to resolve long-standing refugee problems, the most important step towards reducing the burden on countries of first asylum;
- ensure that the protection system delivers equitable outcomes for refugees including through support for effective temporary protection in countries of first asylum; and
- build the capacity of countries of first asylum to enable them to fulfill their essential role without placing undue strain on the services delivered to their own nationals.

As Australia’s financial and diplomatic influence is necessarily limited, we have sought to highlight with donor nations, at both the bilateral and multilateral level, the need to provide substantial and on-going support to countries of first asylum.

Australia, during its recent chairmanship of the Inter-Governmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia (IGC), sought to highlight the need to provide support to countries of first asylum in the context of developing comprehensive, integrated solutions to the situations facing refugees and displaced persons.

The joint Asia-Pacific Consultations-IGC meeting in Bangkok early in 2001 provided an important opportunity for countries from different regions to discuss these issues, with many countries of first asylum able to highlight the problems of dealing with large caseloads of refugees and displaced people.

UNHCR’s Global Consultations on International Protection have been designed to provide an opportunity for the international community to review its approach to the implementation of the international protection system. These consultations have considered key issues for countries of first asylum, such as the provision of protection and burden sharing in situations of mass influx of asylum-seekers and refugees. Australia has played an active role in the consultation process, seeking to provide substantive input and to encourage all countries, including countries of first asylum, to participate.

More specifically, the Government has actively promoted the development of strategies for spe-
cific caseloads that provide practical and relevant support for countries of first asylum. In particular, Australia’s co-sponsorship of the recent Forum on Afghan Refugees and Displaced Populations chaired by UNHCR and the UN Office for the Coordination of Humanitarian Affairs (OCHA) provided an important opportunity for the international community to demonstrate its support to the countries bordering Afghanistan. The forum provided the context for an unprecedented response to the UN Donor Alert for Afghanistan, with over US$700 million committed during the meeting.

**Recommendation 35**

The Committee recommends that additional resources be directed towards:

- combating the root causes of refugee outflows from countries such as Afghanistan and Iraq, to the extent permitted by the extremely difficult circumstances prevailing in those countries; and
- promoting repatriation solutions from countries of first asylum.

The Government has consistently sought to address the problem of refugee outflows by combating the root causes of the outflows at source including, inter alia, the provision of substantial aid contributions to countries of origin and first asylum.

In the light of the severe humanitarian situation in Afghanistan, recent efforts have been focused in South-West Asia, with Australia allocating nearly $37 million in direct assistance since June 2000. This is in addition to our annual core contribution of $14.3 million to the UNHCR.

- In June 2000, $1.5 million was allocated to the UNHCR 2000 Appeal for South-West Asia aimed at increasing the self-reliance of refugees in Iran and Pakistan.

- During 2000-01, under a joint AusAID/DIMA program, $9.5 million was allocated to the following agencies:
  - $3.0 million for the World Food Program’s (WFP) drought relief and food activities in Afghanistan;
  - $2.5 million to UNHCR's South-West Asia Appeal to assist countries of first asylum to receive and support asylum seekers from Afghanistan, and to strengthen their registration and refugee status determination programs;
  - $1.7 million to the United Nation’s Children Fund (UNICEF) for development, and poverty eradication programs in Afghanistan;
  - $1.5 million to the International Committee of the Red Cross (ICRC) for emergency programs in Afghanistan; and
  - $0.8 million to the International Organisation for Migration (IOM) to assist in stabilising the population in Afghanistan and to develop sustainable return and reintegration procedures.

- In June 2001, DIMA provided a further $2.5 million to the IOM for support to camps for Internally Displaced Persons in Afghanistan.

- In 2001-02 Australia has committed an additional $23.3 million to address the situation of displaced Afghans, including:
  - $5 million for emergency food supplies through WFP;
  - $4 million to UNHCR for protection and humanitarian related work in South-West Asia, particularly focused on registration and refugee status determination;
  - $2 million to ICRC for food, medicines and emergency medical facilities both inside Afghanistan and in neighbouring countries;
  - $1 million distributed equally between Australian Red Cross, Care Australia, Oxfam Community Aid Abroad and UNICEF Australia for humanitarian activities;
  - $0.5 million to OCHA for its coordination function;
  - $0.5 million to IOM for tents, blankets, cooking utensils and warm clothing for vulnerable children inside Afghanistan and across South-West Asia; and
  - $0.3 million to co-sponsor a UNHCR-OCHA Forum on Afghan Refugees and Displaced Populations in Geneva on 5-6 October 2001.

The remaining $10 million will be allocated to strategies aiming to stabilise displaced Afghan populations, to support major countries of first asylum and to encourage sustainable repatriation when conditions in Afghanistan permit. The distribution of these funds is to be considered by Ministers at an appropriate time.

**Australian Overseas Aid for the Middle East**

**Recommendation 36**

The Committee recommends that the Government make a three-year commitment to allocate a
minimum of $10 million per annum in non-food aid to the Middle East, as well as continue to support the World Food Program in the region.

In 2000-2001, total food and non-food aid to the Palestinian Territories (including Palestinian refugees in surrounding countries) was $9.4 million. In 2001-2002, anticipated total aid is expected to be at similar levels. On-going contributions must be determined in the context of the overall aid budget priorities.

**Recommendation 37**
The Committee recommends that:

- The United Nations Relief and Works Agency receive at least 50 per cent of Australia’s non-food aid to the Middle East;
- The Australian Government use its influence to urge the international community to reverse the decline in financial support for the United Nations Relief and Works Agency; and
- The Australian Government employ every diplomatic means at its disposal to encourage the Lebanese Government to improve the conditions of the Palestinian refugees within its territory.

**Recommendation 37 (a)**

Australia currently provides $3.8 million in core funding to UNRWA. We are currently the fifteenth largest donor to UNRWA. This level of contribution is determined in the context of overall aid budget priorities and is commensurate with our role and influence in the region.

Response to Recommendation 37 (b)

The Australian Government is aware of the difficult financial position in which UNRWA continues to find itself. In 2000-2001, the Prime Minister announced that Australia’s annual contributions to UNRWA would increase by $1 million. This sent a timely signal to the international community of our continuing faith in UNRWA and support for its management reforms.

The Government supports the important role of UNRWA and agrees that all opportunities should be taken to encourage the international community to maintain its support for this organisation. The large and longstanding caseload of displaced Palestinians across the Middle East has placed substantial pressure on the countries of first asylum, such as Lebanon, Jordan and Syria, and presents a substantial challenge to the international protection system.

Response to Recommendation 37 (c)

The Australian Embassy in Beirut has made a number of representations to the Lebanese Government in an effort to improve the conditions of Palestinian refugees in that country. Australia will continue to support efforts by the international community to bring about a just and lasting solution to the Israeli-Palestinian conflict. The plight of Palestinian refugees in Lebanon and other countries must be addressed in any solution.

The Government agrees that countries of first asylum, such as Lebanon, should take steps consistent with their national capacity to ensure that asylum-seekers and refugees in their territory are able to access essential services and are not forced to undertake secondary movements to achieve protection. In turn, the international protection system, in this case through UNRWA, needs to ensure that the support provided to countries of first asylum is appropriate and adequate.

Australia acknowledges, however, the fundamental right of each State to determine the manner in which it provides these services and the implementation of its obligations under the various international instruments on human rights and refugees.

**Recommendation 38**
The Committee recommends that:

- AusAID, in consultation with the Palestinian Authority, focus on the agricultural and educational sectors for longer-term capacity building projects;
- The Australian Centre for International Agricultural Research (ACIAR) redirect some of its research towards collaboration with the Palestine Ministry of Agriculture; and
- ACIAR examine the feasibility of establishing scientific linkages with Israel and the Palestinian Authority on water use and management.

Response to Recommendation 38 (a)

The Government’s aid program will continue to focus on longer term development objectives in the agriculture and education sectors. Because of the Intifada, however, the program is adopting more flexible aid delivery methods. The Middle East Capacity Building NGO Program and the Australian Community Assistance Scheme, focus on capacity building within local Palestinian NGOs and encourage activities in agriculture and education sectors. Both programs require NGOs to provide contingency plans that allow project activities to continue if the conflict escalates further.
The agriculture sector has been a key focus for Australian assistance to the Palestinian Territories. Before the Al Aqsa Intifada, the Agriculture Training and Capacity Building project was working successfully, and was well received by the Palestinian Authority (PA). Australia has developed a good reputation for programmed activities such as dryland farming and for the manner of project delivery, which takes into account needs and priorities of the PA. The Intifada is preventing full implementation of the project.

The vocational education sector was also identified as a priority for further Australian assistance to the Palestinian Territories. A new five-year project, the Palestine Australia Vocational Education (PAVE) project, was designed in August 2000, before the outbreak of the Intifada. The current conflict prevents the implementation of PAVE.

A review will be undertaken in 2002 to determine the future of the Agriculture Training and Capacity Building Project and PAVE in light of political developments and AusAID’s new Corporate Strategy.

Response to Recommendation 38 (b) and (c)
The Government agrees that the Palestinian Ministry of Agriculture and other Palestinian organisations would benefit from research collaboration with Australia, especially in areas of water management, dryland agriculture and livestock production. It would also be possible to establish scientific linkages with Israel, although in view of the development status of Israel, we do not believe that Israel should be a direct recipient of Australian aid funding. For the time being, resource constraints preclude a bilateral program in the Middle East.

Annex A
Additional Observations

SECTION TWO—Economic and Social Issues
Overseas Students in Australia

Paragraph 6.215

DETYA is urged to develop a business plan to achieve a three per cent market share within three years. If that target is achieved, and continuing the momentum generated, a market share of five per cent within five years would be very achievable. The business plan should be compiled in close cooperation with Austrade, IDP Education Australia, and the University of Wollongong to take full advantage of the significant on-the-ground experience these organisations have obtained in the region.

DEST (formerly DETYA) notes the suggestion to develop a business plan to achieve a three per cent market share of the Gulf States education market within three years.

In December 2001, Australian Education International (AEI) concluded an agreement with Austrade in Dubai, to facilitate the establishment and maintenance of a full-time locally engaged Education Adviser position at the Australian Consulate-General in Dubai. Austrade finalised an appointment to the position in mid-December. DEST’s immediate aim in maintaining a presence in the UAE is to raise the profile in the Gulf region of Australia as an education destination, with the goal of increasing Australia’s share of this market. We expect that the Education Adviser arrangement in Dubai will provide intelligence on trends and opportunities in the Gulf education market on which an increase in Australia’s share of the market might be based. DEST considers that it would be inappropriate to set targets.

The immediate priorities of the Education Adviser position will be to:

- commission and manage a local contractor to undertake a market research project on the UAE education sector, and
- develop a business plan informed by the findings of the research project that identifies strategies and initiatives for the delivery of education promotion and support services in the UAE and Gulf region.

AEI has funded a part-time, locally engaged Education Adviser position in Dubai since 1996. As indicated in the JSCFADT Report (paragraph 6.213), the position became vacant during 2000 and action to fill it was put on hold pending the findings of AEI’s Review of Offshore Resource Deployment. The review and related consultation process, which were completed at the end of 2000, indicated strong support particularly from the English Language Intensive Course for Overseas Students (ELICOS) and Vocational Education and Training (VET) sectors for an expanded DETYA presence in the Middle East. This is also consistent with the industry’s interest in diversifying and opening emerging markets.

On the basis of the review and related consultations with relevant Commonwealth agencies and the education and training industry, AEI considered a strong focus on education with a full-time officer in Dubai was more appropriate than the former part-time arrangement. In December 2001, AEI concluded an agreement with the Australian Trade Commission (Austrade) in Dubai, to fa-
cilitate the establishment and maintenance of a full-time locally engaged Education Adviser position at the Australian Consulate-General in Dubai. Under this agreement, AEI has provided funding to support the position, which will be managed by the Senior Trade Commissioner (Dubai), in consultation with AEI (Canberra).

The Education Adviser position in Dubai will be responsible for raising the profile of Australian education and training in the UAE and Gulf region and for providing support and intelligence to the Australian education and training industry. There may be scope in the longer term for the Education Adviser position in Dubai to service the Middle East market more broadly.

AEI has also agreed with Austrade Dubai to allocate funds for a research report on the UAE education sector. The UAE education sector research project will provide a valuable tool to service institutions in the short term, and will assist in establishing the priorities for marketing, promotion and outreach activities which will inform the plan of activities devised to support the Australian education industry in the Gulf region.

Visa Regulations for Overseas Students

Paragraph 6.224

Some disquiet has been expressed about aspects of the new visa conditions for overseas students that came into force on 1 July 2001. The National Liaison Committee for International Students in Australia conference held in Canberra in July 2001 criticised the fact that students from different countries were assessed against different criteria, and that visas were automatically cancelled if students did not respond to a 28-day notice.

The new arrangements for assessing students from different countries refine the risk management approach to student visa processing that underpinned the previous regime. Students apply for a visa specific to their sector of study and are required to meet evidentiary standards that vary according to the assessment level assigned to their particular sector and country. Assessment levels are based on a sound statistical analysis of indicators of risk agreed as part of a lengthy consultation process with industry. Assessment level 1 represents the lowest immigration risk and level 5 the highest.

Under the regulations, the genuineness of the student visa applicant is assessed by considering financial capacity, English language proficiency, potential to breach visa conditions and other relevant matters. The higher the assessment level and level of risk, the greater the minimum evidentiary standards a student visa applicant has to satisfy.

The provision in certain circumstances for automatic cancellation of a student visa ensures that permission to remain in Australia is withdrawn from students who do not comply with the conditions of their visas and who take no steps to explain their situation to immigration officers. The purpose of the legislation is to streamline the student visa cancellation process to ensure that student visa validity is settled within a reasonably short period of time.

Student visa holders are required to keep their providers informed of their current residential addresses and of any changes in address. The Education Services for Overseas Students (ESOS) legislation requires education providers to keep records of students’ current residential addresses and to report students who breach visa conditions relating to maintaining satisfactory attendance and/or academic performance. Providers are also required under the ESOS legislation to send a notice to such students requiring them to report to an immigration office within 28 days to explain the breach. Non-compliance triggers automatic visa cancellation under the Migration legislation.

There are provisions for revocation of the cancellation where the student demonstrates that he or she did not fail to comply with the relevant visa condition or that the non-compliance was due to exceptional circumstances beyond the student’s control.

Paragraph 6.225

IDP Education Australia has identified three other areas of special concern with the new visa regulations:

- It is mandatory for students to achieve a minimum level in an IELTS (International English Language Testing System) test, even if their prime purpose in coming to Australia is to learn English;
- All the Persian Gulf States are classified as Risk Category 2, except Oman and Qatar which have been designated Risk Category 3. Conditions are similar across the Gulf and both countries should be in Risk Category 2;
- Only parents are now able to sponsor student children, whereas previously siblings and close relatives could also do so. The cultural norms of the Middle East mean that often the extended family holds wealth, and this should be taken into account for sponsorship purposes.

Paragraph 6.225 (a)

The English language proficiency requirement is as much an immigration integrity measure as it is
a measure of potential students’ ability to manage their academic workload in Australia. The requirement is necessary to manage the bona fides of higher risk caseloads. An English language proficiency requirement is not new; it has been part of the regulations and a central feature of the special visa policy for students from China since the early 1990s.

It is notable that since introduction of the English language requirement, students from China have complied more closely with immigration requirements. They have a much lower rate of overstay and of working illegally. This has allowed the Government gradually to ease the English language requirement for students from China. This contrasts with the situation of students from, for example, Vietnam. Students from Vietnam who entered Australia with little to no pre-visa English language requirement have had very high immigration non-compliance rates, particularly ELICOS students. It is clear that students with lesser English language skills have a higher propensity not to comply.

Assessment level 1 and 2 applicants are only required to show that they have a level of English language proficiency that satisfies the proposed education provider. Assessment level 3 and 4 applicants applying outside Australia generally must provide an International English Language Testing System (IELTS) test result. However, in the Schools and the AusAID-Defence sectors there are no prescribed IELTS requirements for assessment levels 1 through to 4.

In implementing the new student visa arrangements, there is no set IELTS requirement for level 3 Independent ELICOS applicants. However, DIMIA has announced that an English language requirement will be set for such students at some time in the near future, except where the Minister has gazetted a provider who meets certain standards and agrees to specific accountability mechanisms and conditions. The requirements that must be met before a provider may be gazetted are being developed in consultation with industry.

DIMIA has selected IELTS as the standard English proficiency test because it is a high integrity test without the same potential for fraud inherent in alternative tests. The regulations, however, provide for the Minister to gazette alternative tests to IELTS and a small number of countries have so far had an alternative made available on the basis that IELTS facilities do not exist or are inadequate.

Paragraph 6.225 (b)
The assignment of assessment levels to the Persian Gulf States, as to all countries, reflects the universal application of the agreed methodology. DIMIA is, however, consulting with industry concerning the assessment levels for small countries, including those in the Middle East.

Paragraph 6.225 (c)
A student visa holder must have access to sufficient funds to meet all expenses associated with their proposed study and stay in Australia. At assessment levels 1 and 2 there are no restrictions on who may provide the funds. At assessment levels 3 and 4, family-provided funds are limited, in most sectors, to the student, their spouse, parents and grandparents. This ensures, as far as possible, that the source of funds is reliable and that the funds will actually be made available to the student in Australia. The more distant the relationship of the sponsor to the student, the greater the risk that promised support may not eventuate after the visa has been granted.

Treaties Committee
Report: Government Response

Senator LUDWIG (Queensland) (3.29 p.m.)—by leave—I move:

That the Senate take note of the document.

I seek leave to speak on the government’s response to report No. 39 of the Joint Standing Committee on Treaties entitled Agreement on the privileges and immunities of the International Tribunal for the Law of the Sea.

Leave granted.

Senator LUDWIG—It is always encouraging to see that the government responds to committee reports in a reasonably timely fashion, as it has done in this case. The response states:

The government is pleased that the Committee supported the Agreement and recommended that binding treaty action be taken.

So that is a matter for the processes of the Joint Standing Committee on Treaties. What normally happens is that agreements come to the treaties committee, and they should have a national interest analysis attached to them. The treaties committee take the opportunity to examine the treaty to make sure it is within Australia’s national interests to ratify it. The committee will then examine the report and, where necessary, have hearings and take evidence. They do this either in Canberra or in other capital cities in Australia.
The committee then come to a view and make certain recommendations. Many a time the committee make the recommendation that they support the government taking the proposed treaty action.

This process came from a Senate committee report called *Trick or treaty? Commonwealth power to make and implement treaties*. That report has served us well in being able to scrutinise treaties that are put to the committee. Over the last couple of years there has been more interest in the wider community in a more general way about the government’s dealing with and ratifying treaties. Ratifying treaties still remains an executive power. It is not the parliament or this Senate that ratifies a treaty; the executive side of government makes the decision. So we have a process that emanated from the committee report *Trick or treaty*, which provides a way for the House of Representatives and the Senate, through a joint committee, to examine treaties in a more considered way and to allow the public to make submissions to them. I am no longer a member of the treaties committee, but when I was I can say that I saw that the public did engage in writing submissions and otherwise participating in the treaty process.

One matter that did come up—and the government’s response to this committee report goes to it in part—is the problem where the treaty is proposed by the executive as being required and draft legislation to give effect to the treaty terms comes up for discussion. The interest of the treaties committee is to deal with the treaty per se in terms of how it would examine whether or not it was in the national interest to ratify it. The committee does not generally get an opportunity to have a look at the draft legislation. In relation to the Rome Statute of the International Criminal Court—as well as in relation to the proceeds of crime legislation, from recollection—the committee did have an opportunity to have a look at the draft legislation, which was helpful in the deliberative processes of the treaties committee. Recommendation No. 2 of this committee report is perhaps germane to what I have been discussing. It states:

The Government should amend its treaty development and review procedures to require that all draft legislation proposing to give domestic effect to international obligations arising from treaty actions be referred to the Joint Standing Committee on Treaties for consideration at the same time as the Committee reviews related National Interest Analyses.

I should imagine that the objective behind that is to ensure that the treaties committee has all available information before it to be able to decide on whether or not the treaty is in the national interests of Australia and that the draft legislation does give effect to the treaty. It would seem, really, to flow from the first examination. The government’s response in relation to recommendation 2 states:

The Government does not consider that it is feasible to refer all draft legislation proposing to give effect to international obligations arising from treaty actions to the Committee.

The government has not in a sense justified that statement. It has said that it ‘does not consider it feasible’, without giving any justification. I think it is really incumbent upon the government to provide some justification as to why it is not feasible. There may very well be reasons, but they are certainly not provided in this response. Sometimes I think the government might be taking a committee report frivolously—although I would hope not—in providing a response that simply says, ‘It’s not feasible,’ and not providing any reasons to support that contention. I am sure that is not what the response set out to do but, in effect, that is what it has done. The government has gone on to say in its response, and this has raised my ire a little: However, the Government is committed to the treaty review process and to the work of the Committee.

That is a bit of gloss that we do not really need. The response goes on:

The Government is keen to support the role of the Committee and believes there may well be merit in referring certain legislative proposals linked to the implementation of a treaty to the Committee at the time it is considering the national interest analysis of that treaty.

So we are thrown a bone in the sense that the government has considered that there may be
merit’ in doing that, but it then puts a slight jag in its response and goes on to say:

These circumstances could arise where the proposed legislation has already been introduced in Parliament...

That is the part that I take exception to. What the government is saying is, ‘We’ll throw you a bone only after it’s been introduced into parliament.’ One would presuppose that there is a course of action. A course of action would be that a treaty is considered and it may be signed and subject to ratification. The executive might then examine whether or not it is within the national interest and might then decide that it is worthy of preparing a national interest analysis—in other words, it is in the frame of this government that it is a treaty that (a) it should sign and (b) commit to ratification.

So it goes through its internal processes and then it is decided that it is a matter that should go forward. Logically, the government would then develop a national interest analysis. From there, it would go to the treaties committee, because, if the government is serious about it, it would want the input of that committee. The government would then take on board the recommendations of the treaties committee and decide whether or not it was in the best interests of Australia to ratify. If the committee recommended that it should be ratified, it would then be time for the government to march forward with the matter. By way of process, the government would not second-guess the treaties committee recommendation by introducing legislation, having it on the Notice Paper and, in some instances, having second reading speeches made prior to the treaties committee deliberation and prior to the treaties committee making any recommendation. That is the point I wish to press in relation to this response.

I do not know whether that was the intention of the response, but that is certainly the outcome of the wording of the response. What the committee was trying to say, I think, is that, if there is draft legislation, exposure drafts—that is, before the legislation is introduced into parliament—it would be very helpful for the treaties committee to have all that in its deliberative process. If there are recommendations and consequential changes to the draft legislation, they can be addressed in a reasonable way without having to make amendments in parliament and without the parliament having to have a second reading debate on it when nothing has been heard from the treaties committee about the actual treaty. It is important to have the input of the treaties committee and its deliberations on the report during the second reading debate.

I would hope that the government was not doing that. I would certainly impress upon the government that it should take cognisance of the original report *Trick or Treaty?* and support the process and take on board the recommendation in a more meaningful and constructive way than it has done in this government response. It has put the jag in the tail: there are cases where that might not be possible because of the confidential nature of the legislation. That always creates difficulties but the government should accept the opposition’s suggestion that sometimes there may be reasons. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Legal and Constitutional References Committee**

**Report: Government Response**

**Senator LUDWIG** (Queensland) (3.40 p.m.)—by leave—I move:

That the Senate take note of the document.

I seek leave to speak on the government’s response to recommendations of the report by the Senate Legal and Constitutional References Committee entitled *Order in the law: management arrangements and adequacy of funding of the Australian Federal Police and the National Crime Authority*.

Leave granted.

**Senator LUDWIG**—This is a response to a report by the Senate Legal and Constitutional References Committee. The main objective of that inquiry, as provided for in the report, was to determine the capacity of both the AFP and the NCA to meet their specific objectives. This included the consideration of their staffing and funding and the extent to which there is, and has been, appropriate management of these substantial human and
financial resources. There were four recommendations in total, and it is pleasing to say—as distinct from my previous comments on another government response to a report—that, in this instance, the government has taken a very proactive role. It has not only noted the recommendations but also—and perhaps recommendation 2 sums it up:

The Committee recommends that the NCA implement its proposed performance measurement framework as a matter of priority.

The response to recommendation 2 was:

Agreed. The Government considers the timely implementation of an effective performance measurement framework by all Commonwealth agencies as an essential aspect of good management.

What was highlighted throughout that report—and I am taking a bit of licence but I am happy to be pulled up—was that there were concerns by the committee about the overall management of the AFP and NCA; not reflecting on the staff or the persons themselves but perhaps on their performance, their objectives, how they were achieving their goals and how they ensured that those goals were met and clearly articulated.

The committee recommended—and perhaps it was summarised in that recommendation that I just read out—that it have a performance measure framework as a matter of priority so that it can really address some of those issues. The government agreed with the committee’s recommendation. In addition, in recommendation 3, the committee said:

... that the Government examine the best means of providing a point or body for the effective peak management and coordination of the Commonwealth law enforcement effort, and work to its expeditious implementation.

In this instance, the government response was ‘noted’. It said:

The Commonwealth’s law enforcement strategies are formulated recognising whole of government national and international influences that shape the law enforcement environment.

There is concern, at least from me, that the recommendation was trying to at least ensure that there was a body for effective peak management coordination. Law enforcement is important and it is necessary to have a coordinated whole-of-government approach. It is important to ensure that those responses are timely, effective and efficient and that they are not disparate or uncoordinated. It is also important to ensure that they involve a strategic role and that they have an interrelationship with all the other law enforcement agencies under the control of the Commonwealth, state and territory governments to ensure that there are timely responses to issues that arise in law enforcement areas. Of course, in this instance, the government only noted the recommendation, but I can say that part of their answer at least goes to explaining their position, which is a bit more encouraging than the position outlined in their response to the previous report that I referred to.

I said I was not going to take up a considerable amount of the Senate’s time in relation to this government response. The report speaks for itself and provides four recommendations. The government’s response is not wholly adequate, but it does in part address some of the concerns of the committee. Rather than being completely negative, as the government might sometimes consider the opposition to be, I think it is important to highlight cases where the government has positively addressed a recommendation and, where the government has failed to fully address a recommendation, it is equally fair to draw the Senate’s attention to it.

In this report the government has, at least in part, addressed one or two of the recommendations. On the other hand, it has perhaps been a little short on how it would go about implementing those recommendations. Things have moved on and it should also be recognised that the government’s response might be sponsored by its knowledge that, if all goes well, the NCA will move to the ACC by 31 December. The inquiry into the AFP and NCA concentrated on both organisations. The government’s response was directed correspondingly, although, of course, the committee did not look at developments after the period of inquiry. That is a matter that is now on the public record in relation to the history of the NCA and the ACC, or the new body.
The government’s response can be at least partly explained, I suspect, without the government putting its reasons on the record—and I invite it to do that—although I do not want to take the licence of putting words in the government’s mouth. I am sure that Senator Ellison could, if he wished, explain it further, either now or at some other time. He might be able to assure us of what was, in fact, the case. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Public Accounts and Audit Committee

Report: Government Response

Senator LUDWIG (Queensland) (3.47 p.m.)—by leave—in relation to the 384th report of the Joint Committee of Public Accounts and Audit, I move:

That the Senate take note of the document.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Public Accounts and Audit Committee

Report: Government Response

Senator LUDWIG (Queensland) (3.48 p.m.)—by leave—in relation to the 386th report of the Joint Committee of Public Accounts and Audit, I move:

That the Senate take note of the document.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Foreign Affairs, Defence and Trade Committee: Joint

Report: Government Response

Senator LUDWIG (Queensland) (3.48 p.m.)—by leave—I move:

That the Senate take note of the document.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

MEMBERS OF PARLIAMENT (LIFE GOLD PASS) BILL 2002

Report of Finance and Public Administration Legislation Committee

Senator MASON (Queensland) (3.48 p.m.)—I present the report of the Finance and Public Administration Legislation Committee on the provisions of the Members of Parliament (Life Gold Pass) Bill 2002, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator MASON—by leave—I move:

That the Senate take note of the report.

It is customary, when tabling committee reports, to conclude one’s short address by thanking the secretariat and one’s colleagues. I will start by doing that this afternoon because not only has the secretariat done a marvellous job, but also I want to place on record my thanks to my colleagues. It is for this reason: this report is unanimous among members of the committee and it touches on a potentially contentious part of parliamentary life—that is, parliamentary entitlements and, in particular, the life gold pass. There is plenty of potential in parliament to score partisan points when you are dealing with issues like this, and I want to thank Senator Forshaw, Senator Faulkner, Senator Murray and my coalition colleagues for their spirit and integrity in negotiating this unanimous report.

To summarise a difficult issue, we received many submissions from the public denouncing life gold passes for politicians. That is the fact: nearly every single person from the public who made a submission denounced the life gold pass. However, in effect, we have said that it should remain and I want to justify that. In short, the issue is this: when looked at in isolation, the life gold pass seems to be very generous and out of proportion to community expectations, particularly in relation to the average Australian worker. On the other hand, when the entitlements of parliamentarians are looked at across the board in relation to all their entitlements—whether it be superannuation, travel entitlements or salary—many independent work value studies say that in fact politicians are not paid too much and that the entitlements are not too great.

This is a debate that parliamentarians can never win. The public expect much of us, as they should—any independent, objective work value studies are irrelevant. The public, as the submissions showed, are critical of parliamentarians’ entitlements and perhaps
that is to be expected. On behalf of the committee, I want to add that the life gold pass should not be seen in isolation; it should be seen as part of a package that parliamentarians receive. Only then can a proper examination be taken of parliamentarians’ entitlements.

The committee recommended several changes to the bill. First of all, the entitlement under the life gold pass is for domestic return travel for non-commercial purposes, including holidays et cetera. The committee concluded that life gold pass travel should be confined, for all intents and purposes, to only public service—that is, service to the community. In terms of retrospectivity, former members and their spouses and the widows and widowers of former members who qualified before 1994 will have limits placed on their presently uncapped travel entitlements. People who qualified before 1994 currently have unlimited travel entitlements. The Prime Minister has said that that is beyond community expectations and community standards, and the committee agreed. The committee considered that limits are reasonable and more in line with community standards. They assist in standardising the entitlements for pre-1994 and post-1994 entitlements.

In addition, the current bill proposes that life gold pass entitlements are for legally married spouses only. The committee recommended broadening the definition of spouse to be consistent with the definition in the Parliamentary Entitlements Act 1990. That definition states that a spouse, in relation to a member, in effect, includes de facto couples. We have recommended that that definition be extended.

I will not go into this now but, suffice it to say, certification and accountability procedures by the Department of Finance and Administration should be strengthened. We recommend that DOFA consider mandatory rather than voluntary certification for life gold pass members. We also recommend that DOFA consider rebates rather than prior authorisation for travel expenses. We made other recommendations in terms of keeping the process accountable and transparent so that there can be accountability across the board in relation to parliamentarians’ entitlements.

The government also proposed in the bill that persons convicted of a corruption offence as defined in the Crimes (Superannuation Benefits) Act will forfeit their life gold pass entitlements in line with the existing requirement for forfeiture of superannuation benefits. The conundrum was that someone convicted of a corruption offence could be denied their superannuation but not their life gold pass entitlements. In effect, the committee has tidied that up and people convicted of those offences will lose both. Finally, other minor issues are related to Comcar and, from now on, Comcar entitlements will be excluded from life gold pass entitlements. The committee agreed with this proposal. In the future it will be possible for members of parliament to take any grievance they have with that to the Remuneration Tribunal.

I will conclude where I began—that is, in a sense, it is a debate that parliamentarians cannot win. It is very difficult when you are examining your own entitlements, and I think all of us would agree with that. I have drawn some sustenance from what Alfred Deakin wrote 100 years ago in The Federal Story. He wrote:

Public life in the colonies suffers and must continue to suffer until the decencies of official procedure are formulated, its reticences appreciated, its burdens recognised and those who bear them, while bearing them, are treated in their public capacity with the consideration which high and important responsibilities and the national interest demand.

I fear, however, that the public are yet to be convinced.

Senator FORSHAW (New South Wales) (3.57 p.m.)—On behalf of the opposition, I rise to make just a few remarks with regard to the report of the Finance and Public Administration Legislation Committee and the motion moved by Senator Mason. The chair of the committee, Senator Mason, has covered fairly adequately the nature of the committee’s report. As he said, the committee’s report is essentially unanimous between the government and the opposition. The Democrats have some additional comments
to make—no doubt Senator Murray will make those—and I know that Senator Harris also wishes to make some comments. The *Members of Parliament (Life Gold Pass) Bill 2002* will come on for debate and we will have the opportunity of making a speech in the second reading debate, so I do not intend to go through all of the elements of the bill at this point in time.

Putting the report in context, the bill establishes a uniform set of arrangements for all life gold pass holders, their spouses, the widows or widowers of deceased pass holders and spouses of sitting members who have qualified for the life gold pass. The bill proposes annual limits to travel entitlements for all eligible holders, and that is the first time that will have happened. As Senator Mason said, it also includes the forfeiture provision linked to the forfeiture of superannuation benefits in the case of a conviction for a corruption offence.

The committee has made recommendations for some further changes, particularly the one that has been mentioned—that is, there needs to be a change to the definition of ‘spouse’ to ensure that it is consistent with the definition of the term in the Parliamentary Entitlements Act. This was an issue pressed by the opposition and other members of the committee. The opposition agrees with the recommendations in the report. We expect that an appropriate amendment to address the issue of the definition of ‘spouse’ will come forward from the government when the bill is brought on.

The committee found that the entitlements certainly were overgenerous in some respects, and they will now be reduced accordingly. In particular, they will be made more specific. The entitlements will be available for public interest purposes and will not apply in respect of private interests or commercial purposes. There is no doubt that former members, former prime ministers and former ministers have the opportunity—and many do—to contribute very much after their parliamentary life to community activities. They utilise the skills, knowledge and experience that they have obtained as members of parliament to assist in that regard. An important feature of that is their involvement in furthering the understanding and education of the general public about the standing, importance and role of parliaments. We all agree that we will never win the argument about whether parliamentarians’ salaries and entitlements are too high; it is just not possible.

The life gold pass entitlements apply to former members of parliament, prime ministers and ministers who have achieved a fairly lengthy period of service. Whilst it is not directly relevant, that enables me to refer on the record in this debate to the recent passing of Jack Ferguson, a former Deputy Premier of New South Wales. He gave great service to the New South Wales parliament during his many years as a member of that parliament and as Deputy Premier. He continued to give great service to the community after he retired. He was not a member of this parliament but, as Deputy Premier in the New South Wales parliament, he was a member of a most important political parliamentary institution in this country. As I think everybody is aware from reading the obituaries and hearing speeches about Jack Ferguson, he was a giant of the labour movement, a great parliamentarian and a truly humble man. Jack once described his salary as not a salary but ‘a bloody fortune’. Whether or not politicians today agree with Jack, he was a man who never forgot his humble beginnings and always kept in mind the responsibilities that go with the recognition and status that come with being elected to parliament.

May I record my thanks for the work of the secretariat of this committee and thank the other members of the committee, as Senator Mason has done. I do, though, have to introduce a slight note of disappointment about the attitude of one member of the committee during the public hearing. That was Senator Brandis. At the hearing on 23 August Senator Brandis asked this question: I turn to former members of parliament who are gold pass holders and use their entitlements for party political purposes. For instance, I imagine that, when Mr Hawke was traipsing around the country doing the Hawke-Wran review of the ALP, he was using his gold pass entitlement. He was not doing that for personal profit, of course, but is it within the guidelines for a former politi-
A political nature on the gold pass?

Some debate occurred about this issue and, shortly after those comments from Senator Brandis, Senator Faulkner stated:

But, Senator Brandis, you of course checked with Mr Hawke before you informed the committee that, on each and every occasion, you assumed that he travelled on and used his life gold pass for whatever activities he was engaged in? You were able to check that before you asked that question?

Senator Brandis replied:

No, I am making an assumption, Senator Faulkner.

It subsequently came to light that Senator Faulkner had it checked with Mr Hawke, and a little later in the hearing he revealed that at no stage when Mr Hawke was travelling around the country—on what is referred to as the Hawke-Wran review, looking at the structures and rules of the Labor Party—did he use his life gold pass. Senator Brandis tried to say he had never really accused Mr Hawke of doing that, but he certainly had been endeavouring to throw a bit of mud, as it were, hoping that it might stick. He had made an assumption, putting it in the form of a question. Frankly, I do not think former prime ministers or former members of this parliament deserve that sort of treatment, and Senator Brandis has yet to apologise for the remark. I do not think it is anything that really worries Mr Hawke, and it certainly does not worry us. What concerns me, however, is that members of the committee, who did work together well to bring down a unanimous report, should take a bit more notice of the sorts of comments that Senator Mason just made—that is, do not use these inquiries to jump to conclusions without evidence and try to embarrass former members of parliament or other members of parliament, because they may fall flat on their face, as happened in this case. Senator Brandis should apologise.

Senator MURRAY (Western Australia) (4.06 p.m.)—I rise to take note of the report of the Finance and Public Administration Legislation Committee on the provisions of the Members of Parliament (Life Gold Pass) Bill 2002. The life gold pass institution—I think it is old enough to be called an institution—came into existence around 1918. It was in 1994 that the first major effort to restrict and contain it occurred, when the Remuneration Tribunal handed down a decision that affected how persons qualifying for the life gold pass, including all former Prime Ministers, should use those privileges. In 2001 the Australian National Audit Office performance audit of parliamentarians’ entitlements, initiated by me on behalf of the Australian Democrats, found a number of problems with the current life gold pass arrangements, including the inconsistency between travel entitlements available to sitting members, where travel must be for reasons connected to their parliamentary duties, and travel entitlements available to former members, where travel must be for non-commercial purposes—for example, holidays. It also commented on the lack of a financial cap to life gold pass travel entitlements, leading to instances of significant expenditure by life gold pass holders or their spouses who were entitled to unlimited travel at public expense by virtue of becoming eligible prior to 1994. And it commented on the doubtful legality of the use of Comcar and similar services.

The Australian Democrats will support this bill from one perspective: it does improve the existing system and it does further tighten up the administration and provision of these entitlements. We go beyond that and support the report itself, because that seeks to improve the administration and operation of the life gold pass entitlements. But none of that affects our position that the life gold pass and, indeed, this bill are built on a premise and a practice that is fundamentally wrong. There is no justification for retirement travel benefits being provided to former parliamentarians and their spouses or partners. Our position is unequivocal: we would end it as soon as we could. We accept that former Prime Ministers are entitled to the provision of such benefits because of the work they are required to do and because of their particular status in the community. We also certainly accept that you would not be able retrospectively to end those benefits. But, for future parliamentarians, it plainly has to end. That is our unequivocal position.
The introduction of this bill provides an opportunity to end those entitlements. We will move an amendment to that effect and hope to see it addressed and perhaps even, by some miracle, passed. Perhaps the Prime Minister will give the Senate a conscience vote since it is a moral issue—that would be an interesting exercise. We think it is one of the most inequitable aspects of the remuneration package available to members of parliament. Over time the Australian Democrats, along with other senators and members from all parties, have called for a number of major changes to parliamentarians’ entitlements. These have included a reduction in parliamentarians’ superannuation to more closely match community standards and the cessation of parliamentarians’ retirement travel benefits. The Senate, as a whole, has consistently expressed reluctance to take a policy position on these matters, claiming that this is the province of the Remuneration Tribunal. I refer the Senate to the debate on 13 March 2002.

There are essentially three categories of entitlements afforded to members and senators: their salary package, which includes salary and fringe benefits such as a car and other benefits; what they need to do their job, which includes electoral allowances, office expenses and staff allocations; and the retirement package, which includes superannuation, retirement travel benefits and entitlements available to long-service MPs and senators under the life gold pass. It is quite clear from the submissions to the committee, from radio talkback and press commentary and from general public attitudes that these three are absolutely intertwined in their minds—you cannot view one in isolation from the other. It is also true that there is a general resentment of parliamentarians and the way those various aspects are remunerated, rewarded or administered. However, you cannot have it both ways. You have to say to yourself: if you are going to match community standards, get rid of retirement travel benefits, which I agree with; drastically reduce superannuation benefits, which I agree with; then you have to look at the work value of parliamentarians and whether they are properly remunerated, particularly ministers. I have expressed on the record in this chamber before that I think the salary package level of the Prime Minister and ministers, regardless of which party they are from, does not match community standards. In some cases, you have to argue for the reduction of the overall package and, in some cases, you may need to argue for an increase.

The other thing we should recognise with regard to community standards is just how out of step retirement travel benefits are. The Australian National Audit Office advised the committee that entitlements similar to the life gold pass retirement travel benefits, and any other retirement travel benefits, have never been available to public servants either past or present. I specifically asked them whether it applied in departments covering areas such as defence, rail and transport—those sorts of things. They confirmed that retirement benefits for bureaucrats comprised solely of superannuation. The Department of Finance and Administration told the committee that it understood that life gold pass entitlements were ahead of the field with regard to retirement benefits available to former members of parliament internationally. I say to the coalition and to the opposition: I will give you a commitment on behalf of the Australian Democrats that we will support any attempt you make to end these benefits that is prospective, not retrospective; but end it you should. I urge those in this chamber to go back to their caucus and party rooms and advocate that.

Many submissions referred to the generous superannuation benefits already received by former members of parliament, arguing that these were also excessive and out of step with community standards. Additional benefits such as the life gold pass travel entitlements were considered completely unjustified by the public. We do not accept that retirement travel benefits are even necessary for former members who wish to continue to provide public service or perform official duties. Such public service or official duties, if part of the function of government, should be funded as such and not slipped through via a perks regime. The argument that the continuation of these retirement travel benefits is necessary to fund pro bono community or charity work is singularly self-serving.
Why is it acceptable for a former parliamentarian or their spouse—which really does shake me—to select his or her own worthy cause on unknown criteria to be funded at public cost? It is absolutely contrary to the basic issues of accountability, good administration, good principle and good practice.

In conclusion, I would like to thank the secretariat—they did a good job, as the committees invariably do—and my colleagues. I end with a plea that we do two things: end this privilege and have a holistic look at the three categories of entitlements that I have mentioned.

Senator HARRIS (Queensland) (4.16 p.m.)—In the few brief moments I have to speak, I would like to bring to the attention of the Senate that Senator Mason, in acknowledging that this is a unanimous report of the four members of the Finance and Public Administration Legislation Committee on the provisions of the Members of Parliament (Life Gold Pass) Bill 2002, failed to recognise that as a participating member I did not concur with the report.

Senator Murray—You are not a member of the committee.

Senator HARRIS—I clearly said that. I would like to put on the record that, of the 64 submissions to the inquiry, five were from people other than the general public and the remainder all unanimously called upon the committee to—even retrospectively—end the gold pass allocations. It is appalling and inexcusable that the will of the people has been ignored. If it was not such a serious matter it would be laughable. I believe that it is a flagrant abuse of the wishes of the electorate and the taxpayers who pay our wages. I register One Nation's opposition to the gold pass process.

Question agreed to.

TELSTRA: REGIONAL TELECOMMUNICATIONS INQUIRY

Senator MACKAY (Tasmania) (4.19 p.m.)—I move:

That the Senate—

(a) condemns the Howard Government for establishing an inquiry into regional telecommunications services, the Estens inquiry, which is chaired by a member of the National Party and friend of the Deputy Prime Minister, and has a former National Party MP as one of its members;

(b) condemns the Government's decisions that the inquiry will hold no public hearings and must report within little more than 2 months of its commencement; and

(c) calls on the Government to address all issues associated with Telstra's performance, including rising prices, deteriorating service standards and inadequate broadband provision.

I understood there was an amendment to be moved by Senator Allison to this motion. I am happy to accept the amendment, which has been circulated. I am not quite sure of the procedure in her absence.

The ACTING DEPUTY PRESIDENT (Senator Bartlett)—She will move the amendment when she rises to speak, I expect.

Senator MACKAY—Thank you. Before we get to the substance of the general business motion, I wish to make some comment on an answer from Senator Alston—'answer' may be a term that one could use to a couple of responses to questions—in question time today. I was extremely surprised at the level of ignorance that he displayed in relation to his own portfolio, particularly given that it was clear that the Labor Party would be asking questions on the Telstra price regime in that the Leader of the Labor Party, Simon Crean, announced a proposed disallowance motion for next week—which I will get to later. He made a number of very critical mistakes in terms of his own portfolio in question time and in his press releases.

He seemed totally oblivious to the details of his own price regime. He said in question time today that prices have come down from about 25c to something like 15c or 18c—we have the Hansard already. Let me try to explain Senator Alston's new package to him.

For home line budget customers under the government's new arrangement local call costs go from 15c or 22c to 30c. Senator Alston also said that there is a 25c price cap for budget packages. But this is from the previous price controls. He is clearly unaware of the details of his own package.
Where did we get this information? We got it from Senator Alston’s press release, which he released in April, about arrangements which came into effect in July. I find it absolutely astounding that, given that Mr Crean made the announcement that he did this morning, Senator Alston was so appallingly badly briefed—especially in relation to information which we got off his web site. For the Minister for Communications, Information Technology and the Arts, with Telstra being the hot issue that it is, to allege that there is still a 25c price cap for budget packages when it has not existed for ages is, one has to admit, quite extraordinary. I was surprised. I thought that Minister Alston might actually make a better fist of it.

He kicked off his own-goal strategy for question time today by indicating in an answer to a Labor Party question from Senator Stephens, ‘If you think that line rentals are too high, you do not have to have a phone, do you.’ That does indicate how out of touch Senator Alston is: if you come from regional Australia you do not have a choice. Mobiles often do not work in the regions; if you are sick or infirm, then a phone is a bit of a bottom line, I would have thought; and if you are aged you need a phone. So it is not a case of choice. A phone is not a choice; a phone is an absolute necessity of life. For him to make that kind of statement I thought was (a) an own goal against the government and (b) an indication of what I would regard—and what I think most consumers would regard—as a fairly arrogant attitude. It just indicates how much Senator Alston knows about the provision of affordable phone services to Australia and also how much Senator Alston in fact cares.

On the subject of this regime, Mr Simon Crean, the Leader of the Labor Party, announced today that in the absence of any assistance from the government—and given that Senator Alston does not even understand his own package—Labor will help protect Australian families by moving a motion to disallow the Howard government’s new, unfair Telstra price controls. What is happening here is that the government is allowing Telstra to slug most Australian families with higher line rental fees and higher mobile phone costs. Some are even paying higher local call rates—and I will come to the detail of that later. We will be moving this disallowance motion next week. We call on the minor parties and the cross-benchers to support this disallowance motion and we call on the government to introduce new price controls that are fair to all consumers.

It is pretty plain to see what is happening here. Telstra is being fattened up ahead of the government’s plans for full privatisation, which is budgeted to take place from 1 July 2003. The government is not content with simply trying to sell it off; it is now allowing Telstra to behave like the banks. Everybody who lives in regional or outer metropolitan Australia knows how the banks have been operating. It is based on profit, cost minimisation and shedding labour. Of course, this is already happening in Telstra, and it is widespread, but this is yet another indication of the carte blanche mentality of the government. We have a view—and that is why we have moved this general business motion—that the government must address all of the issues associated with Telstra’s performance, including the issues of rising prices that I have alluded to, deteriorating service standards and broadband provision.

The recent price hikes under the Howard government have been quite extraordinary. Telstra’s private sector priorities are starting to filter through to increased profits through price increases. That is the way the private sector works, that is the way the banks work and that is the way that Telstra will work when and if it is—and hopefully it never will be—fully privatised. Since the federal election we have had an extraordinary increase in prices for Telstra related services. We have had increases in prices for telephone line rentals, directory assistance, wake-up and reminder calls, mobile phone flag falls, text messaging, Internet access and White Pages dual listing—something I would have thought would be quite critical for people. In some cases, these increases have been way above inflation. This government’s 2002 price control will allow Telstra to slug most Australian families with higher line rental fees, higher mobile phone costs and, in some cases, even higher local call rates. This is
something that the minister would not know anything about, because he does not even understand his own package and he clearly does not even read his own press releases.

We are not talking about a poor company here. Telstra is making huge profits. It is the most profitable company in Australia. There is no justification for the large line rental increases allowed by these new proposed price controls. They are just not fair for consumers, particularly for low-income families. This is clearly part of a deliberate policy by the government to allow Telstra’s line rental fees to eventually increase to almost $32 a month. That is an increase of $244 a year per line. Since March 2000, Telstra has increased its line rental charges for most customers from $11.65 to $21.90 per month. That is an increase of $123 per year per line. It is totally unjustifiable and it is unfair. For customers using Telstra’s home line complete plan, which is the most commonly used of Telstra’s packages, that is an increase of almost 90 per cent in 2½ years. How sustainable is that? That is not looking after low-income people in the regions—it is ridiculous.

It is obvious that this is about making Telstra more profitable for what the government hopes will be its sale. The promised reductions in local call costs have not been delivered, apart from some very minor fiddling with STD rates and fixed-to-mobile rates. Local call costs have not come down on any Telstra residential plan. In the home line budget plan, which is supposedly for low-income earners, local call costs have risen from 15c to 22c per call approximately, or within that range, to 30c per call. That is a 36 per cent to 100 per cent increase, depending on where you are in that package. Some help for low-income earners and low-income families from a package that was designed to assist them!

Senator McGauran—Where are you getting these figures from?

Senator MACKAY—These largely low-income customers have also been slapped with increased costs for STD and international calls. I see Senator McGauran is on the speakers list. He may actually know a bit more than Senator Alston about this, because he may have read Senator Alston’s press releases. I am interested to listen to his contribution. In return, many home line budget customers have received a reduction in the cost of their line rentals of only 20c a month. So it is basically a sleight of hand and Australian consumers have not fallen for it. In other words, these customers are worse off if they make just two neighbourhood calls a month, because neighbourhood calls have gone up as well.

The government has claimed that the new price controls merely allow Telstra—and I refer again to the minister’s press release—to ‘rebalance its prices’ by helping to remove what is known in the industry as the ‘axis deficit’. But the government’s price controls do not require Telstra to reduce local call costs by an amount related to the increase in line rentals. I do not know where the term ‘rebalancing’ comes from, because that is no definition that I have ever heard. This was required in fact under the old price controls. Other services such as mobile phone calls and text messages no longer have price controls at all, and Telstra has already started putting up prices for these services.

We are not saying that what we are doing is perfect, and if we were in government we would have some control in terms of this disallowance. The old price controls are far from perfect—we recognise that—but they are a lot fairer to low- and middle-income families than the new price regime that is proposed. I think that is basically a bottom line for us. Instead of delivering price reductions for Telstra for these services the government is allowing Telstra to slug again in another area many low- and middle-income families even more. As I said, we oppose this new price control regime. It is unfair, and we will be moving that the Senate disallow it next week.

Today in question time I was interested to find out about SMS text messaging. None of us are experts in the area of SMS text messaging, which I would say most of us use and which is certainly used a lot by younger people. Its use is increasing exponentially. The price for a text message has gone up from 22c to 25c. This is from all the major phone companies that provide SMS services, led by
Telstra—so much for competition in this area.

What does this remind you of, Mr Acting Deputy President? It reminds you of the banks. The government talked about competition for the banks. I remember Mr Costello saying to people in regional areas that, if they did not like what was happening in terms of the services they were getting from the banks, they should shop around. You can tell he does not live in regional Australia, because you cannot shop around when there are no banks there. That is exactly what is happening here. Essentially, what we will have increasingly is a private sector monopoly if the remainder of Telstra is sold. Everybody knows that, because you only have to look at what has happened to the banks. Exactly the same thing is going to happen with this. I was very interested in the SMS issue, because I know that it is a burgeoning use of technology and I know it is used increasingly by young people, so obviously that is another area where the government is allowing Telstra to simply rip people off.

In the time remaining to me I would like to move very briefly to the other issue covered in the general business motion, and that is the Estens inquiry. This one is a bottler, I have to say. Under enormous pressure from a number of areas, including the Labor Party, the government finally caved in and announced what we thought might be Besley mark II and ended up being Estens mark I—an inquiry into regional telecommunications services, now colloquially known as the Estens inquiry, chaired by a Mr Estens, a member of the National Party, a friend of the Deputy Prime Minister and somebody who, clearly, is not impartial. Anybody would be able to determine that.

There are three members. The second member is a former National Party member of parliament and the third member, a Tasmanian and a very good person, has connections with the Liberal Party. So two out of three members of the Estens inquiry are members of the National Party. I really have to say that it is starting to look a bit clumsy when three out of three members have connections with the conservatives and two out of three are in fact members of one political party. For goodness sake! Anybody with two political neurons to rub together might have actually worked out that this was going to cause a bit of a kerfuffle—that maybe this would in fact raise ire and maybe the Labor Party might raise it in parliament. But, no, under the recommendation of John Anderson, Minister Alston blithely put two members of the National Party on a supposedly independent inquiry into regional telecommunications.

What I found extraordinary when we asked Minister Alston about this recently was that he did not seem to be aware that Mr Estens was a member of the National Party. I find that hard to believe. I really think it does stretch credulity that Minister Alston would be so silly as not to say to Minister Anderson, ‘Who is this guy? Is he a member of a political party? I know that he is a mate of yours and he has been a friend for nine or 10 years. Have you seen him at your local National Party branch meetings?’ But, no, it seems that Minister Alston was unaware. Either he was unaware—to give him the benefit of the doubt—or he is being duplicitous in terms of his response to the Senate, and I do not think he would be when he said he did not know. But I find that absolutely extraordinary.

The government is not content with actually stacking this so-called independent inquiry with National Party members. We also discover that the inquiry is not holding any public hearings and that it is not travelling anywhere in regional Australia where people are most concerned about the privatisation of Telstra. We discover it has an absolutely absurd reporting date of 8 November, which is absolutely ridiculous. As far as the National Party and the government are concerned, this is supposed to be sufficient to placate people in the regions and people elsewhere in Australia about the sale of the last remaining public asset, the most profitable company in Australia. If it is privatised people in regional Australia are going to be hit hardest. I think it is a joke and, apart from being politically dopey, it is just treating people contemptuously.

We had a lot of problems with the Besley inquiry too. We are not saying that the
Besley inquiry was perfect, and we said so at the time. But at least it travelled, it had public hearings and it had six months to run, so at least there was a bit of an effort put in to make it impartial. We had some problems with it. It did not happen to notice that there was a huge faults database in Australia. It did not happen to notice that the faults database of 100,000 faults in the network was increasing exponentially from 1996. It did not think to ask Telstra that question. It did not actually think to have a look at the state of the network and what was happening in relation to telephony in Australia.

Australians deserve a little bit better than this. This is the oldest three-card trick in the book, and it is clumsy and pathetic. People from regional Australia and outer metropolitan areas—and all Australians—deserve better than an inquiry which has a tricky set of terms of reference and a politically stacked panel that has not got the gumption to hear first-hand the concerns of people in regional and outer metropolitan Australia. What credibility will the outcome of this inquiry have? It is laughable when Senator Alston talks about the independent Estens inquiry. This inquiry will, quite correctly, have absolutely no credibility in the minds of all Australians.

I have to ask if the benchmark set by Tim Besley in the Besley inquiry is even good enough, considering that it did not even look into the large number of faults in the telecommunications network which were revealed—kicking and screaming, I might say—in Telstra’s E71 database. It seems that the new Estens inquiry is not going to look at those in detail either. But what do you expect from a complicit National Party and a government that is desperate to sell Telstra and play on the stock market, we hear today? It is extraordinary—using proceeds of Telstra via the bond market to purchase shares. What a joke! How on earth can the crossbenchers and the Democrats support this sort of thing? Of course they cannot. It is an absolute sham. (Time expired)

Senator EGGLESTON (Western Australia) (4.39 p.m.)—Most of what Senator Mackay has said totally misrepresents the great successes and achievements of the Howard government in the telecommunications field. Whereas under Labor things stood still, under the coalition there has been an endless series of great successes, improvements, cost reductions and improved technology. The Howard government believes that all Australians should be able to access reliable and affordable telecommunications services. We believe that the most effective way of ensuring that all Australians have access to world-class telecommunications is through a combination of a highly competitive market and a legislated regulatory regime which will always continue to apply, regardless of the ownership of Telstra, and which will set the basic telecommunications services which every citizen of this country is entitled to receive.

This has already been achieved by this government through the deregulation of the telecommunications market. We have achieved a great deal already from the sale of the first two tranches of Telstra. Specifically, and most particularly, the sale of Telstra has enabled the reduction of government debt and enabled the federal government to provide funding to some very beneficial programs, such as the Natural Heritage Trust program, which has done an enormous amount to preserve and protect the environment of Australia in five major areas. None of these things would have been possible without the sale of Telstra. But it is not the sale of Telstra itself which has been important; it has been the deregulation of the telecommunications regime, the establishment of competition—I believe that there are now over 90 companies providing telecommunications services in Australia—and the establishment of the customer service guarantee, which sets out the basic level of telecommunications services that every citizen of Australia is entitled to receive.

It was the Howard government which set the rules and established the CSG. It was not done by the Labor Party, who claim now to be so concerned about the level of services to people in the community. It is the competition regime which the Howard government introduced which has reduced the cost of telecommunications, brought down the cost of long-distance and international calls and
produced a wide range of benefits for the Australian people. That is a result of the policies of the Howard government; it is certainly not the result of any policies of the Labor government. One could say that Labor is pretty hypocritical about the issue of privatisation. Labor privatised Qantas, the Commonwealth Bank and many other government enterprises. So when it claims that Telstra should remain in public hands, one can only look at it and say, ‘What are the precedents on your record? The precedents are that you have privatised many previously government owned services.’

When Labor was in office for those dismal 13 years, it failed to progress the development of an open and competitive telecommunications regime. In fact, Labor presided over a cosy Telstra-Optus duopoly which failed to deliver anything very much in the way of price reductions and left most of the cost savings from technological improvement in the pockets of the carriers and not Australian consumers. So much for Labor’s commitment to helping the poor and underprivileged of this country receive better and cheaper telecommunications. Labor failed to ensure that carriers provided timely, efficient service to their customers, which has been achieved through the coalition’s customer service guarantee, and ignored the special needs of phone users in regional and remote areas of Australia. The Labor Party likes to talk a lot about regional, remote and rural areas of Australia, but it really did nothing to improve telecommunications to those sorts of areas. In contrast, through the Networking the Nation program and the program to provide a CSG level service to the most remote areas of Australia—for which a special contract of $150 million was let a year or so ago—the coalition has done an enormous amount to improve telecommunications to those sorts of areas. In contrast, through the Networking the Nation program and the program to provide a CSG level service to the most remote areas of Australia—for which a special contract of $150 million was let a year or so ago—the coalition has done an enormous amount to improve telecommunications to those sorts of areas.

Labor bitterly opposed the coalition’s plans to spend $250 million on improving telecommunications in regional Australia and promised in the 1998 election to take this money away from regional Australia if they were elected—a rather dismal record, Senator Mackay. Labor opposed the $1 billion social bonus funded from the second partial sale of Telstra, which included $670 million worth of communications and information technology initiatives—primarily, again, in regional Australia. One could almost draw the conclusion that, when it comes to telecommunications and communications in general in regional Australia, it is not the Labor Party to which people in rural Australia should turn when expecting anything in the way of help, because the track record is such that it would seem Labor do not have any commitment to improving telecommunications in regional Australia—in fact, they ignore the people of regional Australia.

When Labor were in office and pay TV was being developed in Australia, Labor allowed Telstra and Optus to string cable across the suburbs of Australia—a little bit of environmental and visual pollution: black cables hanging from the telegraph poles. This was Labor’s way of bringing pay TV to the people of Australia. It was hardly a particularly nice way of providing pay TV, but it was Labor’s solution to get it done quickly and cheaply, without any concern for the visual impact of these cables in the sky.

The Labor Party forced the abolition of the analog mobile phone system by demanding that it end by the year 2000. Analog was, of course, very important in regional Australia, because analog mobile phones had wider coverage than digital phones, but Labor dictated that analog should end by a certain date and the coalition government was locked into that when it came into office. But the coalition, being concerned about regional Australia and being innovative people—being the kind of people who find solutions to difficult problems—went abroad, looked at what they were doing in Korea and, in association with Telstra, came up with the CDMA network, which now covers this country and provides very extensive services around this country.

Senator Carr—Why can’t you get a signal 50 kilometres from Canberra then?

Senator EGGLESTON—I assure you, Senator Carr, CDMA provides an excellent service to the rural areas of this country.
Senator Carr—You can’t get a signal 50 kilometres from Canberra.

Senator EGGLESTON—There are a lot of hills around Canberra, and that may have something to do with it. Most of regional Australia, I assure you, is very grateful for the development of CDMA. Perhaps, Senator Carr, you have mixed up your CDMA with your digital phone and that is why you are not getting such good service.

Senator Carr—You can’t get a signal at Swinger Hill. You can’t get a signal on Hindmarsh Drive!

Senator EGGLESTON—Come on, Senator!

Senator Carr—I was just trying to help you.

Senator EGGLESTON—I do not need any help in this matter. CDMA has been a resounding success for the coalition.

Senator Carr—You just can’t get a signal 50 kilometres from Canberra.

Senator EGGLESTON—That is just not true. You must not try to mislead the Senate, Senator Carr. Throughout Australia, CDMA has been a great success. As I said, the coalition transferred 49 per cent of Telstra to private ownership. This has enabled the government to retire billions of dollars of Labor’s debt and to invest significant funds in worthwhile infrastructure projects, particularly the Natural Heritage Fund. One of the great spin-offs from the sale of Telstra was the Networking the Nation program, which provided $250 million to improve telecommunications infrastructure throughout this country—a very great program which, as I have said, has done a lot for the people of regional Australia. Such was the concern of the Howard government about the level of telecommunications in regional Australia that, in addition to the various programs we introduced—such as Building Additional Rural Networks, the local government program and the remote islands program, for which $670 million was provided in total to improve information and communications technology in rural areas—the government set up the review known as the Besley inquiry.

Senator Mackay—Besley, not Beazley.

Senator EGGLESTON—I would not like to think that the Besley inquiry was confused with the former Leader of the Opposition, who had a great reputation for not being able to make decisions or give advice which would lead to action. The Besley inquiry reviewed the level of communications around this country and concluded that, by and large, the level of telecommunications services in Australia was pretty good but in some areas of regional Australia there needed to be improvements. Unlike the ALP, which did nothing for regional services, the Howard government proceeded to implement the recommendations of the Besley inquiry to improve regional telecommunications—specifically, by further strengthening the customer service guarantee to reduce new service connection times and strengthening the universal service obligation in relation to the provision of temporary services. Mobile phone coverage has been provided in population centres of 500 and above, subject to confirmation of community needs and ongoing viability. Up to $50.5 million has been provided for mobile coverage in other areas of Australia, which includes mobile coverage along most of the major highways. We have provided up to $50 million for better quality, faster access to dial-up Internet services in regional Australia, which has been jointly funded by Telstra, so that people in regional areas, Senator Carr, have access to the Internet, which they would never have got under the previous Labor government.

Senator Carr interjecting—

Senator EGGLESTON—No, not at all. We are moving on, Senator Carr. Listen and you will hear more.

Senator Carr interjecting—

The ACTING DEPUTY PRESIDENT (Senator Bartlett)—Order, Senator Carr!
very important. These are all being funded from the sale of Telstra and are all products of the policies of the Howard government. We have improved payphone and other services for Indigenous communities in remote areas. Senator Carr, as you will be pleased to know, we have even provided $3.4 million to fund increased consumer representation so that we get to know what problems the consumers have and so that we can address those problems.

There is no doubt at all that this government has a very fine record in the field of telecommunications compared to the record of the previous government. Yet, strangely enough, today in the Senate, in this peak body of Australia which governs this country and determines how its laws apply to the people, we found Senator Mackay putting up an urgency motion condemning the Howard government for establishing an inquiry into regional telecommunications services. She bases this on the fact that one of the members of the inquiry happens to be a member of the National Party.

Senator Mackay—Two!

Senator Carr—Two!

Senator EGGLESTON—Two of them—one of them is a former National Party MP. But the point about all three of them is that they are from regional Australia. They are not trade unionists; they do not live in Vaucluse, Toorak or Peppermint Grove in Perth. They are genuine people from regional Australia who are very well aware of the needs of regional Australia and they are the most appropriate people, I would have thought, to be conducting an inquiry to review the effectiveness of telecommunications in regional Australia. I just wonder, Senator Mackay, through you, Mr Acting Deputy President, who you would have preferred. I suppose you would have preferred a unionist from Hobart and a wharfie from Brisbane.

Senator Carr—What have you got against wharfies?

Senator EGGLESTON—They are very fine people and they do a great job but they mostly live in cities; they do not know anything about regional Australia. That is why this inquiry has been set up with three people from regional Australia who have deep roots there. They are the most appropriate people to be conducting an inquiry like this.

Senator Mackay has said, by way of criticism, that these people are not going to go out into the regions, that they are not going to hold public meetings. Of course, that is nonsense. They are going to go and meet people who have come from regional Australia. For example, today I received an email from a man called Bob Neville, who is a councillor in Port Hedland. He used to be a staffer for a Labor member of parliament. He has sent me a copy of his submission to this inquiry. In other words, people from regional Australia are going to have their points of view heard and the people who appear before the committee will be people like Bob Neville, a member of the ALP, who represent the people of their regions. So this inquiry will not be able to be reduced to a rubbishy rabble in public meetings which the opposition might send people along to stack. Instead, we are going to have a very thoughtful, well-presented series of submissions, which will result in a very helpful study of the effectiveness of regional telecommunications, from peak bodies like shire councils, the Farmers Federation and other groups in regional Australia. I think this is a very effective way to control, to conduct, this inquiry.

Senator Carr—Did you say ‘control’?

Senator EGGLESTON—No—to conduct the inquiry and to ensure that the submissions received are valid and relevant.

Senator Carr—So it does not get out of control?

Senator EGGLESTON—Not at all. Part (b) of Senator Mackay’s motion reads:

That the Senate—

(b) condemns the Government’s decisions that the inquiry will hold no public hearings and must report within little more than 2 months of its commencement ...
months. Again, one must feel Senator Mackay is just whistling in the wind and beating up an issue when in fact there is no issue and when this inquiry will be quite effective and do its job very well. The third point in Senator Mackay’s motion reads:

That the Senate—

(c) calls on the Government to address all issues associated with Telstra’s performance, including rising prices, deteriorating service standards and inadequate broadband provision.

All of that is untrue. Telstra’s prices are falling. The prices of telecommunications services have fallen dramatically since there has been competition in telecommunications services, and I think Senator Mackay actually knows that. As far as that goes, we now know that there has been a very broad and general reduction in telecommunications prices. Senator Mackay also refers to deteriorating services, when we know that the rapidity with which services are provided and faults are repaired has increased dramatically, again since the Howard government introduced CSG rulings on these matters.

With regard to broadband, it is only in its infancy. All over the world, except in countries like Korea which have a concentrated population living in high-rises, the establishment of broadband is proceeding slowly. Australia will have broadband, because under the Howard government Australia has the best of technological services in the telecommunications field. That will happen in this country. In conclusion, this motion is nonsense. The record of the Howard government in telecommunications is outstandingly good.

Senator STEPHENS (New South Wales) (4.59 p.m.)—I speak in support of Senator Mackay’s motion and as a country Labor senator who lives and works in and understands country Australia, particularly country New South Wales. I advise Senator Eggleston that I do not have mobile phone coverage where I live—not CDMA, digital or any other kind of coverage—and that is only 15 kilometres from Goulburn. When addressing the issues that are raised in the motion we need to think very carefully about the inquiry. When it was revealed that Dick Estens was going to chair the inquiry and that he was a member of the National Party and a close friend of John Anderson, it came as a surprise to very few people. When Mr Estens was interviewed by the Financial Review soon after the announcement of the inquiry, on the question of Telstra he said:

Generally, in my views, I’ll always tend to back private enterprise over government ownership ...

That is hardly a reassuring statement for regional people. Commenting on his own character, Mr Estens concluded that he was a man who stuck to his guns and he remarked:

If something’s in the way there, you just have to bulldoze through it ...

That is an insight into not only Estens’s character but also the Estens inquiry. It is obvious, through the ridiculously short reporting time and the lack of public meetings, that the true purpose of the inquiry is the sale of Telstra. Certainly the appointment of a high-profile farmer to head the inquiry is an attempt to smooth the political ground for selling the remaining 51 per cent of Telstra. That action clearly highlights the government’s determination to persuade sceptical rural and regional voters that their interests will be protected.

I join with Senator Mackay in condemning the Estens inquiry, which is really nothing more than a sell-off stack. It is a pseudo inquiry—an inquiry that refuses to hold a single public meeting and has given itself a reporting deadline of a little over two months. I contrast that with the Senate’s proposed inquiry into the Australian telecommunications network which was initiated by Labor and the Australian Democrats in June.
That inquiry will be conducted over more than six months, which will give it adequate time to consult with the public and form a view on the state of Australia’s telecommunications network. It will have submissions from the public and hold public hearings. The Senate inquiry will travel to the regions and invite regional Australians to appear before it. It will give them a chance to outline their concerns about Telstra’s services. It will also look into telecommunications in outer metropolitan areas, which is something that has been completely overlooked by the government. As we have heard today, you do not have to travel too far from capital city CBDs to start hearing of problems with the level of service from Telstra. Committee members know from years of experience that you do not get the whole story from a written submission; you have to ask questions, check the facts and find out the details. Only then are you in a position to make a judgment. But the Estens inquiry will never hear stories from the Australian public first hand; it will get its hearsay from its ‘key organisations’.

To get back to Senator Mackay’s point about the membership of the Estens inquiry, there are three members: Ray Braithwaite, who was a National Party member of parliament for 20 years; Jane Bennet, who assisted the Howard government with GST advertising; and Dick Estens, who, of course, is not only a National Party member but also a very good friend of John Anderson. It does not take a political mastermind to determine the most likely outcome of this little mock-up inquiry. It is purportedly an independent inquiry which will continue to further review telecommunications services to regional, rural and remote Australia. Mr Estens promises that it will determine whether additional arrangements are needed to ensure that residents in regional areas are fully serviced.

That is the line that the relevant ministers are regurgitating. It is the line that the National Party leadership continue to repeat to dismayed country people and country businesses. However, Peter Costello, our infamously city-centric Treasurer, does not seem to care whether the public knows of his government’s plan to sell off Telstra. Speaking on his bush tour throughout Central and Western Queensland recently, Mr Costello informed us that the inquiry will be the final hurdle before the government takes to the Senate the legislation to privatise Telstra. Let us not forget that Mr Costello has budgeted for a full sale of Telstra in three waves, starting next year. After such revelations it becomes apparent why so little effort has been put into legitimising this inquiry: the sale of Telstra is already in the budget. Our Treasurer is making no efforts to hide this fact—he openly relishes his orchestration of the sell-off.

This inquiry is nothing more than a piece of window-dressing so that, when the inevitable announcement of the sale arrives, the National Party will be able to hide behind what really is a rigged jury. They will have the opportunity to mislead their constituents. The working men and women who put their faith in the National Party to fight for them in Canberra will be told that this inquiry knew better than they did. They will be told that the inquiry knew better than the National Farmers Federation, the peak national farm body that has claimed that telecommunications services in rural areas are still not up to scratch. According to an article in the Land of 22 August, the President of the National Farmers Federation, Peter Corish, claimed that the inquiry ‘is not going to tell us anything we don’t already know’. He continued: We firmly believe that there are still serious deficiencies in some key areas.

Let me remind you that this is the peak body that, before the last federal election, John Howard claimed would be a key judge in determining whether service levels are adequate in rural and regional areas. This is the peak body that is specifically mentioned in the inquiry announcement. However, it seems that the government does not really want to do more than pay lip-service to the National Farmers Federation, because that organisation is not supporting it on this issue.

The National Party is playing a similar but much more disgraceful game of receiving select advice. The National Party is ignoring its own members. Over the weekend, National Party delegates voted in support of a motion that was critical of mobile and terrestrial phone services. Delegates expressed
strong concern about the speed at which the Telstra sale preparations are taking place. In a further blow, the President of the Queensland National Party, Terry Bolger, agreed with Labor that the Estens inquiry has too short a time frame and that it should indeed hold public meetings. The Western Australian National Party leader, Max Trenorden, said that emotion was high at the party’s conference last weekend and he hoped that John Anderson would get the message that services needed to be improved.

Few agree that the inquiry has any chance of making an accurate determination of service levels. Chris Anderson, the CEO of Optus, commented in the *Sydney Morning Herald*:

If Telstra is going to be privatised, it couldn’t be privatised in the present regulatory regime, and so there must be much tighter controls and regulatory controls if Telstra is going to be fully privatised.

He concluded:

Seeing what [Telstra] could do at the moment it is frightening to think what it could do in private hands if there wasn’t very strong regulatory safeguards.

So here we have a declaration from the chief executive officer of one of the largest telecommunication companies in Australia that Telstra should not be sold at this time. And who will be surprised if this expert testimony is totally ignored, as well? It will be thrown on the heap along with the views of the National Farmers Federation, the members of the National Party and the opinions of what NewsPoll has gauged as 66 per cent of public opinion against selling the remaining stake of Telstra.

In July, the Prime Minister told *Sydney Morning Herald* journalist, Michelle Grattan:

It’s not something that, on the top of the head, is popular.

You can say that again! On Tuesday of this week, a national organisation was formed to fight the sale of Telstra. The Citizens Against Selling Telstra, CAST, is a non-party political organisation with the sole purpose of protecting the 51 per cent of Telstra still under public ownership. CAST members, like the majority of rural and regional residents, are sceptical of the benefits of selling off Telstra. Three Independent federal MPs are currently running a campaign against selling off what remains of Telstra. They claim that in their rural electorates 80 per cent of constituents oppose the selling of Telstra. And yet the Estens inquiry will not hold a single public meeting, perhaps because, if the inquiry held even one public meeting, it would become blindingly obvious that Australians do not support the sale of Telstra.

The list of individuals and groups that condemn the full sale of Telstra is growing. The Estens inquiry would soon discover this if they did travel to regional areas and listen to the people. Last weekend at the New South Wales Country Labor conference at Cooma, stories consistently emerged of atrocious mobile phone coverage and poor services. Tales of phone lines being draped over barbed wire fences and weeks of waiting to have a single phone repaired were not abnormal. And Labor is listening.

Over the weekend the National Party also held a conference and, as I understand it, similar issues were raised: poor service, no mobile phone coverage, and Internet and email services that are barely usable due to slow download speeds. These are the issues that continue to be brought up around the bush. However, the National Party leadership has already alluded to the fact that such pleas will fall on deaf ears. John Anderson said he would take very serious note of the federal council’s recommendations but he reminded the conference that the parliamentary team would make the final call.

Labor opposes the full sale of Telstra and will not be swayed on this issue. It is a policy that we have always stated is not negotiable. It is not because we are set in our ways; it is because we are standing up for what people want. Australians want to keep Telstra in public ownership. Services are not up to scratch in the bush. I do not need a stacked inquiry to tell me that. My constituents tell me that every day, and my Country Labor colleagues pass motions informing me that services are not up to scratch. I live and work in the country and I know that they are not.

Since the last federal election Telstra has increased its prices for telephone line rentals, directory assistance, wake-up and reminder
calls, mobile phone flag falls, text messaging, Internet access and White Pages dual listings. We heard in question time today that the costs of phone rentals are increasing again. Under the Howard government Telstra has increased its line rentals for most customers from $11.65 to $21.90 per month. Local call costs have not come down on any of Telstra’s residential plans.

The government’s new price controls do not require Telstra to reduce local call costs by an amount related to the increase in line rentals. Other services, such as mobile phone calls and text messages, no longer have any price controls whatsoever. This is very unfair to lower and middle income families. The government will be attempting to get formal approval to enable Telstra to put up the charges, which have in fact been in practice since June this year. This morning, Simon Crean announced that Labor will be voting against those charges. We intend to stop the government from slugging Australian families with these increases.

It is a disgrace that the government will grant two National Party members, who refuse to hold public meetings, the power to determine the sell-off of Telstra. The National Party leadership have indeed become the lap-dogs of the Liberal Party. They are going against public opinion, rural Independent MPs, the National Farmers Federation and even a significant proportion of their own members. But, most importantly, they are going against rural constituents—the people who trusted them to fight for rural issues, the people who thought they could trust the National Party. But as we draw closer to 8 November the likelihood of that trust being betrayed is ever increasing.

If this government want to retain even an ounce of respectable in country Australia they will force the Estens inquiry to hold some public meetings, they will allow the inquiry to travel to regional Australia and they will extend the time given to report back. However, that was not the brief John Anderson gave Dick Estens. His brief was to report back that services are up to scratch so the sale can begin. As Dick Estens said:
If there’s something in the way there, you just have to bulldoze through it.

Labor has a strong commitment to Telstra. We are the only party that has stood strong on its commitment to oppose the further sale of this national institution. Indeed, we are the only party Australians can rely on to block the sale of Telstra in the Senate. I condemn the government’s Estens inquiry and call on it to start addressing the current problems with Telstra and stop manoeuvring to sell it off.

Senator McGauran (Victoria) (5.14 p.m.)—It is a great honour to have you in the chair for this debate, Mr President. However, I have to inform you that this general business notice of motion has nothing to do with policy, and the previous speaker proved that; it has everything to do with slur by association to the National Party. There is evidence today that the Labor Party are taking up Mr Latham’s call in regard to hate politics. It seems that it is finding its way right through the Labor Party. They are now riddled with hate politics. In question time today, Senator O’Brien led the charge on the ethanol issue when he personally attacked and named a miller on the most spurious, unknown and unsubstantiated charge. But so long as it was an attack that could be associated with the government, Senator O’Brien was happy to put it down. Now we have this general business notice of motion which again names a private citizen, Mr Estens, on a spurious charge in respect of his association with the National Party. The opposition have to realise—

Senator Carr—Are you denying it?

Senator McGauran—What, his membership of the National Party?

Senator Carr—Yes.

Senator McGauran—Apparently it is true. I did not know it, but apparently it is true.

The President—Order! Senator McGauran, ignore the interjections and address your remarks through the chair.

Senator McGauran—Mr President, you probably missed an honourable arrangement before I rose to speak that was made by Senator Vanstone that this side of the chamber would not interject in Senator Stephens’s speech. And we kept to that
agreement, Senator Carr. How unfortunate, but it was too much to expect that you would enter the same agreement—

**Senator Carr**—What agreement was that?

**Senator McGauran**—For one fleeting moment we had silence in this chamber and I thought perhaps I would get that too.

**Senator Carr**—You’ve got to be joking!

**Senator McGauran**—Senator Carr says, ‘You’ve got to be joking.’ To Senator Vanstone’s credit, probably for the first time in my experience she achieved such an agreement in the chamber for the new senator. And did new Senator Stephens take advantage! I could barely resist interjecting. She took advantage of that agreement and put forward the most ridiculous claims.

**Senator Carr**—You would have to be quick to interject!

**Senator McGauran**—I did resist, Senator Carr. I stuck to the agreement.

**Senator Carr**—There was no agreement.

**Senator McGauran**—Normally I would have interjected on the new senator because of her front in bringing forward evidence of what was said at the Country Labor conference about Telstra and mobile phones as if that were some sort of credible source—that failed organisation. Does it still exist?

We all know Senator Carr’s power base, but that is another story in Victoria and we wait for him to flex his muscles. He must be holding back for the November election. Should you be fortunate enough to win, you will be straight into Spring Street just like the old days, Senator Carr. We know all about how you wrecked the previous state Labor government and you are going to do exactly the same in Victoria and there will be a book, should you be fortunate enough to win.

**Senator Carr**—Will you be voting Labor at the next election?

**Senator McGauran**—There is no question the coalition is an underdog, but—

**The President**—Order! Senator McGauran, will you return to the matter at hand and ignore the interjections, please.

**Senator McGauran**—I referred to Senator Carr earlier; I meant Premier Carr, whose power base is in Sydney, strong as it may be. However, Country Labor has long been a joke and we in this chamber will not take as evidence of a problem with Telstra the fact that Country Labor—

**Senator Carr**—You live in East Melbourne! You don’t know where the country is!

**The President**—Order! Senator Carr, I have been very tolerant. I ask you to keep order.

**Senator McGauran**—Through you, Mr President, the thing about Senator Carr’s interjections, besides the fact that we should just simply ignore them, is that they are always wrong. I have the best retorts for them and that is why he gets me in every time. Through you, Mr President, I will answer his last one. I have an office in Benalla. The family have been in Gippsland for over 150 years and I belong to the National Party. What a spurious claim! It is another personal attack, but I have been taking it for a very long time. Getting back to the motion—

**Senator Carr**—Wally Curran almost bought that hotel off you, didn’t he?

**Senator McGauran**—Mad Wally? I notice you are paying rent to that particular union, Senator Carr, government rent. What a rort that is! I would like to know whether it is market rent or not!

**The President**—Order! Senator Carr, you are way off. The point was that the coalition underestimates the strength of the opposition. What a spurious claim! It is another personal attack—

**Senator Carr**—You see, Mr President, the thing about your coalition is that it underestimates the strength of the opposition. I have been taking that for a very long time. Getting back to the motion—

I want to address the motion before us point by point. The first point states:

a) condemns the Howard Government for establishing an inquiry into regional telecommunications services, the Estens inquiry, which is chaired by a member of the National Party and friend of the Deputy Prime Minister, and has a former National Party MP as one of its members; That former National Party MP is Mr Ray Braithwaite, who was on the previous inquiry, the Besley inquiry. He carried out his responsibilities then impartially and with credibility. This is an old tactic by Labor. When we first announced that Mr Besley and Mr Braithwaite were going to be part of that
inquiry, what did Labor do then? They smeared the characters in that inquiry. Mr Besley was attacked. However, when the inquiry came out, it had credibility and Labor have hung on to it ever since. The inquiry suddenly had credibility because it was a credible inquiry. It did not deserve the initial smear that Labor gave it. Mr Ray Braithwaite has not come under attack for his association with the Besley inquiry, has he?

Senator George Campbell—This is the worst exhibition you have put on for two years!

Senator McGauran—If that is what you think, I will get back to the facts. Mr Braithwaite, who was a member of the Besley inquiry, has not been criticised since that inquiry was handed down. He is a man I can vouch for, of enormous credibility.

Senator McGauran—I do know him well. Through you, Mr President, I should add that the Labor Party should not judge everyone by their own standards. Not always, if at all, will ex-members of parliament who are appointed to inquiries and who belong to a political party come down on the side of the party they belong to. Funny things happen when MPs leave this place; they become human again. Only in today’s Australian, former Prime Minister Bob Hawke is reported to have been appointed to an inquiry by Mr Beattie in Queensland. He came down with a judgment that was not favourable to the union he was inquiring into in respect of a Queensland Public Service industrial relations issue. I will not go into the complexities of it, but he came down with a recommendation which Mr Abbott has praised in today’s Australian. And that was a former Labor Party Prime Minister who was appointed to an inquiry. So stop judging everyone by your own standards.

With regard to Mr Estens, it should first of all be noted that he was not the first choice of this government; it was Mr Besley who was the first, but he was unable to give the government time on this occasion. What the Labor Party today and in the past has directed towards Mr Besley is utterly unjustified. As I said, Mr Estens was not the government’s first choice; it was Mr Besley. Mr Estens comes to this inquiry with full credibility and honesty. I would like to read to the Senate his credentials. He 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 been involved with the Moree Plains and Barwon Heads health services, so he is a man of community service. He chaired the Gwydir Valley Cotton Growers Association and has been involved in local Indigenous employment issues. I wonder whether the other side would be critical of that involvement by Mr Estens. He is a director of Reconciliation Australia and in 2000 received an Outstanding Rural Leader of the Year award for work with Aboriginal employment. I wonder if the opposition are critical of the curriculum vitae of Mr Dick Estens. In fact, we are very proud to have him on such an inquiry. I do not think he is a man, judged by your standards, who can be got at to produce a report; nor was Mr Besley when he was attacked and criticised. He produced a report which, in the end, you have reported yourself.

What Labor have failed to grasp is that the government’s approach has always been open and transparent; we have been quite honest. I believe that in the 1996 and 1998 elections we said that we would sell up to 49 per cent of Telstra, and that is what we have done. We never hid anything from the public. We put ourselves to independent inquiries, like that leading to the Besley report and now the Estens inquiry, and we will accept the findings. We have always been open and transparent in our dealings with regard to Telstra. The public know where we stand, but they sure do not know where the opposi-
tion stand. I am not sure that Labor know
where they stand.

When you were in government, you priv-
atised everything that moved. You came in
with a philosophy of non-privatisation but,
by the time you had to face the realities of
your own spending and deficit budgets, you
thought, ‘Well, we’d better start flogging
things.’ So out went the so-called false ideol-
yogy and, of course, you sold everything that
moved—no less than Qantas and, worst of
all, the Commonwealth Bank, because you
went to an election committing yourself to
the non-sale of the Commonwealth Bank. So
how can you possibly be believed? Even
during your time in government, your cabi-
et frequently discussed the sale of Telstra—
and I think you would have sold it except
that time ran out on you—and it was sup-
ported by no less than your former leader, Mr
Beazley. Equally, now that you are in oppo-
sition, you still have a non-creditable policy
on Telstra. In fact, no-one knows what it is.

Your own shadow minister, the member
for Melbourne, wants to sell off parts of it—
the best parts of it—which would be a disas-
ter for the share price and the two million
Australians who have shares in Telstra. He
wants to keep the infrastructure and sell off
the most profitable parts, such as the phone
network and the Internet area of Telstra. That
is his particular policy; that is what he has
been pushing within the shadow cabinet and
in part of the options paper he has released;
whereas someone like former senator Mr
McMullan is quoted on Meet the Press—he
is a frequent visitor to Meet the Press—as
saying:

The key issue is not who owns Telstra—
what is that code for?

but what’s the competition in the telecommu-
nications sector.

Premier Bob Carr, another credible Labor
character, is even more forthright and says:
I am strongly opposed to the further privatisation
of Telstra, certainly until we can get a decent
level of rural service.

That is the government’s stated policy on
Telstra, supported by the National Party, of
course. The government have undertaken not
to proceed with any further sale of Telstra
until we are fully satisfied that arrangements
are in place to deliver adequate telecommunica-
tions services to all Australians. That is
what the second inquiry is all about. The
government have acted on the first inquiry’s
recommendations. Because we have acted
with transparency, with genuineness and
with money on the recommendations of the
Besley inquiry, of course we expect a fa-
vourable result from the second inquiry, but
no doubt there will still be standards to be
met. This I believe.

There will certainly be an improvement in
standards from the Besley inquiry to the
Estens inquiry, because we have put in $163
million over four years to address the serv-
vice’s inadequacies, $50 million to bolster the
mobile phone services in rural and regional
areas, $20 million with regard to a rollout
along 34 regional highways, a $2.1 million
subsidy so that rural and regional areas are
able to access satellite phones under certain
criteria, and guaranteed connection times
have now been reduced from 12 months to
six months and so on. So we have reacted to
and achieved 13 of the 15 recommendations
of Besley, and we believe the Estens inquiry
will find that we have responded satisfacto-
riely, but there will probably still be areas for
improvement. That is our aim: get the
services up to a proper and acceptable stan-
dard before any decision is even considered
on the sale of Telstra. It is not a foregone
conclusion at all. Yet you would consider it
is.

Point (b) of the motion asks that the Sen-
ate:

condemns the Government’s decisions that the
inquiry will hold no public hearings and must
report within little more than 2 months of its
commencement;

I thought the previous government speaker
dealt with that quite well. This inquiry will
be undertaken on similar lines to, if not the
exact lines of, the Besley inquiry. There will
be public hearings, and it will get around the
appropriate places that it needs to but, re-
member, its main aim is not to create another
Besley inquiry but to see if the Besley rec-
ommendations have been fulfilled. One thing
this government is not going to do is hold
public meetings so that the likes of the oppo-
sition can stack them and create furore. This is a serious inquiry that will go out and meet the public but it is not going to hold rowdy public meetings that serve no purpose at all. In regard to the two months—I think everyone wants a quick inquiry. Telstra has had more inquiries than I think there were GST questions in the Senate. Two months is quite adequate, as Senator Eggleston properly outlined in his speech. The third point reads:

(c) Calls on the government to address all issues associated with Telstra’s performance including rising prices, deteriorating service standards and inadequate broadband provision.

We reject point (c) out of hand. In regard to Telstra’s performance I ask the opposition, if they have the capability and the studiousness to do so, to go to the annual reports of the Australian Communications Authority and read what they say about the improving service conditions of Telstra. The 2000-01 report refers to:

... a better overall compliance against the government’s customer service guarantee for new service connections and fault rectification and reduced number of reported faults.

There is a continued improvement in Telstra’s service levels and that is borne out by the Australian Communications Authority’s report.

Time does not permit me to go into the prices area in depth but what is clearly missing from the argument of the other side is the fact that the whole parcel of prices within the telecommunications area have fallen. Local calls, mobile services, long-distance calls, international calls and fixed to mobile calls have fallen. They have fallen in the time of this government. In fact, they started to fall once the industry was deregulated and that is the benefit of competition. The government has introduced, and quite rightly so, a price cap system. The pricing system will allow Telstra to gradually recover costs on line rentals over an estimated four-year period while at the same time reducing call costs and requiring Telstra to protect low-income users. The government has introduced this somewhat complex system: the line rentals may increase by a CPI figure of up to four per cent and at the same time the calls—that is fixed to mobile, STD and IDD—must equivalently fall by 4.5 per cent, or the CPI. There is good reason for that flexibility, because the fixed line rate is costing Telstra. Telstra is uncompetitive with a line rate of over $30 a month whereas it is only bringing in about $20 a month. The point to be made with regard to prices is that, since deregulation, prices throughout the industry and across the board—as a parcel, as a basket—have fallen. That is why this government rejects out of hand the general business notice of motion.

Senator MOORE (Queensland) (5.34 p.m.)—When the Minister for Communications, Information Technology and the Arts announced the regional telecommunications inquiry on 16 August, he stated:

... it was appropriate to take a fresh look at telecommunications services in regional, rural and remote Australia in the light of the considerable investment and improvements that had been made since the Telecommunications Service Inquiry.

The inquiry that he referred to was chaired by Tim Besley and was conducted in 2000. This new independent inquiry to be chaired by Mr Estens would report to Senator Alston, advising on ‘whether telecommunications services to regional, rural and remote areas of Australia are adequate and the arrangements that should be put in place to ensure that all Australians continue to share in the benefits of further service improvements and developments in technology.’

The media release stated that in conducting its assessment the panel would be expected to consult with representatives of regional Australia, including the National Farmers Federation, and that the inquiry would also take submissions from the public.

The time period from the announcement on 16 August 2002 to the expected date of the report on 8 November 2002 is less than three months. Additionally there is the expectation of consultation which was with the representatives of the public and also the National Farmers Federation. These two things contrast greatly with the extensive process followed by the 2000 inquiry and they raise significant questions about the real capacity of the process.

What we know is that people are genuinely interested in their telecommunications
services, particularly when they want improvement or are concerned about problems, and they want to share their opinions. The 2000 inquiry was required to consult widely with stakeholders and to seek input by the public in metropolitan, regional, rural and remote Australia. There was a meticulously documented promotion involving a wide direct mail campaign to over 500 organisations, individuals and government and industry bodies. The inquiry was advertised and reported on in the electronic and print media across the country. That inquiry obviously wanted information; it was resourced and promoted to get it. Accordingly the inquiry received 1,076 submissions, 1,051 of those discussing telecommunications from a consumer viewpoint. In Queensland, 170 submissions were received from a wide range of individuals and organisations. The inquiry visited all states and the Northern Territory as part of a genuine consultation process, and it was tasked to really listen.

A process of roundtable discussions involving schools, women’s groups, local government and industry groups such as the cane growers and the beef producers were held in metropolitan and regional centres across the country. In Queensland, as well as videoconferencing—which I believe is a particularly useful tool in any inquiry on communications—there were public hearings in Brisbane, Roma, Longreach, Mackay, Cooktown and Mount Isa. Queensland is a very big state, and hearings are probably never held in enough sites to please everyone, but this was a genuine attempt to engage—and people accepted the challenge. The committee members were impressed by the interest and knowledge of the community. In the executive summary, it was noted:

Consultations revealed a strong expectation by customers in all parts of Australia that they will have access to a wide range of telecommunications services, that those services will generally work well, and that when difficulties arise they will be able to get advice and assistance promptly.

People in regional, rural and remote Australia told the Inquiry they want access to services on an equitable basis compared with their counterparts in metropolitan and large urban centres.

In this house in the last sitting, Senator Boswell said: Besley gave a very good and strong report which said that Telstra facilities were not up to scratch ...

Indeed, the Besley inquiry assembled a considerable body of evidence, asked Australians for their experiences and views and then presented to the government 17 detailed recommendations. It provided a benchmark for any future consideration of telecommunications in our community. While no inquiry ever fulfils all expectations or achieves total agreement, as Senator Boswell said this inquiry produced a good report and Telstra was not up to standard. Subsequently, the government has announced a new inquiry, so far without a public awareness campaign to seek information or to genuinely engage the community. In an interview with Sunday Sunrise earlier this year, Senator Boswell agreed:

... there’ll have to be some form of audit out there to see where the services are, at the moment, and there’s no-one trying to wriggle out from that one or backslide ...

Again he acknowledged that the Besley inquiry had done a good job but that he was ‘personally not in any hurry to rush our fences’. I am concerned that the current inquiry will indeed rush some fences. The time frame and the lack of public meetings or of any real attempt to encourage people—many of whom were involved in the 2000 inquiry—to be involved gives me some questions about the effectiveness and genuine audit capacity of this inquiry. There is interest in the community. Public surveys consistently indicate that Australians do not want to see Telstra privatised. It does not matter how or where the question is being asked: they are worried about current and future services and are sceptical about promises and any kind of short-term solution, particularly when large amounts of money are linked to any potential sale of our public asset.

During the Queensland National Party July state conference, the state president released a media statement to Queensland—in fact, he released many media statements, but this one was on Telstra—which said:

Our policy is unchanged—the Nationals will not support any further sale unless the people of regional, rural and remote Queensland tell us they are satisfied with standards and future guarantees.
There is, however, a fall-back position: in case there should be a sale, the National Party have established a special purpose sub-committee of the state management committee to recommend firm National Party priorities and conditions on expenditure arising from the sale. They believe that 'this is a longstanding and consistent policy' which receives regular media coverage throughout Queensland.

This policy is clear and relies on one key action—the people advising that they are satisfied. I expect that the government considers the current review to be the audit referred to by Senator Boswell and that this is the method to find out whether Queenslanders are satisfied. Hopefully the Queenslanders, whose opinions on telecommunications seem to provide the basis of the National Party policy, will have the opportunity in the next seven weeks to have their views expressed, analysed, considered and perhaps even satisfied. But there should be some concern amongst these Queenslanders, because before the inquiry was implemented, before the terms of reference were codified and before the committee members were publicly identified, Senator Boswell was publicly announcing on Channel 7:

... there is a recognition in rural Australia that the sale is inevitable.

This follows previous well-publicised comments that telecommunications were about 'up to scratch'. There is no doubt that, since 2000, a significant amount of money has been spent on telecommunications, particularly in regional and rural areas. This is a direct result of the Besley inquiry and recommendations. But any assessment about whether or not the services are 'up to scratch' must rely on a subsequent effective, detailed and genuinely independent review. There have been comments about the political affiliations of members of the 2002 review, as indeed there were about members of the 2000 review. It does not give any confidence to the people in rural or regional Queensland, regardless of their political views, if decisions are being pre-empted because of time pressures or the need for a particular outcome.

Queenslanders need a real inquiry into current service delivery and a guarantee for future services regardless of where they live or regardless of how they vote. Currently, a student in Charleville wanting to download information from the Internet could wait several hours for the data while their mate possibly doing the same work in Mackay—De-Anne Kelly's electorate—could have it almost immediately. When the Deputy Prime Minister was travelling through our very beautiful central and south-west regions of Queensland, he would have experienced the challenges of limited mobile phone access throughout his trip. Provided he did have access to the appropriate CDMA mobile phone, he would still be limited to contact within a range of about 12 kilometres of most of the centres through which he was passing. This may have been extremely peaceful for him but possibly also quite frustrating. While local residents and regular visitors are prepared for the telecommunications shuffle, it does provide some light relief to see travellers desperately attempting to make their phones work in this area.

The 2000 report, after considering the stories of thousands of Australians, noted the frustrations of many consumers, particularly those concentrated in rural and remote Australia, in getting basic and reliable services quickly and having faults repaired in a timely manner. This frustration is exacerbated when dealing with call centres that are unaware of the consumer's circumstances and cannot provide a continuity of contact to pursue their request. It was clear that the consumers had realistically considered their needs, their remoteness and had an expectation that their government was prepared to listen to their views. The current exercise must surely increase the level of frustration among these same Australians. They have had the opportunity in the past to be involved in a process about themselves and their needs. They have been led to believe that their government understands these needs and is prepared to make changes to improve the circumstances—that was the promise. Any consideration of the process surrounding the implementation of the 2002 review—seven weeks, no public hearings, limited consultation—raises a bit of a genuine belief that not
only have the fences been rushed but the race is over and was probably fixed.

As indicated by the enthusiasm with which people attended the roundtables on telecommunications and sent in submissions, most of which were polite, Australians do have opinions and are not prepared to sit back and be told what is best for them. People in regional and remote communities have suffered from the withdrawal of a range of services. Their experiences with financial institutions have left a taste of betrayal, a genuine fear about market-driven decisions and a need for protection from fully privatised service delivery. There must be some genuine commitment that real experience and needs are understood and that there is a capacity within the telecommunications system to address the particular service requirements of living in remote locations. Glossy promotion campaigns, even with the appropriate Akubra wardrobes, will not convince consumers that they are receiving equitable services. Determining what ‘up to scratch’ means regarding communications requires independent and direct consultation across service providers, users and government. Too often there is genuine confusion about how the language and the technical jargon relates to how consumer services will be affected.

The statement from the Besley inquiry about access to services, availability and timely repair of faults seems to be a reasonable expectation for all consumers. However, the vastness of the network, the well-known fierceness of our geography and climate, and the ever-changing technology and industry advances combine to produce particular challenges. Australians in regional and remote areas have been given the expectation that they will receive equitable services. Unsurprisingly, they now expect them, and the undeniable fact they do not have them increases frustration and sees a further division within our community. Worse than being forgotten, even worse than being isolated, is being taken for granted.

The process that was commenced by the original partial sale of Telstra and the linkage of money back into the community from the spoils has created a feeling that this is possibly the last chance for the bush. In its 2001 federal election policy, the coalition stated that it would take no further steps for the full sale of Telstra unless and until it was fully satisfied that services in regional, rural and remote Australia were adequate. We now have a seven-week inquiry to do the books. What happens when those books are closed? Will the delay in accessing the Internet in regional Queensland disappear? Will phone services across rural Queensland suddenly work on demand? If there are faults, will they be fixed within a reasonable time? Will the existing network, some of which we know is in urgent need of repair and replacement, be maintained and have a reasonable expansion program? Will the current experiences of, and possible solutions from, people in rural and remote Queensland be effectively considered in the 2002 review?

Many of the people who attended the roundtables in Queensland in 2000 are still living in regional areas. They can personally advise the government of any changes that have been implemented with the increased funding. Are telecommunications better? Can the terms ‘equitable’, ‘reasonable’ or ‘adequate’ now be applied to the services in their lives? These were not rowdy public meetings, though I have been to many that were; these were reasonable, accessible meetings attended by community members. An acceptable audit process compares previous results with the current results. Perhaps the 2002 review could examine directly the previous wealth of evidence and obtain a snapshot of the changes. I am sure that the people in Cooktown, Mount Isa, Mackay, Longreach and Roma would join with the people who participated in the Besley review in Brisbane to see how their contributions could effectively be part of the ongoing review of telecommunications. We know that there is a real sense of community in regional Queensland. Not only do our people want their views considered; they are keen to be part of the development of a better and safer environment. They want to maintain their towns and futures for themselves and their families. They do not want to see their communities disappear. They want to be part of the solution. Perhaps the 2002 review will allow them to be so.
Senator TIERNEY (New South Wales)—I rise tonight to speak on this general business motion on the regional telecommunications inquiry. Senator Moore made some interesting points, but she is obviously not very well aware of the history of what has happened with telecommunications in this country. What she seems to have forgotten—and I did not hear her mention one word about this—is the Labor Party’s role and delivery of services to the bush before 1996. If we look at what Labor was doing, or not doing, at that time in the area of telecommunication services, you will find that telecommunication services were in an appalling state. I refer to Senate speeches in October 1994, when at that time Telstra had produced two regional reports about its own services in western and southern New South Wales. The reports showed that, in terms of connection rates, repair rates and timeliness of providing services, they were an absolute disaster—and that was under your government.

Things have improved dramatically, but as the Besley inquiry showed in the year 2000—and as a number of other inquiries have shown—things are not perfect in the bush. We went to the 1998 election saying that we were not going to sell any more of Telstra until we got this right. The hidden agenda underneath all of this, and why there are real objections to this inquiry into this whole process, is that Labor do not want to sell the rest of Telstra. The real reason he wanted to flog off Telstra was not to retire Australia’s debt or put in extra services in the bush. The real reason was that he was racking up an incredible $91 billion deficit over his term of 4½ years as Prime Minister. He wanted that money to offset that deficit—to pay for his indulgences and his mismanagement of the Australian economy. That is what that was all about. The greatest advocate for the sale of Telstra in those times was Paul Keating, the then Prime Minister of Australia.

So let us look at the real agenda here and put it into its historical perspective to bring some reality into this debate. Since we came to government we have been in an era when telecommunication services have improved dramatically because of changing technology. What we can do now is dramatically better than what we could have done 10 years ago. We have created an environment that will help the private sector flourish. With the changes to telecommunication laws in 1997, we created an environment where there could be a more competitive market, where prices could be driven down, and where services could be improved and increased—and that is the environment we are now in. We do not have a monopoly provider; we have a competitive provider in a wider market. The question then is: why on earth keep Telstra in public ownership, apart from the fact that that is what used to happen? But when you consider the opportunity cost of all that—the fact that an organisation, which has a value of over $120 billion, is tied up in telecommunications infrastructure—you have to ask why? The private sector has shown worldwide that it can run these services. The only country now that has a fully government owned telecommunications service is Iceland. Even Fidel Castro in Cuba flogged off his telecommunication services to Mexico. Mexico is a big owner of telecommunications. In terms of ideology, it does not stack up; just followed Fidel’s lead.

We now have a situation where the Australian government are handling this very responsibly. We said in the 1998 election that there would be no further sale of Telstra until we got these services in the bush right. That
was our commitment at that time. Following the 1998 election and the 2000 Besley in-
quiry, we have carried out an incredibly thorough inquiry into all this. The inquiry took submissions from all over the place. That inquiry found a number of things. Senator Richard Alston said that it was ap-
propriate to take a fresh look at telecommu-
nication services in regional, rural and re-
move Australia in the light of considerable improved investment and other improve-
ments that have been made since the initial inquiry. Market research conducted for the inquiry found that most Australians were generally satisfied with the service delivered by their telecommunication providers. The findings are reinforced by similar work con-
ducted by the Australian Communications Authority. The inquiry found that there was evidence, however, in isolated cases where performance was well outside the standard. The inquiry also said it was important from a national perspective that the existing tele-
communications disadvantage experienced by some Australians in rural and remote Australia be addressed.

In 1994 I went to the United States and looked at their services. I came back and looked at our services. Let me tell you that we have made enormous progress over that time. It is not all absolutely perfect—no-
where in the world will you find that. We, of course, have additional difficulties being such a vast and spread out continent. But I think we have made terrific progress over that time. What we are doing here—and I am just amazed that the Labor Party is even de-
bating it—is setting up yet another inquiry into this. This is yet another check to feel the pulse and see how it is all going, to see if it is getting to that point of having proper service delivery and where the shoe pinches and where we may need to do some extra work. Now what on earth is wrong with that? What is the problem with doing that?

Parallel to that, there is currently a Senate inquiry into telecommunications in regional Australia. And, blow me down, the House of Representatives are also having an inquiry into that. Telecommunications are being in-
quired into to death at the moment. If you have an objection, you might say that we are holding too many inquiries into this. But what we will show when we have had these inquiries is that we have responded to the findings. The last Besley inquiry committed another $161 million to rural and regional Australia because we found some areas that needed fixing. Out of this inquiry you might find the same thing, but we will bring it to a point where there is decent provision of tele-
communication services in rural and regional Australia. I seek leave to continue my re-
marks later.

Leave granted; debate adjourned.

COMMITTEES

Community Affairs Legislation
Committee

Membership

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—The President has received a letter from a party leader seeking to vary the membership of a committee.

Senator TROETH (Victoria—Parlia-
mentary Secretary to the Minister for Agri-
culture, Fisheries and Forestry) (6.00 p.m.)—by leave—I move:

That Senator Bishop replace Senator Hutchins on the Community Affairs Legislation Committee for the consideration of the provisions of the Re-
search Involving Embryos and Prohibition of Human Cloning Bill 2002 from 6.10 pm today till the committee concludes its business today.

Question agreed to.

The ACTING DEPUTY PRESI-
DENT—The time allotted for the consider-
ation of general business notices of motion having expired, the Senate will proceed to the consideration of government documents.

DOCUMENTS

Consideration

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


17—Review of the national access regime, 28 September 2001. Motion to take note of document moved by Senator Ludwig. Debate
adjourned till Thursday at general business, Senator Ludwig in continuation.

General business orders of the day no. 2 and nos 4-6 were called on but no motion was moved.

COMMITTEES

Treaties Committee

Report: Government Response

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

That the Senate take note of the document.

Senator LUDWIG (Queensland) (6.03 p.m.)—I rise to take note of the response by the government to the Joint Standing Committee on Treaties report entitled Who’s afraid of the WTO? Australia and the World Trade Organisation. It is worth going back to the original committee report briefly, report No. 42. The committee was chaired by Senator Coonan at the time and, I must say, it was a wide-ranging report. It had a broad terms of reference. As I recollect, originally it began with matters which had been raised within the treaties committee a number of times, particularly the issues of trade and trade liberalisation and a few other aspects of that. People were concerned about the push for trade liberalisation. The terms of reference of the committee stated that the inquiry was ‘into the nature and scope of Australia’s relationship with the World Trade Organisation’. Rather than go into all the terms of reference in detail, I will just mention that the inquiry was to include matters such as:

• opportunities for community involvement in developing Australia’s negotiating positions on matters with the WTO;
• the transparency and accountability of WTO operations and decision making ...

There were a number of other directions for the inquiry to look in. The inquiry went to a number of capital cities throughout Australia. It heard from a range of witnesses and in the end it produced quite a substantive document of some 250 pages. The report was comprehensive in my view and dealt with a range of issues including trade liberalisation, the way in which Australia would develop WTO policy and the way in which Australia would look at WTO dispute settlement processes. It also included matters such as agricultural trade reform, the issues of quarantine and other WTO matters. It also looked at the future of the WTO as well as at transparency and accountability matters within it.

The response to the report is reasonably timely for the government, I must say, in the sense that many of these responses from the government are long in the tooth in coming. But in this instance report No. 42 was out in September 2001. Although it was not quick, it was certainly not long in coming. The government’s response provides the government’s position in respect of the 42nd report. It is worth having a look at that in a little bit more detail and perhaps breaking it up into two areas to examine this evening.

We can perhaps say that the government’s response in truth failed to address certain issues that were raised by the committee. They failed to address matters such as the exploration of new and alternative approaches to existing methods of consultation with other areas of government—state and territory governments—and they failed to address what can only be described as the imbalance between the focus of the government and Australian public concerns, and what was really—at least from my perspective and I think I can safely say it was in the minds of other committee members—the increased consultation across a wide spectrum of participants. In general, the government’s position was contingent on ongoing processes requiring matters to be adhered to. In terms of the response, they looked at those recommendations that they could say they met, those recommendations that they said they could progress and then those recommendations that they could not progress.

But there is, between the committee’s recommendations and what is manifest within the government’s response, a divergence of views—a different focus may be another way of putting it. The government’s focus on trade liberalisation and the Australian public’s concerns stands out throughout the response. The emphasis of the government’s response is maintained on the external benefits of trade and trade liberalisation; in other words, market access. Accordingly, the government’s consultation, information and education programs are centred—and their re-
response highlights that they are centred—on this far narrower approach. When the committee was looking at the government, the role of the government in the World Trade Organisation and how they interact, it was looking more broadly. It was looking at possibly real or negative effects of trade liberalisation on the community that should be investigated, reviewed and studied. It was not in order to say no, but to see how better future government policy decision making could come out of the process. In other words, the committee was not looking at trade liberalisation with a narrow focus, such as market access, but with a broader view that included how we move forward to ensure that the issues that have been raised by the people who made submissions to the committee could be investigated, reviewed and studied to improve government policy decisions in this area.

It is worth while examining some of the recommendations in detail to see exactly how that is borne out. Firstly, with regard to recommendation 1—which is exactly what I have been talking about: how you evaluate the socioeconomic impact of trade itself—the government’s response, whilst recognising the importance of accessing the actual results of trade liberalisation, did not and could not do two things that the committee wanted to do. The committee wanted a quantitative study of the benefits of trade liberalisation and an investigation of current research by ABARE which focuses on the economic issues of trade liberalisation, in order to get an appreciation of how trade was benefiting Australia, rather than saying, with a narrow focus, ‘What we want is market access.’ From this, we went to how that could be done. I suspect that the government’s difficulty with all of that was the cost of trying to confirm that position. In part, that is understandable. I can say fairly that I appreciate that it might be a costly exercise, but it is an exercise worth doing in part. But we went on to say that there are other ways that you can achieve much more public involvement in the issues of the WTO, trade liberalisation or trade more generally.

The government’s response to recommendation 2, which talked about structural adjustment, noted two issues. Firstly, it noted: Structural adjustment considerations are a key part of the Government’s economic and employment policies.

Secondly, it noted that industry consultations are an important element in the formulation of WTO negotiating objectives. But it did not consider one of the matters that we had put forward; it did not consider regions or regional communities that are affected by changes in socioeconomic conditions brought on by trade liberalisation, which was noted in the report at 1.109 and 1.110. We saw that consultation with communities prior to entering into WTO agreements may decrease the need for the broader government labour market assistance outlined in the government’s response. That was the underpinning issue that we thought would be well worth dealing with.

Recommendation 3, which really built on that, looked at community information. Unfortunately, the government’s response was contingent upon actions stated to be ‘currently in process’, which is sometimes code for ‘we will do it, but we will tell you we are going to do it’. To give the government its due, the response indicated a willingness to address the recommendations. It is one of the matters that I will be following through to see that the government lives up to the expectations that it has created, to ensure that there is community information. There are a number of other recommendations that I wanted to go to this evening, but I know time will beat me. It is an important report. I believe that the government has, in part, addressed some of the issues raised, but in other areas it has failed to help with the process, or at least has failed in terms of the committee’s recommendations. (Time expired)

Senator NETTLE (New South Wales) (6.13 p.m.)—I rise to take note of the government’s response to the report of the Joint Standing Committee on Treaties, Who’s afraid of the WTO? Australia and the World Trade Organisation. Unfortunately, the government’s response that I rise to speak to is more of the same mindless promotional ma-
terial from the government—blank assertions on the benefits of trade liberalisation; skewed, one-eyed evaluation of its impacts; and an ideologically driven agenda that ignores the reality of the costs for many Australians. Once again, the government is acting like a paid-up lobbyist for international business. It seems to have forgotten that its job is not to sell Australia to the highest bidder and that it is not a publicly funded PR company for the World Trade Organisation.

The job of the government is to act in the best interests of all Australians, to defend our environment, to protect employment standards and to balance the demands of international cooperation with local needs. This government has given away this job and the autonomy of the Australian people to an anonymous group of economists and business lobbyists. The Greens are here to ensure, with community groups, that this process does not continue.

In less than one decade, the WTO has gone a long way towards stealing the democratic rights of nations to determine their own priorities, to protect the health of their citizens and to defend the environment. The recent World Summit on Sustainable Development in Johannesburg was a battlefield where the new global trade regime pushed forward to formalise its dominance. There has been increasing interest in the activities of the World Trade Organisation in recent years. Under the WTO’s latest framework, the General Agreement on Trade in Services, international business is targeting the last frontier of untapped profits—by which, of course, I mean public money and public services. The agenda of GATS is to open up all aspects of our economy and our lives to the corporations and to sideline the role of governments and the public sector. This means treating essential services like health, education and water as commercial services. This means much more than privatisation—as if that were not enough of a problem. It also means, for instance, that the power of governments to regulate would be strictly limited and public funding of schools and hospitals would be labelled ‘illegal subsidies’ and have to be eliminated or matched by grants to private corporations. This is not an abstract threat: Australian services in the firing line include Australia Post and, of course, Telstra.

Decisions about what products can be banned from sale or importation cannot take into account the precautionary principle. In other words, harmful products can only be banned once the harm has been proven by rigorous scientific standards. People and the environment will need to already have been harmed and that harm proven to have been caused by the product. The long battle to achieve legal recognition of the links between smoking and cancer shows how difficult this process can be and how much damage can be done in the interim. The social and economic impacts are also alarming, despite the government’s blatant spin-doctoring. GATS requires further tariff cuts and import liberalisation, regardless of the impacts in terms of job losses and economic insecurity. Under these rules, the whole world becomes an open playing field for corporations who can push countries to race each other to the bottom in wages and working conditions. Finally, it is clear that the GATS scheme will further entrench the unacceptable gap between rich and poor countries. Poor countries will remain the cheap and dirty factories and dumping grounds for the rich and their ability to control their economies in the interests of their people will be even further undermined. This is what is meant when people talk about winners and losers from globalisation.

The huge scope and rapacious goals of the General Agreement on Trade in Services make it essential that the public are fully aware and fully informed and have the power to democratically control Australia’s commitments. This is the exact opposite of what is currently happening. The efforts of the WTO and GATS to rewrite the fundamentals of our social and economic system are happening behind closed doors. A perfect example of this is the gathering of trade ministers that Minister Vaile will be hosting in Sydney in the middle of November. The secretive, unaccountable and unrepresentative nature of this meeting is a clear demonstration of some of the fundamental problems with the WTO, and GATS in particular. Although there are 144 countries in the WTO, only 25 have
been invited to Minister Vaile’s little chat. This is not a formal part of the negotiation process; it is a special gentlemen’s club gathering to reach some handshake agreements on how these powerful nations will further manipulate the process. And, of course, like all formal and informal GATS negotiations, the content of the discussions is intended to be totally secret. If the agenda of the corporations influencing this meeting is successful, Australia will move another step closer to privatising our services and opening up to the social, economic and environmental impacts I have been talking about; but the Australian public is denied any information about what our government is putting on the table at this or any other GATS negotiation.

The Greens stand for an international system in which the needs of communities and the environment override the interests of corporations. We demand accountability and democratic participation in all decisions that affect Australians. For these reasons, we reject the facile arguments presented by the government in their response to this report. This kind of mindless gloss does nothing to address the serious concerns that were put in many submissions to the inquiry and that have grown in the year since the report was tabled. The Greens will continue to be an active part of the worldwide movement fighting the WTO agenda, and particularly the development of the General Agreement on Trade in Services. We know what is at stake—and we have won before, when we stopped the MAI. We are determined to send GATS down the same chute into the dustbin of history.

Senator BUCKLAND (South Australia) (6.20 p.m.)—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Environment, Communications, Information Technology and the Arts References Committee

Report: Government Response

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

That the Senate take note of the document.

Senator ROBERT RAY (Victoria) (6.20 p.m.)—This report deals with the method by which the government should appoint the ABC board, but it raises the broader issue of government appointments. I have often said that government appointments are sometimes as crucial as any legislation they ever bring into this place but are not subject to the same scrutiny. The rule is that the deliberations of cabinet must remain confidential, so one can never really establish why a particular person has been appointed to a post. We have had reason to raise the appointment of the Deputy Electoral Commissioner and then that of the Electoral Commissioner and ask why someone who was strongly not recommended was suddenly appointed by cabinet over favoured candidates.

The Liberal Party’s paranoia about the Australian Broadcasting Corporation has surfaced once again in recent weeks. In Glenn Milne’s column on 2 September, the following extract appears:

Lighting on his old mate, Michael Kroger, the Treasurer alluded to his role as an ABC board member. In that capacity, he said, Kroger helped run “one of Australia’s premiere left-wing organisations”.

This highlights how thin-skinned the Liberal Party are overall. Any criticism, according to them, is unwarranted. Scrutiny is detested. Any in-depth analysis becomes left-wing bias.

Never mind the fact that the ABC has had a lot of fun over the years potting the Labor Party. It never hesitates to put the blowtorch to the Labor Party, but we just regard that as the normal operating procedure of a media outlet that concentrates on current affairs. What the Liberal Party want is total hegemony of this particular area, with all media in this country supporting them. Not all but most Liberals seem to have this self-belief. They can never be wrong and think that every journalist in the country should give them constant support. No criticism is tolerated and any Labor Party counter point of view is characterised as scaremongering, oppositionist and, whenever possible, disloyal.

You just have to look at the recent controversy over Media Watch—for some reason or other, David Marr criticised certain conservative columnists for their attitudes over the
gang rapes in Sydney—and see the attack that Devine, Albrechtsen and others launched against that particular program. That is not to say that the next week the program will not attack left-wing journalists—it probably will—but they just cannot stand the criticism. There are not many left-wing columnists in Australia and, I have to say, when I read their columns most of them are attacking the Labor Party over structural reform, asylum seekers or something else. If you are in the right wing of the Labor Party you do not get support from anyone. The conservatives attack us and the left wing attack us, which probably proves that we are right.

Senator Faulkner—They’re the breaks.

Senator ROBERT RAY—Yes. You do not whinge but you have to consider just how many conservative columnists there are in this country and you never hear the Liberal Party complain about this lack of balance in our print media. One of our former colleagues, former Senator Michael Baume, writes for the Financial Review. I have always liked Michael, because he is a Liberal Party loyalist. He was always loyal to John Howard no matter what the circumstances were, and I admired him for it. But the pap he writes, week in, week out, is just the Liberal Party’s and John Howard’s line. Never is the slightest criticism of this government considered; it is just the party line and propaganda. If you are in Melbourne, you have to read the views of Andrew Bolt, the great promoter of the conservative cause there. You do not hear any Liberals complaining about Andrew Bolt, do you? Viciously right-wing, he pours out his anti-Labor poison, week in, week out.

But, of course, Sydney can always outdo Melbourne—I have always said that—when it comes to employing Liberal Party apologists. Can you imagine anyone worse than Piers Akerman? There was never a more biased editor of the Melbourne Herald Sun when he ran it in the late eighties and early nineties. The newspaper just devoted page after page to the destruction of a state Labor government without the slightest concession to objectivity. Now, having been a failure overseas, he has been sent back as a special-writer for Sydney’s Daily Telegraph. When my leader here, Senator Faulkner, gets into the Liberals and starts hurting them, a couple of Liberal senators feed the lines into Piers so he can attack Senator Faulkner in his columns—not that it would bother Senator Faulkner in the slightest. When details of disagreements in a private meeting of a Senate committee suddenly appear in Piers Akerman’s column, guess who has fed them in?

That really belittles the Daily Telegraph and Piers Akerman himself. The only time that Akerman ever criticises the government is when its media policy does not serve the interests of his boss, Mr Murdoch. It is not as though anyone would think that Mr Murdoch asks him to write this loyalist trash; he just does it as a standard operating procedure. Not many people would know that Piers Akerman went over to run Fox Studios at one stage. He should have stayed there; he could have got a role in Lord of the Rings. Physically and mentally he is a perfect orc; he is an absolute refugee from Middle Earth. He should have stayed there; they would have at least got a great actor.

Yet, frankly, in the end the Baumes, the Bolts and the Akermans are just second string sycophants. The prize for the greatest truckler and bootlicker for the Liberal Party always goes to Mr Christopher Pearson. Without doubt he is the absolute worst. His columns could pass as a summary of Liberal Party focus groups. He is always given the line to run. Any line the Prime Minister’s office wants to run, week in, week out, appears in Mr Pearson’s column. I will give you an example. During the federal election, he wrote an article that on the surface looked as if it might be balanced: Beazley could win the election. He was instructed to write that article because the polls were showing the Liberals well in front, and you would not want a reverse bandwagon effect, would you? So you instruct your little acolyte there to write down the Liberals’ chances so no-one will think of voting as a protester.

We have had article after article on potential Labor leaders, all belittling Simon Crean and saying, ‘What about someone else?’ before actually marking them down right at the end of the article. The only time I have ever
seen Mr Pearson criticise the Liberal Party was internally when there was a feud within the Liberal Party and he took one particular side. I do not know what he gains through such self-abasement, such humiliation, in pushing the Liberal Party’s and John Howard’s line. I do not think even John Howard would enjoy reading such self-abasement and such crawling as appears in Mr Pearson’s column.

I do not believe in astrology but the conjunction of stars suggests the following: we now hear Mr Michael Kroger is about to resign from the ABC board. I was not harsh on it; I actually said I thought it was a good idea that he went on that board initially. Having someone with strong political views and with influence in government is often an advantage to the ABC—not that he ever sought to do that once, unfortunately. All he ever sought to do was attack other board members, attack the management of the ABC and try to impose a political view on them. I think, in that, he made a massive and major mistake. But, apparently, his lack of success at that means he is going to resign. There is an obvious replacement. Mr Christopher Pearson, come on down! You have shown your loyalty over last two or three years, writing these articles in support of the Liberal Party. You must be a perfect candidate. Who better to serve directly under Donald McDonald, the Chairman of the ABC, than Christopher Pearson!

This particular report raises the question of how government appointments are made. There will never be an absolutely satisfactory balance between the interests of government and the interests of Australia as a whole. It makes it extremely difficult and this government response indicates that there is no absolute solution. I am sick of hearing complaints from Liberal Party people about bias in the ABC when the whole structure of print media, this whole raft of conservative journalists, write on their behalf and they do not even blush; they just accept it as the norm. We will put up with it—we can win government in the face of it. We do not whinge about it but the Liberal Party always does.

Senator MACKAY (Tasmania) (6.30 p.m.)—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

DOCUMENTS
Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report no. 6 of 2002-03—Performance audit—Fraud control arrangements in the Department of Veterans’ Affairs. Motion of Senator Ludwig to take note of document called on. On the motion of Senator Mackay the debate was adjourned till the next day of sitting.

Auditor-General—Audit report no. 7 of 2002-03—Performance audit—Client service in the Child Support Agency follow-up audit: Department of Family and Community Services. Motion to take note of document moved by Senator Mackay. Debate adjourned till the next day of sitting, Senator Mackay in continuation.

Auditor-General—Audit report no. 8 of 2002-03—Business support process audit: The Senate order for department and agency contracts (September 2002). Motion to take note of document moved by Senator Mackay. Debate adjourned till the next day of sitting, Senator Mackay in continuation.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Ferguson)—Order! That concludes the consideration of committee reports, government responses and Auditor-General’s reports. I propose the question:

That the Senate do now adjourn.

I understand that informal arrangements have been made for speaking times in the adjournment debate this evening. With the concurrence of the Senate, I shall ask the clerks to set the clocks accordingly.

Ferguson, Mr Laurie John (Jack) AO

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (6.32 p.m.)—Jack Ferguson joined the Labor Party in 1949, after the fall of the Chifley government. He joined out of gratitude for what the Curtin and Chifley governments had made possible for him, as a young man
who had had to leave school at 13. During his Army service, the Army Education Unit had opened the door to a world of intellectual engagement for Jack. After the war, Labor’s postwar reconstruction program and training schemes had provided him with a trade and with employment.

Labor’s Australia, where all Australians would have such chances, was something that Jack Ferguson passionately believed in. He soon became a full-time organiser for the Building Workers Industrial Union, showing his energy, his determination and his reliability. Even as a young man, those older than he trusted him with positions of responsibility and authority. He always proved worthy of their trust. Jack Ferguson always delivered. He delivered for the workers. Passionate about education and opportunity, passionate about sharing the world of books that had added so much richness to his own life, he fought hard, as an alderman on Parramatta City Council, to establish a public library system in Parramatta, with a branch, of course, in his home suburb of Guildford.

At a time when the ALP was very much divided between the Catholic Movement or ‘Groupers’ and the anti-Grouper forces, Jack was an anomaly as an anti-Grouper Catholic. How he became so is an example of one of Jack’s great strengths: that he judged people on what they did, not on dogma. When the Movement sought to set up a chapter in Guildford, Jack, as an active Catholic and active in the ALP, was naturally invited to the first meeting. A speaker from NCC headquarters came out, and Jack sat and listened and became more and more convinced—convinced that what he was hearing was utter garbage.

Jack knew plenty of communists. He worked side by side with them on building sites; he worked side by side with them as a union organiser. He thought that they were good blokes working hard to advance the interests of the workers. He was not interested in hearing them slandered.

Jack became active in the local anti-Grouper forces and got involved in the bitter local struggle for control of the ALP branches in Granville and Reid. When a redistribution created a new seat, Merrylands, to be first contested in 1959, Jack abandoned his plans to contest preselection for Granville. Granville would have been a safe Left seat and a safe Labor seat; Merrylands, with its half-urban, half-rural demographic and its strong Grouper presence, was a much more dicey proposition. Jack felt that it was his duty to try to win that preselection and win that seat, and he did it, in a very tight contest on both counts.

As a parliamentarian, he pushed relentlessly for sewerage, roads, schools, hospitals, public housing—the kinds of services and benefits that let Australians, no matter what their circumstances at birth, make the best of themselves. He knew first-hand how necessary it was for the government to provide those kinds of services. He knew that his life would have been very different if a Labor government had not provided him with the chances that his parents had not been in a position to give.

He was a lion of the Left and remained so even when his duties as Deputy Premier left him without time to attend meetings. Saying ‘Jack doesn’t think much of that’ was enough to kill most proposals. He had an unmatched power of moral persuasion, based on the fact that no-one—neither factional allies nor factional enemies—could deny his genuine commitment to bettering the lives of working men and women. Even at a time when the Left was regularly defeated at state conference by sheer force of numbers, there were occasions when Jack Ferguson could persuade machine men like John Ducker to change their minds and accept his arguments by the force of his advocacy and the power of his example. When the New South Wales head office decided that Neville Wran was the potential leader who could take the New South Wales Labor Party to victory, it was Jack Ferguson who made it possible. The parliamentary Right did not support Wran. As Marian Wilkinson wrote: ... it was Ferguson who patched together votes from the Left, the anti-Catholic Masons and the mavericks to support Wran.

Jack Ferguson’s position on that ticket as deputy leader made the ticket possible. As Laurie Brereton would later say: Ferguson was the ticket, he was the ticket.
Jack Ferguson was Wran’s loyal deputy and friend. He made the election of the Wran government possible. He was essential for its strength and longevity. For my part, I first met Jack in the early seventies. From time to time as a Young Labor activist I would call around to the Ferguson home at Guildford Road, Guildford, to plot some Young Labor outrage with Laurie. On the weekends Jack would be there, inevitably dressed in shorts and singlet, mowing the lawns or gardening. Mary Ferguson would always offer a cup of tea. Jack would always be gruff. I am certain he thought we were all a bit mad. He was probably right.

In those days, Jack’s work on the New South Wales ALP credentials committee was legendary. We, the young Left, would hear reports of his efforts at Left meetings. A good number of federal and state MPs owe their parliamentary careers to Jack’s and fellow Left warrior Delcia Kite’s painstaking credentialling. There is no better example than his role in assisting Peter Morris, the choice of the local rank and file party members, to win Labor preselection for Shortland for the 1972 federal election. I well remember travelling for hours during the 1975 federal election campaign to hear Jack, then the deputy opposition leader in New South Wales, deliver a campaign speech from the rotunda in Parramatta Park. It was worth it.

I will never forget Jack’s role in the famous rules change debate at the 1979 New South Wales ALP conference. In 1979, the New South Wales party officers had proposed to admit MLCs to the state parliamentary caucus in order to hand the choice of the New South Wales parliamentary leader to the New South Wales machine. At the conference in the Sydney Town Hall, Jack Ferguson got the call. At the microphone, as the then Deputy Premier of New South Wales, he commenced his speech with these words:

Ferguson—Building Workers Industrial Union.

Nearly half the delegates on the floor of the Sydney Town Hall and all the public gallery—filled to overflowing with rank and file party members—were on their feet applauding. No premier, no Prime Minister, no delegate has ever had such a reception. The speech he made then remains the greatest Labor Party speech I have ever heard.

At the time of the 1979 rules debate I worked for the New South Wales Minister for Sport and Recreation, Ken Booth, a very close comrade of Jack’s. Jack always called him ‘Boothy’ or sometimes ‘Old Bushy Tail’. He called him ‘Old Bushy Tail’—because, according to Jack, he was more cunning than a fox. But Jack was loyal to Ken Booth. He wanted Boothy to succeed him after he retired as Deputy Premier in 1984. It was one of Jack’s great regrets that that did not happen. The consequences of the ballot to determine Jack’s successor as the next Deputy Premier of New South Wales still reverberate through the New South Wales Labor Left.

In the early 1980s the leadership of the New South Wales Left met over sandwiches in Jack’s office, maybe every two or three months. As the new Assistant General Secretary of the New South Wales Labor Party—from another generation, if you like—I was made welcome. I was there along with Arthur Giezelt, Bruce Childs and Jack Garland. These were heady meetings for me as we discussed the federal, state, organisational and machine issues of the day.

Tonight, I want to acknowledge how much Jack Ferguson encouraged and supported many of my generation from the Left of the Labor Party in New South Wales. I know we frustrated him at times. I know we angered him at times, but he stuck with us. He was very supportive of me personally, even when he thought I was wrong. He hooked me out of some very hot water and he did it more than once. When I really went over the top, he would just say, ‘Oh, Johnny!’ He was one of the few people who ever called me Johnny; he always did. Whenever I heard, ‘Oh, Johnny!’ I knew I had gone too far. From time to time, the Left faction in New South Wales, then called the steering committee, made decisions that were embarrassing or difficult for the then Deputy Premier, but the great thing was that he would abide by the collective decision.

I last saw Jack 11 days before he died, when Rodney Cavalier and I visited him in Balmain Hospital. He was in top form al-
though he had been seriously ill for many months. We talked about politics, people, books and history. As always, he had something worth saying and something worth listening to. Jack Ferguson was often held up as an example of politics being the art of compromise: the left-wing leader who served as a loyal deputy leader in a pragmatic Labor government; the Catholic who joined forces with the communists. His ability to see past dogma and to be flexible in pursuit of the best interests of working Australians does indeed make him a great example. However, we do him a disservice if we do not remember that his career was founded on one inflexible iron law, one that he believed applied to all elected representatives of the people: never forget who put you here, and never forget why. Jack never forgot. And his many comrades and colleagues throughout his working and political life will not forget him. To Jack’s wife, Mary, to his five children, Laurie, Martin, Deborah, Andrew and Jennifer, and their families go our thoughts and our sympathy.

**Education: Mr John Watkins**

Senator TIERNEY (New South Wales) (6.48 p.m.)—I rise tonight to bring a matter to the attention of the Senate regarding the misleading and incorrect statements made in state parliament this week by the New South Wales Minister for Education and Training, John Watkins. Minister Watkins’s comments were in relation to the federal government’s review of higher education. I would now like to clarify in this place that Mr Watkins’ comments were mischievous and they should embarrass the Carr Labor government because they are so wide of the mark. The very unfortunate thing is that Mr Watkins was misleading the entire parliament and the people of New South Wales, particularly the people of rural and regional New South Wales. In state parliament, Mr Watkins said:

If the federal government gets its way ... all of these institutions—

he was referring to regional universities—

could be at risk ... The centrepiece of Dr Nelson’s reform plans is the proposal to create teaching-only universities ... making regional universities second-class citizens of the higher education community.

Let me make it clear that the federal government has no intention to move back to teaching-only higher education institutions. The old CAE days are well behind us. The review of higher education is about stimulating discussion on the challenges before us in Australia’s universities.

In response to Minister Watkins’s comments, federal Minister for Education, Science and Training, Dr Brendan Nelson, stated that Mr Watkins must have been aware that these statements were untrue. He said:

I informed him along with the other State and Territory Ministers ... in July that Australia would not be returning to a two-tier system of universities with some becoming ‘teaching-only institutions.’

The Howard government will promise not to take funding away from these institutions— unlike the state government, which is pulling a considerable amount of money out of our universities.

With regard to the compliance costs of a whole range of measures that the state governments put on universities, the Senate should be aware that when the states pass these laws they do not include a funding package; they expect the university to cop the additional costs. Perhaps we should have conditions and set up a system whereby, when legislation is passed that impacts on our universities under state government law, they are required to put up the money to bring in those sorts of measures. There has been a massive range of such measures including occupational health and safety and EEO principles. I am not saying that there is anything wrong with those things, but they have to be funded and it should not come out of the university’s recurrent grant; it should come from the funding pot of the government which wants to put those measures in. Perhaps they would think twice about putting some of these measures in if they had to provide the funding for them.

However, the biggest rip-out of funding from the universities by the state governments comes through the payroll tax system. Each year, they pull $97 million out of New South Wales universities in payroll taxes.

Senator Abetz—Shameful!
Senator TIERNEY—Let us consider a few universities. The University of New England loses $4½ million in payroll tax. That would employ a few extra academics. It would buy a few books and reduce class sizes.

Senator Abetz—What do the unions say about that?

Senator TIERNEY—It is interesting that you raise that, Senator Abetz. I have not heard the unions raise a peep about the money that is being taken out. In the University of Newcastle, $8.4 million comes out every year. Over 10 years that compounds to about $100 million in those sorts of taxes—and that is only the start of the charges and the money that is withdrawn by the state government. Of course, this obviously hurts the capacity of the universities. In the two cases where I quoted what Minister Watkins said on Tuesday, universities are at risk. If they are, it is no wonder, given the state government’s financial treatment of them. In contrast, at the federal level we are actually putting money back into these universities. In the 2002-03 budget, the increase was 5.8 per cent. It is about time some of the state governments saw what regional drivers of economies universities are and got on the front foot and were proactive to try to support them rather than to hobble them.

It might be instructive for Minister Watkins to understand what this review is all about. It was established six months ago by Dr Nelson to have a very thorough look, across a very wide range of areas, at ways in which we can change the nature of our universities—their structure, their governance and the way they are funded—to help them meet the challenges of the 21st century. The paper raises issues such as global competition, technological developments, social and environmental issues, demography, labour market changes, and fiscal capacity. The discussion papers, which are more detailed, are also very instructive. We invite Minister Watkins to read these, particularly the one that should bring him up to date a little more, given his attack on Tuesday, which is ‘Varieties of excellence: diversity, specialisation and regional engagement’. Other papers include: ‘Striving for quality: learning, teaching and scholarship’, ‘Setting firm foundations: financing Australian higher education’, ‘Achieving equitable and appropriate outcomes: Indigenous Australians in higher education’, ‘Meeting the challenges: the governance and management of universities’ and ‘Varieties of learning: the interface between higher education and training’. These papers have set the groundwork for very wide ranging discussions and debate across the community. We have put out all the key issues in those papers. Minister Nelson has invited the public, academics and students to put in all their views. The whole process is very inclusive. Given its thoroughness, I believe that we will come out of that process with a very clear picture of the way forward for university education in Australia.

The Labor Party would make out that the universities are ‘in crisis’. They held an inquiry last year and used that as the title. But universities are not in crisis in this country. We have a very strong university system and we have a very high level—an increasing level—of participation by young people in the system. In 2001, there were 487,000 students at universities in Australia—that is almost half a million students. In 1955, there were 30,000 students. We have gone from 30,000 to 500,000—a 15-fold increase—over a period of just under 50 years. That is very impressive. What do the students think about that education? After that rapid expansion across the system, which obviously would have created strain, the rate of graduates’ satisfaction with their courses is 90 per cent. That is the ultimate bottom line; the ultimate test is satisfaction with what is happening.

What we want to do now is move the universities forward again in this new era as we move into the information age, with all the challenges and opportunities that that brings for the students and for our nation. We have a huge number of international students enrolled in our universities—Australia is a preferred destination and the university sector is now a major earner of export dollars. We need public figures like Mr Watkins to support our university system—not to degrade the system, not to spread misleading and mischievous stories about what is likely to
happen in the universities. He has been caught out; it has been proven that he told lies to the parliament in New South Wales and he should get up in that parliament next week and apologise.

Tasmania: Foxes

Senator MURPHY (Tasmania) (6.57 p.m.)—I wish to speak briefly tonight about an ABC program known as Catalyst. On the face of it, Catalyst would generally appear to be a well researched, reasonably responsible program which is often educational. But on Thursday, 12 September this year, they ran a program called Tassie Fox: A Biosecurity Threat. The reporter, Jonica Newby, the producer, Naomi Lumsdaine, and the researcher, Geraldine McKenna, in preparing that program were either lied to or failed to do any real research at all. When the program commenced, the narration said:

2 years ago, a group of environmental vandals committed an unthinkable crime. They hand reared up to 19 fox cubs and released them into the previously fox free Tasmanian wilderness. It hard to comprehend that such a petty act has unleashed the greatest extinction threat since Tasmania’s last ice age 10,000 years ago.

Following that, there was a comment from the fox task force officer, Nick Mooney: Bringing foxes into Tasmania is probably the most foolish and stupid thing I could think of being done.

Then there was a comment from Mr Clive Marks, who is a fox expert based in, I think, Victoria. He said:

I would call it an example of bio-terrorism; we're dealing with something which is akin to September 11 for our wildlife in Australia.

Frankly, I have never heard such a load of rubbish in all my life. The reality is this: the police conducted an extensive investigation in Tasmania insofar as it related to the introduction of foxes into the state by a person or persons unknown. Let me read to you the report of the police. I hope that the people involved in Catalyst take the opportunity to listen to this information. There was an extensive investigation conducted by four detective constables and an officer from the National Parks and Wildlife Service. That investigation, among other things, said:

The reports that were received seemed to be very reliable and indicated that three people were involved in the importing, raising and release of 11 fox cubs in Tasmania. At this point in time we are unaware as to how many people were involved in the capture from Victoria of these fox pups. It is alleged that these pups were brought into the state over the Launceston show week of 1999 via the boot of a vehicle travelling on the Spirit of Tasmania. The pups were allegedly raised on a property in the Longford area in a pen in the bush until they were adult-size, approximately two months.

I do not have the time to read all of it, but the conclusion states:

In this inquiry with our agenda in mind I make these summations and also take into account the other role of wildlife personnel on alleged sightings etc. That there is no solid, physical, forensic, scientific evidence to support any findings of illegal importations of fox, or presence of fox, in Tasmania. With our agenda in mind I cannot explain the full contents and information that came to be in the minister’s briefing note. I can say that our investigation was a totally negative finding.

There is another person who has been involved in this whole series of allegations about foxes in Tasmania. Mr Eric Bosworth at Symmons Plains has alleged that he shot a fox. He has made many public statements to the effect that there is a ballistics report that says that his rifle shot the fox. I have in my hand the ballistics report of the Tasmanian police. It says:

I have made an examination of a .22 WMR calibre CZ bolt action rifle serial number 7235225 and three bullet fragments removed from a dead fox which were submitted to our office on 28 September 2001. This examination revealed the following:

1. The rifle is in excellent condition and capable of discharge. No further examination was deemed necessary upon the rifle.

2. The bullet fragments were extremely small, damaged from the impact and calibre cannot be determined. They were all lead fragments without copper wash or copper jacketing. No class rifling characteristics are present on the fragments and they are unsuitable for further examination or comparison. Unfortunately on this occasion I cannot offer more useful information.

A further police report of 13 July 2001 says:

With reference to exhibits obtained, there is no evidence to support the existence of a fox.
Summary: the inquiries conducted by the task force has concluded that the original source of information cannot be corroborated by any material of fact or evidence. The briefing notes cannot be corroborated other than the existence of persons mentioned and no corroborative evidence to suggest any involvement in fox conspiracy.

There is no evidence available from the inquiry that there is an illegal importation of foxes by shooters in the Perth area. There is no evidence available from the inquiry that there has been illegal importation of foxes by any known group of civilians. All civilian sightings in the Hadspen Carrick region are not corroborated—I repeat: not corroborated—by any scientific evidence and can be explained. Mr Peter Mooney, at that time the search team coordinator for National Parks, has not established that foxes are in Tasmania and nor is there one single piece of evidence to corroborate that assertion. And yet an ABC program called *Catalyst* can make a very clear and concise statement that two years ago a group of environmental vandals committed the unthinkable crime. I say to *Catalyst*: on what basis do you make this statement, because it is the greatest load of crap that I have ever heard?

The PRESIDENT—I think you had better withdraw that.

Senator MURPHY—Mr President, on what basis are you asking me to withdraw it?

The PRESIDENT—I believe that it is unparliamentary.

Senator MURPHY—If you think it is unparliamentary, I will abide by your request and withdraw. Let me say that it is the greatest load of nonsense and dishonest reporting that you would ever want to hear. The fact that people like Peter Mooney from the Tasmanian National Parks and Wildlife Service and a guy known as Chris Emms, who is on the fox free task force, would have allowed this program to run that line shows just how dishonest they are being in this process.

Remember this: $400,000 of Commonwealth money has been invested in this search for foxes. The fox free task force have embarked upon a 10-80 poison bait campaign. They say they have had one bait—one out of whatever number they have put in the ground—that has been taken by an alleged fox. They now want to go around and find dogs that can find foxes. I have been a recreational hunter for most of my life. I have shot thousands of foxes. Given that the fox free task force has had over 300 fox sightings in Tasmania, whether there is one or whether there are 10 or 19 they still cannot find one. They will not involve the recreational hunters of the state—for what reason I do not know. I suspect that they do not really want to find a fox because, if they did involve the recreational hunting fraternity in the state, they would find a fox if one were there. That is the challenge for them, and I hope they may well take it up.

I hope that the Tasmanian government has the balls to make sure that these people do the job that they are being paid to do. Over $2 million is committed to this program over three years, and that is a problem that the state of Tasmania can do without. We do not want foxes but, let me tell you, involve the people who can actually do the job, not a bunch of jerks from the National Parks and Wildlife Service who want to continue to be paid out of these funds for doing little.

Telecommunications: Broadband Internet Connections

Senator LUNDY (Australian Capital Territory) (7.07 p.m.)—I think it is fair to say that we all need to get ready for 12 months of bread and circuses from the government and Telstra. They are attached at the hip, and they are as one in their absolute focus on privatisation at the expense of the real issues both of them should be facing. The Estens inquiry will provide the forum for this exercise.

If they were looking beyond next year, Telstra would be thinking about modernising their network. If the government were looking beyond the next year and beyond privatisation, they would be thinking about how it could create the type of competitive marketplace needed to ensure that Australians have broadband communications infrastructure fit for the new century, at prices they can afford. But Telstra’s corporate leadership is committed to minimising costs and maximising short-term profits. Building a network for the future has never been a priority for a company locked in a mutual agenda of privatisa-
tion with the coalition. What Telstra mean by ‘creating shareholder value’ is squeezing every last dollar out of their existing copper local loop while spending as little as they possibly can to satisfy the public clamour for a modern, effective network. Building national broadband infrastructure does not factor into this equation.

Telstra will use its vast capital reserves to try to buy approval for privatisation from rural and regional customers by throwing money at shallow initiatives and non-essential features on an ageing network. This bread andcircuses approach will not future-proof the network—far from it. Evidence shows that Telstra’s main broadband product, ADSL, has severe limitations. By Telstra’s own admission, up to one million consumers on Telstra’s copper local loop are blocked from accessing broadband services because of the company’s decision to use so-called pair gain technologies as a cheap alternative to giving consumers the second lines they order and pay for. Add to this the standard limitations of ADSL, which include a maximum radius of about six kilometres—it might be four kilometres or it might be eight, depending on the state of the copper—and a percentage limit of customers in an exchange area, in a given bundle of copper wires. Clearly, ADSL was never designed as some sort of ubiquitous broadband technology or indeed as an effective bridging technology from narrowband to broadband. Rather, it was a stopgap measure.

These limitations primarily affect people in outer metropolitan, regional and rural Australia, but customers in metropolitan cities are not immune. Looking at these limitations from a geographical perspective is very informative. For consumers who are more than about six kilometres from an exchange, there is no alternative broadband service available through the copper network. The only hope is connectivity via satellite. This is expensive, and, unless the consumer is eligible for the extended call zone subsidy, it is not an affordable broadband service. This combination of inadequate technology and subsidies means Australia is a nation of telecommunications doughnuts. People in the doughnuts—that is, outside Telstra’s ADSL reach but inside the government’s satellite subsidy zone—are in the ‘affordable broadband free’ zone. These doughnuts are one of the most significant policy challenges in telecommunications. Unless a solution can be found to deliver affordable broadband to people in this zone, there will never be ubiquitous broadband internet connectivity in Australia. Services will never ever be ‘up to scratch’.

The solution lies in building broadband local loops that can somehow extend into those long roads and into the doughnut areas. However, experience to date has shown it is extremely difficult to build a new broadband network unless it is somehow associated with the infrastructure of existing utilities. In other words, it is made possible by the utilities’ economics—economics which historically only governments have had the patience to cope with. A number of broadband infrastructure providers are rolling out such networks. But, in order to prevent the need for an interconnection policy for these new broadband networks in the future, there is a real public interest test that should be applied. They should be open networks—that is, they should be networks that carry the retail services of any provider willing to lease the bandwidth necessary to deliver them. Supporting an open network approach for new communications infrastructure is a smart approach that would show we have learnt from past policy mistakes.

Senate adjourned at 7.12 p.m.

DOCUMENTS
Tabling

The following documents were tabled by the Clerk:

Civil Aviation Act—Civil Aviation Regulations—Instrument No. CASA 521/02.


Departmental and Agency Contracts

The following documents were tabled pursuant to the order of the Senate of 20 June 2001, as amended on 27 September 2001:

Departmental and agency contracts—Letters of advice—2002 spring sittings—
Indexed Lists of Files

The following documents were tabled pursuant to the order of the Senate of 30 May 1996, as amended on December 1998:

Family and Community Services portfolio—
  Centrelink.
  Child Support Agency.
  Department of Family and Community Services.
  Social Security Appeals Tribunal.
  Veterans’ Affairs portfolio.

Indexed lists of departmental and agency files for the period 1 January to 30 June 2002—Statements of compliance—
  Family and Community Services portfolio—
    Centrelink.
    Department of Family and Community Services.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Defence: Staffing
(Question No. 592)

Senator Chris Evans asked the Minister for Defence, upon notice, on 28 August 2002:

(1) Can the following information be provided for each of the following periods, September 2000 to 30 June 2001, 1 July 2001 to 30 June 2002 and 1 July 2002 to date: the number of enlistments by Manpower to: (a) the permanent force, by service; and (b) the reserves.

(2) In terms of cities, towns and regional localities, what are the areas in southern New South Wales in which Manpower’s trial is being conducted.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) (a) and (b)

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(2) The Manpower trial is conducted in all cities and towns located south of the Sturt Highway in southern New South Wales. The regional office for this trial is located in Albury, New South Wales.

Education: University Funding
(Question No. 601)

Senator Carr asked the Minister representing the Minister for Education, Science and Training, upon notice, on 30 August 2002:

With reference to: (a) table a8, part b, ‘university operating expenses before abnormal items’, on page 54 of the ministerial discussion paper, Higher Education at the Crossroads, the total percentage change for the period 1991 to 2000 is given as 91 per cent; and (b) the answer tabled in the Senate as additional information in response to Senator Carr’s question without notice of 27 August 2002 which reads, ‘Between 1991 and 2000 … the expenses (before adjustments) rose by 89 per cent, not the 91 per cent quoted by Senator Carr’:

(1) Has the Minister provided two conflicting figures for the growth in university operating expenses between 1991 and 2000.

(2) Which of these figures is correct.

(3) What is the difference between the terms ‘abnormal items’, in the ministerial discussion paper, and ‘before adjustments’ in the additional information provided to the question without notice.

Senator Alston—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

(1) The percentage growth in expenses between 1991 and 2000 as published in Higher Education at the Crossroads was inadvertently calculated incorrectly by my Department.

(2) The precise figure for 1991 in Higher Education at the Crossroads should have been $4,767,247,000 rather than the stated figure of $4,780,383,000. The difference between the 1991 corrected figure of $4,767,247,000 and the year 2000 figure of $9,006,266,000 is 88.9 per cent (rounded to 89 per cent).
(3) There is no material difference between the terms ‘abnormal items’ and ‘before adjustments’ in the quotations referred to.

**Immigration and Multicultural and Indigenous Affairs: Superannuation**

(Question No. 611)

Senator Sherry asked the Minister representing the Minister for Immigration and Multicultural and Indigenous Affairs, upon notice, on 30 August 2002:

(1) For each department within the Minister’s portfolio, how is superannuation calculated (ie. is the superannuation entitlement calculated on base salary and other income payments, such as overtime allowance or performance bonuses, or on base salary alone).

(2) If the department calculates superannuation on a broader basis, by incorporating all income payments in the calculation of superannuation entitlements, but allows employees to opt out of this arrangement so as to reduce the base upon which superannuation is calculated, what proportion of employees do this.

Senator Ellison—The Minister for Immigration and Multicultural and Indigenous Affairs has provided the following answer to the honourable senator’s question:

(1) and (2) Within the department superannuation is generally calculated for employees on base salary. Certain allowances may be included as provided for under the relevant Commonwealth superannuation legislation such as higher duties allowance where it is on a temporary and continuing basis for periods in excess of 12 months. Overtime allowance or performance bonuses are not included for the purpose of calculating salary for superannuation purposes.