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The DEPUTY PRESIDENT (Senator Hogg) took the chair at 9.30 a.m., and read prayers.

BUSINESS

Rearrangement

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

That government business order of the day no. 1, relating to the dates for estimates hearings for 2003, be postponed till a later hour.

Question agreed to.

BROADCASTING LEGISLATION AMENDMENT BILL (No. 3) 2002

First Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (9.31 a.m.)—I move:

That the following bill be introduced: A Bill for an Act to amend the law relating to broadcasting, and for related purposes

Question agreed to.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (9.31 a.m.)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (9.31 a.m.)—I table an explanatory memorandum relating to the bill and I move:

That this bill be now read a second time.

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

Leave granted

The speech read as follows—

The Broadcasting Legislation Amendment Bill (No. 3) 2002 makes various amendments to the Broadcasting Services Act 1992. These amendments:

• change the HDTV quota from a weekly to an annual quota;

• clarify the requirements for program content to be counted towards the HDTV quota;

• allow advertising and promotional material to count towards the quota; and

• delay the commencement date for the statutory review of HDTV quota arrangements.

These changes give effect to the Government’s 2001 election policy that it would consider amendments to the digital broadcasting regime in relation to HDTV arrangements.

The Broadcasting Services Act 1992 currently requires broadcasters to transmit 20 hours of HDTV content per week from two years after the commencement of the simulcast period in their area. The Broadcasting Legislation Amendment Bill (No. 1) 2002 introduced to Parliament earlier these sittings, will have the effect of delaying the commencement of the HDTV obligations in mainland State capitals until 1 July 2003.

There is currently no provision for meeting the quota requirements by averaging content over a longer period than one week. This Bill amends the requirements so that broadcasters are required to transmit at least 1040 hours per annum of HDTV content—this is the annual equivalent of 20 hours per week. This will provide greater flexibility to broadcasters in the way in which they meet the quota, and avoid situations where programming decisions that are not commercially sensible are made simply to satisfy the quota. At the same time, it will ensure that HDTV programming is available for people who wish to purchase HDTV receivers.

The current legislation does not indicate how non-HD material included in HD programming is to be accounted for in the HD quota. The Bill makes it clear that where only part of a television program meets the requirements of a HDTV program, only that part should be considered a HDTV program for the purposes of the HDTV quota obligations. In cases where HDTV programs contain an insubstantial amount of archival material, that material may be counted towards the total requirements for HDTV programming.

In addition to this, the Bill also includes provisions making it clear that any advertising and sponsorship, community service announcements, station or program promotions, news breaks or weather bulletins or similar material broadcast during a HDTV program or part of a HDTV program can be counted for quota purposes. This is consistent with the administration of similar obligations under the Australian content standard.

The amendments contained in the Broadcasting Legislation Amendment Bill (No. 1) 2002 mean that HDTV transmissions will not be required to
commence until 1 July 2003. There would be very little experience on which to base the review if it were conducted at the time currently required, 1 January 2004. This Bill therefore proposes that the review into HDTV quotas required by 1 January 2004 be delayed until 1 July 2005, two years after the commencement of HDTV requirements.

The Government remains committed to HDTV as an important component in the digital television regime, and believes that it will continue to be one driver in the take up of digital television. These amendments, in conjunction with the Broadcasting Legislation Amendment Bill (No.1) 2002, provide broadcasters the flexibility required to meet commercial and programming demands. The Government will now be looking to broadcasters to provide a range of HDTV programming for consumers who wish to take advantage of the high quality viewing offered by HDTV. The onus will be on broadcasters to ensure that such programming is available on a consistent basis throughout the year. When it comes to review the HDTV regulatory arrangements, the Government will consider the quantity and quality of HDTV programming which has been provided under these new flexible arrangements, and how this is meeting the expectations of existing and potential digital television viewers.

Ordered that further consideration of the second reading of this bill be adjourned to the first day of the next period of sittings, in accordance with standing order 111.

BUSINESS

Consideration of Legislation

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) 9.32 a.m.—I move:

That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002, allowing it to be considered during this period of sittings.

Senator BROWN (Tasmania) (9.32 a.m.)—I raise an objection. This is another classic case of a major piece of legislation, in this case the Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002, which ought to be a matter of communication and advice-getting between members of the Senate and community groups and individuals—and there are many of them affected by this piece of legislation—before it is considered by the Senate. The aim of the cut-off here is to have it dealt with in the next 48 hours.

That is a complete abrogation of proper form. It is no way to treat legislation like this. I say to the Minister for Family and Community Services: get your legislation in here in time for it to be adequately dealt with by this house of review. We are seeing a welter of pieces of legislation—and it is growing every year—being exempted from the cut-off by the government and I hope the opposition does not support this one. The whole reason for standing order No. 111 is to ensure that we do not get avalanched by legislation at the last minute so that the Senate is prevented from having proper time to adequately deal with that legislation and get advice from the community. That is what must happen here if this cut-off is applied and this legislation is put on the agenda for the next day of sitting, which is tomorrow, after which, as you know, Mr Deputy President, we rise until February.

This should be dealt with in the postsummer sittings. It is totally wrong for this piece of legislation to be exempted from the cut-off. I would like an oral explanation to the Senate as to why this piece of legislation should be exempted from the cut-off. There is nothing to justify this in the written explanation we have had from the minister. Let us hear a case in point as to why the government should be shoving this on to the Senate, effectively to be dealt with without proper consultation with the community and the community groups who are involved in it.

Senator Ferguson interjecting—

Senator BROWN—We had an interjection opposite. I did not quite hear it, but as you know, Mr Deputy President, that would be disorderly from the government.

The DEPUTY PRESIDENT—Order! I do not need you to rule on those things, Senator Brown. Just address your remarks to the chair and ignore disorderly comments from this side.

Senator BROWN—I will do that, but it is disorderly for there to be interjections, Mr Deputy President. What is not disorderly and what is required in good form in the Senate
is for the minister to get up and explain why this piece of legislation should be shoved through here in such an unseemly, unwarranted and improper way.

Senator GREIG (Western Australia) (9.35 a.m.)—This appalling legislation is in no need of haste. If anything, we need strong and thorough consideration of this Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002 to look at its repercussions. The legislation proposes to extend breaching provisions to special benefit recipients, that is, those newly released from detention centres. We are talking about refugees and asylum seekers here, many of whom would have no comprehension of the agreements they would be entering into, particularly if they have little or no English. We Democrats will be proposing amendments to the legislation which also need, I think, proper consideration by the government and the wider community. These amendments would, for example, prevent breaches for at least the first 26 weeks for those people affected by this legislation, thereby enabling that person to take appropriate language and literacy programs. I think that is entirely reasonable and responsible. There is no haste and urgency for this. As it stands, there was an agreement from the major parties, and, I understand, the cross-benches—certainly from the Democrats—that this is not something that we would progress with unseemly haste; it was something that could well rest over the break, as we do, and then we would return to this next year. That was the agreement.

Then we find, at the eleventh hour, that the opposition has backflipped on this and now insists that this legislation is desperately needed. There is absolutely no evidence that that is the case. We need to take time to consider this appropriately and sensibly and we need to thoroughly understand the appalling consequences of the passage of this legislation. This sitting period is not the time to do that. We have a strong legislative program, much of which, at least today, is going to be consumed by the ASIO legislation, whereas this is legislation that can and should be dealt with next year. The Democrats will not support any urgency or requirement for this bill to be dealt with today or, for that matter, tomorrow.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.38 a.m.)—I want to make a few remarks because I think it is unfair to say that the Family and Community Services Legislation Amendment (Special Benefit Activity Test) Bill 2002 is being rushed or that we are in some way not allowing the Senate to fully consider it. In fact, the bill was introduced into the House of Representatives on 26 September this year, so it has been available for public comment and scrutiny since that day. It was referred to the Senate Community Affairs Legislation Committee on 16 October. I think that committee was to have reported originally by 11 November but it sought an extension and reported on 2 December. So the legislation was before that committee for a lengthy period.

For the benefit of the community, it is fair to say that when bills go to a Senate committee the terms of reference are usually advertised and the committee writes to all of the relevant stakeholders and seeks their views. Senate committees consider those views and they call witnesses before the committee to test their evidence and elicit further evidence. It is a very diligent process and it is a process that, on many occasions, improves the bills from the government’s perspective as well as the parliament’s perspective. Of course from time to time the government gets frustrated when its bills are referred to committees, thus delaying the legislation, because we always tend to think that our legislation is a perfect creation when it comes off the draftsman’s pen. But that is not always the case and bills can be improved by committees.

This bill has already been subject to Senate committee scrutiny for more than a couple of months. The process is that, when we seek to exempt a bill from the so-called cut-off order, or standing order 111, we distribute and publish to the world the reasons why we want it exempted from that standing order. We do so in what is called ‘a statement of reasons’. This statement of reasons gives one very good reason, and that is the initiatives
contained in this bill commence on 1 January 2003. To consider the legislation after 1 January 2003 would make it impossible for that bill to commence on the date that we require it to, so there are very good reasons to exempt it. Some people in the Senate would prefer to see the bill not come into law and see it delayed. Some senators would argue that virtually any bill on the Notice Paper could be delayed on the basis: why do today what you can put off until tomorrow.

I have to say that the Ian Campbell attitude to household maintenance tasks should not be applied to Senate legislative tasks. I think that the Senate should deal with legislation in a timely and diligent matter. Legislation should not be rushed, nor should it be unnecessarily delayed. We seek to ensure that the government’s legislative program is prioritised and dealt with in a way that ensures the community can have some certainty about the laws that affect this land. Quite frankly, we have a greater responsibility to the community than some of the senators on the crossbenches who have little responsibility in terms of the clarity and certainty of the law of this land, particularly as it applies to people who rely on the government for income assistance. It is very important that these matters are put beyond doubt and that they are put beyond doubt before the start-up date of 1 January 2003.

Question put:

That the motion (Senator Ian Campbell's) be agreed to.

The Senate divided.  [9.46 a.m.]

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

Ayes..........  44
Noes............  7
Majority........ 37

AYES
Abetz, E. Barnett, G.
Bishop, T.M. Boswell, R.L.D.
Brandis, G.H. Backland, G.
Campbell, G. Campbell, I.G.
Carr, K.J. Colbeck, R.
Collins, J.M.A. Crossin, P.M.
Denman, K.J. Eggleston, A.
Ellison, C.M. Evans, C.V.
Ferguson, A.B. Ferris, J.M. *
Harris, L. Hogg, J.J.
Hutchins, S.P. Johnston, D.
Kirk, L. Knowles, S.C.
Lightfoot, P.R. Ludwig, J.W.
Landy, K.A. Mackay, S.M.
Marshall, G. McLucas, J.E.
Moore, C. O’Brien, K.W.K.
Payne, M.A. Ray, R.F.
Reid, M.E. Santoro, S.
Scullion, N.G. Sherry, N.J.
Stephens, U. Tchen, T.
Tierney, J.W. Watson, J.O.W.
Webber, R. Wong, P.

NOES
Allison, L.F. * Brown, B.J.
Groig, B. Lees, M.H.
Murray, A.J.M. Nettle, K.
Ridgeway, A.D. * denotes teller

Question agreed to.

AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION AMENDMENT (TERRORISM) BILL 2002

In Committee

Consideration resumed from 10 December.

The TEMPORARY CHAIRMAN (Senator Knowles)—The committee is considering the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 as amended. The question is that opposition amendments (7), (8), (11), (14) to (18), (21), (22), (26), (27), (32), (36) and (38) on sheet 2764 moved by Senator Faulkner be agreed to.

Senator BROWN (Tasmania) (9.51 a.m.)—Last night, we were getting a response from Senator Faulkner on the definition of ‘keeping in custody’, which Labor prefers to ‘keeping in detention’. Senator Faulkner gave a good account of that. Labor’s view is that this legislation is about questioning people who may have information which can help deter terror, whereas the government’s prime impulse in this legislation is to detain people and, during that detention, to question them for the same purpose. There is a difference. It would be good to hear from the minister his response to
Senator Faulkner’s closing comments and explanation of Labor’s position last night.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (9.52 a.m.)—Senator Faulkner has explained Labor’s position, and I have nothing to add. We oppose the opposition amendments for the reasons I have outlined.

Senator BROWN (Tasmania) (9.52 a.m.)—I will summarise that. The government is agreeing with Senator Faulkner’s proposition that this is a detention bill. Its primary function is to detain people, including people who are totally innocent—people who ASIO knows are innocent but who ASIO thinks may have some information that could help. I am very concerned about that, because it means that the government is very well aware that it is giving an instrument to ASIO to take people out of circulation. It can question them as part of that, but the primary impulse here is for the government to take people out of circulation, and there are widespread concerns in the community about this. I refer to the Age editorial of 26 November, headed ‘A clear and present danger to free speech’. It states:

Changes to the ASIO law pose a real challenge to our democratic traditions.

The editor on this occasion went on to say:

In an effort to strengthen the hand of its key security organisation in the fight against terrorism, the Federal Government is amending the law controlling the Australian Security Intelligence Organisation (ASIO). The Age fully supports measures that strengthen the legal framework needed to deal with the threat that all forms of terrorism pose to the Australian community.

Indeed, so do we all. The editorial goes on to say:

The media, as much as any other institution, has an important role to play in combating such evil.

Journalists have no special legal protections attached to their craft. There is no equivalent to the professional privilege that attaches to lawyers, doctors, priests and other professionals to protect communications between journalists and their sources. Instead, journalists depend on the trust they establish with sources and on a strongly held moral and ethical responsibility to protect them from disclosure if necessary. The journalists’ union code of ethics clearly spells this out. The courts have also long recognised that journalists should not be forced to reveal their sources unless it is “in the interests of justice”. Yet, in the strictly legal sense, journalists are in no more privileged a position than others in the community. It is precisely because of this—and note this—that The Age takes exception to some of the measures proposed in the ASIO Legislation Amendment (Terrorism) Bill. Journalists, along with anyone else, would be subject to arbitrary detention under the terms of the amended legislation. They could also be compelled to reveal their sources. This would prevent them—perhaps even worse, discourage them—from doing their job properly. Among the specific proposals are two that are of particular concern.

I interpolate here that we in the committee should take note of this. The editorial also said:

The first is that any person detained can be held incommunicado for 48 hours. After that, they would only be allowed contact with lawyers or others who had security clearance. During the 48-hour period, detainees would not be allowed access to legal counsel, their employees or their families. Parents, advisers or lawyers acting for detainees may be removed if they are deemed to be “disruptive” during questioning.

Remember that under this legislation—and I am interpolating here again—14-, 15-, 16- and 17-year-olds can be held without notification. The editorial went on to say:

Such provisions run not only counter to Australia’s democratic and legal traditions but verge on the draconian. In them are echoes of the sort of repressive regimes Australians have fought wars against.

A second provision of concern would make it an offence subject to a two-year term of imprisonment for the lawyer or representative of a detained person to pass on information about the questioning and detention of that person to an unauthorised third person, such as a journalist. The effect of this would be to cauterise the flow of information, the free flow of which is the lifeblood of a democracy. In its current form this bill seeks to impose serious restraints on freedom of speech and on the way in which a free media operates. That is why in a submission to the Senate Legal and Constitutional Committee we argue that under this law a form of qualified privilege should attach to journalists.

That speaks for itself, but it underscores the great challenge—not just in this legislation but also in the way that we as legislators
meet the sometimes opposing requirements—which is that we should deal with terrorists but in doing so we should not unnecessarily or imprudently infringe upon the great democratic traditions of Australia. I believe that this legislation unnecessarily does that. The minister is now failing to enter into the debate about that very matter. How does the government defend the trammelling of core freedoms, liberties and democratic processes that this legislation entails?

This legislation would allow, in this case, a journalist to be picked up without anybody else being notified and to be held for 48 hours and then for up to seven days—at first without legal representation. Although the editorial did not mention it, she or he would be subject to the threat of five years in jail if she or he did not answer the questions put to them. All that would occur, even if the journalist is in no way suspected of being involved in any terrorist activity but is suspected of having some information which ASIO might want—a phone number, names, contacts—whether or not the journalist has that information. In effect, their liberties are taken away. We must assume this will happen. We are dealing with this reality in projecting ourselves into the future.

Moreover, as the editorial says, this legislation would make it an offence, subject to a two-year term of imprisonment, for the lawyer or the representative of the detained person—for example, a journalist—to pass on information about the questioning and detention of that person to an unauthorised person such as a journalist. The question is: would they even be able to write about their experience? Maybe the minister will answer that question. These are real questions. We must project that these are real circumstances that will happen. These are real situations set up by this piece of legislation. The challenge for the government is to satisfy this committee that the legislation does not do what the editorialist is concerned it does do and that it does what the minister said it does last night—that is, defend fundamental democratic values and freedoms when, on the face of it, it infringes on those things.

The TEMPORARY CHAIRMAN (Senator Knowles)—The question is that the amendments moved by the opposition be agreed to.

Senator BROWN (Tasmania) (10.00 a.m.)—Again, the Minister for Justice and Customs sits there mutely. How can we have—

Senator Ellison—I will answer that, Madam Temporary Chair.

Senator BROWN—When you get the call you will answer.

The TEMPORARY CHAIRMAN—Just a moment, Minister; Senator Brown has the call.

Senator BROWN—It is good to see that the minister is going to get to his feet, because it is an important matter which warrants a response to the committee and therefore to the Senate and to the people of Australia.

Senator NETTLE (New South Wales) (10.00 a.m.)—I am wondering whether the Minister for Justice and Customs is perhaps not aware of the level of community concern about the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 as the minister has not sat through committees and heard prominent QCs, SCs and legal representatives come before the Senate Legal and Constitutional Committee time and time again in two full committee hearings into this legislation. These people expressed their concern about the way in which this legislation curtails our civil liberties and, as Senator Brown read out, the impact that this legislation would have on journalists.

That is just one section of the community that would be impacted upon by this legislation. Equivalent impacts could be felt by the legal profession, or by parliamentarians who are aware of information through their constituents or however they happen to be aware of this knowledge. Impacts could be felt by innocent business partners. We heard examples about people who have rented a house to somebody and are not aware of the activities that are taking place in that house. It could affect people who enter into a whole range of different contractual agreements and are not aware that they also will then be impacted
upon by this legislation and perhaps taken in for questioning.

Under the government’s first regime—their ambit claim—these people could be held in detention indefinitely. There has since been an agreement to move that to seven days detention—seven days of detention for somebody who is not even suspected of being involved in a terrorist activity but who may just have information about those terrorist activities. The reason why we had over 400 submissions to the last committee that looked at this piece of legislation is that the legislation casts the net so wide. Almost all of those submissions listed serious concerns with regard to this legislation. They listed the ways in which our criminal justice system already has the capacity to deal with the concerns that the Attorney-General’s Department and ASIO have outlined.

This evidence has come before the government time and time again. I think it is arrogance and pig-headedness on the government’s part that it is not prepared to listen to these people from the legal profession who continually come up and explain the fundamental flaws with this legislation, whether it be through constitutionality or through the curtailing of civil liberties that exist in other countries in the ways that they have responded to the heightened threat of terrorism. We have heard evidence on so many fronts, from a range of people and groups who will be impacted upon, as to why this legislation is fundamentally undemocratic and should not proceed in a way that undermines our legal process.

The amendments we are debating at the moment have been moved by the Australian Labor Party. They purport to change the nature of the detention regime to one they describe as a ‘questioning regime’ rather than a compulsory detention regime. I would be interested to hear from the Australian Labor Party how they would describe the ongoing detention, outside of the 20 hours that they are proposing, that would be necessary to deal with contact with lawyers, waiting for lawyers, rests and breaks in questioning.

We had people come before the committee and describe how they may want to question somebody brought in under this detention regime and then, in the time that they were doing the questioning, how they may want to go and get a warrant to search the detainee’s premises. The people conducting the questioning may have more information come in during the process which they then need to digest before they continue with the questioning. What sorts of continuation of the detention are the opposition anticipating in this regime they are putting forward? They say they want it to be just for questioning.

Clearly, we sorted out yesterday that ongoing detention is part of the opposition’s so-called questioning regime. What kind of extensions are we expecting to see? Why have we seen no time limits concerning how long people can be held under the opposition’s supposed questioning regime? That was something that came up which the government responded to in earlier inquiries. That is something we have not seen from the opposition in terms of all of the additional time during which no questioning is taking place but when detention is ongoing. We are hearing the opposition—and we will hear more of it later—put up figures, such as those in the Crimes Act, about four hours, eight hours and then a further extension of another eight hours so we have the 20 hours.

We are not hearing from the opposition what they realistically and practically think will be the hours during which people will be detained, because there are all these other circumstances while people wait for interpreters to arrive, while people have a rest and while they sleep off their intoxication. We are not hearing the sorts of hours for which people could be detained and, in the opposition’s proposed model of questioning, we are getting back into the realm of the sorts of detention regimes put forward by the government. So I would be interested to hear what sorts of lengths of detention they are anticipating in their so-called questioning regime.

Senator BROWN (Tasmania) (10.06 a.m.)—I must again note for the Hansard record that the minister is glued to his seat. It is very important that the minister take part in this debate. Is this a sign of things to come that the government is going to absolutely refuse to defend its position on these highly
important matters of freedom and the democratic process? It is absolutely essential that the minister respond on these matters—that he respond to what Senator Nettle has had to say and then respond to what I have had to say, which includes the concern there is in the profession of journalism about the excesses of this legislation.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.07 a.m.)—The record can show that I tried to answer but Senator Brown would not give me the opportunity. Now I have that opportunity, and I will answer. The government does not see any reason why any segment of the public deserves exemption from this bill. There is no reason any segment of the public should be excluded from the provisions in relation to assisting in terrorist attacks. News Limited and the Fairfax group, two big media groups, have different views. I notice Senator Brown relies on the Fairfax argument. News Limited has a different view. They employed lawyers who each had different views. So you can get different views to these arguments. Senator Brown has put forward one. A section of the media has a different view from Senator Brown’s. They believe that the media should not be excluded, and the government believes that no one—and we should not just dwell on the media—should be excluded from these provisions. Everyone is in this together. We all want to assist in the security of our country, and of course we have here a piece of legislation which is essential for that.

Senator Nettle raised some issues and concerns. The government has appreciated the concerns that have been raised, and that is why we have taken on recommendations from the parliamentary joint committee and the Senate Legal and Constitutional References Committee. There have been three parliamentary inquiries. We have followed them closely, we have responded and we have taken on the suggestions, but we do not believe that the situation Senator Nettle has outlined is a realistic one. We do not say that we will have situations where innocent people who have entered into tenancy agreements will be held in custody for seven days for questioning. That, we believe, is not what this bill would do. We disagree with what Senator Nettle says in relation to these concerns, and we cannot take it further than that. We will just have to agree to disagree on that aspect.

We say that there are checks and balances. If you read the report of the Senate Legal and Constitutional References Committee—and I remind senators that it is useful reading—you find that page (xx) outlines extensively some of the safeguards of this legislation. It is acknowledged by the Senate committee that there are important safeguards in this bill. We believe they address the concerns which have been raised, but we are not going to please everybody in the community. You cannot expect that in this situation. We as a government have to make a tough decision. We are making that tough decision in the interests of this country.

Senator NETTLE (New South Wales) (10.11 a.m.)—I would like to respond to the minister’s comment that he does not believe that this legislation would allow for the detention of innocent people. That is quite clearly what this legislation sets out to do: detain nonsuspects—that is, people who have not come before a court, whom a court has not found guilty or who the court has not determined are, under reasonable grounds, even suspected of being involved in terrorist activity. This piece of legislation is designed specifically to detain those people.

Perhaps the minister does not imagine that the example I put forward about a landlord would encompass one of those innocent people being caught in the legislation. Perhaps the minister can provide us with another example of those that he imagines will be caught in this legislation, because that is exactly what this legislation is about. It is about catching innocent people—nonsuspects, people that we do not even assume to have been involved in any terrorist activity—and bringing them in. As the government firstly put forward, it will be an open-ended detention regime. That is something we have not see in other countries which are responding to an increased threat of terrorism. We simply have not seen that put forward in any other country and we have not seen from the government, from the Attorney-General’s
Department or from ASIO, arguments put forward as to why in Australia we need legislation that goes far further than anything put forward in the United States or the United Kingdom.

Why is it that the minister believes that Australians who are not suspected of being involved in terrorist activities need to be detained indefinitely by ASIO with no right to silence? Why is it that the government is proposing this sort of legislation, completely superseding anything else that has been introduced by comparable countries—such as the United States and the United Kingdom—in response to these concerns? Perhaps the minister would like to give us another example of some of the other innocent people and nonsuspects who will be caught by this legislation and whom this legislation is specifically designed to entrap.

Senator BROWN (Tasmania) (10.13 a.m.)—They were good questions from Senator Nettle, and I hope the minister—

Senator Ellison—We are not going to re-hash this simply so that you can spin it out.

Senator BROWN—We are getting to trite interjections from the minister now on important matters. I should point out that, in following the series of amendments on the running sheet, we are now into the heart of the matter of this legislation and it covers quite a bit of territory. I think this debate is very important because it will effectively mean shortening debate on the items serially as they come down the line.

On the matter of journalistic freedoms, I want to go specifically to the submission by Michael Gawenda, Associate Publisher and Editor of the Age, to the Senate committee on 22 November. In that submission he said:

The bill ... permits journalists to be held incommunicado. We cannot conceive of any reasonable circumstances where this is desirable or warranted. Our lawyers should have access to our journalists who are being detained. Our lawyers should also have the authority to fully advise the company on all relevant issues.

I want the minister to go beyond saying, ‘The Murdoch press had a different point of view.’ I think the committee deserves to be given reassurances about the points that Mr Gawenda raises. In his submission he goes on to say:

These are the competing interests we sought to balance in developing our proposal that a qualified privilege—I stress not absolute but qualified privilege—be given to journalists under the terms of this bill.

We urge the committee to recommend a clear test to provide predictability to journalists, editors and sources. Specifically we propose that, for any journalist subject to a warrant under section 34D of the bill, the legal authority—that is the authority issuing the warrant—would have to be satisfied that, firstly, there are reasonable grounds for believing that the warrant is absolutely essential to collection of intelligence that is important in relation to a terrorism offence; secondly, that the intelligence cannot be collected by any other means; and, thirdly, it would not be contrary to the public interest to do so.

After making that specific recommendation, Mr Gawenda goes on to say:

We also believe it is essential that you reverse the evidentiary burden in the bill that a journalist prove that he or she does not have the information or record requested. I do believe we are in danger here of descending into an Alice in Wonderland world where you have to prove a negative in order to avoid going to jail.

Senator Nettle touched on that problem. In looking at the proposed amendment to the legislation put forward by the Age and its publisher and editor, I ask the minister: what is the government’s argument against entertaining such a series of three amendments to ensure that the legal authority—who is being asked to issue a warrant to have somebody taken secretly from the street, or her or his home or workplace—should first be satisfied of the matters that Mr Gawenda puts forward?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.17 a.m.)—The basic flaw is that there is a requirement for absolute satisfaction that you do not have in relation to operational matters. With due respect to the person who wrote that submission, it would render these provisions totally inoperative. We have a substantial test as it is. To consent to a request for the issue of a warrant the Attorney-General must be satisfied that there are reasonable grounds and that the issuing of the
warrant will substantially assist the collection of intelligence that is important in relation to a terrorism offence, and that relying on other methods of collecting that intelligence would be ineffective.

That is a substantial requirement for satisfaction. It is not an absolute one, but to have an absolute one in these circumstances would give a green light to terrorists. You would have such an impossible situation to be met by the issuing authority that you would never get a warrant. No-one would ever issue one, because how could you be absolutely satisfied? You have to have a criterion. The government agrees with that. We have put forward a workable criterion that gives assurance. I can assure the Senate that this will be exercised properly.

Senator Nettle has asked me to give indications of how innocent people will be caught up. We do not believe that innocent people will be caught up, so the question is based on something we do not agree with. Questioning of people will take place as it normally does. Today, people can be questioned by ASIO and the AFP—anyone can be questioned about something. But when a person might be more closely involved you need the requirements that we have mentioned and you need the level of satisfaction before the warrant can be issued. We have that here and I have spelt it out. An absolute satisfaction is not practical at all. I notice that the *Age* is putting forward the Fairfax view, which I mentioned earlier, and News Limited has a different view.

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**Senator Faulkner**—The same circumstances as apply to everybody else—that’s the answer.

**Senator Brown** (Tasmania) (10.20 a.m.)—The minister has just said, ‘I assure the Senate that this power and this discretion by the minister who is asked to approve a warrant will be used properly.’ How can the minister give such an assurance? No matter how satisfied he might be with the incumbent minister, how can he assure us that future ministers are going to use this discretion properly? I will answer that: he cannot. That is why you need to write legislation which is as specific and as clear as possible. When you put the word ‘reasonable’ in there you simply mean that the minister of the day has to think, by her or his reasoning, that it is okay. Of course they will be influenced by the ASIO approach to the minister’s office.

You cannot be assured of such a thing. That is why the legislation needs to be very clear and specific. This is our opportunity to prevent misuse of the legislation, no matter how good the intent of the government is. That is why we are discussing the proposition that the warrant should be absolutely essential to the collection of intelligence. The minister is saying, ‘No, you can’t have that; we want it to be reasonably—in the view of the minister—essential.’ There is a vast difference in these things. This legislation is wide open to abuse. Minister, under what circumstances could a member of federal or state parliament be secretly removed from the streets, or from his or her home, without anybody else in the country knowing where they had gone for days, under this legislation?

**Senator Ellison** (Western Australia—Minister for Justice and Customs) (10.22 a.m.)—Senator Brown has asked whether the warrant could be issued against a member of parliament and whether they would be brought in under these provisions. That is the first question. The second one, which I do not think Senator Brown asked, is: could a member of parliament be asked to answer a question? That is one that I, rather than Senator Brown, pose, because it is all part and parcel of the same exercise. We believe parliamentary privilege would play a role here. However, as to how that would interact, I will take that on notice and advise the Senate.

**Senator Brown** (Tasmania) (10.23 a.m.)—It is a very serious matter, and I take it from the minister that he has not sought that advice before—I would have thought he would have—and that he will advise this committee in the course of its deliberations. You can foresee the situation where a member of parliament is involved, and one might ask the reasonable question which Senator Faulkner referred to a moment ago. Members of parliament are members of the community, and the question is: what immunities
may members of parliament have that the rest of the community does not have? At the outset, the first impulse is to say 'none'. But I am looking at the extraordinary situation, for example, where a member of parliament may be absolutely crucial to the functioning and the deliberations of the parliament, where they refuse to give information that they may have which they think is inimical to the source of that information and they go to jail. We could then see the whole elected representation and the balance of power within the parliament altered under this piece of legislation. So this is a very serious matter. It is extraordinarily serious.

You do not even have to go to the deliberation abuse of the wide-ranging authority that this gives to the Attorney-General to see that the unintentional consequences for our democracy can be very major indeed. Where are the safeguards in this legislation to prevent that sort of situation happening? They are not there. It has not been thought through and the government and indeed the opposition have to look at their failure to understand the consequences of the issuing of a warrant and then the jailing of people in the community. When you are talking about representatives of the community in parliaments, the matter becomes extremely serious. We must think this through. It is no good saying that these circumstances would not happen or that the minister would not use the power under those circumstances. If the minister, the Attorney-General, could not use the powers under those circumstances, then we should have it written in here; that is the common-sense thing to do. There is no such provision in this legislation for such circumstances.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.26 a.m.)—I think I can answer that. I have outlined to the committee the situation, which the parliamentary privileges legislation sets out very clearly. There is no need for it to be set out in this bill. A member of parliament can claim parliamentary privilege for statements made in relation to parliamentary proceedings. But if I, as a member of parliament, am involved in a planned terrorist activity or in terrorist plans, in no way does parliamentary privilege cover the blowing up of a bridge or terrorist activity. Nor should it. I hope Senator Brown is not saying that we should in some way provide for that.

There is no sinister aspect in a member of parliament being subject to these laws just like any other Australian, because what we are saying here is that all Australians are subject to the law and that if any member of parliament has been involved in any suspected terrorist activity then like any other citizen they are subject to the law. But what I did outline was the situation where a member of parliament has said something in parliament on a matter. Then, of course, the question of parliamentary privilege does apply, and the vexed question always arises. You have the O’Chee case, where a question was asked and there was material in relation to that question put forward not in the chamber, as I recall, but outside it. The question was as to the extent of parliamentary privilege attaching to that. Senator O’Chee said that that was privileged at the time because it was material in preparation for proceedings in parliament, namely a question during question time. But really I think that the first issue deals with a warrant being taken out against a member of parliament—yes, that can be done. Of course it can be done and should be done if that member of parliament is able to assist in inquiries into suspected terrorist activity. The questions that can then be put to that member of parliament are as would be put to anyone else in intelligence gathering over serious issues. I can say I would find it very hard to imagine where parliamentary privilege would attach to any situation where a member of parliament could give information relating to terrorist activity.

Senator HARRIS (Queensland) (10.29 a.m.)—I rise to speak to the group of Labor amendments before the chamber at the moment. Before I do that, I will briefly comment on the issue that Senator Brown has raised, and that is that we are not speaking about the correct use of this legislation; we are saying that should a person decide to misuse this legislation for political purposes—and this is no reflection on any existing minister or parliamentarian—then the
ability is there to act. I believe that that is the point Senator Brown is raising very clearly.

To recap One Nation’s position as stated yesterday, we believe that the only alternative is to vote this legislation down. Having said that, I recognise the merit in the opposition’s amendments. Yesterday an amendment was successful in bringing in a sunset clause. One of the very important amendments that the opposition is moving in this particular group relates to substituting a four-hour period under which the prescribed authority, who is the person appointed and given the authority to look after the rights of the person being interrogated, will every four hours during the questioning advise that person that they may seek from the Federal Court a remedy relating to the warrant. This is extremely important because, under the government’s proposal, they only have to do that once in 24 hours. If you can imagine the intensity of an investigation of a person, a 24-hour period is a considerable length of time to be under intense interrogation. Therefore, I believe that Labor’s amendment to bring that back to a four-hour period, in which the person who is overseeing that investigation must again reiterate to the person who is being interviewed that they have a right to seek a remedy through the Federal Court, is important.

To recap, One Nation does oppose this legislation and believes it should be voted down, but it also respects and accepts the Labor Party’s position in trying to do something to improve the legislation. Of all of the amendments, with the inclusion of the sunset clause, I believe the amendment I have referred to is absolutely critical. I indicate that One Nation will support it.

Senator NETTLE (New South Wales) (10.33 a.m.)—The minister has said that any parliamentarian who was planning a terrorist act would be caught by this legislation. That is right: any parliamentarian who was planning to be involved in a criminal activity, as was the case with the gentleman from Western Australia who was taken in for conspiracy. That is an example of the way in which the current criminal justice system can be used to address these concerns that the government is trying to have addressed in this new legislation, which goes far further than anything that we have seen previously.

But what the minister missed when answering Senator Brown’s question about parliamentarians is that this legislation is not designed to detain and interrogate a parliamentarian who may be involved in planning a terrorist act. This legislation is designed to detain and interrogate somebody not suspected of being involved in a terrorist act. This legislation is designed to interrogate somebody who it is suspected may have information leading to instances about a terrorist act—that is, the family or the flatmate of somebody who knows someone who went off to a meeting at which perhaps the planning of a terrorist act was discussed. That is who this legislation is designed to entrap in an interrogation, and in a questioning and detention regime. To clarify for the minister: it is not about a parliamentarian planning a terrorist act, who of course could be caught under current conspiracy laws; it is about throwing that net far wider to include anyone who may know or may be suspected of having information about somebody else or some potential terrorist act being planned in the future.

When we were discussing just one of the groups of people that will be caught by this legislation—the journalists—the minister refuted the arguments put forward by the Fairfax press about the impact that it will have on their profession. He said that News Limited has a different view. Perhaps it would be worth drawing the minister’s attention to an article in today’s Herald Sun, which I believe is part of the Murdoch press and News Limited. The headline of that article reads, ‘Media under threat’. That article goes on to expand on the ways in which journalists will be caught by this proposed legislation that the government is putting forward. It has arguments from the Australian Press Council, who are concerned for journalists as a whole, regardless of which media institution they are a part of. It points out the comments from the Australian Press Council, who say that the situation created
by terrorism does not justify us giving up our historic freedoms.

This is a point of view that has been put forward by other people. Perhaps the minister would like to pass on to the Prime Minister that the Prime Minister’s own hero, Sir Robert Menzies, said in 1939:

... the greatest tragedy that could overcome a country would be for it to fight a successful war in defence of liberty and lose its own liberty in the process.

That is exactly the path we are seeing the Australian government go down at the moment. In the context of fighting a so-called war on terrorism, and in the context of it so often being that lone voice in the US cheer squad for military intervention into Iraq, this government is trying to justify further curtailing the rights of Australian citizens and the democratic freedoms that people have been involved in and proud of defending for so long. Here we have comments from the Prime Minister’s own hero to say that it would be the greatest tragedy if we were to lose our freedoms and liberties in trying to be part of a fight for freedom and liberty. That is exactly what we are seeing this government do right now with this legislation.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (10.38 a.m.)—Although this debate is not focused on the precise amendments that are currently before the chair, it is nevertheless an important debate. It is important that this committee understand that actual involvement in planning a terrorist act is not the trigger for ASIO to want to interview a person under this legislation. That clearly is an offence as a result of the counter-terrorism laws passed in this parliament earlier this year. Under this bill, what is required for a person to be questioned is that that person has information and ASIO can get to it only by interviewing the person. If someone is in some way involved in planning a terrorist act, they are a suspect and they should be treated as a suspect. Because of the strong counter-terrorism laws that were passed earlier this year there is a capacity for them to be dealt with under the Criminal Code as a suspect. It is also important to understand that people being questioned may not actually know or understand the significance of what they know. They may have, for example, merely chauffeured a friend from overseas around during the holiday period. Without actually knowing it they might have been photographing potential sites for terrorist attack. That is the sort of thing this legislation is about.

What about this for a scenario that this parliament needs to contemplate? If a small group of terrorists have arrived in Australia and are, let us say, planning to carry out a terrorist attack, they might maintain a high level of secrecy, and foreign signals intelligence and foreign intelligence liaison may not provide any useful information. Since the terrorists have not been located or identified, ASIO’s special powers—telecommunications interception and listening devices—cannot be brought into play. However, maybe the terrorists require local assistance to gather information on their target or to facilitate accommodation, banking, transport, false identities or whatever it might be. As a consequence, they are in contact with locals who may not be aware of their plans but who may well be in possession of much relevant information. These people may be sympathisers and may well be known to ASIO through routine intelligence collection. They are less likely to be secretive about their beliefs and allegiances. They may, however, be quite unlikely to cooperate voluntarily with ASIO investigations.

It is in this type of situation where ASIO could employ a compulsory questioning regime to interview known sympathisers to obtain information about their contacts with these visitors and so forth. Such persons are unlikely to volunteer information but could be prompted to divulge information when faced with the legal consequences of nondisclosure in the context of a compulsory questioning regime. That sort of questioning could reveal the presence, movements and activities of people who are terrorist suspects. The information may not be obtainable from any other source. A person being questioned may not be aware of the significance of the information they disclose, but then other methods of intelligence collection could be brought to bear—telecommunication-
tions interception, listening devices, close surveillance—to enable ASIO to make an assessment of the threat and take pre-emptive action to prevent a terrorist act. It is this sort of scenario that needs to be contemplated by this parliament. That is why Labor have proposed the sorts of amendments to this legislation that we are debating at the moment.

It is important to remember that, while telecommunications interceptions, tracking devices and the like are very useful tools, they do require knowledge of whom to target, whose calls to intercept, whom to track and so forth. If, from one of its counterpart organisations overseas, ASIO were to learn of a possible future terrorist attack, the information might be specific enough to indicate timing, method or location but not the individuals involved locally, with only specific information on overseas personnel. So a compulsory questioning regime could be very useful in these sorts of circumstances in trying to determine when someone visited Australia, what their activities were when they were here, whom they met and so forth. But we need to understand that this information could well be held by people who are not involved in any terrorist activity or terrorist planning in any way and who may well not be aware of the significance of the information they hold. The government should present that case to the committee, because it certainly exercises the minds of the opposition as we look at an appropriate response and as we look at the challenge of getting the balance right in relation to this legislation.

The other substantive issue that has been raised this morning goes to the question of whom this legislation should apply to. I take the view that legislation that we pass here ought to apply to parliamentarians, journalists and everyone else in the community. There are no exclusions here, as far as I am aware. Through the chair, Minister, I say to you that I think you have provided conflicting advice to this committee on the issue of parliamentary privilege and they are very different in nature. My understanding is that certainly the provisions of this bill will apply to parliamentarians as they apply to others in the community. I may be in a minority of one here in relation to this, but I think they ought to apply equally to all of us, whether we be parliamentarians, journalists or anybody else in the community.

In relation to your comments about parliamentary privilege, Minister, let us take the case of a senator. If a senator were detained under the provisions of this legislation, would the Senate be informed that was the case?

**Senator Ellison** (Western Australia—Minister for Justice and Customs) (10.50 a.m.)—A number of issues arise. Firstly, I cannot agree with the Leader of the Opposition in the Senate that I made a conflicting statement in relation to parliamentary privilege. Perhaps that could be pointed out to me. But, certainly—

**Senator Faulkner**—You indicated that you were seeking advice.

**Senator Ellison**—No, I answered that. Senator Brown asked me a question and I distilled that into two different aspects: whether a person who is a member of parliament could be the subject of a warrant, and then what line of questioning could then ensue. They were the two aspects. I subsequently indicated what the position was. So I am not getting any further advice, because I have answered the question. I have said that a member of parliament can be the subject of a warrant and that they can be questioned. Furthermore, I would find it very hard to envisage any situation where parliamentary privilege could be claimed successfully by the member against such questioning.

However, I did point out that section 16, I think it was, of the Parliamentary Privileges Act—and I am trying to remember the correct term used in the section—relates to proceedings in parliament. I cited the O’Chee case, which went to the High Court, and the circumstances surrounding that case. Those circumstances demonstrated the ancillary nature, if you like, of the problem, to the extent that the subject matter there was not
what former Senator O’Chee said in the chamber but what was provided then for the purposes of asking the question. That was the nub of the O’Chee case, as I recall. What I have said here today is that the only possible parliamentary privilege—I say ‘possible’; I cannot think of an instance where it could be claimed successfully—would have to fit the criterion of asking a member of parliament a question about proceedings in parliament.

As to notice, there is a resolution of the Senate which requires that if a warrant is to be issued on a senator then the President of the Senate has to be notified. As to the provisions for the other place, I am not aware of any, and I will take that on notice. In relation to the regime of the bill, can I say that, as Senator Faulkner has pointed out, this is an intelligence gathering regime. It is important to remember that, for the Attorney-General to consent to the request for the issuing of a warrant, the Attorney-General must be satisfied that there are reasonable grounds to believe that the issuing of the warrant would substantially assist the collection of intelligence that is important in relation to a terrorism offence. That is a fairly substantial requirement. Furthermore, the Attorney-General must be satisfied that relying on other methods of collecting that intelligence, such as a wire-tap or questioning a person, would be ineffective.

In the normal course of events, if you were dealing with someone who was innocent and had unwittingly dealt with a group who were suspected of terrorist activity, that person could be questioned and no doubt would be. But the question of a wire-tap is, again, another issue, because there are requirements before you can take such a measure and, of course, it has to be on the basis of grounds being made up. The requirement remains that you still have to rely on other methods first before you resort to this warrant. It is a warrant of last resort, as we have said—and we have always said that. But, of course, you may well have someone who is a sympathiser, who has relevant, important information and who, if questioned, might in turn pick up the phone as soon as you have walked out the door and phone those people and say, ‘The authorities were in here asking questions about you.’ It may be in a circumstance such as that that you need to rely on these powers. But it is a warrant of last resort, and I stress that those grounds have to be made out before the Attorney-General can consent to the request for such a warrant by the Inspector-General.

I think that the question of parliamentarians has been canvassed adequately. The regime that is being proposed here is one of intelligence gathering, as we have said, to provide that essential support to our security agency, ASIO. The requirement to answer questions is nothing new. That is contained in a number of pieces of legislation, and I think that was mentioned earlier in the debate. The National Crime Authority is one case that I have personal knowledge of, and that was also dealt with recently in the bill dealing with the setting up of the Australian Crime Commission. That is part and parcel of this regime.

Senator BROWN (Tasmania) (10.56 a.m.)—Firstly, I would like to go back to Senator Nettle’s question about the position of the Murdoch press regarding the vulnerability of journalists to this legislation. She read from an article headed ‘Media under threat’ in today’s Herald Sun. Could the minister inform the committee whether he has read that article and whether he accepts that that article in the Murdoch press does represent concern about the power of this legislation to arraign journalists and cut across their own concerns for their profession in a way that no previous piece of legislation has done? That is the first question.

The next question regards the prior questioning of people who then become subject to a warrant and are detained and questioned secretly under this legislation. She read from what the minister just said that, in the normal course of events, wire-taps and the questioning of the person would have been failed options, but is the minister really saying to the committee that, before a warrant is issued and a person is taken in to be questioned under the authority of this legislation, that person will have ordinarily been questioned in the course of investigations anyway? I think the answer to that is no.
Finally, I return to the predicament of elected representatives—parliamentarians. I know that when I was arrested at the peaceful forest protests at Goolengook in Victoria—where it was subsequently found in the Supreme Court in Victoria that the government was illegally logging the forests at Goolengook and that the protesters were effectively upholding the law, which was being breached by the Kennett government of the day; the Bracks government has, following a piece of retrospective legislation put through the Victorian parliament, gone on to log those forests—the police were acquainted with the necessity to inform the President of the Senate that I was being held. I understand that under resolution of the Senate there is a requirement for the police to notify the President or the presiding officer if a member of this place is being held. Would that be the case under this legislation?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (10.59 a.m.)—Firstly, in relation to the article, I think Senator Nettle really misunderstood. This article was not an opinion of the editor and it is not the opinion of the Herald Sun; it is merely reporting that proposed powers under this legislation did not find favour with the Australian Press Council. That is its opening line. When it says, ‘Media under threat’ it is a report of what someone else is saying. That article is talking about a number of objections that the Press Council had and it then goes on to recite the differences between a number of people in relation to this argument. It is an article which is reporting a situation; it is not an editorial.

We do say—and stand by the fact—that there have been News Limited editorials which have said on balance that this bill is correct and that journalists should not be exempt. That is where you look for the opinion of the press. Senator Brown did cite editorials, but an article which merely reports that some people are critical does not mean that the editorial, the editor or the press group are of the same view. This article is merely reporting what people said. It does nothing more, nothing less. You would expect that in any paper. So that argument really falls to the ground in relation to that.

In relation to the question of whether people would have been questioned before the issuing of a warrant, that really depends on the circumstances. You could well have a situation where there is strong information that the person would tip off terrorist groups if there were any questioning—for example, if people went to visit them. That is part and parcel of the consideration of the issue of the warrant. You have to look at whether the person concerned would advise colleagues or sympathisers of the questioning and thereby let them know that the law enforcement agency was onto them.

Firstly, you would have to satisfy those requirements which I have pointed out. It is very clear. I will not go through them again—I have gone through them several times already. There may be cases where someone is not questioned first because, if you did that, they would tip off other people. But the Attorney-General would still have to be satisfied that the warrant would substantially assist in the collection of intelligence that is important in relation to a terrorism offence and that relying on other methods of collecting that intelligence would be ineffective. They would have to produce to the Attorney-General evidence to show that, if asked the question, ‘Why not go and ask him?’ they say, ‘We did,’ that person would tip off the people being investigated. They would have to provide some evidence of that because that is what the Attorney-General would have to be satisfied about. The same applies to wire-taps or any other means of surveillance. So it really does depend on a case-by-case basis. I think there were three questions—Senator Brown, you might remind me of them.

Senator Brown—Notifying the President.

Senator ELLISON—I think I answered that one in relation to the Senate. That is a resolution of the Senate, and that notification would have to be issued.

Senator BROWN (Tasmania) (11.03 a.m.)—On the matter of the Herald Sun report, it is clear now that the government is saying that Mr Murdoch’s editorialists are okay about the legislation, but the Australian Press Council has a different point of view. What we are hearing here is that it is not
necessarily reflecting the widespread concern amongst journalists that this legislation puts them in an unprecedented and invidious position. It is legislation that Senator McCarthy, were he in this chamber now, would relish.

I am glad I asked about prior questioning, because the minister has changed during the course of this debate. Effectively, he said just then that the issue relates to a person subject to a direct approach for questioning who may be likely to tip off other people. I do not think that is going to be the norm at all. I think this legislation is going to be used to ambush people and secrete them and hold them in detention to get information. Any other direct approach to the person is going to endanger the questioning process. Remember, ASIO is being made into a police force for the first time. ASIO has been a surveillance force in the past but now it becomes not just surveillance force but a police force of itself. That is another extraordinary breakthrough involved in this legislation.

Finally, yes, the President, and therefore the world through the Senate, should be notified. The President has an obligation there to inform senators so the world will know if an MP is being arraigned under this legislation. But we get to the situation where MPs are in a privileged position here, as against the rest of the populace. Their arrest and detention under this legislation will become a matter of public information. But that applies to nobody else in the community.

There is a lot about this legislation that has not been thought through. It has come from the intelligence agencies and the mindset of the Howard government. However, it is wide open to abuse. Where you have legislation that is wide open to abuse and you give it enough time, it will be abused. Senator Nettle is absolutely right: there are sweeping powers under existing laws, including the criminal laws of this country, to detain people who are conspiring to commit a crime including a terrorist crime. We saw legislation go through the Senate earlier this year which greatly enhances the powers of the surveillance organisations to get the information they want.

This legislation crosses the boundaries of that dilemma of protecting our freedoms as against protecting ourselves against terrorism unnecessarily. As a minimum, more checks and balances should be written into this legislation. For example, there should be checks to protect the rights of the freedom of the press and the media, and to ensure that it is not used in the future by a Senator McCarthy or by somebody who allows political considerations to evade the implication from the minister that this would never be used injudiciously by a future government or minister. You must make sure that is the case. You must write in the checks to make sure, as best you can, that abuse cannot be undertaken under this law. However, there are no such checks in this legislation and that is why it should be opposed.

Senator GREIG (Western Australia) (11.07 a.m.)—I ask the minister about the practicalities of the processes for those people who might be detained. I can envisage the scenario where a person is detained— and I prefer that term to others—by ASIO, when they should be in the workplace for that day. Under the government’s preferred proposal they could be disappeared for seven days. Under the alternative proposal that we are considering such people could be incommunicado for some hours or at least detained for 12 hours for questioning. I anticipate that it would be difficult to explain to one’s employer where you were during that period. Potentially, under the amendments that we are looking at, a person would be absent from work for one or two days.

Is it the case that, once released from questioning or detention, you can advise your employer of precisely where you have been and provide evidence of that from ASIO? I anticipate that such a person could be in a workplace where there is a potential for some concern and suspicion and, arising from that, there may be the possibility of harassment and possibly unfair dismissal. What are the opportunities for a citizen who is an employee to explain to their employer why they were detained and where they have been during the period of their detention and questioning? Can the minister acquaint the Senate with the antidiscrimination provisions
and industrial relations protections in place
to ensure that a person is not the victim of
harassment or unfair dismissal?

Senator ELLISON (Western Australia—
Minister for Justice and Customs) (11.09
a.m.)—As I understand it, there would be no
problem with ASIO providing corroboration
of the employee’s information to the em-
ployer. Certainly, it would be the view of the
government that, if a person were assisting in
inquiries, they should be in no way penalised
by their employer. That is very important.
We can say, on behalf of the government,
that we would do everything required to en-
sure that does not happen. As to the question
about industrial relations and antidiscrimina-
tion, I will have to check on those provi-
sions. I will do so and get back to Senator
Greig. As far as ASIO is concerned, if cor-
roboration were needed in an employment
situation, I give an assurance that the person
would be provided with the information for
their employer about where they had been, to
back them up on that score.

Senator BROWN (Tasmania) (11.11
a.m.)—I come back to the situation where, as
a matter of conscience, a person does not
divulge the information—for example, the
phone number or the name that ASIO re-
quires—and goes to jail. It is a criminal of-
fection not to provide that information. Isn’t it
true that a person who exercises conscience
will lose their job, lose their entitlements and
effectively be taken out of circulation, with a
criminal offence to boot? I ask the minister
the specific question: have you contemplated
the position where a parliamentarian is sent
to jail for two to five years under this legis-
lation—I do not think it is laughing matter,
Minister; I think it is very serious—because
they acted on conscience and, in their judg-
ment, in a way which was not invidious to
the safety and security of the country?

Senator ELLISON (Western Australia—
Minister for Justice and Customs) (11.12
a.m.)—I can assure Senator Brown that I do
not treat the subject lightly, but the question
of throwing politicians in jail is something
which is sometimes treated more lightly in
the wider community, and I was reminded of
that. I dealt with the aspect of failing to an-
swer a question earlier and I will not go into
it again, because time is not on our side. I
addressed extensively the question as to why
we have that regime. It is in other legislation
and it is nothing new to Australian law en-
forcement. It is something that we have ac-
cepted where a situation is serious enough
that failure to answer a question will result in
a possible prosecution and penalty upon
conviction.

Senator Brown also raised the question as
to what happens when someone has been
detained for questioning and they do not co-
operate. Do we still say to the employer: ‘We
can tell you where your employee has been;
they have been involved with us’? Certainly,
we would take appropriate steps to assist in
relation to any query by the employer. That
would be handled carefully, because obvi-
ously we do not want the employee to suffer
any unnecessary embarrassment. You would
not want to impart information to anyone
who did not need to know; you could simply
back up the fact that this person was re-
quired. If they did not answer questions and
were charged, then that is a charge which is
laid in the normal way and it is processed
through the courts—with, no doubt, bail ap-
plying.

Senator BROWN (Tasmania) (11.14
a.m.)—I have one quick follow-up point on
that. I do not want to dwell on the parlia-
mentary aspect of this, because I think there
are many unseen sequelae or outcomes from
this legislation that the government simply
has not thought about. If a parliamentarian
did want to protect her or his information or
simply did not have the information, and that
was not believed, they may well end up in
jail. As a result of the criminal offence, they
would lose their seat in parliament and that
would force a by-election. There are seven
chambers at least in the Australian system
where an MP so arraigned may hold the bal-
ance of power. There are enormous conse-
quences for this legislation in terms of par-
lamentary representation and the right of
parliamentarians to protect sources. I repeat
that they must have it absolutely clear in
their conscience that they are in no way do-
ing so in a way which would be invidious to
the safety and security of their community.
People may say that that is a long shot, but you have to look at such eventualities in legislation like this and, as best you can, deal with them. Senator Grieg’s question raises the lack of provision in this legislation for ensuring that employers do not penalise people who are taken in by ASIO. There is no provision for that in this legislation. The government simply has not looked at that consequence. All it has focused on are the recommendations from ASIO to expand its powers. It has not dealt with the widespread ramifications into the community from not just the abuse but the use of this very draconian legislation, and it should have. This legislation is as notable for what is not in it—the checks that are missing from it—as it is for the powers that are in it that are able to be exercised by ASIO and the government of the day.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (11.17 a.m.)—I too am concerned that we ought not concentrate on this issue of how these prospective new laws might apply to parliamentarians. I come back to the key principle here: they ought to apply equally to everyone, whether you are a parliamentarian, whether you are a journalist, whether you have any other occupation or no occupation at all, or whether you are anyone else in the community. The Minister for Justice and Customs ought to be able to confirm for us that, if a parliamentarian or anybody else were to be prosecuted, surely that would be a matter for the Director of Public Prosecutions. One would assume that the Director of Public Prosecutions would take account of the public interest as they considered their decision on such a matter.

Senator Ellison (Western Australia—Minister for Justice and Customs) (11.18 a.m.)—As I said, the prosecution would follow the normal course the law takes, and that would involve the Director of Public Prosecutions. As Senator Faulkner has said, that would involve a public interest test. I can confirm that and I do.

The Temporary Chairman (Senator Bolkus)—The question is that opposition amendments (7), (8), (11), (14) to (18), (21), (22), (26), (27), (32), (36) and (38) on sheet 2764 be agreed to. Question agreed to.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (11.19 a.m.)—I move opposition amendment (9) on sheet 2764:

(9) Schedule 1, item 24, page 8 (after line 22), after subsection (1A), insert:

(1B) The Director-General may not seek the Minister’s consent to request the issue of a warrant under section 34D in relation to a person under 18 years of age.

This amendment goes to the very important issue of warrants for minors. At the moment, the ASIO bill envisages that some children who are suspected of criminal complicity in a terrorist activity may be subject to the detention warrants that are the subject of the act. The opposition has consistently taken the view that the use of these proposed additional powers with respect to children is not appropriate. We take that view even in relation to children suspected of a crime. Children suspected of criminal acts would normally, of course, be the subject of criminal investigations in any event. They would be given an interview by investigating police officers under normal police station conditions. If such interviews were preceded by long periods of questioning or detention under the provisions of the proposed bill then the provisions that currently exist in order to protect vulnerable people such as children in the course of a criminal investigation would be seriously undermined. We have to think of what the situation might be.

If a 14-year-old were detained at 11 o’clock at night under these provisions and not released until, say, 11 o’clock two mornings later, they would have spent 36 hours in custody being questioned by an ASIO agent, albeit with some breaks. If they were subsequently taken to a police station and put in front of a microphone in an interview room with their mother and a lawyer for the two hours or so that they are allowed to be interviewed by police in a criminal investigation, what use would the safeguards be for criminal procedures? The whole reason that criminal investigations concerning children have special safeguards is to avoid...
them being broken down by the sometimes oppressive conditions that can exist even in normal criminal investigations. If children, even suspects, were exposed to the provisions of the proposed legislation then it would make a mockery of the provisions that are meant to protect children in the criminal justice system.

Let me say very clearly what the government wants. The government wants children to be questioned by ASIO for up to seven days. In the view of the opposition, that is simply unacceptable. It is not just the view of the opposition; after all, the minister has at times quoted from the joint parliamentary committee report into this legislation. There is a very clear recommendation from that committee that has been reinforced by the other parliamentary inquiries, most recently the Senate Legal and Constitutional References Committee inquiry into this legislation. If anyone between the ages of 14 and 18 is suspected of committing a terrorist offence, they should be arrested, interviewed and dealt with by police, with all the protections that are offered under the criminal law. As is the usual case, ASIO should be able to access information from those interviews. It is important to remember that the PJC unanimously recommended that the provisions of this bill not apply to anyone under the age of 18. That approach and recommendation received bipartisan support in the recent Senate references committee. I commend this important amendment to the Committee of the Whole.

Senator GREIG (Western Australia) (11.27 a.m.)—Equally, we Democrats will support the amendment to exempt people under the age of 18 from the effect of the legislation. I acknowledge that it is possible that people under that age could or might be involved in terrorism or potential terrorist activity, and the law needs to address that. I agree with Senator Nettle that there is already appropriate legislation in the states, territories and Commonwealth to deal with that in juvenile justice programs. The age of criminal responsibility is an interesting question and there is an ongoing debate about it in many of the states. I know that Senator Ellison would be aware that, certainly over the last decade in our home state of Western Australia, the age of criminal responsibility has generated a long and ongoing debate, particularly in the wake of a spate of appalling juvenile car thefts that resulted in fatalities.

Ultimately, I think the community has determined that 18, the age of majority, is the age of adulthood. That is what I think should apply to this legislation. If the legislation is to pass, and indications are that it will, it ought not apply to people as young as 14, for example. It is worth reiterating what the Senate Legal and Constitutional References Committee noted on this point. I will read from the report. Item 11.65, towards the end of the report, notes:

The Committee is concerned about the possible targeting of young people to gather intelligence, particularly where questioning relates to the activities of parents or other family members. While the proposed regime contains some safeguards that recognise the special vulnerability of young people, including the mandatory presence of a parent, guardian or other acceptable person during questioning as well as access to legal representation, those safeguards do not overcome all the concerns that have been raised, particularly in relation to children as young as 14. For a person aged 17, the concerns will be less. However, some limit needs to be drawn, and the Committee considers that 14 is too young. The Committee notes also that where a young person is a suspect in relation to a terrorist offence—

and I think this is the point that Senator Nettle was making, and it is certainly the point that I am making—
current provisions of the Crimes Act 1914 provide for questioning following arrest for a maximum period of two hours, only half that of an adult.

That recommendation from the references committee was unanimous, apart from a dissenting view from Senator Scullion. In the context of the points made there, I think that the proposal by the opposition can and should be supported, and we Democrats do so.

Senator HARRIS (Queensland) (11.30 a.m.)—I rise to indicate that One Nation will also support this very important amendment because it addresses one of the public’s greatest criticisms of this legislation—the government’s proposal to be able to investigate a minor, initially for 48 hours, totally without the knowledge of their parents. Could you imagine the trauma suffered by the parents of a youth who may have just had an association through their schooling with other groups of people who have been out for the night, who find that they have no knowledge and no way of finding out where their child is for 48 hours? As I said, the association might just have been that the youth was down the street and was seen to be in conversation with somebody that the police or ASIO had under surveillance. That person may then be detained under warrant. It is totally unacceptable. As Senator Faulkner said, in criminal proceedings that same juvenile would be able to have a parent there, and, if I am correct in repeating what Senator Faulkner said, could only be held for two hours. I believe that that is appropriate.

I would like to direct a question to the Minister for Justice and Customs. It is reasonably common knowledge that ASIO, the Federal Police et cetera have the ability to intercept phone calls. Does the government have the same ability to intercept text messages? This becomes very important when you consider that our youth of today are extremely adept at using this method of communication. Rather than taking a young person into custody for interrogation, if the government does have the ability to intercept text messages, it probably has a more efficient way of knowing what is happening amongst this younger group of Australians. Before I continue with my remarks, could we have an indication from the minister whether surveillance of text messages is technically possible—that is, messages between mobile phones, towers and the recipient?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.33 a.m.)—Text messaging is an area of increasing concern to law enforcement agencies across the board. I believe there is an ability to intercept text messages, so the technical aspects have advanced. However, the question is whether the legal requirements have kept abreast of technical developments, and I will have to take that on notice. Our telephone intercept warrants certainly cover telephones and there is some issue as to how far they go in relation to text messages. I will take that question on notice and advise the committee.

Senator HARRIS (Queensland) (11.34 a.m.)—I thank the Minister for Justice and Customs for his answer. As I said earlier, I asked that question because the matter relates to the ability to monitor the text messages of our youth. If there is a person under the age of 18 out there participating in an activity that would be to the detriment of the Australian people, I believe it would be a very useful way for the government—almost by default—to interview that person. To that end, I would like to quote something related to this process which was published in Australian IT. In an article of 21 September, Sophie Morris wrote:

When Pakistani police arrested suspected al-Qaeda terrorist Ramzi bin al-Shibh in Karachi this week, it was after matching his voice from broadcasts on Afghan television with intercepts of satellite phone conversations.

So there is an ability, with the technology that we have today, to carry out the process with a mobile phone or a fixed phone. This is the reason it is important for this committee to know that there is an alternative that the government could use very effectively in relation to youths suspected of carrying out activities. Senator Greig earlier mentioned that there will be people under the age of 18 who may be suspected of carrying out such activities. The one thing that we would not want to do in this chamber is to move an amendment which would put in place some
protections for people based on their age. When we get the minister’s answer to my question on notice, I believe it will show that there is a technical ability to intercept text messages. I think that would be one of the most efficient ways in which the government could carry out surveillance, particularly by ASIO and particularly in relation to any terrorist effects. I indicate for the record that One Nation will support the opposition’s amendment.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.38 a.m.)—Can I say, in relation to the interception of text messages, that we do not believe that would address our concerns in relation to this provision. We oppose the opposition amendment because we believe there should be an ability to question those who are aged between 14 and 18 in relation to suspected terrorist activities. This has been an area of concern. It is one the government has carefully considered. In the Senate Legal and Constitutional References Committee, the recommendation was by a majority—it was not unanimous—and I think the committee itself really did take some time to consider this.

Whilst I can appreciate the concerns that people have, I think it was Senator Greig who acknowledged that in today’s environment, unfortunately, we are seeing juveniles involved in terrorist acts. On 9 December, Kevin Rudd, the opposition spokesman on foreign affairs, stated that there was a pattern emerging of suicide bombers. He said:

If it’s established that we now have a network of suicide bombers associated with al-Qaeda and Jemaah Islamiyah, across South-East Asia, the question arises about the adequacy of Australian domestic security...

Of course, we know that suicide attacks have occurred throughout the world. We know that they have involved people as young as 16 and 17. That is a fact of life, a regrettable fact of life. We believe that there should be different requirements in relation to the questioning of people aged between 14 and 18. We say that people aged 14 and above attract criminal liability for their actions, and that is an appropriate stance to have. But, whilst we say that, in the bill we have put in place safeguards for the questioning of people aged between 14 and 18. For the reasons I have mentioned, the bill provides that warrants will not be able to be issued in relation to persons under the age of 14—we do not believe that should be so—but we believe that a warrant must only be issued in relation to a juvenile where the Attorney-General is satisfied on reasonable grounds that it is likely that the person will commit, is committing or has committed a terrorism offence. When I say ‘juvenile’, I mean someone between the ages of 14 and 18.

All young people subject to a warrant will be able to contact a parent, guardian or other representative and an approved lawyer. The young person’s ‘other representative’ is a person who is able to represent the person’s interests as far as practicable and who is not a police officer or ASIO officer. Questioning will not be able to take place unless a parent, guardian or other representative is present. Young people will not be able to be questioned for periods of more than two hours without a break. We have recognised those areas of concern in relation to juveniles aged between 14 and 18.

But we have to remember the stark facts of today’s world—that we have seen and are seeing people in that age group involved in terrorist activities. As I say, a warrant will only be issued in relation to a person of that age group where the Attorney-General is satisfied on reasonable grounds that it is likely that that person will commit, is committing or has committed a terrorism offence. We believe that we have struck a balance—it is something that we have considered carefully—and that we do need this in the bill to enable our security agency, ASIO, to carry out such questioning.

Senator GREIG (Western Australia) (11.42 a.m.)—I think it is worth recalling, to assist Senator Harris a little—he asked about text messaging and the opportunities for the authorities to read messages—that the answer is yes. The committee may recall that, when the government’s original suite of bills—its antiterrorist responses—was first introduced, there were some seven bills. They included the legislation that we are dealing with currently, which was then a part
of the original suite of bills. But they also included the Telecommunications Interception Legislation Amendment Bill, which, as I understand it, would have allowed ASIO and other authorities, such as the AFP, to intercept voice mail, email and text messaging. But the difference was that they could do that under the legislation without a warrant. My understanding—and perhaps the minister can clarify this—is that the opportunity is currently there for the authorities to intercept voice mail, email and text messaging with a warrant, but that what was being sought by the government with the then excised legislation, legislation which I understand the government is keen to return to the chamber, was to extend the opportunities for the authorities to continue doing that, without a warrant.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.43 a.m.)—I do not think that is quite right. I am obtaining advice from the department in relation to that. What I said earlier is that technically we are able to do it. The question of whether you can do it lawfully is of course another matter. There was a proposal in relation to TI legislation and this issue, but I should really take that on notice. I am trying to get that information as quickly as possible.

Senator NETTLE (New South Wales) (11.44 a.m.)—Whilst the minister is getting an answer to that question, I note that this opposition amendment seeks to remove just one of the groups of people who will be affected by this legislation. It seeks to remove one of the most vulnerable groups who potentially will be affected by this legislation. We still have that wide gamut for all nonsuspects over the age of 18. I think it is worth noting some of the other vulnerable groups of people who will be impacted by this legislation and whom the opposition is not proposing to remove or exempt from this legislation.

I understand that under the Criminal Code people of Aboriginal and Torres Strait Islander descent are able to be questioned for a period of two hours rather than four hours, which is the standard in the current Criminal Code. That change to the Criminal Code is because they are recognised as one of the vulnerable groups in the way they are treated in our criminal justice system. We have seen the impact on that community through the exercising of our criminal justice system. The Royal Commission on Aboriginal Deaths in Custody is but one result of the impact on that particular community.

The committee heard numerous representatives from Islamic organisations talking about the impact of this legislation on their particular community. So there is another community that is vulnerable in the way in which this legislation will be implemented across the board. Let us point out some of those who will be particularly impacted. We have talked about journalists, and it is worth pointing out some of the other groups that will be impacted by it.

I spoke about the impact on the Islamic community and that is certainly something that we have seen in my home state of New South Wales, where Senator Faulkner’s colleagues in the Carr government have introduced a range of different pieces of criminal justice legislation. Not the least of those is the latest piece of terrorism legislation introduced into the state parliament last week, which goes to enabling strip searches of people as young as 10. That legislation operates without warrant. Senator Greig was talking about the TI legislation; the New South Wales legislation also operates without warrant. Whilst it is commendable that the opposition is putting forward this amendment to take out one of the vulnerable groups which will be impacted on by this legislation, it is worth noting the other groups that the opposition has chosen not to point out.

The minister talked before about his regret that people under the age of 18 could be involved in terrorist activities. There is an obligation on the government to do everything that they can to reduce terrorism throughout the community. We have had several occasions to talk in this chamber about the ways in which the government could be going forward to help to reduce terrorist activities in Australia and in our region. Not the least of those would be to improve our relationship with our neighbours. Those relationships have not been boosted at all by the in-
flammatory comments of the Prime Minister two weekends ago.

There are all those options on the table which our government could use to truly address the root causes of terrorism and ensure that we are not creating an environment where young people grow up in a culture of violence. Addressing poverty and inequality is where we can start with long-term solutions that will remove the root causes of terrorism. Looking at Australia’s aid programs and cooperative programs for community development and community empowerment in our region are things that we could do long term to truly address the root causes of terrorism rather than bring in draconian legislation that seeks to deal with the symptoms of terrorism rather than look at the root causes of terrorism.

Question agreed to.

The TEMPORARY CHAIRMAN (Senator Knowles)—The question is that proposed sections 34NA and 34V stand as printed.

Question negatived.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.50 a.m.)—by leave—I move government amendments (9), (10), (11) and (12) on sheet DT337:

(9) Schedule 1, item 24, page 9 (lines 9 to 12), omit paragraph (ba), substitute:

(ba) that all the following conditions are met:

(i) there is a written statement (the procedural statement) dealing with procedures to be followed in the exercise of authority under warrants issued under section 34D and with the exercise of powers under this Division;

(ii) the procedural statement deals with at least the matters described in subsection (3AA);

(iii) the acts (the adopting acts) described in subsection (3A) have been done in relation to the procedural statement; and

(10) Schedule 1, item 24, page 9 (after line 31), after subsection (3), insert:

(3AA) The procedural statement is to deal with at least the following matters:

(a) informing the following persons about the issue of a warrant under section 34D:

(i) the prescribed authority before whom a person is to appear for questioning under the warrant;

(ii) the Inspector-General of Intelligence and Security;

(iii) police officers;

(b) transporting a person taken into custody, or detained, under this Division in connection with such a warrant;

(c) facilities to be used for questioning of a person under such a warrant;

(d) a prescribed authority’s obligation under section 34E to inform a person appearing before the prescribed authority for questioning under such a warrant of the matters mentioned in that section;

(e) arrangements under sections 34H and 34HAA for the presence of an interpreter during questioning of a person under such a warrant;

(f) making recordings under section 34K;

(g) the periods for which a person may be questioned continuously under such a warrant;

(h) the periods for breaks between periods of questioning of a person under such a warrant;

(i) facilities to be used for detaining a person in connection with such a warrant;

(j) arrangements for the person to whom such a warrant relates to contact other persons in accordance with the warrant (including provision of facilities under paragraph 34F(9)(c) for the person to make a complaint orally to the Inspector-General of Intelligence and Security or the Ombudsman);

(k) conducting searches under section 34L;

(l) the periods for allowing a person to whom such a warrant relates an opportunity to sleep;

(m) providing a person to whom such a warrant relates with:
(i) adequate food and drink (taking account of any specific dietary requirements the person may have); and

(ii) adequate medical care.

(11) Schedule 1, item 24, page 9 (lines 32 to 34), omit "a written statement of procedures to be followed in the exercise of authority under warrants issued under section 34D", substitute "the procedural statement".

(12) Schedule 1, item 24, page 9 (line 36), omit "such a", substitute "the".

Senator Faulkner—While I have no problem in granting leave so that those amendments can be moved together, I seek assistance in having the question on amendment (10) put separately.

The TEMPORARY CHAIRMAN (Senator Knowles)—That is fine.

Senator Ellison—The bill already provides for a written statement setting out the procedures to be followed in relation to taking a person into custody, detaining them and questioning them. The government does not accept the committee’s recommendation that the statement should be made in the form of regulations, nor the opposition’s proposal that they be disallowable instruments. While it is proposed that the statement be tabled in the parliament, the statement is designed to be a detailed operational statement that is not appropriate for a disallowable instrument. In particular, it would not allow sufficient flexibility for the persons exercising authority under the warrants to perform their respective roles within the requirements set out in the bill and the protocols.

Other operational procedures used by law enforcement agencies are not made in the form of disallowable instruments. The government, however, is willing to amend the bill to set out in greater detail the matters that are to be included in the written statements in accordance with the Senate committee’s recommendations. We believe that this is a reasonable compromise on the part of the government. These are not normally disallowable instruments and we believe that our proposal is one which should find favour with the Senate.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (11.52 a.m.)—The reason I have requested that government amendment (10) be put separately is effectively that it is in conflict with opposition amendment (10), which I will be moving at the conclusion of the consideration of the question before the chair regarding the amendments moved by the minister. Given that the government amendments all go to the issue of procedural statements, I think they are effectively best dealt with in the manner which I had proposed and which had been agreed to by the chair. If that is not clear, let me make it even clearer: the opposition will be supporting government amendments (9), (11) and (12); we will be opposing government amendment (10). Although we agree with a considerable amount of that amendment, we will be opposing that in favour of opposition amendment (10), which will be before the committee at the conclusion of the debate on the current question.

I will briefly speak to the issue of the procedural statement. The opposition supports the proposed process for developing the statement of procedures governing questioning. We do say that that statement should be a disallowable instrument. The amendment that I am about to move, opposition amendment (10), goes to providing a schedule of the matters to be included in that statement. I want to indicate that we have had the opportunity of redrafting that proposal in the light of government amendment (10), which is before the chair. We have picked up a lot of the government’s wording from amendment (10) but we have added some important matters that we believe should be in the procedural statement.

Perhaps it is appropriate that I quickly indicate those to the committee at this stage. They are procedures for recording interviews, including the custody and future use of records and transcripts; reimbursement by the Commonwealth of reasonable costs, including legal costs, to a person who is the subject of a questioning warrant; and the provision of toilet facilities and privacy. Failure to comply with the schedule would trigger appropriate complaint mechanisms.
The opposition takes the view that the procedures governing the questioning regime in this legislation should be transparent: we should be absolutely upfront and public about these procedures. We must remember that the regime that we are talking about breaks new ground, and we have consistently argued that it ought to be thoroughly scrutinised and carefully worked through and structured before it is put in place. It is for that reason that the opposition will be taking the approach that it is taking in relation to the government amendments before the chair and putting forward alternative amendment (10) in short order.

Senator NETTLE (New South Wales) (11.57 a.m.)—I point out that the amendments put forward by the government draw our attention to another flaw in the legislation that the government originally put forward by not stipulating the process by which they would go about clarifying issues such as when there should be breaks in questioning and when people should have the opportunity to have adequate medical care and food and drink. In the government’s rush to go forward with their law and order agenda in the form of this legislation, none of these issues was addressed in the legislation as originally put forward.

When we get to the next opposition amendment, we will be supporting the opposition proposal as to the breadth of issues that should be covered in a procedural statement relating to the operation of this bill. We will be also supporting the opposition on their proposal that that procedural statement be a disallowable instrument. This is a key piece of legislation, as Senator Faulkner pointed out, that breaks new ground in expanding the powers of ASIO and the ability to question and detain non-suspects. Clearly, when you have this amount of controversy expressed within the community, there is a need for thorough parliamentary oversight, which is something that is provided by the disallowable instrument. But this whole package of amendments just points out another flaw in the government’s rush to have this legislation brought to the chamber without allowing the full implications and indeed the operational aspects of this legislation to be part of the community discussion and the public debate about how such legislation would proceed in the future.

Senator GREIG (Western Australia) (11.59 a.m.)—For the reasons outlined by Senator Faulkner, we Democrats are also attracted to the procedural statement mechanisms advocated by the opposition. For that reason we too can support government amendments (9) and (12), but we would have some difficulty with government amendment (10). We believe that the procedural statement proposal being presented by the opposition is a better model because it will incorporate the following: procedures for recording interviews; reimbursement by the Commonwealth of the reasonable expenses of a person subject to a warrant, and that would include legal expenses; toilet facilities; and privacy. But the biggest improvement which follows from the opposition’s procedural amendment, as opposed to that advocated by the government, is the disallowance, which we would support.

The TEMPORARY CHAIRMAN (Senator Knowles)—By agreement, we are putting the questions separately. The question is that government amendments (9), (11) and (12) be agreed to.

Question agreed to.

The TEMPORARY CHAIRMAN—The question now is that government amendment (10) be agreed to.

Question negatived.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.00 p.m.)—by leave—I move opposition amendments (10), (12) and (13) on sheet 2764:

(10) Schedule 1, item 24, page 9 (after line 31), after subsection (3), insert:

(3AA) The procedural statement is to deal with at least the following matters:

(a) informing the following persons about the issue of a warrant under section 34D:

(i) the prescribed authority before whom a person is to appear for questioning under the warrant;

(ii) the Inspector-General of Intelligence and Security;
(iii) police officers;
(b) transporting a person taken into custody under this Division in connection with such a warrant;
(c) facilities to be used for questioning of a person under such a warrant;
(d) a prescribed authority's obligation under section 34E to inform a person appearing before the prescribed authority for questioning under such a warrant of the matters mentioned in that section;
(e) arrangements under sections 34H and 34HAA for the presence of an interpreter during questioning of a person under such a warrant;
(f) procedures for recording interviews (including the custody and future use of records and transcripts);
(g) the periods for which a person may be questioned continuously under such a warrant;
(h) the periods for breaks between periods of questioning of a person under such a warrant;
(i) arrangements for the person to whom such a warrant relates to contact other persons (including provision of facilities under section 34F for the person to make a complaint orally to the Inspector-General of Intelligence and Security or the Ombudsman);
(j) conducting searches under section 34L;
(k) the periods for allowing a person to whom such a warrant relates an opportunity to sleep;
(l) providing a person to whom such a warrant relates with:
(i) adequate food and drink (taking account of any specific dietary requirements the person may have); and
(ii) adequate medical care; and
(iii) toilet facilities; and
(iv) privacy;
(m) reimbursement by the Commonwealth of reasonable costs (including legal costs) to a person who is the subject of a questioning warrant.

(3AB) The procedural statement required by this section is a disallowable instrument for the purposes of section 46A of the Acts Interpretation Act 1901.

(3AC) Failure to comply with a procedural statement is grounds for complaint to the Inspector-General of Intelligence and Security or the Ombudsman under the Inspector-General of Intelligence and Security Act 1986 or the Complaints (Australian Federal Police) Act 1981, as the case may be.

(12) Schedule 1, item 24, page 10 (line 3), omit subparagraph (iii).
(13) Schedule 1, item 24, page 10 (line 8), after “Parliament”, insert “as a disallowable instrument”.

Senator FAULKNER—This is an alternative to the government’s proposal. We have picked up a great deal of that proposal in amendment (10) but added those important matters that I indicated previously to the committee. Effectively, amendments (12) and (13) are consequential.

Senator NETTLE (New South Wales) (12.01 p.m.)—I ask Senator Faulkner what he considers will be the operational aspects of point (m) of the opposition amendment (10), which points out the procedural statements. It talks about reimbursement by the Commonwealth of reasonable costs, including legal costs, to a person who is the subject of the questioning warrant. Does Senator Faulkner anticipate that the person subject to the warrant would need to pay their own legal costs, and that they would then have an opportunity to be reimbursed subsequent to the detention and questioning regime? By what mechanism is the assumption made that costs would need to be covered by the individual detained, and then reimbursed? Have you thought any further about how that might operate?

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.02 p.m.)—As I understand it, the prescribed authority would be in a position to assist someone being questioned to obtain appropriate legal representation. Effectively, what is set out here is almost a bullet-point listing of the matters that ought to be covered in the procedural statement. Obviously that would give the government an opportunity to flesh it out. The key differences here, I think, are some additional points that, in view of
the opposition, are important enough to be included in the procedural statement.

**Senator Nettle** (New South Wales) (12.03 p.m.)—I am concerned about the person subject to the questioning regime having to pay for their legal costs and then having to go through what could potentially be an elongated process to be reimbursed for those costs. I note what Senator Faulkner said about the opposition amendments: that the prescribed authority can assist in recommending legal counsel for the person who is being questioned. The opposition wants to include this in the legislation as a fall-back to the person being able to propose their own legal adviser, but I can imagine an instance where those legal representatives recommended by the prescribed authority may not be the cheapest legal representatives around. There could be additional costs to the person being questioned that are far beyond what they may have anticipated in paying for their own legal counsel.

This is a concern in terms of the individual’s ability to access legal counsel, particularly legal counsel that the prescribed authority has assisted them to access. I wondered about the way in which that may operate. I think it is very important that these procedural difficulties are dealt with as a whole, and that the statements are clarified in the light of the opposition’s questioning and detention regime not proposing any specific guidelines. Could you deal specifically with the issue of reimbursement and offer any more thoughts from the opposition about how that might operate? I am concerned about people having to fork out fees for lawyers recommended by the prescribed authority that could be well above what they anticipated paying.

**Senator Faulkner** (New South Wales—Leader of the Opposition in the Senate) (12.06 p.m.)—For a number of reasons the government does not support these amendments proposed by the opposition. Contained in the amendments is that the protocols be disallowable instruments. I have covered that previously. Also, there is reimbursement of legal costs. In our bill we have provided for the provision of a security-cleared lawyer and that entails the payment of costs by the Commonwealth, so that lawyer’s costs would be covered by the Commonwealth. In relation to complaints to the Ombudsman and Inspector-General of Intelligence and Security, we believe we have covered that in government amendment (26). In relation to procedures for recording interviews, we have provided for the process of recording. Subsequent storage of information could be covered by written protocols, we believe. ASIO currently has strict requirements in relation to the communication of information and there are various procedures in place to ensure that information is stored consistent with principles relating to both privacy and security. We oppose the opposition amendments for those reasons. In relation to the question of these protocols being disallowable, I believe I have covered that in previous debate.

Question agreed to.

**Senator Greig** (Western Australia) (12.09 p.m.)—by leave—I move amendments (1) and (4) on sheet 2779 revised:

(1) Schedule 1, item 24, page 10 (after line 37), after subsection (3C), insert:

(3D) In consenting to the making of a request to issue a warrant authorising the person to be taken into custody immediately, brought before a prescribed authority immediately for questioning and detained, the Minister must, if the person is a citizen of an overseas
country represented in Australia by a diplomatic mission, ensure that the warrant to be requested is to require the Director-General to contact that diplomatic mission as soon as practicable after the person has been taken into custody and advise it of the person’s name and that they are being detained for questioning under this Act.

(3E) However, subsection (3D) does not apply if the Minister is satisfied on reasonable grounds that advising the diplomatic mission of the person’s detention would be likely to pose a serious threat to national security.

(4) Schedule 1, item 24, page 14 (line 8), at the end of subsection (1), add:

; (j) subject to subsection 34C(3E), if the person is a citizen of another country which is represented in Australia by a diplomatic mission, that the diplomatic mission has or will be advised that the person is subject to a questioning warrant under this Act.

These Democrat amendments go to the question of diplomatic contact in terms of detainees. The amendments seek to ensure that if a foreign national is detained under the act then their embassy would be informed of that fact. This is consistent, I believe, with article 36(1) of the Vienna Convention on Diplomatic Relations, which deals with a person’s right to contact their consular post if arrested, committed to prison or custody pending trial or detained in any other way. Whilst article 36 has not been incorporated in domestic law pursuant to the Consular Privileges and Immunities Act, as some other articles of the Vienna treaty have been, granting detainees the right to contact their embassy is clearly consistent with the spirit of the Vienna treaty. I draw senators’ attention to the preamble of the Vienna treaty which states, in part:

*Recalling that peoples of all nations from ancient times have recognized the status of diplomatic agents ...*

And that the treaty was entered into:

*Having in mind the purposes and principles of the Charter of the United Nations concerning the sovereign equality of States, the maintenance of international peace and security, and the promotion of friendly relations among nations ...*
this practice of advising the embassy when other nationals have been questioned. We believe that it is a fundamental aspect that we do not reveal our hand to anyone who may not have Australia’s interests at heart. We do not believe that there is any requirement on Australia which would override that requirement that makes us observe our own interests as a priority.

Senator ROBERT RAY (Victoria) (12.14 p.m.)—The minister has asserted that no other country accords that right. The most relevant countries for us are the United Kingdom, New Zealand, Canada and the United States. Going through their legislation I have seen no such right accorded to foreign nationals. The minister is right. Obviously, I have not read the Albanian security act, at least not for some time, so I can comment only on the like-minded democratic countries in the Western world, and none of them has accorded that right.

I say to Senator Greig, through the chair, that I am very reluctant to say extra rights will obtain to foreign nationals in Australia that do not apply to Australian citizens. I think you have to be consistent here. You might have had a vague point if the original bill went through in its original form, where, as we know, there was no seven-day limit. It could have been unlimited. It could have been like the Malaysian detention powers or some similar ones, but now we are moving from a detention regime, we hope, to a questioning regime. Therefore, it is not as though a foreign national is likely to be detained for an extraordinary length of time. Other than quoting what he regards as international obligations, I do not think Senator Greig can really make a case out for treating a foreign national differently from a permanent resident or an Australian citizen. I do not see his point and I think that we leave ourselves very open if we say we have a differentiated regime.

Given the likely circumstances of the application of this act, it is not likely to apply often to foreign nationals, just as it is not likely to apply all that often to suspects. The whole idea of this intelligence gathering exercise is to get material, quite often inadvertently known to someone who is not a terrorist and who never will be a potential terrorist. But our difficulty in all this is in trying to stop our knowledge of this being transmitted to other people. That is why there is a detention regime, to some extent, in this legislation. This is why, even though we argue a right to lawyers, we want to put in a provision which says that, if the lawyers disclose their involvement in this, they are involved in an illegal act. The fact is that there is not much point picking up someone who has information about terrorism if the terrorists instantaneously know.

I do not want to pick out any particular country, so let us call them country X. The moment they are contacted to say their national has been picked up, if they are a sponsoring country—there are not many around the globe, I concede—then automatically the terrorist network will know that we are onto them, and they will have an opportunity to modify their plans where we cannot. So I do think this is a bridge too far. I can understand where Senator Greig is coming from in terms of international obligations, but I think it is impractical to differentiate between foreign nationals, Australian citizens or permanent residents. I do not think it is desirable or necessary and I cannot find an example in a like-minded country where they have in fact found themselves obliged to do so.

Senator NETTLE (New South Wales) (12.17 p.m.)—It is worth noting as we are discussing this amendment the extraterritorial character of the definition of a terrorist act that is referred to in this legislation, whereby, as stated in evidence given to the committee by the Federation of Community Legal Centres:

Any offence anywhere in the world that falls within the scope of that legislation could be the basis on which ASIO could seek a warrant to hold someone merely to seek information.

They go on to give an example, stating:

... a supporter of West Papuan independence in Australia who may have information about the activities of the OPM. Such a person could potentially be subject to this type of warrant and questioning regime.

They go on to give another example of somebody involved in the Kurdish independence movement.
It is worth noting at this point the scope of the sorts of people that the government is hoping to catch in this legislation. We had a lot of examples described in relation to the earlier package of terrorism legislation—people who might be involved in the independence or freedom movement in, say, East Timor or in South Africa. The examples highlighted that this legislation does allow, through that definition of a terrorist act in the previous legislation, for the scope to be thrown very widely open to people who are involved in independence movements in countries around the globe. It is worth noting at this point that they are some of the sorts of people that this legislation has the potential to impact upon in terms of an ongoing detention regime.

Senator ROBERT RAY (Victoria) (12.19 p.m.)—Just following on from Senator Nettle’s point, I have a question for the minister. Will it be possible, and is it desirable, when you report annually on the amount of warrants issued, for them to be broken down into the categories of Australian citizen, Australian resident and foreign national? Without having the tendency to identify anyone, is that possible?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.20 p.m.)—That is a reasonable question, and certainly it is possible to do that.

Senator GREIG (Western Australia) (12.20 p.m.)—I ask the minister: what administrative, bureaucratic or diplomatic processes were invoked, in terms of the detention of David Hicks and Mr Habib—both of whom I understand are Australian citizens—in notifying Australian authorities of their arrest, detention and extradition to Guantanamo Bay?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.20 p.m.)—In relation to David Hicks, as I understand it he was apprehended in a conflict zone and was in quite a different situation. I do not think they knocked on the door and arrested him. He was found in a—

Senator Hill—He was captured by the Northern Alliance and handed over to the Americans.

Senator ELLISON—I am reminded by Senator Hill that the Northern Alliance captured him and handed him over to the Americans, and then we were subsequently advised of that. That was through Defence. That is an entirely different situation in relation to what we are dealing with here. I am advised in relation to Mr Habib that, whilst not apprehended in the same circumstances as Mr Hicks, he was found in an area where there had been some conflict, and that the American authorities advised the Australian government.

Senator GREIG (Western Australia) (12.22 p.m.)—In relation to one of the concerns just raised by Senator Ray, I point out that subsection (3E) provides that the government could choose not to notify diplomatic authorities on the basis of national security, so there is an element of protection in the Democrat amendment as proposed.

Question negatived.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.23 p.m.)—I move government amendment (14) on sheet DT377:

(14) Schedule 1, item 24, page 14 (after line 11), after subsection 34E(2), insert:

(2A) The prescribed authority before whom the person appears for questioning must inform the person of the role of the prescribed authority, and the reason for the presence of each other person who is present at any time during the questioning. However:

(a) the prescribed authority must not name any person except with the consent of the person to be named; and

(b) the obligation to inform the person being questioned about a particular person’s reason for presence need only be complied with once (even if that particular person subsequently returns to the questioning).

This implements recommendation 16 of the Senate Legal and Constitutional References Committee’s report. The effect of this amendment is that the prescribed authority must inform a person appearing before it of the role of every person during the course of questioning. Clearly, in some circumstances...
it would not be appropriate to identify some of those present at the questioning. For this reason, the amendment makes it clear that the prescribed authority must not disclose the name of a person when providing information about their role unless that person has consented to be named. To give an example, if you had someone there from the Australian Federal Police and someone from ASIO, you would say to the person, 'This gentleman is from ASIO. This lady is from the AFP,' but you would not go so far as to say what their names were, for operational reasons. Certainly, we believe that this is a worthwhile amendment. Recommendation 16 stated:

The Committee recommends that the Prescribed Authority be required to inform the person being questioned of the function of all parties who are present during questioning.

That recommendation went so far as to say that you should not identify the person—that is, their name—but simply identify their function.

Senator NETTLE (New South Wales) (12.24 p.m.)—Could the minister explain something in relation to this amendment put up by the government. Under this legislation, if someone being questioned and detained under a warrant wanted to pursue a matter—I imagine in the civil courts—about their treatment during detention and, in doing so, wanted to identify one of the individuals involved in the detention for whom they had been given a role but not a name, what process would that individual be able to follow to pursue the issue of mistreatment by another individual—say, an ASIO agent?

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.25 p.m.)—There are a number of avenues available to a person who has a grievance. One is to complain to the Inspector-General of Intelligence and Security and, where the police are involved, to the Ombudsman as well. Certainly, the identity of people concerned would come to light during that. There is also a judicial review available and, again, the identity of people would of course have to be part and parcel of those proceedings. There would be no question of the identity being kept from the person concerned. The complaint being made by the person would bring that to light.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.26 p.m.)—This is one of the recommendations of the Senate Legal and Constitutional References Committee that the government and the minister find favour with. I agree with the government. It is a good recommendation, and I am pleased that the government has decided to cherry pick this particular recommendation and propose a government amendment which effectively has the impact of the prescribed authority being required to inform a person being questioned of the role of the prescribed authority and to explain the reasons why others may be present. This might go to, for example, the presence of ASIO or the Australian Federal Police. It is a good amendment, it is an improvement to the bill and it will be supported by the opposition.

Question agreed to.

Senator GREIG (Western Australia) (12.27 p.m.)—I move Democrat amendment (2) on sheet 2779 revised:

(2) Schedule 1, item 24, page 14 (line 8), at the end of subsection (1), add:

; (h) subject to section 34U, the person’s right to contact a lawyer at any time during the period of their questioning.

Quite simply, the amendment aims to ensure—that is, to mandate—that a person in detention and being brought to or detained by the authorities for questioning under the act is specifically advised of their right to a lawyer as soon as they are brought before the prescribed authority, so that is relatively early in the proceedings. In order to exercise the right to a lawyer, I think that it is important that the person is aware right from the start of that right. Rather than have that perhaps as an implied right in the legislation, which is open to question, this amendment seeks to mandate that so that, right from the moment of being brought before the prescribed authority, the detainee or potential detainee is specifically advised of their right to legal advice and a lawyer.

Question agreed to.
Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.29 p.m.)—I move government amendment (15) on sheet DT377:

(15) Schedule 1, item 24, page 14 (after line 17), after section 34E, insert:

34EA Questioning to occur before prescribed authority who did not issue warrant

If:

(a) the person appears before a prescribed authority for questioning under the warrant; and

(b) the prescribed authority is a listed former judge who issued the warrant;

the prescribed authority must not allow the questioning to proceed and must give a direction under section 34F for the person’s further appearance for questioning before another prescribed authority.

Amendment (15) amends the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002 in relation to former judges as persons who may be appointed as issuing authorities or prescribed authorities or both. We had a good deal of debate about this yesterday and what we are saying with this amendment is that we are clarifying that a former judge who has issued a warrant in relation to a particular person cannot act as a prescribed authority in relation to that same warrant. This will ensure that there is no apprehension of bias. So in our amendment, whilst we are saying that a former judge could act as a prescribed authority or an issuing authority or both, that person cannot do both on the same matter. That then means that you cannot have the person who issues the warrant and who then presides over the questioning being the same person. That would be undesirable and that is what this amendment makes certain of. I think that really addresses a lot of the queries that were raised yesterday.

On the question of the number of former judges, let me just say that, whilst the government has been at lengths to point out the shortage of former judges and the lack of availability, we have yet to see those proponents of former judges who have said why, or where there are so many. Where is the proponents’ proposal to say, ‘Yes, we do have enough former judges for you to rely on’? That has not been put to the Senate, and that perhaps is something missing in the argument of those people who propose that former judges should be the people who are prescribed and issuing authorities. Really, their argument does fail until they can at least put up some grounds for their claim that there are enough former judges.

Question agreed to.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.31 p.m.)—by leave—I move government amendments (17), (18) and (25) on sheet DT377:

(17) Schedule 1, item 24, page 18 (line 24), at the end of the heading to section 34H, add “provided at request of prescribed authority”.

(18) Schedule 1, item 24, page 19 (after line 2), after section 34H, insert:

34HAA Interpreter provided at request of person being questioned

(1) This section applies if a person appearing before a prescribed authority under a warrant requests the presence of an interpreter.

(2) A person exercising authority under the warrant must arrange for the presence of an interpreter, unless the prescribed authority believes on reasonable grounds that the person who made the request has an adequate knowledge of the English language, or is physically able, to communicate with reasonable fluency in that language.

(3) If questioning under the warrant has not commenced and the prescribed authority determines that an interpreter is to be present:

(a) the prescribed authority must defer informing under section 34E the person to be questioned under the warrant until the interpreter is present; and

(b) a person exercising authority under the warrant must defer the questioning until the interpreter is present.

(4) If questioning under the warrant commences before the person being ques-
tioned requests the presence of an interpreter and the prescribed authority determines that an interpreter is to be present:

(a) a person exercising authority under the warrant must defer any further questioning until the interpreter is present; and

(b) when the interpreter is present, the prescribed authority must again inform the person of anything of which he or she was previously informed under section 34E.

(25) Schedule 1, item 24, page 27 (lines 13 and 14), omit “or subsection 34H(4) or”, substitute “, subsection 34H(4), paragraph 34HAA(3)(b) or (4)(a) or subsection”.

Government amendments (17), (18) and (25) implement recommendation 18 of the Senate Legal and Constitutional References Committee. These amendments make it clear that the subject of a warrant may request that they be provided with an interpreter. Recommendation 18 of that committee report provided as follows:

The committee recommends that proposed section 34H be amended to provide that an interpreter is also to be provided on request by the person being questioned.

We have an amendment here which provides that an interpreter must be provided when requested unless the prescribed authority believes on reasonable grounds that the person can communicate in English with reasonable fluency. This element of discretion will prevent requests for interpreters that are designed to delay questioning. When an interpreter is to be provided, all questioning under the warrant must stop until the interpreter arrives. If the subject of the warrant had been informed of the matters required by section 34E before the request for an interpreter was made, those matters must be repeated once the interpreter arrives. It will be an offence for an official to knowingly fail to defer questioning. The offence will be punishable by a maximum period of two years imprisonment. We believe that these provisions are important. The recommendation by the committee in this instance was a sensible one and we have taken it on board.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.33 p.m.)—I have looked carefully at the government amendments and I agree with the minister that the government has done a good job here in drafting these amendments. Unless a substantive case can be mounted to the contrary, even though these amendments are in conflict with opposition amendment (31), I think that, for the ease of dealing with this particular matter, it would be my intention a little later in this committee’s deliberation not to move opposition amendment (31). I accept these amendments going to the issue of interpreters on request that have been proposed by the government. I think they are good amendments. I think they should be supported by the committee and they will be supported by the opposition.

Senator GREIG (Western Australia) (12.35 p.m.)—As an amendment to government amendment (18), I move Democrat amendment (1) on sheet 2789:

(1) Amendment (18), omit paragraphs 34HAA(2), (3) and (4), substitute:

(2) If questioning under the warrant has not commenced and the person requests the presence of an interpreter:

(a) the prescribed authority must defer explaining the warrant under section 34E to the person to be questioned under the warrant until the interpreter is present; and

(b) a person exercising authority under the warrant must defer the questioning until the interpreter is present.

(3) If questioning under the warrant commences before the person requests the presence of an interpreter:

(a) a person exercising authority under the warrant must defer any further questioning until the interpreter is present; and

(b) when the interpreter is present, the prescribed authority must again explain the warrant to the person under section 34E.

This Democrat amendment proposes to establish an alternative in preference to Democrat amendment (7) which appears on sheet 2779. The underlying purpose of both amendments is to ensure that a person detained for questioning has access to an inter-
preter upon their request and that this right is not solely determined by the assessment of the prescribed authority, as is presently the case with the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002.

We agree with the government that, where questioning has not commenced and an interpreter is required, questioning should be deferred until the interpreter arrives. We also agree that, where questioning has already commenced before an interpreter is requested, any further questioning should be deferred until the interpreter arrives and the prescribed authority should again advise the person of all matters under section 34E.

However, whilst government amendment (18) grants a person a right to an interpreter upon their request, it negates this right if the prescribed authority believes that the person has a sufficient knowledge of the English language. We Democrats can see absolutely no reason for this limitation on the right to an interpreter. The legislation introduces what has widely been described as draconian detention regimes and it seriously infringes on the rights and liberties of a person being questioned and severe penalties are associated with any noncompliance associated with the warrant.

We think it is imperative that the person being questioned is fully able to understand the requirements made of her or him, the questions he or she must answer and, perhaps more importantly, the ramifications of noncompliance. For these reasons the person being questioned should have the right to an interpreter upon his or her request at any time during the questioning. Whether or not the person is in a position to understand the questions being put to him or her is not a matter for the prescribed authority to determine. Therefore, our amendment seeks to remove the power of the prescribed authority to negate a person’s right to an interpreter upon request.

**Senator NETTLE** (New South Wales) (12.38 p.m.)—I want to give the Australian Greens’ position on this raft of amendments relating to the right to request an interpreter. As Senator Faulkner pointed out, this is an example of the government taking up one of the recommendations of the Legal and Constitutional References Committee report. It is a good recommendation and I think the proposal put forward by Senator Greig to amend the government’s proposal takes in the intention of the committee’s recommendation, which was to allow for someone questioned and detained under this regime to request an interpreter. That was the committee’s clear intention with this recommendation.

The government’s amendment is well drafted to incorporate the opportunity to stop questioning and then to continue—the opportunity, if questioning has begun, to go back, once the interpreter arrives, and lay out the rights of the individual being questioned and detained. But paragraph (2) of government amendment (18) negates the intention of the committee’s recommendation, which was to allow the person being questioned to be able to request their own interpreter. We will be supporting the government’s amendment and we will be supporting the Democrat amendment to the government’s amendment (18).

**Senator FAULKNER** (New South Wales—Leader of the Opposition in the Senate) (12.39 p.m.)—Before the committee we have, on the one hand, the government proposal, which is effectively that a decision in relation to an interpreter be made by the prescribed authority and, on the other hand, the Australian Democrat suggestion that, if a request is made, effectively the prescribed authority must provide an interpreter. I think that is the tension between the two proposals that we have before the committee. The whole thrust of the opposition’s approach to this has been to try to ensure that the prescribed authority is competent—and that it has the standing and the seniority—to make that decision. That is the role that the prescribed authority must play. That is why we have argued that the prescribed authority be drawn from a panel of experienced, retired judges—to enable us to be absolutely confident that it is able to make that decision appropriately, independently and properly. It is for those reasons that I think the government’s amendment deserves the support of the committee.
If we are going to establish a regime like this, we need to have confidence in the capacity of the prescribed authority to make these decisions. That is certainly what the opposition intends and, I hope, what the government intends in its proposed amendments to this bill in relation to the prescribed authority. I think the government’s amendments in relation to interpreters on request are good amendments. I do not think that they are enhanced by the amendment proposed by Senator Greig. Hence we will support the substantive amendments that have been proposed by the government in response to the Senate references committee report. We will not support the two amendments that stand in Senator Greig’s name in relation to the same issue.

Senator GREIG (Western Australia) (12.43 p.m.)—As I understood it, Senator Faulkner said in part that the experience of the prescribed authority could be relied upon in this case to determine whether or not an interpreter might be required. I would submit, Senator Faulkner, unless I misunderstood you, that really only the person being detained could be in a position to know whether they fully understood the situation they found themselves in. I have some difficulty in accepting the notion that the prescribed authority could determine that, given that the person before them would be, to all intents and purposes, a complete stranger.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.43 p.m.)—I thank Senator Greig for making that point and I think it warrants a response. Let me make it absolutely clear: under the opposition’s proposed regime the person being questioned will have legal representation.

Question negatived.

Original question agreed to.

Progress reported.

MATTERS OF PUBLIC INTEREST

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

Queensland: Commonwealth Funding

Senator SANTORO (Queensland) (12.45 p.m.)—When I made my first speech in this place last week, I said that a principal objective that I had, as a representative of Queensland, would be to assist in the process of keeping the Queensland government honest. In that speech I said:

... the states have a duty to use the tax funds they draw from the Commonwealth responsibly. The states now have access, in the GST, to the first major true growth tax they have enjoyed since they turned over income taxing powers to the Commonwealth 60 years ago ... They have been given a historic opportunity to be truly responsible for tax revenue that comes to them by right, with no strings attached, but is collected by another government which takes on the political odium of doing so.

Since I made that speech, I have been looking at some of the financial statistics. In 2002-03, Queensland received 46.3 per cent more overall in Commonwealth moneys than it received in 1997-98. It received 44.7 per cent more in 2002-03 from the current budget than it received in 1998-99, the first fiscal year for which the Beattie government was responsible. It received 55.9 per cent more in 2000-01 than it received in 1999-2000, and 2000-01 was the first budget year in which the GST funds flowed to the states. So that all this is in perspective, it should be noted that the national total of Commonwealth funds disbursed to the states and territories rose by 47.7 per cent between 1997-98 and 2002-03. The 2002-03 amount is, of course, an estimated amount. The 2000-01 increase compared with 1999-2000—the first year of GST funding—was 55.7 per cent.

The principle of the arrangements between the states and territories and the Commonwealth on GST is novel. All GST revenue is divvied up between the states and territories under the Commonwealth Grants Commission formula. The rate of growth in funding from this source that the states can expect depends on the growth in taxable consumption spending. In other words, the better the country performs as a consumer society, the more money flows to the states. All state governments, wherever they are located and of whatever political persuasion they are, complain that they have been dudged by the
Commonwealth. It is a national sport. Sometimes these complaints have been justified, but in the light of cool analysis many cannot be justified.

In the case of Queensland, my own state, for example, it is fairly difficult to argue for compensation for tax revenue forgone that was never raised in the first place. A changeover, such as the one that occurred in 2000-01, when the whole basis of state revenue raising was changed by national agreement, was always going to alter the parameters. Queensland can still be a low tax state—in reality that is, not in rhetoric. The present Queensland government, please note: the bottom line is that the states now have a growing pool of revenue that can be spent according to their own budgetary priorities. By any measure, at least on the face of it, that is a significant advance in financial independence. It may not be a pot of gold—it certainly is not a bottomless one—but it is nonetheless a mechanism that creates significant budgetary freedom hitherto unknown.

Those of us who welcome and wish to advance the cause of state differentials, on the basis that a country as large in area and as geographically and climatologically diverse as ours needs to encourage sensible regional difference, can only applaud. I am sure this applause is actually echoed in the corridors of the Labor administrations that now hold government across the country. They just will not say so publicly, and the Queensland government in particular is remarkably coy about the benefits that flow its way because of the new arrangements. Talking about benefits, just yesterday the Minister for Science announced more than $478 million in funding for cooperative research centres—that is a record.

For the record, Queensland received one-third of the CRC grants that were announced, a performance that reflects credit on the research capabilities of Queensland institutions, the education sector and private enterprise. That certainly deserves applause. What also deserves applause is the Commonwealth’s readiness to fund excellence and the promise of outcomes on the rational basis of reasonable and judged expectation. It would be a shame if unnecessary state rivalries muddied the waters there.

Ten CRC applicants based in Queensland—and I think we should reflect on and give proper weight to the words ‘based in Queensland’—were successful in the selection round. Four of them are entirely new, two will be developed from existing CRCs and four CRCs will receive supplementary funding. The Queensland recipients who have received grants worth a total of $140.35 million deserve to be mentioned for the record. They are: sugar industry innovation through biotechnology, $28 million; interaction design, an IT operation, $12.4 million; Australian biosecurity, emerging infectious diseases, $17.5 million; integrated engineering asset management, also an IT operation, $17.5 million; sustainable tourism, operating in the environmental area, $26.7 million; mining, $27 million; coastal zone, estuary and waterway management, $3 million; rainforest and reef and catchment to reef, which is an ongoing project, $2.25 million; enterprise distributed systems technology, another IT operation, $3 million; and the Great Barrier Reef World Heritage areas and Torres Strait program, an ongoing operation, $3 million.

Two new CRCs in the information and communication technology sector originate from Queensland, and another Queensland based CRC in this sector will receive supplementary funding. With respect to the rest of Queensland’s CRCs who were successful in this funding round, four are from the environment sector, two are from the agriculture and rural based manufacturing sector, and one comes from the mining and energy sector. This reflects Queensland’s natural advantage and the range of existing skills and industries on which the state is building and has been building for a very long time.

I note Senator Brown’s comments in relation to funding for conventional fuels research following yesterday’s CRC announcements, apparently, in his view, at the expense of research into renewable energy. It is important that we in this country build on our existing levels of excellence in established and proven energy sources. This is particularly important for Queensland, one of
the great resource states of our nation. That is why it was sensible to draw back from Kyoto, as the Commonwealth government has done. We must continue to research ways of producing even cleaner energy from Queensland’s high quality, low-polluting coal resources. That does not mean holding back on research on alternatives or on renewable energy technology. It does mean recognising that Queensland’s coal resources are immense and that in an energy hungry world, it simply is not an option to forgo its use or the extension of its use.

Commonwealth-state relations are almost exclusively about financial relations. We need to continually improve these relations and find ways of securing the true financial independence of the states. The revenue picture has been forever altered by the historic decision to implement the new tax system—the Commonwealth’s responsibility—and to provide the states and territories with a growth revenue source that is fed by the consumer society in which we all live and from which we all benefit. This is an opportunity which the Queensland Treasury certainly understands and which it welcomes. The Queensland government is publicly less happy, but that is politics—and, of course, it knows it.

One of the chief areas of public policy reform that should attract our attention in these early years of the 21st century is that of financial administration by the various levels of government in this country. The states generally—and from my point of view, Queensland in particular—have a lot of work to do in that area. Queensland’s balance sheet remains in fairly good order, but it is true to say that there are some problems now apparent that were not so clearly definable in the early years of Labor administration.

We have all suffered from the turmoil in world equity markets, at the personal level in our own savings and investments and particularly in the superannuation area. Queensland’s fully funded public sector superannuation has been similarly hit by this global effect. That has in turn had an effect on the government’s bottom line. We have heard some fairly heroic explanations of these events from the Queensland government. We have yet to see the latest audited figures so that we can judge how the state budget is actually performing. According to the Queensland government, this has been slightly delayed so that it can take into account figures that will be available early next year. It will make very interesting reading indeed.

It is fair to say the outcomes report for the year ended 30 June 2002 produced by the Queensland Treasury did not make happy reading. It produced an actual GFS net operating balance of minus $894 million—a real deficit, in other words—against an estimated actual deficit in the budget of $486 million. That is a miss by 45.6 per cent or $408 million. That is a fairly sizeable deflection from the target. It is about the same as aiming to shoot yourself in the left foot and shooting yourself in the right foot. It is in this area of financial management that the most care needs to be taken by the states, including the Queensland government. Anyone can top up the coffers by rolling out the speed cameras, upping the ante on poker machine tax or raiding the pre-tax equivalent profits of government trading enterprises, but we need to move beyond this kind of marginal, Micawber economics. There is a now a firm and growing revenue base available to the states from the GST, and the states should make very wise use of that. State governments need to take full and responsible advantage of the opportunity they have been given. They should recognise the political pain that has been taken on by the federal government and make use of that political pain in a very responsible manner.

**HIH Insurance**

Senator COOK (Western Australia) (12.55 p.m.)—There would be very few Australians who have not been touched by the crisis in insurance over the last year or so, especially since the collapse of HIH Insurance in March last year. Many thousands of Australians were plunged into uncertainty, particularly in the housing sector, when they found themselves with no protection because their builder suddenly had no professional indemnity insurance. I am personally aware of one ordinary Australian couple with three kids who are looking down the barrel of a
$180,000 mortgage but with no house to live in as a direct result of this scandal. Fortunately they have a family who were able to help them out during the interminable wait before a settlement could be reached with HIH.

There are myriad other problems in the professional and public liability insurance areas that have had a devastating impact on families, small businesses, professionals, community groups and local authorities, to name just some of the affected parties. Today I do not propose to go into further depth about those because I believe the problems are as well understood as the Howard government’s tardiness in dealing with them. Madam Acting Deputy President Collins, I also acknowledge your excellent work in this matter.

However, it is self-evident to draw the link to the HIH collapse. I noted with interest some weeks ago that the liquidator of HIH, Mr Tony McGrath, indicated that he was going to sue the Commonwealth for $5.6 billion for their regulatory negligence, he alleged, in ignoring all the signs pointing to critical difficulties in HIH well before the collapse. Certainly there appears to be little doubt that there has been a massive failure on behalf of the Commonwealth to properly regulate the insurance sector. It occurs to me that if Mr McGrath is going after the Commonwealth for negligence in the collapse of HIH then perhaps he also ought to consider going after people who appear to have contributed directly to the collapse of HIH by their own conscious and deliberate actions.

One person he should be looking at directly is Malcolm Turnbull, federal treasurer of the Liberal Party, who we know, courtesy of evidence before the HIH royal commission, worked both sides of the street with the sale of FAI. We know that when he was interested in his company, Goldman Sachs, leading a consortium to buy HIH and to knock it into shape prior to reflating it, on-selling it with a huge fee, he came to the conclusion that FAI was only worth $20 million. Yet when he acted as an adviser to Rodney Adler, the CEO and principal shareholder in FAI, in the matter of selling it to HIH, he put its value in the vicinity of $300 million, which HIH ultimately paid. If he is buying the value is $20 million but if he is selling the value is $300 million. So there is the matter of $280 million that Mr McGrath, the liquidator in HIH, might also consider seeking to recoup from Mr Turnbull on behalf of the creditors and shareholders of HIH.

I must say that there are certain issues developing around Mr Turnbull’s business dealings. I am aware of very serious questions concerning his share trading activities as a director, indeed as the chairman, of a publicly listed company called FTR Holdings. This is information publicly available on the ASX web site. I have today drawn the attention of the Australian Securities and Investments Commission and the Australian Stock Exchange to Mr Turnbull’s apparent activities in respect of this company.

In the period between 11 December last year and 23 April this year, Mr Turnbull purchased 464,306 shares in FTR in 25 separate transactions. Section 1043A of the Corporations Act prohibits a person who possesses inside information from acquiring shares in a company to which the inside information relates. Inside information is defined as ‘information that is not generally available and that, if it were generally available, a reasonable person would expect it to have a material effect on the price or value of the shares in the relevant company’. As a general rule, good corporate governance requires that directors of a company do not deal in securities in the company except during certain limited periods after significant announcements about the company have been made public. A number of these transactions give rise to concern that Mr Turnbull may have breached not only section 1043A of the Corporations Act but also the corporate governance statement of FTR Holdings published in their annual reports both last year and this year.

On 17 December last year, Mr Turnbull lodged with the ASX a notice of directors’ interest under section 205G of the Corporations Law declaring that he had acquired 89,720 shares on 11 December 2001. Just nine days after he had acquired the shares, on 20 December 2001, FTR announced to the ASX that its managing director would step...
down. An examination of the FTR share price indicates that the share price rose after that announcement. Between 10 January and 17 January 2002, Mr Turnbull purchased 88,494 shares, declaring those purchases to the ASX on 14 January, 17 January and 24 January. However, on 18 January 2002, FTR made an announcement to the ASX as to the write-down of non-core investments. Again, the share price rose immediately after that announcement.

Between 6 March and 8 March 2002, Mr Turnbull purchased 27,536 shares and on 11 March he purchased another 26,687 shares, declaring the purchase to the ASX on 12 March. But, on 11 March 2002, FTR made an announcement to the ASX releasing its half-yearly accounts. It is difficult to imagine that Mr Turnbull was not aware of the contents of the half-yearly report on the day of its release, at the very least, if not a few days earlier when buying 27,000 shares in the same company. It is difficult to discern the effect of that announcement on the share price. However, because of the proximity of the acquisitions to the announcements, all of these share acquisitions give rise to the obvious inference of insider trading. A further announcement on 30 January 2002, headed ‘WebCentral to service complex hosting market’, relating to a subsidiary was clearly judged significant enough for FTR to disclose it to the market. This had no apparent effect on the market price of the shares. The actual effect of an announcement on the share price is not, however, conclusive proof of the price sensitive nature of the information announced and does not replace the ‘reasonable person’ test I referred to earlier.

These are serious matters that go to the heart of the issue of corporate governance and the suitability of Mr Turnbull to hold positions in public companies and, for that matter, public office. Additionally, Mr Turnbull appears to have breached both ASX listing requirements and Corporations Act requirements to disclose share-trading activities promptly to the market. On 15 March 2002, Mr Turnbull purchased 2,500 shares in FTR, but this was not disclosed to the ASX until 26 March, outside the ASX’s five-day disclosure requirement. On 23 April 2002, he bought 4,586 shares but he did not disclose this purchase to the market until 13 August, well outside the ASX’s five-day requirement and the 14 days required by the Corporations Law.

These may be comparatively minor breaches in themselves, but let us look at the pattern that is developing. We have his advice to Goldman Sachs on the value of FAI and his advice to Mr Adler that the same company at the same time was worth $280 million more—that is, 15 times more when he is selling than when he is buying. And we have his share-trading activities as a director of FTR Holdings in a manner apparently not consistent with either the requirements of the letter of the law or a reasonable person’s expectation of the spirit of the law. A decade ago, when Mr Turnbull was in the peculiar position of advising Westpac on the matter of Channel 10 and Hudson Conway in their bid for Channel 7 whilst all the time being on the board of Channel 9, he was described in the Financial Review as having ‘Chinese walls in his head’ and believing they were impenetrable. This belief may still sustain him, although other mere mortals appear not to share it.

In July this year he announced that he was going into the managed investment business. This would ordinarily be an unremarkable extension of his business empire. After all, he is a businessman and he is entitled to go into business in any sphere he likes. But last year he was engaged by the then Minister for Financial Services and Regulation, Mr Hockey, to conduct a review into the Managed Investments Act. The report that came from this review was widely regarded by industry players and stakeholders as barely adequate. It raised far more questions than it answered and really did not progress matters at all. Indeed, a detailed search through the media since the time of the release of the Turnbull review has revealed that it sank virtually without trace, despite the wide general interest in the whole matter of managed investments. Reportage of it in the 12 months since its release has been limited to one small article in the Financial Review.

This, of course, raises a question about Mr Hockey. He does not appear to have chosen
an inquirer who knew the subject and could serve the public interest by making substantial and effective recommendations. Mr Hockey appears to have simply tossed a brief to a Liberal Party mate. What the taxpayers paid for was the education of young Malcolm, not a penetrating or constructive insight into the managed investment sector. If the review had progressed the issues, it might have rated a column inch or two at least somewhere in the business pages of the broadsheets. Mr Turnbull seems to have got enough of a flavour of the managed investment business to know that he wanted to be in that business himself.

So much for Mr Turnbull’s education, but what about education generally? This year Mr Turnbull strongly advocated the wholesale deregulation of education funding. Interestingly, the Minister for Education, Science and Training, Mr Nelson, attacked him for these views, leading to a stand-off between the Liberal Party chief fundraiser and the education minister—a dispute that Mr Howard had to step in to settle. Should Mr Turnbull’s views on education be adopted, it would lead to the massive redistribution of funding away from public schools into private schools. One can conclude that there is one rule for Mr Turnbull and another for the rest of us.

In a speech at Sydney University in September, Mr Turnbull bemoaned Australia’s low birth rate since the brain drain and what he referred to as our ‘inflexible workplace relations system’. He called for the scrapping of the family support system and its replacement with a flat, non-means tested $4,000 payment per child per year, irrespective of need or other circumstances. He also strongly advocated a slashing of tax rates for the rich, promoting the US tax system where the top tax bracket is not reached until earnings are $300,000 or more. This gives him a first in the ‘fairies at the bottom of the garden’ economics course. It puts him in the magnificently contradictory position of simultaneously advocating tax cuts and spending increases. Certainly, there was no mention of what services were to be cut to pay for either the extra handouts to families above the current thresholds for family payments or the tax cuts for the rich. He also called for even more deregulation of the workplace relations system, as if there was not enough casualisation of the workforce as it is, and as if it is not hard enough already for Australian workers to be good workers and good parents. So, once again, he is in the contradictory position of advocating a return to traditional family values at the same time as further casualising the work force to make it much harder for those same traditional families to juggle work and family commitments.

You have to say there is a mass of contradictions here. When it suits Mr Turnbull, he wants a return to traditional family values, but not if it affects employment. He wants a tax cut at the same time as he wants spending increases. He wants to shift the burden of education off the taxpayer and onto families, but he is happy to have his own education in his new line of business financed by taxpayers. These are contradictions in his advocacy of public policy. To that extent, he is no different from many Liberals who try to work both sides of the street and have it both ways. Labor, of course, reserves the right to always point out the hypocrisy of that position. Mr Turnbull’s behaviour in respect of FTR Holdings warrants further investigation, and I have today drawn it to the attention of the appropriate regulatory agencies. His behaviour in respect of FAI deserves the full attention of the HIH liquidator, and I would urge him to take similar action against Malcolm Turnbull to that he has taken against the Commonwealth.

Immigration: Asylum Seekers

Senator JACINTA COLLINS (Victoria)

A significant matter of public interest in contemporary terms is this government’s management of asylum seekers arriving at our borders. The Senate and the general public are broadly aware of the ‘children not-overboard’ incident. Many concerns still remain in relation to what occurred with the ship now characterised as SIEVX. Yesterday the Senate called for a judicial inquiry into the handling of SIEVX and Australia’s disruption activities in Indonesia. I anticipate strong support for the motion that I will be moving today in respect of
the alleged people smuggler Abu Qussey, the man strongly connected to what subsequently occurred to SIEVX and the loss of more than 350 lives. But today I want to focus on the treatment of asylum seekers aboard the four SIEVs—suspected illegal entry vessels—returned to Indonesia last year. There is a recent Human Rights Watch report dealing with additional information about how some of those asylum seekers were treated. It is important that the Senate note that report and some of the information available therein.

To remind the Senate and the public of the background of matters involved here, a significant change in Australia’s approach to border protection occurred in the lead-up to the last federal election. But what many people have forgotten, or had not realised, is that a fundamental change occurred in our management of asylum seekers during the caretaker period leading up to the last election, where the government summarily changed its approach to managing these suspected illegal entry vessels and started returning them to the Indonesian coastline. What we still do not know today, in many respects, is how that return was effected. Perhaps the most concerning aspect of that is in this Human Rights Watch report, where on page 40 under the heading, ‘Australian interceptions at sea’, we are told: When Australia prevents vessels transporting asylum seekers from reaching its shores it engages in interception. A number of countries practice interception at sea, but Australia has set a dangerous precedent in terms of how they are conducted and resolved.

In many respects, the Australian parliament and the Australian public still do not know how they are conducted and resolved.

I have some sympathy for the defence officials and the Navy officers and personnel involved in some of these interceptions. Through this and other reports, we have heard stories of Navy personnel in tears as they dealt with some of these asylum seekers. Unfortunately, in some instances I think Navy personnel are bearing criticism for actions that may not indeed have involved Navy personnel. We still do not know precisely which Australian personnel were involved with the handling of asylum seekers on some of these ships. Some of them were other defence personnel, and I would not be surprised if some others were the personnel of other Australian agencies, such as the Australian Federal Police.

What this report does highlight are a few of the cases that, at least in the Australian parliament, we have not been able to test the veracity of. Some of those are enough to make you weep. Looking at one of those cases cited on page 41 of the Human Rights Watch report in relation to the unnecessary use of force aboard SIEV5, we see that the families who were on HMAS Warramunga told the Human Rights Watch how they were forcibly put back on the fishing vessel after the Australians had taken them to the edge of Indonesian waters. This practice itself is questioned, but then there is the matter of how it was undertaken—for instance, one man was beaten until he was unconscious. The report quotes one woman as saying:

“We tried to put our babies at the soldier’s feet and begged them to have mercy on the children: ‘Where are the rights of the children?’ I asked in Persian, and a man translated that question for me.” When they saw that their pleas were having no effect, her husband moved forward to try to pick up his child, but his sudden movement alarmed the soldiers, who pinned him down on his back on the floor. The baby was left clinging to his chest.

The report further quoted this woman as saying:

They had iron military badges on their shoulders, and one man touched it with his stick to show the electric sparks. Then they beat the sides and ribs of my husband with the electric sticks until he was unconscious. He was hit at least four times. The baby held onto his neck throughout this beating. I thought he had died, and when they moved away from his motionless body I rushed forward to rescue the baby.

Senator Brandis—You know that has been denied by the military, don’t you, Senator Collins?

Senator JACINTA COLLINS—Senator Brandis, I am glad that you are happy to have this interchange.

Senator Brandis—You ought to show a bit more loyalty to Australian service per-
sonnel and not uncritically accept what the refugees say.

Senator JACINTA COLLINS—I will refer to anybody, and, in fact, I invite Senator Brandis to make a contribution following my own.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Collins should be heard in silence.

Senator JACINTA COLLINS—I will invite anybody to assess the Australian government’s response to some of these claims, and I am simply referring to claims at this stage, Senator Brandis.

Senator Brandis—I notice you did not mention the denials by the people in queues.

The ACTING DEPUTY PRESIDENT—Senator Collins should be heard in silence, Senator Brandis.

Senator JACINTA COLLINS—With respect to these claims, the main concern I have, and the point I made earlier, is our inability to test the veracity of these claims. This is my problem and this is one of my frustrations with much of the material that we dealt with during the ‘children overboard’ inquiry. But let me move on to some of the other reports and claims. Again, I will not pretend: they are simply reports and claims.

Senator Brandis—Make sure you mention the denials this time.

Senator JACINTA COLLINS—I would like to remind the Senate of a Four Corners program where the next concern raised by this Human Rights Watch report, although not actually covered in this Human Rights Watch report, was in relation to the return of SIEV7. The Four Corners investigation, broadcast on 15 April this year, deals with how SIEV7 was returned. In appears that the ship was taken by a large Navy vessel to Indonesian waters and perhaps closer to the coast. The ship then retreated and left a vessel, which was marginally seaworthy, to become beached 400 metres from shore. This occurred in the middle of the night. The asylum seekers on this ship claim that, in the middle of the night, their ship started breaking up. They had no choice. They could not remain beached 400 metres from the shore. They had to make their way to the coast. In the middle of the night, they had to carry people who could not swim and women and children through chest or higher depth water, by the sounds of it, to the coast.

What is claimed—and there are three individuals actually named, and I would perhaps like to name them now in my comments—is that three people simply disappeared. The three people have never been seen again. The Four Corners program in April this year reported that no-one saw Hussein Yahia, Thamer Hussein and, the third man, Haithem Dawood. We do not know if they drowned. When I relay this claim to other colleagues, the comment I get back is, ‘When we returned these ships, did that not involve any appropriate way of getting them to the coast?’ And I say, ‘From this story, it appears not.’ They say, ‘Why, if we are going to return these people are we not guaranteeing that their return is conducted safely?’ We do not know the answer to this.

When we look at the preliminary report released earlier than the Human Rights Watch report, one of the criticisms is the manner in which the closure of our coastal border took place, involving, for instance, the detention of men, women and children in ‘cruel, inhuman and degrading’ conditions on board fishing vessels and the abandonment of dangerously overloaded boats in the open seas rather than their delivery to a ‘place of safety’. This is probably one of the significant differences between the Australian Labor Party’s policy on asylum seekers and border protection and the way in which the government has conducted this.

Senator Brandis—Do you believe this Senator Collins?

Senator JACINTA COLLINS—I have suspended my disbelief on this, Senator Brandis, until we can actually see some facts.

Senator Brandis—That is what the ‘children overboard’ inquiry was about.

The ACTING DEPUTY PRESIDENT—Senator Brandis, you are out of order and you are unruly.

Senator JACINTA COLLINS—What I am concerned about is that we cannot see the facts. The government has not provided us
with the facts—the detail of how precisely these four SIEVs were returned to the Indonesian coast. Until I can be confident that I know the facts, Senator Brandis, I do suspend my disbelief on this issue. But the principal issue of difference between the government’s policy and our own is that we say, ‘If these returns are to be effected, they should be conducted safely.’ This is why we do need a coast guard. Our Navy personnel and infrastructure are not geared up for safely returning people to another country’s coastline, particularly at a time when our international agreements with that country do not accept that the people should be returned in the first instance. Until we have defence personnel who are trained to carry out this type of very distressing work effectively and until we have the appropriate infrastructure—whether that be ships capable of getting closer to shore rather than large Navy vessels—we have questions. And we do not have the answers.

In the Human Rights Watch report entitled *By Invitation Only: Australian asylum policy* released yesterday, there are very concerning reports. The Senate deserves an answer. The Australian parliament and the Australian people deserve an answer. We need to know that we are breaking up people-smuggling and that we are preventing people coming to our borders through that type of trade but that when we are doing that we are treating those very people with compassion and guaranteeing their safety. That includes knowing that if we are returning them to the Indonesian coastline we are doing so safely. I have, Senator Brandis, suspended belief that that has been the case. In these reports—and I encourage you to read them carefully—you will see Australia’s response and you will be able to make your own judgment on how satisfying that response is. I commend this report to all senators. It is the first time apart from that *Four Corners* program in April last year that some of these details and some of the reports from the asylum seekers involved have become available.

I anticipate quite strongly that the Senate will move today that Abu Qussey be pursued more seriously by both the Australian Federal Police and the Australian government. If we are serious about discouraging people smugglers, we cannot simply wait until 1 January, and he disappears. The Australian government cannot afford to maintain the position that we are hard on people smugglers and asylum seekers—we turn them back to Indonesia; we treat them in some of the ways that have been alleged in this report—but we are not serious about bringing a people smuggler like Abu Qussey to justice. If that man goes free on 1 January next year, let it be on the head of the government that they are not really serious about addressing people smugglers.

**Liberal Party of Australia: Carnell, Ms Kate**

**Human Rights: China and Tibet**

Senator BROWN (Tasmania) (1.24 p.m.)—May I congratulate Senator Jacinta Collins on that extraordinary account of the suffering of our fellow human beings and our need as a parliament to do much more to account for it.

Senator Brandis—it was not an account; it was a recitation of denied, unsubstantiated allegations.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Brandis, you may care to let Senator Brown at least get started.

Senator BROWN—I am not worried about Senator Brandis and his churlish interjections. I would have thought that he would have the maturity to get to his feet and make a submission rather than interjecting on Senator Collins’s very heartfelt and notable speech. I want to talk today about the preselection process for the Liberals to select a senator for the ACT on the 21st of this month. I note that one of the candidates for that preselection process, putting herself to the Liberal Party voters, is the former Chief Minister of the ACT Kate Carnell. During her period in office as Chief Minister—and I think people considering her candidacy should know this—she made it clear that the assembly of the ACT had no business commenting to the New South Wales government about the destruction of the south-east forests of New South Wales. What is happening with the forests and the wildlife of the Great
Dividing Range and the coastal areas of south-east New South Wales is, of course, a matter of high interest to everybody in the ACT, but as Chief Minister she made it absolutely clear that that was not her opinion.

When she left the assembly she became the Executive Director of the National Association of Forest Industries and suddenly became very interested indeed. She has in fact drawn her sustenance and salary from supporting the woodchip industry not just in the south-east of New South Wales but right around this country. When one looks at her role in fostering that industry one has to look at not just the impact of that industry on the environment of Australia but the fact that it is fostered contrary to the feeling of the majority of Australians and the majority of the people of the ACT. I can assure her that her record in this matter will come under intense scrutiny should she come to the Senate. I have been looking at the front-page story which she has posted on the web site of the National Association of Forest Industries, and it is all about Tasmania. Suddenly she is very interested in forests far beyond the ACT. And of course when she comes to the Senate she will be dealing with nationally important issues, including—

Senator Lightfoot—Are you saying that’s a fait accompli?

Senator BROWN—No, I’m not saying it’s a fait accompli. I thank you for that intervention because I think her record should be taken very much into account by those who will be determining whether she does come to this chamber when there are excellent alternatives. She says that the Valley of the Giants—the Styx Valley—in my home state, which she now has a lot to do with, is being handled in a process that maintains the forest ecosystems. She says that the forests are managed for water quality and she goes on to say about the tallest trees in the great Valley of the Giants, which are indeed the tallest trees known on the face of the planet outside North America, that they become senescent and that when they do, and as they fall down, the very small reserves which currently protect them may have their informal reserve system status withdrawn. I want to put the contrary view to that being promoted by this extraordinary advocate for the chainsaws.

I do not know whether Kate Carnell has ever been to the Styx Valley; I have certainly been there many, many times. These grand forests, hundreds of years old and full of wildlife, are being torn down at the greatest rate in history. Ms Carnell said in a letter to the Financial Review on 4 June this year:

And throughout Australia, every season, protected forests are maturing into the old-growth stage of their life cycle—constantly increasing our old-growth forest estate.

So she is actually maintaining that more old-growth forests are appearing in Australia despite the record destruction of those forests by the woodchip industry. In the same letter, she said:

Old growth forestry is declining to historically low levels and is becoming a resource used only for specialty timbers.

That is a lie. That is a direct deception of the public. Let us go back to Tasmania, which she has targeted in this misleading web site. The rate of old-growth logging there is historically high. Since Prime Minister Howard signed the death warrant on those forests with the regional forest agreement in 1997, the rate of woodchipping has increased by some millions of tonnes per annum. The number of jobs has fallen but the destruction in the Styx Valley, in the Tarkine—which she also mentions—in the north-east highlands and elsewhere in Tasmania has rapidly increased. This year alone, 150,000 log truck loads of these old-growth forests will go to the woodchip mills and through the paper mills to the rubbish dumps of Japan, Korea and elsewhere while we—

Senator O’Brien—that is rubbish.

Senator BROWN—that is rubbish, Senator, then you get to your feet and explain what the facts are.

Senator O’Brien—No, you’ve taken the interjection. That’s enough for now.

Senator BROWN—Here we have a Labor senator now, well known for his chainsaw proclivities, apparently coming to the defence of potential senator Kate Carnell. Interesting, isn’t it! When we go back to look at what Kate Carnell has to say, it is a farrago
of deception. I will be back in the Styx forest within the next few weeks. She says that visitors have some difficulty getting there because there is a gravel road, but then she says that they will see a mosaic of a working forest. What actually happens under her approval, with her guidance and with the very rich backup of the National Association of Forest Industries, is that the old-growth forests are put to the chainsaws. I understand that in the last two weeks in another large area of the Styx Valley—these ancient forests—lower down the hill from Jacques Road is the tallest known flowering tree in the world. It is 96 metres high and it is in one of those reserves that Kate Carnell says may well be temporary.

New logging roads are going into the forests adjacent to that reserve and what will happen to them, as is happening to the rest of the Styx and the Tarkine and the north-east, is that the forest will be cut down in the coming years. Over 90 per cent of those forests will go to the woodchip mills, not to local sawmills or veneer mills. Then the forest will be burnt by helicopters dropping incendiaries with napalm-like material. Kate Carnell explains, in her front page article on the National Association of Forest Industries web site, that this will be done to prevent the natural rainforest taking over where NAFI wants to see fast-growing eucalypts for its future profit line. I am adding the comment to her assertion that the valley is actually being threatened by nature’s rainforests. Following the burning of these forests, 1080 poison is laid to kill the wallabies and other natural creatures coming in from the adjacent forests to feed on the fast-growing seedlings. So we have a chainsaw down, burn and then poison routine, all of which Kate Carnell avers is a process for maintaining the forest ecosystem.

Again, that is a lie. It is destroying the forest ecosystems. You cannot in any way maintain that that is maintenance of the forest ecosystem. For older residents of the ACT, those who are in my age range, I add that she—at best tongue-in-cheek but I think with a wicked sense of determined irritation of environmentalists—then says that you can get on the road to enjoy Lake Pedder, which of course is the fake Pedder that destroyed the original magnificent Lake Pedder National Park. That was an act of destruction which inherently, in her statement, Kate Carnell approves of.

It is very important when candidates come up for election in a process which does not involve the ballot box but involves party election that the party be aware of whether or not the wider electorate would approve. I maintain that the voters of the ACT, who are renowned for their concern about the environment, will not approve of the position that Kate Carnell has taken after her period in the ACT Legislative Assembly. In fact, they would be disgusted by her promotion of this environmentally destructive industry in all the states of Australia. She once made sure that the ACT assembly was not backing a motion from Greens representative Kerry Tucker to come to the defence of the south-east forests of New South Wales and she has since she has left the assembly been the chief advocate in the private sector in Australia for the destruction of our great wild forests in all states, and the wildlife within them, to foster the woodchip industry.

I draw attention to a motion that I put forward which the Senate will be dealing with later today. It reads:

That the Senate calls on the Australian Government to urgently pursue alternatives with the Chinese Government to the death sentence handed down on Tibetan activists Trulku Tenzin Delek and Lobsang Dhondup in Karze, Sichuan province.

I simply want to say why that motion is there. In recent days these two great and wonderful Tibetan advocates and Buddhist spokespeople—who are in their homeland, which is now occupied by the Chinese government and the Chinese army—have been arrested following a bomb blast in Chengdu city with which there is no evidence whatsoever to associate them. Notwithstanding that, they have been summarily brought before the Chinese court—their rights have been ignored, even as expounded under the Chinese constitution—found guilty and sentenced to death. If we do not get a change of mind from the Chinese government, they will be executed within the coming weeks.
This is a matter of compelling international importance. The Tibetan people have suffered for so long. Trulku Tenzin Delek is a famous and renowned advocate for Buddhism and a peaceful approach to the question of the Chinese invasion and occupation—cruel occupation—of the Tibetan people, yet he is suddenly facing a death sentence. One report said that as he was led from the court he proclaimed, ‘Long live His Holiness the Dalai Lama.’

Where in an occupied country like this people are treated without any human rights by a government with which we have enormous communications and conduct enormous trade, we have an absolute obligation to intercede. This motion asks the Australian government to do that on behalf of these innocents facing death. *(Time expired)*

_New South Wales: Bushfires_

_Senator TIERNEY* (New South Wales) *(1.39 p.m.)*—New South Wales has been through another traumatic bushfire disaster. I fear that what we have now with the rains is just a temporary respite, because it is not expected that major rains will come again until autumn. So as we have our Christmas dinner and following that we are probably going to be back into the bushfire season again. This has been a common theme in my life, as I have lived mainly in country areas. I can remember as a small child the thick swirl of bushfire smoke around our home. The recent smell of bushfires half a century later still triggers memories of that fearful day.

As a 10-year-old, I sat around a table in our home with my two elder brothers playing Canasta. There was nowhere to run to as the fires approached our small town of Bargo in the southern highlands. I lost the game. It was very hard to concentrate on the cards as we waited in hope for our parents to return from the fires. But there was a sudden change of wind direction, the town was saved and we breathed a sigh of relief. Five years earlier, the town I then lived in, Eden on the far South Coast, was almost wiped out by fires as well but there we had a beach to run to—the only escape. Again, the wind changed and the town was saved.

Bushfires are a regular phenomenon in New South Wales because it is the most fire prone region in the world. We are all familiar with the crackle of leaves on the ground, the faint smell of smoke, a thin line of smoke and then a conflagration as the life of the bush goes through another inevitable cycle, as it has for tens of thousands of years as the eucalypts have come to dominate totally the Australian landscape. We have decided to live within this circle of fire, but that does not void the responsibility of state governments to properly manage the interface between humans and the bush. They must manage it far more carefully. The fire cycle can be contained and can be minimised by adopting a proper fire hazard reduction program.

I ask: why has our state government’s policy in this area gone backwards, threatening life, property and the environment? The New South Wales Carr government have evaded their responsibilities as they have adopted a dark green agenda over the last seven years. In 1994 especially, we were given a major wake-up call in New South Wales by the effects of the bushfire at that time. What has been done since? Through the years of the Carr government—through the mid-nineties to the turn of the century—what did they actually do in terms of fire hazard reduction programs?

The advantage of carrying out such programs, which were commonplace up to the election of the Carr government, is that you can more carefully manage the forests of New South Wales. Fire hazard reduction is conducted by back-burning, or what is called ‘cold fire’. This can be much more carefully managed in the cooler months. It allows animals to get out of the way and reduces the risk to vegetation that is posed by hot fire. Hot fire moves at great speed and with intensity, and many small animals are unable to escape. The effect of hot fire on trees is quite traumatic. With a cold fire only the outer area of trees is burnt, but in a hot fire the intensity of the heat damages the central core of the trees and the shrubs. It does not allow for quick regrowth. As you drive around areas affected by last year’s Christmas fires you can see how slow the regeneration is.
The annual report of the National Parks and Wildlife Service for 2000-01, which was issued recently, gives the following set of figures on prescribed burns, or cold burns, in New South Wales. The figures annually tell the story of how the Carr government is evading its responsibility on this issue. Going back to 1993, we see that hazard reduction was conducted on 48,000 hectares. In 1996, following the election of the Carr government, the conducting of hazard reduction dropped dramatically to 26,000 hectares— it dropped by almost half at that point. In 1997-98 it was down to 8,000 hectares, and in 1999-2000 it was down to 6,700 hectares. So, going back eight years earlier—1993—we see that hazard reduction was conducted on 48,000 hectares and then, in 1999-2000, on 6,700 hectares. It is a dramatic reduction. We are now reaping the whirlwind of that policy where, in areas that are not protected, conflagrations have occurred around Sydney, right to the doorstep of people in Western Sydney, in the Hunter Valley to the north and on the South Coast.

The last government that took proper responsibility for the management of bushfires in New South Wales was John Fahey’s Liberal government, which left office in 1995. Because of the extent of the fires last year, one year ago, a major joint select committee was set up by the New South Wales parliament to look at the bushfires. It brought a report down in June this year. The Carr government actually tabled that June report in late November—several weeks ago. Not only has this report been ignored; there was also no chance last winter to put in place the very necessary measures that might have led to a reduction in the intensity of the fires that have just occurred. Because conditions are so dry, obviously bushfires are going to occur. But the extent and intensity of the fires could have been reduced if the Carr government had acted on that report and reduced the risk last winter.

Let us have a look at the record of hazard reduction over the last two years. We will start with the National Parks and Wildlife Service. Bob Carr is great at opening national parks. It is a good thing to have national parks, but if you do you have to have the resources to manage them properly, including the proper management of fire risk. What are the Carr government doing? They are burning off only 0.7 of one per cent in these national parks. This sets up these areas for massive fires in the future. The CSIRO believes that the proper level of hazard reduction in such areas should be five to seven per cent. Under a Brogden government, a promise has been made to increase it dramatically to five per cent, which is a massive increase over what is happening at the moment. In my area of the Hunter, out of the 14 national parks and state recreation areas, covering a total area of almost half a million hectares, only 2,600 hectares—or less than 0.6 per cent—of the total area has undergone hazard reduction in the last two years, setting the whole area up for fire again in the future.

The Carr government has said that last year’s fires cost New South Wales $100 million. Already the fires that have occurred up to early December this year have cost $100 million. Just think, with the dry spell continuing to March, what the costs are going to amount to over the next few months. When are we ever going to learn? I am here speaking about the fires that have just occurred, but one year ago I also spoke in the Senate about the fires that had just occurred then. I told the Senate:

When are we going to learn to better manage our forests and the fires that threaten them? This should be a top priority. Over five million people are now living on the eastern seaboard of New South Wales and they are increasingly encroaching on our national forests. I made a call then that we put proper fire reduction strategies in place so that we do not get the extensive bushfires that we had last season. It was all ignored, and here we are, 10 months later, back where we were before last season’s fires—and back where we were in 1994.

When is the Carr government ever going to learn, and when is it ever going to properly introduce hazard reduction policies annually? If you do not have the cold fires to reduce the hazard of bushfire, you are going to get hot fires, in spades. We saw it this year; we saw it last year. It is not fair that we
put the voluntary bushfire brigade into this dangerous situation. They could very carefully conduct these reductions of fuel over the winter in safe conditions, where fires would not get out of control. Now we have put them in enormous danger. You saw the footage on the TV of those fires over the last few weeks. These fires spot ahead and jump, and bushfire fighters can suddenly be surrounded by fire in very hot and windy conditions. It is just amazing that more lives are not lost.

At this point I would like to express my personal gratitude for the unstinting and brave work of these voluntary bushfire fighters. They do not get paid for this work. Because we do not have proper policies in New South Wales, they put their lives at risk in the most horrific conditions—lots of that is unnecessary. The agenda of the Carr government in the management of forests is totally counterproductive. It is a pity Bob Brown—

The ACTING DEPUTY PRESIDENT (Senator Knowles)—Senator Brown.

Senator TIERNEY—Senator Brown is not here in the Senate at the moment to hear this. The dark green agenda that Senator Brown constantly supports in this place creates greater destruction of animals and forests because we get a huge build-up of fuel and then these massive fires occur. Why cannot people who support this dark green agenda see that they are creating greater destruction to the forests of this country?

To better understand the way fire works and to better implement policies that do work and that are directed by science, not by ideology, the federal government recently announced funding of $25 million for the Bushfire Cooperative Research Centre, which brings together $110 million in contributions from the federal government and other participants. This centre will bring together experts from state based fire authorities, including the New South Wales Rural Fire Service, the CSIRO, the universities, the Bureau of Meteorology and several other organisations around Australia to form a vital fighting force to increase understanding of bushfires and how to control them.

The Bushfire Cooperative Research Centre will develop a comprehensive understanding of the behaviour and dangers of bushfires, given local differences in vegetation, land management and weather. The research will be applied in both the biophysical context—taking into consideration the control of air quality, maintenance of biodiversity and prescribed burning—and the social context, including enhanced safety of people and buildings during bushfires. A key objective of the CRC will be to increase the self-sufficiency of communities in managing the risk from bushfires. Let us hope that this works. Let us hope that it lays a basis for an effective bushfire management policy that is not driven by dark green ideology but by scientific evidence that will inform us on how best to manage the human-bush interface in our country—particularly in the state of New South Wales, which is the most fire prone region in the world.

Film Awards: Rabbit Proof Fence

Senator ABETZ (Tasmania—Special Minister of State) (1.54 p.m.)—Can I say that, during this debate on matters of public interest, the contributions of Senator Santoro and Senator Tierney stood out in stark contrast to the contributions of Senator Cook, who made unfounded allegations against a person outside of this place; Senator Collins, who made unfounded allegations against our Navy personnel, who do a fantastic job protecting our borders; and Senator Brown, whose contribution was to attack a person seeking Liberal Party preselection for the Australian Capital Territory. In so doing, Senator Brown completely misrepresented the sustainable timber industry that Australia enjoys. His gross misrepresentations are things that we have got used to, but just because he repeats them it does not make them true.

If you were to refer to the timber industry as the woodchip industry, it would be like referring to the beef industry as the blood and bone industry. There is going to be a waste product left over from the beef industry and that is turned into blood and bone. Similarly, from the sawmill and veneer industries there is waste left over and that gets converted to woodchips. The alternatives
would be to let it rot or to let it burn. I would prefer that it be made into paper and useful products for human consumption. If they are not made from Australian forests then, of course, they would be made from the forests of the South-East Asian nations that do not have our sustainable forestry practices. I think we have got used to fatuous, immature sloganeering from Senator Brown, which lacks the intellectual honesty and integrity that I think people have a right to expect.

In the few moments left, I will make a few comments about the film *Rabbit Proof Fence*. *Rabbit Proof Fence* in recent times has won awards, and I congratulate the makers of that film for their technical expertise and for winning prizes for that film. But the point I make is that, just because a film wins prizes for technical expertise and things such as soundtracks, like *2001: A Space Odyssey*, it does not mean that the story the film seeks to portray is true. In recent times I have made comments about this film. What I object to about the film is its assertion that it is based on a true story. The simple fact is that, when the subject of the film was shown a preview of it and was asked about it, she is reported in the *Herald Sun* on 17 February 2002 as saying, ‘That’s not my story.’

Trying to get other elements of the media to print that fact is virtually impossible. I congratulate commentators such as Piers Akerman and Andrew Bolt, and people like Des Moore, Peter Howson and others, who are willing to put on the public record that this film, whilst it is technically good, is not based on the historical facts. Indeed, I found it somewhat strange that people would seek to make comments about the fact that a very modest little brochure which was published in my office was somehow a use of taxpayers’ money, yet the $5.2 million of taxpayers’ money that went into this film somehow is not a use of taxpayers’ money.

I think it is important that we in this nation have a correct view of our history—that we do not adopt a black-armband cringe mentality about our history and that we do pay the appropriate regard to the many good men and women in this country who in fact took vows of poverty to ensure the welfare of our Aboriginal brothers and sisters. I do not resile from that which I have said. It is just a pity that the correct context could not be put on the public record because of certain biases. I congratulate those involved in the film on their technical expertise. It is just a pity that they did not have the historical expertise to in fact present the story in a truthful manner.

**QUESTIONS WITHOUT NOTICE**

**Economy: Fiscal Policy**

Senator WEBBER (2.00 p.m.)—My question is to Senator Minchin, the Minister for Finance and Administration. Is the minister aware that the Auditor-General reported yesterday that the Department of Employment and Workplace Relations received legal advice that a special account created under section 20 of the Financial Management and Accountability Act ‘could not be used’ to make payments under the General Employee Entitlements and Redundancy Scheme? Can the minister now confirm for the Senate that, in the face of this clear legal advice, the department went ahead and made the payments through this special account anyway? Does the Minister for Finance and Administration condone the use of special accounts for illegal purposes? What action does the minister intend to take now that the Auditor-General has exposed this illegal payment?

Senator MINCHIN—Mr Deputy President, I am not aware of that Auditor-General’s report. Of course, the question is more appropriately addressed to the Minister representing the Minister for Employment and Workplace Relations who, under the legislation, has direct responsibility for special accounts for which he has ministerial responsibility. Off the top of my head, I am not sure whether that account was by way of legislation or by way of determination. I will certainly have at look at that ANAO report although, as I say, that is a matter for the relevant minister and the relevant department to deal with.

Of course, the language of ‘illegality’ is completely over the top in relation to special accounts. The legislation or determinations which set up these special accounts, which of course have to be approved by this parliament in the first place, broadly set out the
terms and conditions under which moneys can be paid out of those accounts. From time to time, the Auditor-General will take note of the fact that a department may not necessarily have complied entirely with the legislative provisions in relation to their use—and that will occur. It should not occur and we do try to ensure that departments observe to the letter the rules and regulations regarding the use of special accounts. I would remind you that special accounts have been a feature of Commonwealth activities since 1908. They are an appropriate and sensible way in which government departments deal with moneys and they have been so for nearly 100 years. I will have a look at the Auditor-General’s report on that matter but, as I say, it is really a matter for the relevant minister.

Senator WEBBER—Mr Deputy President, I ask a supplementary question. I thank the minister for his answer. Again I go to a section of the Financial Management and Accountability Act and I ask the minister: are you aware of the recent Auditor-General’s report on the management of trust moneys held by the government under section 16 of the Financial Management and Accountability Act? Minister, can you confirm that the Auditor-General concluded that the government had failed to meet its legal responsibility to keep trust moneys separate from other public moneys? Minister, do you condone illegal practices in the Commonwealth’s management of trust money?

Senator MINCHIN—It is childish and silly in the extreme for the opposition to refer to notes made by the Auditor-General as indicating illegal activity. Senator Webber, you have not asked a supplementary; you have asked a different question in relation to the ANAO report on trust money. The ANAO said in that case that they endorsed the financial framework in relation to agencies administering trust moneys. They found that, despite the guidance available, classification of trust moneys is not always straightforward.

The ANAO report has recommended better implementation of the framework by agencies, so it is a strong endorsement of the framework which is the responsibility of my department. It is the responsibility of departments to ensure that they implement that framework correctly. In that case, the ANAO recommended that, where there is uncertainty as to the status of moneys being reported as trusts, organisations should preferably seek legal advice to determine whether agreements constitute legally binding trusts. The ANAO made some sensible recommendations and they will be implemented.

Economy: Performance

Senator WATSON (2.04 p.m.)—My question is directed to the Leader of the Government in the Senate, Senator Hill. Will the leader update the Senate on how the Howard government’s strong economic leadership is benefiting Australia, Australian workers and their families?

Senator HILL—I welcome the question. As we come towards the end of the year, I think it is a good time to reflect upon the success of the Australian economy under the sound economic management of the Howard government. In fact, the Australian economy continues to be the envy of the major world economies. The Australian economy grew by 0.9 per cent in the September quarter and by 3.7 per cent throughout the year. There was ongoing strength in dwelling construction, which rose by 3.3 per cent to be up more than 22 per cent through the year. Underlying business investment increased by 2.6 per cent to be up more than 17 per cent throughout the year, and both plant and equipment and non-residential construction recorded strong gains. Private business investment increased by 2.9 per cent in the September quarter, following strong growth in the previous quarter, to be 12.2 per cent higher than a year ago. Private business investment was boosted by an increase of almost 40 per cent in new engineering construction over the past year.

The economy has shown considerable resilience to the world economic slowdown over the last year. In 2001-02, the Australian economy grew by a strong 3.9 per cent, compared to weak growth of only 0.7 per cent in the OECD area and 0.8 per cent in the United States. These figures clearly show that we are still the leading economy in the developed world. All this means great news
for Australian workers and their families. Throughout the year to October 2002 total employment rose by over 183,000, which means that we have been able to create over 1 million jobs—over 400 jobs per day. Our unemployment rate of six per cent is the lowest in 12 years, and the outlook for the labour market remains positive. Economic conditions remain solid, job vacancies are 14.7 per cent higher than last year and business confidence remains strong. These are all outstanding figures which those opposite would kill for.

In summary, under the Howard government we have enjoyed the following: historically low interest rates—Australians are now saving nearly $4,000 per annum on a $100,000 loan—falling unemployment rates, with over one million jobs created; total surpluses of $22.4 billion in the last five budgets; an ability to repay, and having repaid, $61 billion of Labor’s debt, saving $4.1 billion a year in interest costs; and $12 billion in personal income tax cuts from the introduction of the GST. Household wealth has increased by 57 per cent. This is all great news for Australia and Australian families. Just reflect upon the alternative record of the previous Labor government, with its high taxing, high spending and big deficit record. Labor racked up $96 billion of debt. Labor spent more on interest payments in its last two years than on education. Labor left us with a $10 billion budget black hole. Labor gave us record interest rates of 17 per cent—over 20 per cent for small business. Labor gave Australia unemployment levels that had not been seen since the Great Depression—over one million unemployed, a peak of over 10.9 per cent. (Time expired)

Economy: Fiscal Policy

Senator CONROY (2.09 p.m.)—My question is to Senator Minchin, the Minister for Finance and Administration. Does the minister recall that, when the government implemented its new accrual and outcomes based financial framework in the 1999-2000 budget, the Treasurer loudly heralded the changes in the House, claiming they would ensure:

Australia’s public finances are reported and presented on a world class basis ... This puts Australia at the forefront of transparency in the conduct of fiscal policy.

Can the minister therefore explain why the government has decided, in the words of the Financial Review, to ‘unwind’ and in some cases ‘reverse’ these reforms 3½ years later? Given the Treasurer’s trumpeting of the transparency benefits of accrual accounting, why has the minister for finance or the Treasurer not even put out a press release announcing the unwinding and reversal of these reforms?

Senator MINCHIN—One of this government’s greatest claims to fiscal responsibility, economic reform, honesty and transparency was the introduction of accrual accounting, a matter pressed upon federal governments for many years to ensure proper, transparent revelations of the true picture of the federal government’s financial affairs and to ensure that the opposition, the community and the financial public can fully and truly understand the full impact of the federal government’s very significant impact on the economy. The federal government is the biggest financial entity in the Southern Hemisphere, with a budget of $170 billion, and it is appropriate that we ensure that the reporting of that is by the highest possible standards and in the most transparent fashion to ensure that that impact is properly recorded.

We, unlike governments before us, did respond to the constant propositions that the federal government should have accrual accounting like everybody else, and we introduced it. It was a massive change, a very significant change. I guess that is why previous governments failed to respond to the call for accrual accounting. It is true that the rest of the world has looked on in awe at what we have done. We get visits from most Western countries, coming to see how we have done it, because we are seen as the benchmark in true and transparent accounting. Indeed, in my visit to the OECD in July, they all said to me: ‘We proclaim Australia as the standard-bearer in accounting for government finances. You are the country that we point others to when they come to reform their accounting. We regard Australia as the trendsetter and pacesetter.’ That is something that Australians on both this side and the other...
side should be duly proud of. Of course, when you introduce such a massive change to government accounting procedures, there will be—

Senator Conroy—Finetuning!

Senator MINCHIN—to take Senator Conroy’s words, finetuning of the process. He took the words right out of my mouth! In fact, after the last election, one of the injunctions from Prime Minister Howard to me as the new finance minister was to review the budget estimates framework to assess whether any finetuning was appropriate to ensure that the government received appropriate and timely advice on the estimates process. It is really about the estimates process.

I was happy to bring to cabinet a submission which suggested some minor revisions to the process. They involved some increase in the resourcing of the finance department and, may I say, I have always taken the view that one should be modest about these things. I did not go out and blurt to the world that the finance department had received, through the cabinet, a significant increase in its resourcing. I do not believe in that sort of thing, so it was out of modesty that I did not put out a press release about this matter. But, if Senator Conroy would like me to be more proud of the achievements in ensuring the finance department has renewed strength and vigour under my ministry, I will think about it.

Senator CONROY—Mr Deputy President, I ask a supplementary question. Minister, isn’t it the case that, as a result of your finetuning and backflips, the budget will no longer be reported on a full accrual basis, outcome reporting by agencies will be substantially reformed and Finance will be taking back control of spending from agencies? Will the minister now admit that the government has quietly taken its new financial framework out the back and shot it?

Senator MINCHIN—I know that is what happens in the Labor Party—they take their malcontents out and shoot them—but we do not operate like that. We tend to operate in a more civil fashion. It is a complete and utter overstatement of what the government has done to suggest that there is any move away from accrual accounting. The government remains totally committed to accrual accounting. We present so much information that the opposition is completely confused by it. We have offered to give them a course in Accounting I, and will do so. All we have done is make sure the finance department has a very good finger on the movement of monies within the department so that we can ensure that the Prime Minister, the cabinet and others have a very immediate finger on the movement of the financial affairs of the government. That is most appropriate.

National Security

Senator McGAURAN (2.14 p.m.)—My question is to the Minister for Justice and Customs. Will the minister inform the Senate about two significant announcements today to further enhance cooperation between the Australian Federal Police and its international, state and territory counterparts in the fight against terrorism and other transnational crimes?

Senator ELLISON—Today I was very pleased to launch the country’s first transnational crime coordination centre. This centre is housed at the Australian Federal Police headquarters in Canberra and for the first time provides a 24-hour state-of-the-art facility which will see national law enforcement dealing with domestic forces, state and territory police forces and international law enforcement at the same time. The coordination centre will be dealing with terrorism, illicit drug smuggling, people-smuggling, high-tech crime, money laundering and the proceeds of crime.

If we are to stay ahead of criminals we need modern technology and professional people working together in the fight against crime. That is just what this transnational crime coordination centre will do. As I said, as well as dealing domestically with our state and territory police forces, it will have capacity for a national incident centre. If we have a national investigation such as the Bali investigation, it can operate out of the centre and do so with overseas contact as well. When we opened the centre today we were online to investigators in Bali. The team that has been doing such a great job in the Bali
investigation will be working from the centre. It is also worth while to note that we had present at the opening today law enforcement representatives from Italy, the United States, the United Kingdom, Canada, Japan and Hong Kong. This signifies the standing that the Australian Federal Police has internationally with law enforcement overseas.

As well, today I have announced that joint counterterrorism teams will be formed between Commonwealth, state and territory police in a formidable alliance in the fight against terrorism. This cooperation shown by the state and territory police services is a result of work to bring together nationally those police services in the fight against terrorism. Some of those services have signed memoranda of understanding in relation to the set-up of these forces and we hope to have all of them in place early in the new year. Each state and territory will have its own counterterrorist team and nationally there will be 41 permanent professional staff involved in this initiative. This is a very important step forward in bringing together the nation’s law enforcement people in the fight against terrorism.

Today, at that national-transnational crime coordination centre, the Australian Federal Police put on show the expertise that it has in a variety of areas relating to criminal activity. We have seen great work done by the Australian Federal Police in the detection of illicit drugs which people have attempted to bring into this country. We have seen great work done by the Australian Federal Police in relation to the Bali investigation and counterterrorism measures. We are seeing great work being done by the Australian Federal Police in relation to high-tech crime. On 1 January our proceeds of crime regime will be in place and we will be able to pursue that as well as money laundering aspects, which are so important in relation to terrorists and organised criminals. This is a great step forward and yet another indication that we are keeping abreast of international criminals in the fight against crime.

Ministerial Conduct: Senator Coonan

Senator COOK (2.18 p.m.)—My question is to Senator Coonan, the Assistant Treasurer and Minister for Revenue. Does the minister recall her statement in parliament last week that her family’s Pittwater property has ‘no liability for capital gains tax, either now or when the property is sold’? How does the minister explain this statement, given today’s published advice from the ATO that the property would attract tens of thousands of dollars in capital gains tax if it were sold and if it had not been used as a principal place of residence? Isn’t it the case that subsection 108-55(2) of the tax law specifically means that the house is not CGT exempt, as it was built some nine years after the introduction of capital gains tax? Isn’t this why the false electoral enrolment actually occurred: to try and derive a huge capital gains tax exemption on the increase in the value of the Pittwater house by way of nominating it as a principal place of residence?

Senator COONAN—Thank you, Senator Cook, for the opportunity to answer this question. Reports in this morning’s Sydney Morning Herald concerning capital gains tax on a property at Clareville are factually incorrect, misleading and defamatory. The assertion that there is a contradiction is based on a series of assumptions and predictions as to events which have simply not occurred. I have advice from Mr Michael D’Ascenzo, Second Commissioner of Taxation, in relation to this so-called published advice to which Senator Cook has referred. I will read from the letter and I will also table it. He says:

We have no knowledge of any advice given to ‘The Sydney Morning Herald’ on the matter of the Capital Gains Tax ... implications of your husband’s property at Pittwater. By law, ATO staff are prohibited from commenting on individual taxpayers.

I understand that ‘The Sydney Morning Herald’ contacted our media unit for general background for an article on the operation of the CGT regime. That advice, being general in nature, was not related to any particular property or circumstance. The media unit does not have access to any information about individual taxpayers.

The application of CGT to a particular circumstance or transaction depends on an analysis of the full facts.
The amount of any CGT liability that may result from the disposal of property (including post 1985 improvements) by a taxpayer would depend on a range of factors including the amount of gain attributable to the improvements and the cost base of the improvements.

However, a CGT event may not occur for example, if the property was transferred to beneficiaries under the terms of a testamentary trust. A CGT event would occur on the subsequent disposal of the property by the beneficiaries, the amount of CGT depending on a range of factors.

Mr D’Ascenzo goes on to say:

As can be gleaned from the above, that the ATO has not provided any advice to ‘The Sydney Morning Herald’ that relates specifically to the Pittwater property. The application of the CGT to a particular event will depend on the relevant facts and circumstances.

I table the letter. So it is very clear that there is no contradiction between my position and the position of the tax office. It is true to say that the land is not subject to capital gains tax because it was owned prior to 1985. The question of whether improvements to the property would attract a capital gains tax is in fact a complex issue, as set out in the letter and referred to in my answer to Senator Cook on 4 December. To make it perfectly clear, at the time I answered the question on 2 December, to which the senator refers, I did not have in mind any implications that may arise from improvements to the property since 1985. The question of whether improvements to the property would attract a capital gains tax is in fact a complex issue, as set out in the letter and referred to in my answer to Senator Cook on 4 December. To make it perfectly clear, at the time I answered the question on 2 December, to which the senator refers, I did not have in mind any implications that may arise from improvements to the property since 1985. The answer to Senator Cook shows, the following day I was aware of hypothetical events that might give rise to a capital gains tax event and was not giving a legal opinion. As my answer to Senator Cook shows, I clearly did not mean to mislead the Senate and, as the tax office has said in its letter, the application of capital gains tax to a particular circumstance or transaction depends on an analysis of the full facts. My legal advisers will be in touch with the Sydney Morning Herald concerning its claims in that article. (Time expired)

Senator COOK—Mr Deputy President, I ask a supplementary question. I note that nothing in the tax office letter that has been quoted by the minister establishes that there is anything in the Sydney Morning Herald article that is incorrect. Isn’t it the case that taxation determination 51, issued by the Australian Taxation Office, a body for which the minister has ministerial oversight, spells out the factors that are involved in determining whether a property is a main residence for capital gains tax purposes? Isn’t it the case that taxation determination 51 lists as one of the criteria where a person is enrolled on the electoral roll? Isn’t this the real reason why the false electoral enrolment actually occurred—to try and derive a huge capital gains tax exemption on the increase in the value of the Pittwater house?

Senator COONAN—So far as I know, there has been absolutely no false enrolment. I have tabled a statement which repudiates the assertion made by Senator Cook that there is published advice from the ATO—which is dead wrong. I have said that my attorneys will be in touch with the Sydney Morning Herald concerning that matter and, I might add, also with 2UE, who published a scurrilous interview with the member for Werriwa. No doubt the member for Werriwa will also receive some interesting Christmas reading.

Environment: Renewable Energy

Senator ALLISON (2.25 p.m.)—My question is to the Minister representing the Minister for the Environment and Heritage. Why has the government decided not to renew funding for the Cooperative Research Centre for Renewable Energy? Isn’t it the case that there is now no federal money available for dedicated renewables research and development? What is the policy justification for this and for the fact that there are three CRCs for so-called ‘clean coal’ technology, plus the $35 million for the new Rio Tinto Foundation for a Sustainable Minerals Industry?

Senator HILL—The decision to not fund the CRC for Renewable Energy for a second time must be seen against the core criteria for CRC funding of excellence in science and a competitive bid process. The government has committed about $377 million in programs to support the commercialisation and development of renewable energy technologies and related industry development. The government has legislated to create a world first guaranteed market of 9,500 giga-
watts of new renewable electricity generation through the mandatory renewable energy targets and, as the honourable senator knows, an independent review of that scheme will be carried out next year.

The government, in partnership with the renewable energy industry, has launched a Renewable Energy Action Agenda. This action agenda provides a strategic policy framework for the development of a sustainable and competitive renewable energy industry in Australia that aims for growth in annual industry sales of $4 billion by the year 2010, so the government's credentials in relation to support for renewable energy are high. But the other aspect of that of course is the point that I started with, and that is that this bid process was a competitive process. All applications were judged on merit by expert panels, referees and independent assessors, and I am advised that the minister accepted the advice of the CRC Committee's recommendations without change.

Senator ALLISON—Mr Deputy President, I ask a supplementary question. I thank the minister for his answer but I ask him to explain how he thinks the renewable energy industry can be competitive with coal, given the enormous advantages this government has granted that industry. In particular, I ask the minister why he says renewable energy is supported by this government when the Mandatory Renewable Energy Target scheme, which his government put in place, is not worth two per cent, not even worth 1.5 per cent but more likely worth something less than 0.5 per cent. Again I ask: doesn't this latest effort on the government's behalf, in eliminating money altogether for research and development in renewable energy, suggest that this government has no interest in that industry at all?

Senator HILL—I thought I had made the point but I will repeat it. The support of the industry through the Mandatory Renewable Energy Target system, the Renewable Remote Power Generation Program, the support of the government for photovoltaic systems, the Renewable Energy Commercialisation Program, the Renewable Energy Equity Fund and the Renewable Energy Action Agenda—all supported by some $377 million of funding—demonstrates a commitment to renewable energy. But this government is also committed to cleaner coal. Coal is a vital fuel in competitive terms and in terms of established infrastructure in Australia, and there is significant room within that industry to produce cleaner products with environmental benefits, including greenhouse gas.—(Time expired)

Superannuation Complaints Tribunal: Appointments

Senator SHERRY (2.30 p.m.)—My question is to Senator Coonan, Minister for Revenue and Assistant Treasurer. Does the Assistant Treasurer recall placing an advertisement on 15 November this year in the Australian Financial Review that began with the words:

The Minister for Revenue and Assistant Treasurer, Senator The Hon. Helen Coonan, is seeking applications from suitable persons for possible appointment to two statutory positions—Chairman and Deputy-Chairman of the Superannuation Complaints Tribunal.

Why then did the Assistant Treasurer tell the Senate this week, when asked to rule out appointing former Liberal Senator Michael Baume to either position, that the situation relating to former Senator Baume is a matter entirely for the Prime Minister, and I am not in a position to say whether Mr Baume is even under consideration.

Given that Senator Coonan's spokesman was forced to clarify what she said in the Senate on this matter on Monday, by stating that it is in fact her responsibility to recommend tribunal appointments, will she now correct the record of the Senate?

Senator COONAN—I think the Labor Party's desperation knows no bounds. I might say that I am perplexed by the reaction of opposition senators to the appointment process for the chair and deputy chair positions of the Superannuation Complaints Tribunal. Let me run through it for those opposite, and particularly for Senator Sherry. Essentially, a recommendation is made by the relevant minister, but whether or not that recommendation is accepted is entirely a matter for the Prime Minister and/or the cabinet. I would have thought that was self-evident. Ultimately, any appointment must
be approved by the Governor-General who, by convention, would accept the decision endorsed by the Prime Minister and/or the cabinet.

The chair and deputy chair positions of the Superannuation Complaints Tribunal are statutory office holder positions, and appointments are typically for three-year terms. The usual practice is for the government to consider a range of candidates, along with the incumbents, in order to determine the most appropriate appointees. Accordingly, the positions for the Superannuation Complaints Tribunal were advertised in the *Australian Financial Review* on Friday, 15 November and in other major newspapers on Saturday, 16 November. The advertisement requested that applications be forwarded to Treasury by no later than 29 November.

While it may seem strange to Labor senators who are quite used to stitching up candidates in back room deals, I will continue to follow the due and proper process in relation to these appointments. What this means is that no matter how many times I am asked, I will not be announcing or vetting any candidates in the Senate chamber, or ruling anyone in or out, just to satisfy the day-to-day whims of those opposite. At this stage, I can say I have not received any advice with regard to potential candidates but, in any event, the applications are and will continue to remain confidential. The government will consider all the applications in due course, with a view to appointing both a chairman and a deputy chairman early next year.

Senator SHERRY—Mr Deputy President, I ask a supplementary question. Given that the Assistant Treasurer is the minister with formal responsibility for the tribunal, were her comments in question time simply an admission that the Prime Minister will dictate who she recommends for appointment in order to hand out jobs for the boys, particularly when a Prime Ministerial mate is involved?

Senator COONAN—I have said in a lengthy answer to this question that the proper processes will be followed in relation to any recommendations that are made. Ultimately, of course, the matter is a cabinet decision. All applications will be considered in due course, as they should be, before appointing the chairman and deputy chairman. That should be early next year.

**Environment: Renewable Energy**

Senator BROWN (2.34 p.m.)—My question is to the Minister representing the Minister for Education, Science and Training. What role did the Chief Scientist, Dr Robin Batterham, play in the advice to the government that the Australian Cooperative Research Centre for Renewable Energy should be defunded, despite its excellent work and the review panel’s recommendation that it continue to receive funding, at least at past levels? Is it a fact that Dr Batterham is also Chief Technologist to Rio Tinto, and does this not compromise the advice that he gives to the government in his position on the board determining CRC grants? Is it true that all of the $68 million announced yesterday, which could have gone to the renewable energy industry, went to the mining industry? Where did the $35 million given separately to the Rio Tinto Foundation last month come from? What is the source of that money?

Senator ALSTON—I will obtain what information I can from Senator Brown in relation to the latter parts of his question, but can I say that the suggestion that Dr Batterham’s position with Rio Tinto somehow compromises his ability to give fearless and independent advice to the government is simply outrageous. It is entirely consistent, of course, for Senator Brown to try to draw these very long bows; we have seen that in recent times with some of his other comments. Quite clearly, in this situation, there is a very rigorous process involved. As Senator Hill said, applications in a CRC selection round are assessed not according to their industry sector but according to their ability to meet the published selection criteria in a merits based, competitive process. The successful applications in this selection round were assessed by expert panels, referees and independent assessors. The CRC Committee judged them to be the highest quality applications submitted and the ones that best met the selection criteria. The minister accepted the CRC Committee’s recommendations without change. The application from the
Australian CRC for Renewable Energy was not recommended for funding on this occasion because there were more highly ranked applications.

Dr Batterham is universally regarded as having the highest integrity and is someone who fully understands all of the potential conflict of interest situations that can arise. I have no reason at all to believe that he would even in the slightest compromise himself, and I would be absolutely amazed if Senator Brown had any basis for making that suggestion—other than, of course, the irresistible opportunity that presents itself to try to link two propositions in order to advance the green cause. Senator Brown spends most of his time running around pretending that he is somehow a morals politician—someone who is above it all—but in fact most of his politics are very grubby indeed. This is just another example of it.

Senator BROWN—Mr Deputy President, I ask a supplementary question. I go right back to the Chief Scientist and ask the question again: is he not totally compromised by being on the panel which advises the government on the ranking that the minister spoke about and the panel which yesterday dumped renewable energy but gave all $68 million in direct dedicated funding to the four mining CRCs, all of which Rio Tinto has an interest in? Minister, is it not the fact that last month the government gave $35 million directly to Rio Tinto’s foundation to look at carbon sequestration and energy efficiency and yet two of the allocations yesterday—another $35 million—were given to two CRCs to look at exactly the same things? Is this not double allocation to the mining industry for one purpose? Why was that money not given to renewable energy? The panel’s finding that the CRC on renewable energy was doing excellent work—

(Time expired)

Senator ALSTON—The government’s assistance for the Rio Tinto foundation for sustainable minerals industry is not in any way related to the CRC selection process. It is separate and distinct. In the case of the Chief Scientist, the CRC Committee has in place a process of the utmost probity and the Chief Scientist was punctilious in ensuring that he declared any conflict of interest, real or perceived, in his role in the CRC Program. The CRC Committee ensured that such matters were dealt with properly and fully in accordance with CRC Program operational procedures. I doubt there is a leading scientist in Australia that would not have complete faith in Dr Batterham’s competence and integrity. The real concern here is that Senator Brown hates the mining industry. What he is really trying to do is to discredit it in every possible way and argue that somehow everything that does not go to the environment is corrupt or inappropriate. That is a nice extreme line to run and it probably plays well in certain areas. (Time expired)

National Security

Senator GEORGE CAMPBELL (2.39 p.m.)—My question is to Senator Hill, representing the Prime Minister. Can the minister provide to the Senate the following information relating to the government’s eminent multimillion dollar public information campaign on the threat of terrorism? When will the campaign be run? How will it be conducted and how much will be spent on it? Which company has won the contract and how was it selected?

Senator HILL—I think it will be an eminent campaign and, hopefully, it will be imminent because it is a very important issue. I will get the details required by the honourable senator and let him have them as soon as possible.

Senator GEORGE CAMPBELL—Mr Deputy President, I ask a supplementary question. Is the minister aware that there is already press speculation that this campaign is going to cost $27 million, that it is going to run over the Christmas period, that Brown Melhuish Fishlock have got the contract, that there was no tender process and that PM&C is the lead agency? How is it that the minister is unable to provide the basic information about this eminent campaign to the Senate? Will he undertake to obtain this information from the Government Communications Unit in the Department of the Prime Minister and Cabinet and report back to the Senate before we rise tonight?
Senator HILL—I do not know anything about it because I have not had anything to do with it. I suspect that probably the Prime Minister has not either. I indicated to the honourable senator a moment ago that I would seek the information he is seeking and let him have it as soon as possible.

Telecommunications: Competition Reforms

Senator TIERNEY (2.41 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. Minister, what progress has the government made on the delivery of world-leading competition and consumer safeguards in telecommunications? Is the minister aware of any alternative policies in this area?

Senator ALSTON—Today the Australian Communications Authority released its annual section 105 report on telecommunications industry performance. It found that the coalition government’s telecommunications competition reforms have delivered benefits of up to $878 per household in 2001-02. The report found that the Australian economy was $10 billion larger in that year as a result of the coalition’s competition regime, which has led to the creation—

Senator Chris Evans—Just goes to prove, ‘Lies, damn lies and statistics.’

Senator ALSTON—You may say so; it is a pity that you cannot come up with some persuasive statistics of your own, Senator Evans. I know you have additional responsibilities so that diminishes your capacity to concentrate. I would have thought that the report’s finding of the creation of 100,000 new jobs is a pretty significant statistic. The great engine room of the Australian economy, small business, has also benefited, with small business profits increasing by $900 million as a result of the coalition’s competition regime, which

Senator Mackay—You ordered an inquiry.

Senator ALSTON—We have. The House of Representatives committee will be having an inquiry so there will be every opportunity for Labor to put its position on the table. This will flush you out. This will give us a sense of whether you are seriously interested in ripping Telstra’s arms and legs off and keeping the corpse in government ownership. That is your strategy, isn’t it? And it is driven by a visceral hatred on the part of Mr Tanner because he just hates the fact that Telstra tried to sort him out and told him he was wrong. Of course, he was absolutely terrified that he might be sued for defamation. You cannot allow pathological hatred to drive good policy.

I understand that Mr Crean is not at all comfortable with the structural separation approach but he does not have the intestinal fortitude to stand up to Mr Tanner. So here is the big chance. Instead of playing the politics of payback on Telstra and trying to drive a great Australian company into the ground, let us hear some constructive approaches. We welcome your support for accounting separation—I am glad that went through the Senate chamber the other night—but if the real agenda is to get out there next year and talk about breaking it up, I can tell you there is a very big fight to be had, because no-one else in the world would even dream of doing that sort of thing. Some companies that might have unsustainable debt burdens may be forced to do it, but a company like Telstra,
which has a relatively healthy gearing level, certainly does not need that sort of approach. If you are going to tell 1.9 million shareholders that you are going to drive down the share value by breaking up this company into pieces—your long-term strategy—then the sooner we identify that the better. This House of Representatives inquiry will provide a very good opportunity to demonstrate Mr Crean’s leadership credentials, to get Mr Tanner back into the tent, to let Senator Mackay and her union colleagues actually sort out Mr Tanner once and for all, and to say what a crazy policy line this—

(Time expired)

Ministerial Conduct: Senator Coonan

Senator CARR (2.46 p.m.)—My question without notice is to Senator Coonan, the Minister for Revenue and Assistant Treasurer. Does the minister stand by her statement to the Senate on 2 December, when she said:

I have absolutely no interest, and never have had any interest, in any property at Clareville.

Or, again, when she said:

I believe it belongs to my husband. I do not know whether it belongs to interests associated with my husband ... I do not know very much about this property, and I am really unable to help Senator Faulkner as to how it is registered.

Does the minister recall confirming this statement on 3 December, when she said:

We do not have a joint interest in the property that is in question.

What did the minister mean by the term ‘interest’ in these statements?

Senator COONAN—The answer to that question is yes.

Senator CARR—Mr Deputy President, I ask a supplementary question. I asked the minister a direct question: how does she define ‘interest’ in these statements? She has failed to answer that question. I would ask her to do that now. Further, can the minister confirm that the site plan, the site works plan and the landscape planting plan documents lodged with Pittwater Council in relation to the Paradise Avenue, Clareville residence clearly indicate that she and her husband were the joint clients of both the architect and the landscape architect for the 1994 renovations of the property? Don’t these documents demonstrate that both Senator Coonan and her husband were acting jointly in the renovations of the Clareville property, the same property she told the Senate that she knew very little about?

Senator Hill—Mr Deputy President, on a point of order: this is in no way a supplementary question. It certainly does not arise out of the answer that was given. It is a whole range of assertions by Senator Carr. He could have framed it in terms of his primary question, which might have been legitimate, but he chose not to do that. This was the trick in the tail but, unfortunately, the whole scheme did not work out. I therefore suggest to you, Mr Deputy President, whatever it might be—apart from a rant and a rave—it certainly is not a supplementary question.

Senator Faulkner—I raise another point of order. Mr Deputy President. You know as well as I do that whenever Senator Hill does not want someone to answer a supplementary question he takes the same old point of order. It has never had any standing or status. It has never been agreed to by previous presidents. I respectfully suggest to you, Mr Deputy President, that this fairly transparent attempt by Senator Hill to try and stop the supplementary question being answered just be ruled out of order and that we get on with it.

Senator Alston—Mr Deputy President, on a point of order: I think it is very unfair of Senator Faulkner to think that he can get away with putting something over you as blatantly as that. He did not for a moment attempt to suggest that there was any standing order—

The DEPUTY PRESIDENT—Senator Alston, what is your point of order?

Senator Alston—My point of order is that there is a standing order that supports what Senator Hill says and there cannot possibly be a standing order supporting what Senator Faulkner said, because all that Senator Faulkner basically said was that this is a tired strategy. That is not a point of order. If he wants to point to any standing order that contradicts Senator Hill’s proposi-
tion he should do so, but I can assure you he will not because he cannot.

The DEPUTY PRESIDENT—There is no point of order. That part of the question which is capable of being answered by the minister should be answered. Other parts which do not apply to the minister, in accordance with the previous ruling by the President, need not be addressed.

Senator COONAN—I have, as I have said before, no legal and no beneficial interest in the property at Clareville. The development application that I think was being referred to—although I could barely hear Senator Carr—was lodged on behalf of my husband by the builder or the architect working on the project. I was not consulted by the builder or the architect about the description used in the development application, and I have never been known as Helen Rogers. I have absolutely no equitable or legal interest in the property—I certainly wish I did because it would obviously mean that I had something of value—and you will never be able to prove it because it does not exist.

Honourable senators interjecting—

The DEPUTY PRESIDENT—Will senators carry on the discussion outside after question time; it would be far more valuable.

Drought

Senator CHERRY (2.52 p.m.)—My question is to the Minister representing the Minister for Regional Services, Territories and Local Government. Is the minister aware that the Farmhand Foundation has been inundated with requests for assistance, with total claims exceeding the funds available by around $50 million? Is he concerned that some of the most frequently cited bills that drought stricken families are having trouble paying are the rates bills to local governments, which can amount to thousands of dollars, and also electricity bills to state governments—mostly Labor governments? To what extent is the failure to pay bills or the deferral of assessments putting financial strain on country local authorities? What measures have the Commonwealth put into place to try to reduce pressure on local councils and provide rates relief, such as bringing forward federal local government grants?

Senator IAN MACDONALD—I thank Senator Cherry for that question. It does indeed show that at least the Australian Democrats have an interest in matters that are of vital concern to Australians—rather than the sorts of questions that we have been getting from the Labor Party. I can understand why the Labor Party do not ask questions about drought, when the state Labor governments have given about $55 million towards drought relief compared with the Commonwealth’s $1.2 billion in drought relief. But, Senator Cherry, I do understand that families have a lot of bills which they are required to pay and with the drought and the stopping of income from farming pursuits they are obviously in very difficult financial positions. That is why the government implemented the Farm Management Deposit Scheme—so that in the good years farmers could put money aside and in these difficult years they could withdraw it and use that money to pay such things as rates.

It is also the reason why the government has embarked upon this $1.2 billion drought relief package—to give income support to families and to provide interest rate subsidies for those who do not have an income this year but need to prepare for next year when the drought breaks. When the drought breaks, we hope that farmers will be in a position where they can plant or start with the breeding programs so that they will quickly recover. Of course, a quick recovery will give them the money to pay rates and other pressing bills. I would point out that a typical farm family, with a couple of children and, say, $300,000 worth of debt, could be getting something like $76,000 for the two years as a result of the government’s drought relief package. Whilst that is not a lot, it will help farmers get through their immediate debt payment problems.

Senator Cherry has asked me about the impact on local governments, and obviously it will have an impact on local governments in some areas. I have recently and coincidentally spoken to Mr Tuckey, the Minister for Regional Services, Territories and Local Government, about this issue. He tells me...
that, to date, neither the Australian Local Government Association nor anyone else has approached him specifically on this point. But, again, Senator Cherry would probably be aware that the financial assistance grants program and formulas take into account, when they are assessed every year, the income capability of particular councils. So there may be some assistance to councils that are specifically impacted by the drought, but by and large there are no specific programs that I am aware of. I will check that, and if there is something I am not aware of I will get back to you. But the whole idea of giving assistance to farmers, to small businessmen and to workers in country areas is to make sure that they can deal with their pressing debts as best they possibly can. In this way, hopefully the rates, or a good part of them, will be paid and when the good times come again those rates will obviously be the first to be paid.

Education: Northern Territory University

Senator CARR (2.56 p.m.)—My question without notice is to Senator Alston, representing the Minister for Education, Science and Training. Can the minister confirm that the Northern Territory University will be closed and replaced by a radically restructured entity, to be known as the Charles Darwin University? Can the minister further confirm that this action is to be taken as the result of the funding crisis faced by the Northern Territory University? Can the minister confirm that the Commonwealth will be required to pay another $10 million towards the new university and that it is a condition of the advance of the funds made to the university that this restructure take place? How many more universities face the same fate as the Northern Territory University?

Senator ALSTON—That is another good reason why you ought to aspire to government—you get much better service. And the way to do it is by coming up with good, well thought out policies, not any of this grubby nonsense and trawling—

The DEPUTY PRESIDENT—Senator Alston, I draw your attention to the question, and please address your remarks to the chair.

Senator ALSTON—I was being egged on, Mr Deputy President.

Opposition senators interjecting—

Senator ALSTON—Senator Ferris does an excellent job, I must say. No wish is left ungranted.

Senator Chris Evans—Why don’t you grant our wishes when it comes to a division?

Senator ALSTON—I get along when I can.

The DEPUTY PRESIDENT—Senator Alston, address your remarks to the chair and ignore the remarks coming from the left.

Senator ALSTON—I do not know that I can assist Senator Carr with his question about the Northern Territory University or indeed the Charles Darwin University replacing it, but when Senator Carr strays into his usual area of fabricating this crisis about university funding I can probably help him a bit more. Financial measures indicate that higher education institutions generally retain strong liquidity, low levels of borrowing and a significant level of assets. In 2001, sector revenue was over $10 billion, an increase of $0.9 billion from 2000. The aggregate operating result for the sector was $460 million. Universities have access to higher levels of revenue than ever before. In 2002—I know it is a bit hard to believe but it is true—

Senator Faulkner—I rise on a point of order, Mr Deputy President. Senator Alston is desperately scrabbling around for a brief on this question about the Northern Territory University and the Charles Darwin University—he said any brief will do. My point of order is a point of relevance. He could just save us the trouble by taking an important question from Senator Carr on notice. He has no idea what the answer to the question is. He has admitted that. Any brief will do. He is going to read something into record. The minister should not waste our time. He should take the question on notice, try to get a sensible answer to a very important question and we can get on with the rest of the Senate’s program.

Senator ALSTON—Mr Deputy President, on the point of order: Senator Faulkner has got half a point because if the question
had stopped at Charles Darwin University and Northern Territory University then I would have to concede that he is basically right. Unfortunately, Senator Carr went a bit further because he could not help himself. He wanted to rabbit on about university funds and university crises and all the union stuff.

Senator Faulkner—It’s just that none of it goes to the Northern Territory.

Senator ALSTON—My ears pricked up at that union bit, so I thought that here was an opportunity to set him straight.

The DEPUTY PRESIDENT—Senator Alston, what is your point of order?

Senator ALSTON—My point of order is that in fact there was enough in the end bit of the question for me to be able to respond to it. I can help Senator Carr in assuring him there is no such thing as a crisis in university funding. Some universities perform better than others in particular years but overall they do not.

The DEPUTY PRESIDENT—Your point of order—I am still waiting!

Senator ALSTON—My point of order is that I do have a decent response to the second half of the question, and that is all I need to be able to have a run.

The DEPUTY PRESIDENT—All right. There is no point of order. The minister has two minutes and 15 seconds. I believe the minister is coming to the answer so, Minister, will you on the point of relevance address the question?

Senator ALSTON—It is the epicentre, I can assure you. You had better take this down, Senator Carr: universities have access to higher levels of revenue than ever before. In 2002, it is estimated that the total revenue available to higher education institutions from all sources will be an estimated $10.9 billion, nearly $2.4 billion—that is more than 28 per cent—more than in 1995, and who was in government in 1995?

Senator Carr—I raise a point of order, Mr Deputy President. Senator Alston has entertained the chamber for some time. I asked a specific question which went to the issue of the Northern Territory University being closed and I asked whether he would confirm that this action was taken as a result of the funding crisis faced by the Northern Territory University. I ask him to please address the question.

The DEPUTY PRESIDENT—There is no point of order. Minister, I draw your attention to the question that was asked and, in the one minute and 39 seconds left, you might respond to the question.

Senator ALSTON—in view of the time—and I know everyone else has got more important things to do, Mr Deputy President—perhaps we will call it quits. I will get whatever information I can for Senator Carr on that first part of the question.

Senator CARR—Mr Deputy President, I ask a supplementary question. I ask the minister to also seek in regard to this matter advice as to whether the Commonwealth will support the closure of the Northern Territory University and its replacement with a new entity arising from an amalgamation of Centralian College, the Menzies School of Health and elements of the Australian National University. I further ask: what other assistance will the Commonwealth be providing the new entity? Isn’t this closure forced on the Northern Territory University simply an example of the consequences that have resulted from this government’s bankrupt higher education policy?

Senator ALSTON—I can give a comprehensive answer to that question. It was: will I seek advice? The answer is yes.

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

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Trade: Wheat Exports

Senator HILL (South Australia—Minister for Defence) (3.04 p.m.)—I undertook yesterday to seek further information in relation to a question asked by Senator O’Brien relating to the Wheat Board and single desk arrangements. I am advised by the Minister for Trade that Australia’s single desk arrangements are fully consistent with WTO rules. Our straight trading enterprises have been corporatised and are very transparent
by world standards. Therefore, in the FTA negotiations the government will argue that Australia’s single desk arrangements on wheat are transparent, do not distort trade, and that we are therefore committed to defending them in the trade negotiation. That is exactly the position we take in the agricultural negotiations in the WTO.

Employment: Child Labour

Senator ALSTON (3.05 p.m.)—On 10 December, Senator Cherry asked me a question without notice regarding why the government has not ratified ILO convention 182, ‘Worst Forms of Child Labour 1999’, and whether the government will establish a national review of measures including laws to prevent the exploitation of children in the labour force. I undertook to provide additional information and I seek leave to incorporate the response in Hansard.

Leave granted.

The document read as follows—
The Minister for Employment and Workplace Relations has provided the following additional information in relation to the question asked by Senator Cherry:

Ratification of Convention 182

The Government is committed to ratifying Convention 182 in order to demonstrate Australia’s commitment to the elimination of the worst forms of child labour. This commitment was given to the ILO by the head of the Government delegation to the 2002 International Labour Conference in an address to the Conference in plenary session on 12 June 2002.

The inability of the Government to ratify the Convention to date arises from the need to comply with the treaty-making policy that has been agreed with the State and Territory governments. This policy provides that Conventions cannot be ratified unless and until all relevant jurisdictions have formally agreed to ratification and all legislation necessary for compliance is in place. The fact is that prohibition of the worst forms of child labour falls primarily within the legislative responsibilities of the States and Territories, and their compliance is essential if Australia is to ratify the Convention.

While the majority of States have provided formal agreement to ratification, there are outstanding compliance issues in most of these jurisdictions. The Government is seeking urgent resolution of these issues.

At the recent meeting of the Workplace Relations Ministers’ Council, the Minister for Employment and workplace Relations sought and obtained agreement from all State and Territory Governments that they will provide commitments to achieve compliance with the Convention by Easter 2003. Such commitments should enable the Government to commence formal action to ratify Convention 182.

National review

The Government sees no need for a national review as proposed by Senator Cherry. Consultations with State and Territory governments on law and practice in relation to child labour issues has established that State and Territory legislation providing for compulsory education, minimum ages for employment in selected occupations, child welfare and occupational health and safety provides a very effective framework for preventing the admission of children to harmful employment and promotes their fullest physical and mental development. Australian law and practice with regard to the protection of children under 18 from involvement in exploitative forms of child labour such as prostitution, slavery, forced labour, drug-trafficking and unsafe work, are in full compliance with Convention 182. In the circumstances a national review would serve no useful purpose.

Senator Cherry refers specifically to the issue of children as young as 16 or 17 working in the adult entertainment industry. This is the single area in which some Australian laws do not fully meet the requirements of Convention 182.

The Commonwealth has a minor compliance issue with respect to the importing and exporting of pornographic videos, which is being addressed. Responsibility for the regulation of pornographic performances and the making of pornographic products lies with the State and Territory governments, not the Commonwealth. It is the failure of some of these jurisdictions to take action on this particular type of issue that has delayed the ratification process.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Economy: Fiscal Policy

Senator COOK (Western Australia) (3.05 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Finance and Administration (Senator Minchin) to questions without notice asked by Senators Webber and Conroy today relating to accountability and accrual accounting.
It is not for nothing that accounting procedures induce yawns and glazed eyes among most of the population. Unfairly, I think, the stereotype of an accountant is of a boring, white-bread, vanilla type personality that you would not want to corner you at a party. I think that is unfair because, while the numbers may not thrill some of us, what those numbers illustrate is vitally important in terms of our national wellbeing.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order! Could those on my right who are holding their meetings here do so outside? It is exceedingly hard to hear the person on his feet.

Senator COOK—We have now seen a breathtaking bungle by Mr Costello and Mr Fahey—supported, it would seem, by the now finance minister, Senator Nick Minchin—namely, the change from cash accounting to accrual accounting by the Commonwealth. We all remember when the budget came down in 1999-2000 that Mr Costello hailed that budget as a major ‘reform of the Howard government’. The so-called reform was a transition from cash accounting to a form of accrual accounting and that budget laid out three key principles of what that reform was about. There is no question that it was a major shift in the accounting procedures of the Commonwealth. There is no question that this change was at a major cost to Australian taxpayers—a cost in the hundreds of millions of dollars. There is no doubt either that this so-called reform was announced with a public flourish of trumpets. It is therefore odd in the extreme that on 15 November, with no announcement and with no flourish of trumpets, a 12-page memo was issued by Mr Phil Bowen of the Department of Finance and Administration Budget Group reversing many of the changes that the so-called Costello reforms introduced.

We know from MYEFO—the mid-year economic review—that the cost of reversing these changes, which cost hundreds of millions of dollars of taxpayers’ money to install in the first place, is estimated to be $80 million. We know as well that this has been a move totally panned by the Australian financial media. On 25 November, the Australian Financial Review called it ‘The quiet counter revolution’, drawing attention to the secretive way in which the department reversed these public announcements. The Canberra Times describes it accurately, I think, in its headline ‘Billions missing amid the confusion’, and here is the rub. This is not just a major bungle in terms of the application and introduction of an unthought-out, ill-considered, inappropriate accounting structure; this is a major cost to taxpayers as well. Those two things ought to be sufficient to create widespread public outrage about what has been done. But they are topped by a third and more important serious problem.

The method of accounting that the Commonwealth has introduced makes it very difficult for parliament to exercise its constitutional obligation to Australian taxpayers to properly scrutinise budget estimates. In fact, the newspaper reports by the financial specialists emphasise this point particularly. The method of accounting makes it very difficult, in the way in which the government applies that method, to actually track the so-called hollow logs that the government has hidden money in, to make departments accountable for their proper expenditure and to allow the parliament to fulfil its proper role—a role of due diligence and public oversight of the proper management of the accounts of the Commonwealth—as required by the Constitution of Australia. In fact, it can be fairly said—and the financial press supports this contention; it is not just from me—that this accounting process has subverted the public scrutiny of the accounts of the $170 billion Australian budget. If people in Australia are not concerned about that, then they have no interest in the proper governance of this country. It is a matter of public outrage. (Time expired)

Senator CHAPMAN (South Australia) (3.11 p.m.)—Senator Cook comes into the chamber today and alleges that the government is reversing its accrual accounting initiative. What does he rely on to support his argument? A media beat-up—just as earlier today he relied on a false media beat-up to unfairly attack Minister Coonan in question time. Senator Cook, it is about time that you relied on some facts, rather than media beat-
ups, when you come into this chamber and try to argue a case. The fact is that this government is not reversing accrual accounting; it is being maintained. The fact is that accrual accounting provides significant benefits to the government’s accounting system.

Let me respond to Senator Cook by providing a few facts in response to his false media beat-up. When the federal government introduced the new accrual based budget system in 1999, there was a firm commitment that the system would be regularly monitored and updated and, in line with this commitment and at the request of the Prime Minister, the government recently conducted a review. In line with that commitment that it made at the time that accrual accounting was introduced, it conducted a review of the budget estimates system and financial framework, aimed predominantly at improving the timeliness of the Commonwealth’s financial information.

The review has recommended a number of improvements. Among those is moving to a just-in-time appropriation drawdown system for departmental spending. This will allow closer monitoring of the Commonwealth’s cash position and program spending on a regular and timely basis. It has also recommended supplementing the current levels of accrual information in the budget papers with more cash based information. It also recommended centralised reporting of program budgets and actual results, along with monthly projections of anticipated program spending.

These enhancements represent a refinement of the current accrual outcomes and outputs budget framework. They do not represent a radical revamp or an abandonment of accrual accounting. They are, as I said at the outset, in line with the commitment that the government made in 1999, when it introduced the accrual accounting system, that there would be regular reviews and there would be obviously, from time to time, improvements to that system. Importantly, the review recommends those improvements but it does not recommend fundamentally changing the outputs and outcomes accrual framework. It simply recognises that both cash and accrual information is important in fully understanding the Commonwealth’s financial and budget position and in taking fully informed budget decisions. Supplementing predominantly accrual information with further cash information will assist both the public and the parliament’s understanding of the government’s fiscal position.

The recommendations of the review confirm the responsibilities of the chief financial officer of the department of finance in monitoring and managing the Commonwealth’s overall expenditure. The outcomes of the review will not result in additional prescription by the department of finance upon other government agencies. The budget will continue to report annually in cash terms and in accrual terms. Of course, it is important to remember that when accrual accounting was adopted, cash reporting was maintained and that has continued right through since 1999.

What this review demonstrates is that the government is committed to periodically reviewing the budgetary framework to assess its ongoing effectiveness and operation following the successful introduction of accrual budgeting in 1999. That is important. This government is about improving its financial management on an ongoing basis, not simply sitting with a system that it introduces when improvements are evident and can be made. That is a direct consequence of its commitment to a review and the outcome of this review.

Additional funding of some $54.4 million will be provided over four years to the department of finance to enhance its human resources and information technology capacities to undertake the additional activities recommended by the review. The current central IT systems are at the end of their useful life and they need replacing, and $18 million over four years has been provided for new systems. The department of finance does not currently have staffing levels to analyse the additional information to be provided by agencies as a result of the review, and $36.4 million of that $54 million is as a consequence of providing those extra staffing levels. I reinforce the point that this is an improvement on accrual accounting, not a reversal of it. (Time expired)
Senator WEBBER (Western Australia) (3.16 p.m.)—I also rise to take note of the answers given by Senator Minchin in question time today. As has been mentioned earlier, about three years ago the government introduced with much fanfare this great new financial framework for the budget. Here were the Liberal Party in all their glory, in their guise of superior economic managers, making substantial changes to Australia’s public accounts.

Senator Ferris—Is there some doubt about that?

Senator WEBBER—Just wait! We were told that these changes would result in a better financial picture of the government’s activity and a more detailed understanding of that picture through the actual budget papers. In fact, at the time the Treasurer said: This puts Australia at the forefront of transparency in the conduct of fiscal policy.

However, after making that great announcement, we got to the implementation stage. There was a bit of a problem: it would seem that not many public servants understood how they were meant to implement this great new plan. In fact, it would seem that not many members of the government actually understood it either. The bottom line is that over time less and less information now appears in our budget papers. There is less and less open and transparent detail within the budget papers. It is now even more difficult to understand departmental expenditure than was the case in the past. So, for all the government’s trumpeting about the merits of their being better economic managers, we are in a worse position today in terms of transparency and accountability of the fiscal management of Australia’s budget.

We are now seeing a government by stealth undoing all of these reforms that they introduced a mere three years ago. Instead of having accrual accounting, we are now told that the budget will be on both a cash and an accrual basis and that the outputs and outcomes approach will be substantially revised. We have had more and more qualifications added to what was meant to be this great structure that was going to put Australia at the forefront of transparency in the conduct of fiscal policy.

As Senator Conroy asked earlier today, where was the minister’s press release announcing this wind back—this qualification of fiscal accountability and fiscal reporting? Where was the minister? Why did he not come in here to report to the parliament and say, ‘Hold on; when it comes to fiscal policy and budget papers, we are going to start to wind this back’? Did either of these things happen? No, of course they did not. Instead, a departmental memo goes out so we can ‘try and smooth things over’. Parliamentary overview of our national financial position has been undermined yet again by the needs of the executive government to get itself out of a problem of its own making.

Numerous commentators have argued that the pure accrual accounting structure is not the best system of handling departmental expenditure. But this government, blinded by its own ideology, ignored this advice and introduced the changes. Now, it is winding them back by stealth. This is yet another grubby little episode covered up to spare the executive of this government and yet another example of the failing of public administration in our country. This is not a government of superior economic managers; this is a government that operates on the premise that the Australian public can be taken for granted, that it can introduce something with great fanfare and then let it just go quietly into the night. This is an absolute disgrace, as is the minister’s explanation—or, in some cases, lack of explanation. Yet again, the minister has been caught out.

In the Sydney Morning Herald on 9 November this year, when talking about the minister and his linking of the sale of Telstra to fixing Australia’s rivers, Ross Gittins said: I should also say, in fairness, that I doubt Senator Minchin was so stupid as to believe what he said. It’s more likely he thought you and I were so stupid as to swallow it.

In my view, there is no better way to express condemnation of this government’s failure in this respect than to endorse Ross Gittins’s comments. This minister expects all of us to fall for the same approach—(Time expired)

Senator MASON (Queensland) (3.21 p.m.)—It must be Christmas time—the Labor Party have had an appalling year and for
sustenance just before Christmas they look to accrual accounting. The public gallery is full. In fact, people are coming in for the debate—they probably speak of little else than accrual accounting in the public gallery.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—I suspect they are friends of yours, Senator Mason!

Senator Webber—There is a principle at stake in this debate.

Senator MASON—I agree, Senator Webber, that there is a principle at stake here—that is, the principle of accountability and transparency in public expenditure. That is the important principle at stake and I understand that. There are some advantages of accrual accounting, and my friend Senator Chapman mentioned what they are. They include the fact that the full cost of activities is budgeted for and reported on, that accrual accounting introduces the balance sheet requiring assets and liabilities to be brought to account and that there is also a better platform for better financial management.

One of my great joys in this place is to chair the Senate Finance and Public Administration Legislation Committee. On that committee many great senators serve with me: Senator Faulkner, Senator Ray and Senator Conroy, and I think Senator Sherry attends. At every single session that I chair I ask whether people have any suggestions to amend the portfolio budget statements. How many suggestions to amend the PBSs have come from the Labor Party? Zero. They come into the chamber just before Christmas to whet the appetite of the public and talk about accrual accounting.

Senator Ludwig—The portfolio statements are not part of the budget—

Senator MASON—They include both, Senator Ludwig. Yet in the entire time that I have chaired that committee I have not heard one suggestion at all about changing the PBSs or accrual accounting.

Senator Ludwig—You know they’re not part of the budget and you’re misleading the Senate again.

The ACTING DEPUTY PRESIDENT—Order! Senator Ludwig, that is unparliamentary. You accused Senator Mason of misleading the Senate.

Senator Ludwig—I withdraw that comment unequivocally.

Senator MASON—Thank you. You might wonder why the Labor Party are talking about accrual accounting as the reindeer head towards Australia. I will tell you why. It is because they have nothing to say on the major issues that affect this country. The Labor Party do two things when they are in trouble. Firstly, they attack individuals. We started the year with the Governor-General being attacked. We had the ‘children overboard’ affair. Senator Alston is being attacked over the COT cases. Now Senator Coonan is being attacked. The ALP are in trouble. They do not talk about policy; they attack individuals. The Labor Party, in terms of their policy development at the moment, are absolutely barren. What do the Labor Party have to say about the major issues that face this country—tax reform, telecommunications reform, industrial relations reform and border protection? Nothing.

Senator Wong—Border protection.

Senator MASON—You are right—border protection. Dr Lawrence has made a recent contribution about border protection. Twelve months after the debate finished, 12 months after the Howard government was re-elected—one of the reasons being its performance in border protection—and finally the Labor Party thought, ‘Gee, we’ll have to come to terms with what the Australian people want.’ To sort out their own internal differences between the Left and Right, Dr Lawrence had to come up with this policy. But it is even more bizarre than that. The Left itself is split, I understand. It is like a Monty Python skit. How do you get the square root of irrelevance? That is the Labor Party’s policy on border protection. One part of the Left—Dr Lawrence’s part—is saying one thing and Mr Ferguson is saying something else. That was the Labor Party’s contribution to the major issue facing this nation this year: border protection. And do you know what? They fluffed it. I have been reading a great book by Mr Carr. In it he quotes a line from AJP Taylor’s The...
Habsburg Monarchy. He quotes an old Habsburg saying and it relates to the ALP:
The situation is hopeless but not serious.
The situation is hopeless for the Australian Labor Party but certainly not very serious for
this country.

Senator WONG (South Australia) (3.26 p.m.)—Senator Mason comes in here and
tries to belittle this debate, saying that all we are talking about is accrual accounting. What
we are actually talking about is public accountability; it is accountability to the parliament for the taxpayers’ moneys which are spent. You might think that is an irrelevancy to the public. We in the Labor Party think that a proper financial framework to provide appropriate accountability to the parliament for the expenditure of public moneys is a good policy outcome. As senators before me have said, we saw changes being heralded in 1999-2000 that were going to put Australia at the forefront of transparency. What has occurred is a system which has led to less public accountability, less accountability to the parliament over the way in which moneys are spent and less accountability to the parliament in getting a real snapshot of where government finances are.

In question time today we saw Senator Minchin claim that the memo that Senator Cook discussed—a memo put out by Senator Minchin’s own department—was simply indicating minor revisions to the changes which were heralded a couple of years ago. They are more than minor revisions; they are a complete revamping of the policy and a complete rewriting of the policy—a recognition and an admission by the government that their approach to the financial framework was erroneous and problematic and that it has led to less accountability. The three major changes which were pressed by the government and announced with such fanfare were: accounting on a full accrual basis; implementation of outputs and outcomes reporting; and the devolution to agencies of budget estimates construction, financial management and transactional banking. All three of those changes have not simply been revised; they have been substantially altered.

First, the government will now budget on both a cash and accrual basis. Second—and this is probably the most important issue—outputs and outcomes will be substantially revised because currently the outcomes are defined so broadly that it makes it extremely difficult for this parliament to scrutinise and properly control where the money is spent. That means that the public is provided with far less accountability on the issues of how that money is spent, where it is spent and on what programs it is spent. Finally, the third issue is the devolution to agencies of the budget estimates process. Finance has taken back control of that process on the basis that, frankly, the agencies were not providing sufficient information. Senator Chapman referred to this as a media beat-up. The facts in the memo issued by Mr Phil Bowen of the Department of Finance and Administration speak for themselves. Step by step, each of the recommendations unpack the government’s previous approach on this issue and put in place a different approach, which recognises that the framework that was announced by the Treasurer simply does not add up in terms of public accountability.

This new framework has been a complete failure. We had an indication of this through the estimates process when Senator Conroy, in one of the estimates committees, asked various questions on, for example, the government’s $1 billion Federation Fund and the Natural Heritage Trust. When Senator Conroy asked about the suggestion that funds allocated under the Natural Heritage Trust and the Federation Fund had been transferred between departments or not spent in line with appropriation bills passed by parliament, departmental officials were unable to answer him. In cases where parliament had scrutinised where the money was going so the public knew where it was going, but where there might have been some change to that by the departments, departmental officials were unable to indicate where and how that had occurred. That is not a process for accountability.

This government does not have a financial framework which provides sufficient accountability. Despite the fact that Senator Chapman calls this a beat-up, you can see
that the respected financial press is saying exactly the same thing on this issue. Frankly, it is also consistent with the failure of the government to ensure that trust moneys held by the Commonwealth comply with the relevant legislation. There was some comment on this in question time, and senators would be aware of the fact that a recent Audit Office report indicated that only four out of 19 alleged trust funds held by the government were actually trusts as a matter of law. That is indicative of the level of accountability and scrutiny that this government can withstand in terms of its financial framework.

Question agreed to.

Environment: Renewable Energy

Senator ALLISON (3.31 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Defence (Senator Hill) to a question without notice asked by Senator Allison today relating to funding for the Cooperative Research Centre for Renewable Energy.

Senator Hill said that the CRC for Renewable Energy was not funded this time around because it was uncompetitive. The extraordinary thing is that renewable energy has always been expected to compete against the giants of the coal industry, against the fact that we have an existing energy sector which is based on fossil fuels and against the fact that that sector has always relied on public funding for infrastructure. But now we expect renewable energies—solar and wind—to start from scratch and be competitive with those industries that have dug fuel out of the ground without cost and with infrastructure which has been publicly funded for many years. That cannot be the case.

It is also implicit in Senator Hill’s answer that CRCs for renewable energy need to sign up with some giant corporation—as it is so easy for the coal-based CRCs and CRCs for other fossil fuels to do—in order to be competitive for funding for CRC activities. We know this is not the case in Australia with our fledgling renewable energy industry. It does not have those links, or, where there are links—as is the case with BP—most of their research is done overseas. If we were serious about a renewable energy industry which could easily pick up the market for much of South-East Asia, if CRCs for renewable energy had the sort of support and funding for research and development that could be expected from the federal government, then they would have a real chance. But, in the circumstances that we have just seen in the last 24 hours, there is little chance of that happening at all.

The minister says that this government is committed to renewable energy and he talks about the renewable energy target—the two per cent that we all know is not two per cent; it is not even one per cent and is more likely to be 0.5 per cent. Part of the reason for this is the fact that the first three years of the measure have been taken up by old hydro and there will be hardly anything left at the end of the day for real renewables such as solar and wind. In addition, the Energy Research and Development Corporation was demolished in 1997—another fine effort by this government. We also know that the PV scheme, which the Democrats negotiated, comes to the end of its four-year term at the end of next year. So all of this leaves the renewable energy industry with very little support at all from the federal government.

I think the government are not seriously interested in renewable energy because it is an ideological problem for them. They are so persuaded by people like former Senator Warwick Parer that our best interests are served by hammering on with that old carbon sequestration approach—the idea that fossils fuels are going to be here with us forever and that we should simply make the best of them, and the assumption that this is a sustainable approach into the future. It is the whole basis of our Kyoto negotiations. How can we sequester carbon? How can we find sinks? How can we do anything to avoid the ultimate question, which is: can we continue to generate huge quantities of electricity from fossil fuels and continue with some of the most carbon intensive processes, including the use of brown coal?

In finishing, I also want to note that it was announced today that Professor Martin Green, the Director of Research at the University of New South Wales Centre for Photovoltaic Engineering, won an international Right Livelihood Award in Stockholm. He was described by the award panel as ‘the
world’s foremost researcher and inventor in the field’. Tomorrow I will ask the Senate to not only acknowledge this prestigious award and congratulate Professor Green but also note that people like him are not going to hang around in this country if the government continues to say, ‘We do not care about research in this field.’ (Time expired)

Question agreed to.

PETITIONS

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

**Immigration: People-Smuggling**

To the Honourable the President and members of the Senate

The petition of certain residents of Australia draws to the attention of the Senate:

That on Friday 19 October 2001, a grossly overcrowded boat, known as SIEV-X, carrying approximately 397 asylum seekers sank in international waters between fifty and sixty-five nautical miles south of Java, in an area that was at the time under intense surveillance by the Australian Defence Forces as part of Operation Relex; with the loss of approximately 353 lives; and that Australian authorities were aware of the departure of SIEV-X from Sumatra on 18 October, and yet there was no attempt by the Australian Defence Forces or Coastwatch to locate or intercept this boat, with a view to ensuring the safety of the people on board;

That during 2001, the Australian Federal Police conducted a secret People Smuggling Disruption Program in Indonesia, in cooperation with selected elements of the Indonesian Police Force and various other individuals; and that an Indonesian-based informant of the Australian Federal Police, Kevin John Enniss, has claimed to have sabotaged and sunk boats carrying asylum-seekers;

That there is a growing belief in the community that the Australian government and/or its agents deliberately neglected to ensure the safety of the lives of the asylum-seekers on board SIEV-X, and may even have been in some way responsible for the sinking of the boat as a deterrent against unauthorised asylum-seekers attempting to come to Australia by boat from Indonesia

Your petitioners therefore ask the Parliament to urgently pass a motion calling on the Prime Minister to establish an independent judicial inquiry with full powers to subpoena witnesses to investigate all the circumstances surrounding the disruption, departure and sinking of the asylum seeker boat known as SIEV-X, and all activities of the Australian Government, its servants, agents and collaborators in regard to SIEV-X, including:

1. All surveillance activities conducted by Coastwatch and the Australian Defence Forces in the area between Christmas Island and Indonesia; and all decisions regarding interception or non-interception of asylum-seeker boats and rescue or non-rescue of asylum seekers during the period of Operation Relex;

2. All activities by the Australian Federal Police and its partners, agents and informants to disrupt people smuggling in and from Indonesia;

3. All information reaching the People Smuggling Taskforce in the Prime Minister’s Department and the DIMIA/AFP People Smuggling Strike Team, and all decisions made and actions taken by the members of those bodies.

4. All information reaching Ministers and their advisers relating to the above, and all decisions made and actions taken or authorised by Ministers and their advisers.

by Senator Bartlett (from 306 citizens).

**Environment: Great Barrier Reef Marine Park**

The petition of certain citizens of Australia draws the attention of the Senate to our concern that:

(1) The Minister for Environment and Heritage has approved an Environmental Impact Study for seismic testing for oil and/or gas in the Townsville Trough only 50 kilometres from the World Heritage Listed Great Barrier Reef Marine Park area;

(2) The Howard Government has not responded to opposition to oil or gas exploration from environmentalists, the tourism industry, the fishing industry, community members and the Queensland Government.

The petition therefore calls on the Senate to support legislation that ensures that no exploration or mining can proceed in the Townsville Trough adjacent to the Great Barrier Reef.

by Senator McLucas (from 641 citizens).

**Foreign Affairs: Iraq**

To the Australian Senate:

We the undersigned call upon the Australian Government not to involve Australia in a war against Iraq.

There is no clear evidence that Iraq poses an immediate threat to Australia or any of our allies.
There is no established link, between Iraq and the shameful attacks of September 11, 2001. Democracy in Iraq cannot be enforced by war. Australia must play a part in diplomatic and peaceful solutions to this conflict, and, must help the Iraqi people move towards democracy. There is no need for Australia to support or be involved in this conflict. We call upon you to put the interests of peace and the world community above those of the United States.

by Senator Nettle (from 2,392 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 27 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 members of the Senate to support the Australian Democrats’ motion opposing Australia’s involvement in preemptive military action or a first strike against Iraq. We believe a first strike would undermine international law and create further regional and global insecurity. We also call on the Government to pursue diplomatic initiatives towards disarmament in Iraq and worldwide.

by Senator Stott Despoja (from 178 citizens).

Petitions received.

NOTICES
Withdrawal

Senator FERRIS (South Australia) (3.36 p.m.)—On behalf of the Chair of the Senate Select Committee on Superannuation, Senator Watson, I withdraw general business notice of motion No. 287 proposing the reference of a matter to the committee.

Senator MACKAY (Tasmania) (3.37 p.m.)—On behalf of Senator Sherry, I withdraw general business notice of motion No. 316 proposing the reference of a matter to the Senate Select Committee on Superannuation.

Presentation

Senator Stott Despoja to move on the next day of sitting:

That there be laid on the table by the Minister representing the Minister for Foreign Affairs and representing the Prime Minister (Senator Hill), no later than 4 pm on 12 December 2002:

All communications in the period June 2001 to the present between:

(a) the Department of Foreign Affairs and Trade or the Prime Minister’s office and Food Standards Australia New Zealand;
(b) the Department of Foreign Affairs and Trade or the Prime Minister’s office and the National Farmers Federation;
(c) the Department of Foreign Affairs and Trade or the Prime Minister’s office and the Department of Health and Ageing; and
(d) the Prime Minister’s office and the Department of Foreign Affairs and Trade, relating to GM Food in the context of the current free trade agreement negotiations with the United States and of the labelling of genetically modified and genetically engineered food, including communications to or from organisations formed or
created under the auspices of any of the above agencies, officers or departments.

**Senator Watson** to move on the next day of sitting:

(1) That the following matter be referred to the Select Committee on Superannuation for inquiry and report by the last sitting day in June 2003:
   Planning for retirement.

(2) That in conducting the inquiry the committee examine, in particular:
   (a) the effects of ageing on workers’ productivity;
   (b) the continuing relevance of the concept of a fixed retirement age;
   (c) the potential to encourage progressive transitions from work to retirement, including through possible new benefit access and contribution arrangements, and part-time work;
   (d) any scope for older workers to access their superannuation to finance retraining to continue work that is more suitable for older people;
   (e) ways to assist older workers plan for their retirement;
   (f) the short- and long-term effect on the Budget of any proposals for change; and
   (g) any issues for the federal or state workplace relations systems.

**Senator Cook** to move on the next day of sitting:

That the following matters be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 27 November 2003:

(1) The relevant issues involved in the negotiation of the General Agreement on Trade in Services (GATS) in the Doha Development Round of the World Trade Organisation, including but not limited to:
   (a) the economic, regional, social, cultural, environmental and policy impact of services trade liberalisation;
   (b) Australia’s goals and strategy for the negotiations, including the formulation of and response to requests, the transparency of the process and government accountability;
   (c) the GATS negotiations in the context of the ‘development’ objectives of the Doha Round;
   (d) the impacts of the GATS on the provision of, and access to, public services provided by government, such as health, education and water; and
   (e) the impact of the GATS on the ability of all levels of government to regulate services and own public assets.

(2) The issues for Australia in the negotiation of a free trade agreement with the United States of America, including but not limited to:
   (a) the economic, regional, social, cultural, environmental and policy impact of such an agreement;
   (b) Australia’s goals and strategy for negotiations, including the formulation of our mandate, the transparency of the process and government accountability; and
   (c) the impact on the Doha Development Round.

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

That the following matter be referred to the Economics References Committee for inquiry and report by the last sitting day in June 2004:

The structure and distributive effects of the Australian taxation system, with particular reference to:

(a) the level, extent and distribution of the current tax burden on individuals and businesses;
(b) the impact of (a) on taxpayers’ families;
(c) the use and efficacy of various tax and expenditure incentives to influence social and economic conduct, for instance participation in the workforce;
(d) the long-term social and economic impact of the current distribution of taxation, government spending and employment, including the inter-generational consequences of the tax structure;
(e) the respective roles of the Commonwealth and the states in relation to the collection and distribution of taxation revenue; and
(f) any other relevant issues which may arise in the course of the inquiry.
Senator Ridgeway to move on the next day of sitting:
That the Senate—
(a) notes that:
(i) the Microcredit Summit + 5 Conference held in New York in November 2002 reported that microcredit schemes are on track to reach 100 million of the poorest families benefiting the lives of 500 million of the world’s poorest people,
(ii) there are more than 2000 microcredit institutions operating worldwide,
(iii) more than 54 million microcredit borrowers have been reached, and
(iv) nearly 27 million of the total microcredit borrowers reached were amongst the poorest in the world when they took out their first loan, but are now lifting themselves out of poverty;
(b) congratulates RESULTS Australia for its advocacy work on microcredit loans;
(c) urges the Federal Government to consider increasing aid for microcredit funding to at least $40 million per year; and
(d) urges the Parliament to actively promote the critical role of microcredit in the alleviation of poverty and its contribution to the achievement of the Millennium Development Goal of halving the proportion of people living in absolute poverty by 2015.

Senator Ridgeway to move on the next day of sitting:
That the Senate—
(a) congratulates:
(i) all winners of the 2002 Australian Film Institute (AFI) awards, and
(ii) all of the people involved in the making of Rabbit-Proof Fence, which won the AFI award for Best Film.
(b) notes that for the first time in the history of the AFI awards, every film nominated in the category of Best Film—Australian Rules; Beneath Clouds; Rabbit-Proof Fence and The Tracker—was an Indigenous-themed story;
(c) congratulates the four Indigenous people who won awards on the night:
(i) director Ivan Sen,
(ii) actor David Gulpilil,
(iii) director and producer Rachel Perkins, and
(iv) cinematographer Allan Collins; and
(d) calls on the Government to continue to support the development and production of Australian films so all Australians can continue to see and hear our own stories in cinemas and on our television screens.

Senator Ridgeway to move on the next day of sitting:
That the Senate—
(a) pays tribute to Mr Albert Namatjira as the first Indigenous professional artist in Australia, who was born 100 years ago and died in 1959 after achieving national and international acclaim for his exceptional ability as an artist;
(b) acknowledges that Albert Namatjira:
(i) adapted western-style painting to express his cultural knowledge and the strength of his connection to his traditional country, and
(ii) is now regarded as a national treasure in recognition of the cultural legacy he has left all Australians, as well as the inspiration he is to generations of Indigenous artists who have followed in his footsteps;
(c) recognises that:
(i) the legal protection of Mr Namatjira’s works provided by the Copyright Act 1968 will expire in 2009, bringing to an end the ability of the copyright owner to exercise an exclusive right to use and reproduce his works, or to allow others to do so in return for a financial benefit, and
(ii) the Public Trustee of the Northern Territory Government authorised the sale of Mr Namatjira’s copyright to Legend Press in 1983, thereby ending the ability of the descendents of Mr Namatjira to benefit from on-going income from the reproduction of his works; and
(d) calls on the Government to:
(i) enter into discussions with the Northern Territory Government to buy back the copyright in Albert Namatjira’s works, so that exclusive control of the use and reproduction of his works is restored to his descendents, as well as the receipt of
all financial benefits that result from the use and reproduction of his works under copyright protection, and

(iii) in recognition of the contribution Mr Namatjira has made to the development of Australia’s cultural identity and the need to protect his legacy for future generations, explore all relevant legal and other measures that will provide ongoing protection of the Namatjira name and his reputation and standing as one of our pre-eminent artists.

Senator Ian Campbell to move on the next day of sitting:
That on Thursday, 12 December 2002:
(a) the hours of meeting shall be 9.30 am to adjournment;
(b) consideration of general business and consideration of committee reports, government responses and Auditor-General’s reports under standing order 62(1) and (2) not be proceeded with;
(c) the routine of business from not later than 4.30 pm shall be government business only;
(d) divisions may take place after 6 pm; and
(e) the question for the adjournment of the Senate shall not be proposed till a motion for the adjournment is moved by a minister.

Senator Allison to move on the next day of sitting:
That the Senate—
(a) notes that Professor Martin Green, Director of Research at the University of New South Wales’ Centre for Photovoltaic Engineering won an International Right Livelihood award at Stockholm and was described by the award panel as ‘the world’s foremost researcher and inventor in the field’;
(b) congratulates Professor Green for winning this prestigious award; and
(c) encourages the Government to heed Professor Green’s suggestion that the cost of developing new energy sources could be borne by affluent communities rather than the poorer communities that were most in need of them.

Senator Stott Despoja to move on the next day of sitting:
That the Senate—
(a) notes:
(i) the recent SUS3 million fine imposed by the United States Department of Agriculture on ProdiGene, a biotechnology company, for contamination of soybeans meant for human consumption with genetically-engineered corn containing a vaccine,
(ii) that 500 000 bushels of food crop must now be destroyed,
(iii) that research into such pharma-foods (genetically-engineered crops containing vaccines, medicines and drugs) is occurring in Australia, and
(iv) that pharma-foods, because they contain drugs, may create serious health and safety issues in Australia, including by misuse and contamination; and
(b) urges the Government to prevent the commercial release of pharma-foods in Australia until all issues relating to health, safety, environment and contamination are fully resolved.

Senator Brown to move on the next day of sitting:
That there be laid on the table by the Minister for Science, no later than 4 February 2003, all advice or comment given to the Government, including the Prime Minister (Mr Howard), by the Chief Scientist or his office regarding funding or allocation of money or benefits to scientific organisations, corporations or any other entity, since 1 January 1999.

Senator Forshaw to move on the next day of sitting:
That the Senate—
(a) congratulates David Gulpilil, AM for winning the Best Actor award at the recent Australian Film Institute (AFI) awards for his performance in the movie, The Tracker;
(b) recognises David Gulpilil’s outstanding contribution to the Australian film industry for more than 30 years;
(c) congratulates all other winners of AFI awards, especially Maria Theodorakis who won the Best Actress award; and
(d) recognises the important ongoing support provided by the Australian Film Finance Corporation to our film industry.

Senator Forshaw to move on the next day of sitting:
That the Senate—

(a) notes the failure of the Prime Minister (Mr Howard) and the Minister for Communications, Information Technology and the Arts (Senator Alston) to extend proper recognition and congratulations to the achievement of David Gulpilil and other winners of the Australian Film Industry (AFI) awards;

(b) calls on the Prime Minister to extend similar public recognition and congratulations to the AFI and the winners of AFI awards as he has extended in the past to our sporting heroes.

Senator Brown to move on the next day of sitting:

That the Senate opposes the death sentence, including the sentences on two Tibetan activists in China.

Senator Nettle to move on the next day of sitting:

That the Senate condemns:

(a) the Government’s 1999 decision to lift the federal moratorium on food irradiation without adequate public notice or consultation; and

(b) the decision of the Minister for the Environment and Heritage (Senator Hill) to approve the construction and operation of the gamma radiation sterilisation and decontamination plant at Narangba in Queensland, based on ‘preliminary documentation’ as the means of assessment, rather than requiring a full environmental impact assessment under the Environment Protection and Biodiversity Conservation Act 1999.

COMMITTEES

Selection of Bills Committee

Report

Senator FERRIS (South Australia) (3.40 p.m.)—I present the 14th report of 2002 of the Selection of Bills Committee.

Ordered that the report be adopted.

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

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 14 OF 2002

1. The committee met on Tuesday, 10 December 2002.

2. The committee resolved to recommend—

That—

(a) the provisions of the Corporations Amendment (Repayment of Directors’ Bonuses) Bill 2002 be referred immediately to the Economics Legislation Committee for inquiry and report by 3 March 2003 (see appendix 1 for statement of reasons for referral)

(b) the provisions of the Workplace Relations Amendment (Termination of Employment) Bill 2002 be referred immediately to the Employment, Workplace Relations and Education Legislation Committee for inquiry and report by 18 March 2003 (see appendix 2 for statement of reasons for referral)

(c) the following bills not be referred to committees:

• Crimes Legislation Amendment (People Smuggling, Firearms Trafficking and Other Measures) Bill 2002
• Family and Community Services Legislation Amendment Bill 2002
• Migration Legislation Amendment (Contributory Parents Migration Scheme) Bill 2002
• Migration (Visa Application) Charge Amendment Bill 2002
• Taxation Laws Amendment (Earlier Access to Farm Management Deposits) Bill 2002
• Veterans’ Affairs Legislation Amendment Bill (No. 3) 2002.

The committee recommends accordingly.

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

Bill deferred from meeting of 20 August 2002


Bills deferred from meeting of 12 November 2002

• Plastic Bag Levy (Assessment and Collection) Bill 2002

Bills deferred from meeting of 19 November 2002

• Workplace Relations Amendment (Award Simplification) Bill 2002
• Workplace Relations Amendment (Choice in Award Coverage) Bill 2002.

Bill deferred from meeting of 3 December 2002
• Environment Protection and Biodiversity Conservation Amendment (Invasive Species) Bill 2002.

Bills deferred from meeting of 10 December 2002
• Crimes Legislation Enhancement Bill 2002
• Parliamentary Commission of Inquiry (Bali Bombings) Bill 2002
• Taxation Laws Amendment Bill (No. 8) 2002
• Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002 [No. 2].

(Jeannie Ferris)
Chair
11 December 2002

Appendix 1
Proposal to refer a bill to a committee
Name of bill(s):
Corporations Amendment (Repayment of Directors’ Bonuses) Bill 2002

Reasons for referral/principal issues for consideration
Closely examine the government’s proposal.
Possible submissions or evidence from:
Australian Shareholders Association, Institute of Company Directors, Business Council of Australia, ASX, Australian Institute of Superannuation Trustees, Australian Council of Institutional Super Funds

Committee to which bill is referred:
Economics Legislation Committee
Possible hearing date: Late January/Early February 2003
Possible reporting date(s): April 2002

(signed)
Senator Mackay
Whip/Selection of Bills Committee Member

NOTICES
Postponement
An item of business was postponed as follows:
General business notice of motion no. 290 standing in the name of Senator Harris for today, relating to the appointment of an independent assessor to examine documents seized under warrant by Queensland Police from the office of Senator Harris, postponed till 5 February 2003.

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

Senator FERRIS (South Australia) (3.42 p.m.)—by leave—At the request of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I move:

That the time for the presentation of the report of the committee on the Transport Safety Investigation Bill 2002 be extended to 4 February 2003.

Question agreed to.

FILM AWARDS: RABBIT PROOF FENCE

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.43 p.m.)—I move:

That the Senate congratulates:
(a) writer Doris Pilkington, film director Phillip Noyce and producers Christine Olsen and John Winter for their Australian Film Institute (AFI) award for best Australian feature film, in *Rabbit Proof Fence*;

(b) the actors and the film crew for this achievement;

(c) the makers of the soundtrack which won AFI awards for best score and best sound; and

(d) Senator Abetz for his constant assistance in promoting this powerful film about the tragedy of the children of the Stolen Generations.

Question agreed to.

**EAST TIMOR: ASYLUM SEEKERS**

**Senator BROWN** (Tasmania) (3.44 p.m.)—as amended, by leave—I move:

That the Senate—

(a) acknowledges the substantial contribution members of the East Timorese community have made to the Northern Territory community over many years;

(b) expresses its support for the East Timorese asylum seekers living in Darwin who are in the process of being served with deportation orders by the Federal Government;

(c) extends its support to those affected families, some of whom are facing having their family permanently separated because of the Federal Government’s decision to deport individual family members in some instances;

(d) supports the Northern Territory Government and its agencies in assisting these East Timorese families in their efforts to remain in Darwin;

(e) commends the individuals, businesses and community organisations that are supporting the East Timorese people affected by the deportation orders;

(f) recognises that the Northern Territory Government wants the East Timorese to remain at home in the Northern Territory and will use its best endeavours to achieve that end; and

(g) calls on:

(i) the Minister for Immigration and Multicultural and Indigenous Affairs (Mr Ruddock) to create a special visa class for the East Timorese Territorians in Darwin, due to the unique circumstances of their situation, and

(ii) federal parliamentary representatives to actively support this resolution and the applications of the deportees to the Minister.

Question agreed to.

**FUEL: EXCISE**

**Senator O’BRIEN** (Tasmania) (3.45 p.m.)—I move:

That the Senate—

(a) notes that:

(i) on 16 October 2002 it agreed to a motion seeking documents relating to the Government’s consideration of an ethanol excise and production subsidy,

(ii) on 21 October 2002 the Parliamentary Secretary to the Treasurer (Senator Campbell) advised the Senate that ‘the government intends to comply with the order as soon as possible and fully expects to be in a position to do so shortly’,

(iii) 50 days have passed since Senator Campbell gave the Senate a commitment the Government would respond to the order of the Senate in a timely fashion; and

(b) calls on the Government to comply with the order of the Senate no later than 5 pm on 11 December 2002.

Question agreed to.

**COMMITTEES**

Employment, Workplace Relations and Education References Committee

Extension of Time

**Senator MACKAY** (Tasmania) (3.45 p.m.)—At the request of Senator George Campbell, I move:

That the time for the presentation of reports of the Employment, Workplace Relations and Education References Committee be extended as follows:

(a) small business employment—to 6 February 2003; and

(b) refusal of the Government to respond to the order of the Senate of 21 August 2002 for the production of documents
relating to financial information concerning higher education institutions—to 6 March 2003.

Question agreed to.

PUBLIC INTEREST DISCLOSURE (PROTECTION OF WHISTLEBLOWERS) BILL 2002

First Reading

Senator MURRAY (Western Australia) (3.46 p.m.)—I move:

That the following bill be introduced: A bill for an act to encourage the disclosure of conduct adverse to the public interest in the public sector, and for related purposes.

Question agreed to.

Senator MURRAY (Western Australia) (3.46 p.m.)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator MURRAY (Western Australia) (3.47 p.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

It is with pleasure that I introduce the Public Interest Disclosure (Protection of Whistleblowers) Bill 2002, a Bill to replace the Public Interest Disclosure Bill 2001. Like the 2001 Bill this Bill fills a Commonwealth void. In contrast to most other Governments in Australia there is no whistleblower legislation in the Commonwealth jurisdiction, apart from a profoundly inadequate provision in the general legislation governing Commonwealth employees.

The Bill covers the public sector. It does not address the private sector, although there is a need for similar legislation there. This 2002 Bill seeks to refine the 2001 Bill by addressing issues raised by the Report of the Senate Finance and Public Administration Legislation Committee on the 2001 Bill.

This Bill seeks to meet the pressing need to provide protection for those who speak out against corruption and impropriety. Unlike a number of State governments, successive Commonwealth governments have shown a peculiar reluctance to embrace this principle and establish comprehensive protection for whistleblowers. The Bill rests on the premise that individuals who make disclosures serve the public interest by assisting in the elimination of fraud, impropriety and waste. As such, they deserve protection.

Over the past decade there has been growing recognition in Australia of the need for whistleblowing legislation for the Commonwealth public sector. While the Public Service Act 1999 provides a modicum of coverage for Commonwealth public sector whistleblowers, even so that Act only applies to about half of the Commonwealth public sector.

The objective of this legislation is to provide a comprehensive Commonwealth public sector whistleblowing scheme. The Bill enables a person to report improper conduct in the knowledge that the allegation will be duly investigated and that he or she will not suffer from reprisals on account of disclosing such information. It is a Bill that supports public disclosures and the disclosure makers. It is also a Bill that offers protection to those who have the courage to speak out against impropriety. Finally, the Bill outlines appropriate remedies to ensure the interests of all parties are adequately met.

Current whistleblower legislation is clearly inadequate. It does not protect whistleblowers nor does it encourage employees to report wrongdoing.

Whistleblowers play an important role in ensuring the accountability of government. They are individuals who, by reason of their employment, come across information that reveals corruption, dishonesty or improper conduct at any level of government.

When people bring this information to the attention of appropriate authorities, they must be protected from retribution.

Whistleblowing is frequently the only way that impropriety can be exposed, but this often comes at a significant personal and career cost to the whistleblower. A justified fear of reprisal can stop potential whistleblowers from coming forward. As a result corruption or improper conduct can continue unchecked.

This state of affairs is clearly not in the public interest. While the exposure of improper conduct can be embarrassing for governments, this does not justify allowing such conduct to continue by refusing to protect those who would expose it. Experience both in Australia and overseas has shown that whistleblowers and their families are often harassed and suffer emotionally and financially as a consequence of the whistleblower
having exposed unacceptable conduct within the organisation. De Maria and Jan (1994) examined the experiences of 102 whistleblowers in Queensland. Reprisals were noted in 71% of the sample and included: sacking, psychiatric referral, demotion, being charged and being sued. It is essential to provide a secure environment in which whistleblowers will feel confident in expressing their concerns.

Current mechanisms for whistleblower protection for the Commonwealth public sector were introduced under the Public Service Act 1999. However, this only applies to people covered by this Act and that leaves something of a void, in that there are a large number of employees of various Commonwealth government bodies and agencies who are employed under statutes other than the Public Service Act. In addition, members of the public may pass on concerns about an aspect of the administration of a government agency to the office of the Ombudsman, but there are limitations on the ability of the Ombudsman to offer specific protections to whistleblowers.

Consideration should also be given to the fact that the public sector has changed markedly in the past 20 years, notably with outsourcing and privatisation. There is a general agreement that current public disclosure legislation is clearly inadequate, but considerable disagreement on how to remedy this situation. This proposed legislation builds on current Commonwealth legislation and institutions in an attempt to ensure that people are encouraged to make disclosures that are in the public interest, without fear of recrimination. Its provisions would benefit from Committee scrutiny.

The Public Interest Disclosure Act 2002, like its predecessor, is largely based on the ACT Public Interest Disclosure Act 1994. It seeks to build upon existing Commonwealth legislation and institutions and to address concerns raised by the report of the Senate Finance and Public Administration Legislation Committee (September 2002). The report recognised the need for legislation to address the matter of public sector whistleblowing and supported the general intent of the Public Interest Disclosure Bill 2001. This new Bill addresses the concerns raised in the report, notably the absence of the Commonwealth Ombudsman as an independent authority to receive and investigate disclosures.

Several terms have been defined more specifically in this new Bill. The definition of 'disclosable conduct' has been amended to stipulate that a wrongdoing would rather than could constitute a criminal offence or reasonable grounds for terminating services. 'Maladministration' is included as a category of disclosable conduct and reference is made to the environment in the definition of 'public interest disclosure'.

The terms 'agency' and 'prescribed authority' have been used rather than 'the Commonwealth' and 'Commonwealth authority' to refer to Commonwealth bodies that the Bill aims to cover. This makes it absolutely explicit who it is that may be subject to a public interest disclosure. All Commonwealth government bodies now come under the jurisdiction of this legislation.

The direction given in the legislation is sufficiently prescriptive to compel agency and authority heads to investigate a public interest disclosure. The establishment of an independent agency, such as the Ombudsman, provides an additional proper authority to receive and investigate a public interest disclosure and ensures an independent authority will treat the disclosure appropriately. This addresses concerns about the lack of independence of the Public Service Commissioner and the Merit Protection Commissioner. The Bill also recognises individuals considering making a public interest disclosure, as well as those who have made a disclosure, to ensure access to assistance and information about making a disclosure.

Disclosures can be made anonymously and the Bill provides for such disclosures to be received and investigated, and for protection under legislation, in the event of the identity of the person making the report becoming known. This is in keeping with the intention of this Bill to facilitate public interest disclosures and the belief that it is the substance of the report that is of primary importance.

Clause 18 of the 2001 Bill [now clause 21 of the 2002 Bill] has been amended to allow the Public Service Commissioner or the Ombudsman to be alerted to concerns about possible reprisals and/or interference in an investigation and so prevent disclosure being referred to another agency. This clause underlines the importance of an independent overseer who can assume responsibility and also ensures that fear of possible reprisals does not prevent disclosure.

The Bill has added a clause offering indemnity provisions for whistleblowers so that in proceedings for defamation there is a defence of absolute privilege in respect of public interest disclosures. This would not apply to frivolous or vexatious disclosures.

The effectiveness of whistleblowing legislation is dependent on individuals having confidence that legislation can and will protect them. In the event that legislation fails to protect a whistleblower, it must provide reliable remedies. The Bill therefore
includes provisions that allow victims of unlawful reprisals to sue for damages.

The Bill allows a person to report an unlawful reprisal to a separate and independent authority (Ombudsman). Extending the role of Ombudsman to include the ability to receive complaints of unlawful reprisals, regardless of whom the initial public interest disclosure was made to, would provide a means by which unlawful reprisals could be independently investigated.

In conclusion, I would reiterate that this legislation is a major step in recognising the vital importance of those who, often at great personal cost, draw attention to wrongdoings in the public interest. It provides assurances that public officials can rely on their disclosures being investigated and acted upon. It provides, in the role of the Ombudsman, an independent and separate authority to receive and investigate disclosures. It offers protection for whistleblowers and in the event that this fails, reliable remedies. It is designed to encourage accountability and openness in all areas of the Commonwealth public sector.

“Whistle blowing is socially responsible dissent. At the very least whistle blowing legislation should honour this democratically enshrined speak-out role that gutsy Australians take on reluctantly from time to time.” (William de Maria—Deadly Disclosures 1999)

I commend this Bill to the Senate.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

BUSINESS

Consideration of Legislation

Senator MURRAY (Western Australia) (3.47 p.m.)—by leave—I move:

That the Public Interest Disclosure Bill 2001 [2002] be discharged from the notice paper.

Question agreed to.

COMMITTEES

Australian Crime Commission Committee

Senator FERRIS (South Australia) (3.47 p.m.)—I move:

(1) That, with effect from 1 January 2003, matters relating to the powers and procedures of the Parliamentary Joint Committee on the Australian Crime Commission shall be as set out in the resolution of 14 February 2002 relating to the powers and procedures of the Parliamentary Joint Committee on the National Crime Authority.

(2) That a message be sent to the House of Representatives requesting concurrence with this resolution.

Question agreed to.

Rural and Regional Affairs and Transport Legislation Committee

Extension of Time

Senator FERRIS (South Australia) (3.48 p.m.)—At the request of Senator Heffernan, I move:

That the time for the presentation of the following reports of the Rural and Regional Affairs and Transport Legislation Committee be extended to the last sitting day in June 2003:

(a) the administration of the Civil Aviation Safety Authority;
(b) the import risk assessment on New Zealand apples; and
(c) the administration of AusSAR in relation to the search for the Margaret J.

Question agreed to.

BUSINESS

Consideration of Legislation

Senator ALLISON (Victoria) (3.48 p.m.)—I move:

(1) That so much of standing orders be suspended as would prevent this resolution having effect.

(2) That the Uranium Mining in or near Australian World Heritage Properties (Prohibition) Bill 1998 be restored to the Notice Paper and that consideration of the bill be resumed at the stage reached in the last session of the Parliament.

Question agreed to.

SPORT AND RECREATION: SWIMMING AUSTRALIA

Senator ALLISON (Victoria) (3.49 p.m.)—I move:

That the Senate—

(a) notes:

(i) the introduction by Swimming Australia of a member protection policy requiring police checks for instructors and other sports officials who have unsupervised contact with children,
(ii) the call by the Australian Sports Commission that this requirement be
extended to all sports within 12 months, and

(iii) that this requirement is already law in New South Wales and Queensland;

(b) congratulates Swimming Australia and the Australian Sports Commission for this initiative;

(c) urges the Federal Government, through the Council of Australian Governments process, to put in place nationally-consistent requirements for police checks for those who have unsupervised contact with children; and

(d) urges state governments:

(i) to extend this requirement to schools, particularly for teachers and others involved in school camps and other situations in which children may be vulnerable, and

(ii) to provide funds for groups and schools to cover the cost of such police checks.

Question agreed to.

FOREIGN AFFAIRS: INDONESIA

Senator ALLISON (Victoria) (3.49 p.m.)—At the request of Senator Stott Despoja, I move:

That the Senate—

(a) notes the ceasefire agreement signed by Indonesia and the Free Aceh Movement in Geneva on 9 December 2002;

(b) expresses sorrow over the many lives that have been lost as a result of ongoing violence between Indonesia and the Free Aceh Movement over the past 26 years;

(c) congratulates Indonesia and the Free Aceh Movement on their commitment to deal with ongoing issues through peaceful negotiation rather than violent means;

(d) welcomes the Government’s initial commitment of support to the international ceasefire monitoring group to implement the agreement; and

(e) urges the Government to continue to provide assistance to the international ceasefire monitoring group, particularly in the lead-up to the provincial elections to be held in Aceh in 2004.

Question agreed to.

TRANSPORT: SHIPPING

Senator ALLISON (Victoria) (3.50 p.m.)—At the request of Senator Bartlett, I move:

That the Senate—

(a) notes:

(i) the recent oil tanker disaster off the coast of Spain and the restrictions on oil tanker shipping now being implemented by the Spanish Government,

(ii) that there are approximately 6,000 vessel movements of ships in excess of 50 metres annually in the Great Barrier Reef Marine Park,

(iii) that between 5 and 10 per cent of those vessels are oil tankers,

(iv) the dangers associated with ‘ships of shame’ and that 95 per cent of the ships using the Great Barrier Reef Marine Park are foreign owned,

(v) the regularity of shipping accidents inside the Great Barrier Reef Marine Park; and

(b) calls on the Howard Government to:

(i) prohibit vessels from using the Great Barrier Reef Marine Park unless:

(A) the vessel is stopping at a port or ports inside the Great Barrier Reef region, or

(B) the vessel is a commercial vehicle of 50 metres or less, or

(C) the vessel is Australian flagged, and

(ii) prohibit all oil tankers from using the Great Barrier Reef Marine Park unless they are double hulled.

Question negatived.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Meeting

Senator RIDGEWAY (New South Wales) (3.50 p.m.)—I move:

That the Rural and Regional Affairs and Transport References Committee be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 11 December 2002, from 4 pm, to take evidence for the committee’s inquiry into the rural water resource usage.

Question agreed to.
BUSINESS
Estimates Hearings

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.51 p.m.)—I seek leave to amend government business notice of motion No. 1 relating to estimates hearings for 2003 before seeking to have the motion taken as a formal motion.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Is leave granted?

Senator LUDWIG (Queensland) (3.52 p.m.)—We grant leave so it can be explained and we can at least have something on record as to what the matter might be. It might be worth while for the government to explain that so we have some reference point in the future.

Leave granted.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.52 p.m.)—by leave—

I move the motion as amended:

(1) That estimates hearings by legislation committees for the year 2003 be scheduled as follows:

2002-03 additional estimates:
Monday, 10 February and Tuesday, 11 February and, if required, Friday, 14 February (Group A)
Wednesday, 12 February and Thursday, 13 February and, if required, Friday, 14 February (Group B).

2003-04 Budget estimates:
Monday, 26 May to Thursday, 29 May and, if required, Friday, 30 May (Group A)
Monday, 2 June to Thursday, 5 June and, if required, Friday, 6 June (Group B)

(2) That the committees consider the proposed expenditure in accordance with the allocation of departments to committees agreed to by the Senate.

(3) That committees meet in the following groups:

Group A:
Environment, Communications, Information Technology and the Arts
Finance and Public Administration
Legal and Constitutional
Rural and Regional Affairs and Transport

Group B:
Community Affairs
Economics
Employment, Workplace Relations and Education
Foreign Affairs, Defence and Trade.

(4) That the committees report to the Senate on the following dates:
Wednesday, 19 March 2003 in respect of the 2002-03 additional estimates, and

We have before the chamber a motion which actually sets all the dates for estimates for next year. I think it is important that ministers and all senators know when estimates committees will be held in the coming year. We have been approached by the opposition to alter slightly the schedule for the supplementary estimates in November, and we are seeking to get an agreement around that. I do not know whether the Manager of Opposition Business would like me to go into details about the negotiations; I do not think it is necessary. There is a small disagreement but basically the schedule for 2003 will be a normal schedule with additional estimates in the second sitting week of February and then the budget estimates shortly after the budget. We are just looking at the structure of the estimates hearings for November—

Opposition senator—And February.

Senator IAN CAMPBELL—No, I have just mentioned February. We will seek to make an agreement next year, but when this motion is passed, which I am expecting to happen in a couple of seconds time, you will know when the estimates are for February and for May, so please mark them in your diaries.

Question, as amended, agreed to.
NOTICES

Postponement

Senator ALLISON (Victoria) (3.54 p.m.)—by leave—At the request of Senator Bartlett, I move:

That general business notice of motion no. 314 standing in the name of Senator Bartlett for today, relating to the parliamentary sitting pattern for 2003, be postponed till the next day of sitting.

Question agreed to.

FORESTRY: INTERLAKEN ROAD, TASMANIA

Senator BROWN (Tasmania) (3.55 p.m.)—as amended, by leave—I move the motion as amended:

That there be laid on the table by the Minister for Fisheries, Forestry and Conservation, no later than noon on Thursday, 12 December 2002, all documents relating to the answers to question on notice no. 404 (Senate Hansard, 14 October 2002, p. 5093).

Question, as amended, agreed to.

ROADS: ALBURY-WODONGA BYPASS

Senator BROWN (Tasmania) (3.56 p.m.)—I move:

That the Senate, noting the 61 per cent majority of Albury citizens who, in a referendum in 1997, opposed an internal freeway, calls on the Government to support the bypass option.

Question put.

The Senate divided. [4.00 p.m.]

(The Acting Deputy President—Senator P.R. Lightfoot)

Ayes............. 9
Noes............. 36
Majority......... 27

AYES
Allison, L.F. * Bartlett, A.J.J.
Brown, B.J. Cherry, J.C.
Greig, B. Harris, L.
Murray, A.J.M. Nettle, K.
Ridgeway, A.D.

NOES
Barnett, G. Boswell, R.L.D.
Brandis, G.H. Buckland, G.
Campbell, G. Campbell, I.G.
Carr, K.J. Chapman, H.G.P.
Colbeck, R. Collins, J.M.A.
Conroy, S.M. Cook, P.F.S.
Crossin, P.M. Denman, K.J.
Ferguson, A.B. Ferris, J.M.
Hutchins, S.P. Johnston, D.
Kirk, L. Knowles, S.C.
Lightfoot, P.R. Ludwig, J.W.
Lundy, K.A. Mackay, S.M.
McLucas, J.E. McNaughton, J.J.J.
Moore, C. O’Brien, K.W.K.
Ray, R.F. Scullion, N.G.
Reid, M.E. Stephens, U.
Sherry, N.J. Webber, R.

* denotes teller

Question negatived.

FOREIGN AFFAIRS: CHINA

Senator BROWN (Tasmania) (4.03 p.m.)—I move:

That the Senate calls on the Australian Government to urgently pursue alternatives with the Chinese Government to the death sentence handed down on Tibetan activists Trulku Tenzin Delek and Lobsang Dhondup in Karze, Sichuan province.

Question put.

The Senate divided. [4.04 p.m.]

(The Acting Deputy President—Senator P.R. Lightfoot)

Ayes............. 9
Noes............. 37
Majority......... 28

AYES
Allison, L.F. * Bartlett, A.J.J.
Brown, B.J. Cherry, J.C.
Greig, B. Harris, L.
Murray, A.J.M. Nettle, K.
Ridgeway, A.D.

NOES
Barnett, G. Boswell, R.L.D.
Brandis, G.H. Buckland, G.
Campbell, G. Campbell, I.G.
Carr, K.J. Chapman, H.G.P.
Colbeck, R. Collins, J.M.A.
Conroy, S.M. Cook, P.F.S.
Crossin, P.M. Denman, K.J.
Ferguson, A.B. Ferris, J.M.*
Hutchins, S.P. Johnston, D.
Kirk, L. Knowles, S.C.
Lightfoot, P.R. Ludwig, J.W.
Lundy, K.A. Mackay, S.M.
Mason, B.J. McNaughton, J.J.J.
McLucas, J.E. Moore, C.
Wednesday, 11 December 2002

O’Brien, K.W.K.  Payne, M.A.
Ray, R.F.  Reid, M.E.
Scullion, N.G.  Sherry, N.J.
Stephens, U.  Watson, J.O.W.
Webber, R.

* denotes teller

Question negatived.

Senator HARRADINE (Tasmania) (4.09 p.m.)—I seek leave to have my name recorded as having voted for that amendment; I was locked out when the bells rang for one minute.

Leave granted.

IMMIGRATION: PEOPLE-SMUGGLING

Senator JACINTA COLLINS (Victoria) (4.09 p.m.)—by leave—On behalf of all opposition senators, the Leader of the Australian Democrats, Senator Bartlett, and all Australian Democrat senators, and Senators Brown, Nettle, Lees, Harradine and Murphy, I move:

That the Senate

(a) notes the evidence presented to the Select Committee on a Certain Maritime Incident regarding the central role played by the person known as Abu Quessai in organising people smuggling operations in Indonesia;

(b) welcomes the statement by the Australian Federal Police that they have issued a further warrant for the arrest of Quessai, in relation to his involvement in people smuggling specifically in relation to the vessel known as SIEV X;

(c) further notes that the issue of this warrant indicates the strength of evidence linking Quessai with the people smuggling aspects of SIEV X, including the procurement of the vessel, the recruiting of crew, the provision of passage on the vessel in return for payment, the loading of the vessel (including the gross overloading), and the departure of the vessel bound for Australia;

(d) further notes that Abu Quessai is currently in prison in Indonesia for unrelated immigration offences, and is due to be released on 1 January 2003, with a high risk of him remaining out of reach of Australian legal authorities after that time; and therefore

(e) calls on the Australian and Indonesian Governments to undertake all actions necessary prior to 1 January 2003 to ensure that Abu Quessai is immediately brought to justice:

(i) on all matters relating to the outstanding warrants relating to people smuggling, and

(ii) in relation to his involvement with the vessel known as SIEV X, including the foundering and sinking of that vessel with the resultant tragic loss of 353 lives.

This motion welcomes the statement by the Australian Federal Police that they have issued a further warrant for the arrest of Abu Qussey in relation to his involvement in people-smuggling, specifically in relation to the vessel known as SIEVX. It also expresses concern that all avenues be exhausted. The Minister for Justice and Customs, Senator Ellison, assured me at the last round of Senate estimates that the Indonesian government was likely to introduce legislation making people-smuggling an offence which would be used to expedite Abu Qussey’s extradition. This is now most unlikely. Whilst I accept that the parliament cannot scrutinise the brief of evidence against Abu Qussey at this stage, given the details about these warrants, several questions can still be answered and remain unaddressed.

Details of why the Australian Federal Police have been unable to establish the location of where SIEVX sank is one example. Details of limited progress with the Indonesian government despite our government’s earlier confidence remain unanswered. Details of the Attorney-General’s advice as to jurisdictional considerations remain unanswered. All of these questions were raised at the last estimates round and remain unanswered. The government must demonstrate to the Senate, to the parliament and to the Australian public that it has exhausted all avenues regarding this crime of such large magnitude.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (4.11 p.m.)—by leave—The government welcomes Senator Collins’s endorsement of the AFP’s investigation into Abu Qussey in paragraphs (a) and (b) of her
motion. Abu Qussey is believed to be an Egyptian national who it is alleged has been involved in people-smuggling from Indonesia to Australia since early in 2000. He was sentenced by Jakarta Southern District Court on 4 September 2002 to six months imprisonment for offences against Indonesian immigration law and he is due for release on 1 January 2003.

The Australian government is working with other governments in the region to seek to apprehend Abu Qussey in relation to his alleged involvement in people-smuggling activities and bring him to Australia to face the charges. As people-smuggling is not currently an offence in Indonesia, the dual criminality required for Australia to request the extradition from Indonesia does not currently exist. Australian authorities are continuing to work towards criminalisation of people-smuggling in the region and Indonesian authorities have indicated that legislation would be introduced into the Indonesian parliament this year, criminalising people-smuggling.

The government cannot support paragraphs (c) to (e) for the following reasons. Four first instance arrest warrants have been sworn in Australia in respect of Qussey for alleged offences relating to organising suspected illegal entry vessels, SIEVs. The first three warrants for his arrest were sworn on 3 June 2002 and span alleged offences that occurred between February 2000 and August 2001. The latest warrant for his arrest is in relation to his alleged involvement in organising SIEVX, in which 353 people died when it sank in October 2001. The issue of the fourth warrant in Brisbane on Friday last week follows the compilation of a brief of evidence which was submitted to the Commonwealth Director of Public Prosecutions. This brief of evidence in relation to SIEVX includes evidence from interviews with survivors of SIEVX in Australia. The strength of the evidence supporting any warrant is a matter for the courts to determine. It is therefore not appropriate for the brief of evidence to be scrutinised by parliament prior to any legal proceedings and any public discussion could prejudice the investigation. Once an existing warrant is acted upon the matter becomes sub judice.

The swearing of first instance warrants means an Interpol alert can be issued and it will ensure that the Australian government can seek to extradite Abu Qussey should circumstances allow. The Australian Federal Police has not been able to establish the location where SIEVX sank. Therefore, it is not possible to establish the relevant jurisdiction for any prosecution relating to the deaths on board. Australia respects that Indonesia as a sovereign state must take its own decision whether or not to investigate any particular matter.

Question agreed to.

BUDGET
Consideration by Legislation Committees
Additional Information

Senator McGauran (Victoria) (4.15 p.m.)—On behalf of the chair of the Finance and Public Administration Legislation Committee, Senator Mason, I present additional information received by the committee relating to hearings on the budget estimates for 2002-03.

COMMITTEES
Scrutiny of Bills Committee
Report


Ordered that the report be printed.

Senator McLucas—I move:

That the Senate take note of the report.

The Alert Digest and the report which I have just tabled will be the last scheduled for the present sittings. This would therefore seem a suitable occasion to review the activities of the committee over those sittings. The function of the Senate Standing Committee for the Scrutiny of Bills is to report on any provisions of bills introduced into the Senate which may, to use broad expressions, trespass against either personal rights and liberties or parliamentary propriety. In order to do
this, the committee first identifies any such potential provisions and alerts the Senate to their existence. It then writes to the minister responsible for the bill asking for advice. Depending on the minister’s response, the committee may accept that advice or continue to draw the Senate’s attention to the provisions. The committee may also ask for further advice or briefings from departmental officers. In any event, the committee reports fully to the Senate on each of the steps which it takes. The committee has no direct power but seeks to draw to the attention of the chamber those provisions on which it comments. The Senate itself then decides whether the provision in question is acceptable. The committee operates in a consensual, non-partisan fashion removed from party political concerns.

In recent years the most important function of the committee, at least in terms of volume, has been the protection of personal rights and liberties. This pattern has continued during the present sittings, with the bulk of the committee inquiries relating to this area. The committee commented on a number of bills which, on the one hand, were to commence at some indeterminate time in the future or, on the other hand, were provided to commence retrospectively. In both these cases the explanatory memorandum should provide a full and clear explanation for the unusual commencement. For instance, one bill, which was to commence on proclamation at some unlimited future time, was dependent upon complementary state and territory legislation. In relation to retrospective bills, the general rule is that nobody should be affected adversely by such provisions. In most cases, this will not be a problem, with the explanatory memorandum advising that the effect is either beneficial or benign. However, other cases were more problematic. One bill provided for retrospective criminal offences and there were several taxation bills backdated to the date of the announcement of the intention to legislate, whether in the budget context or otherwise.

A number of bills provided for absolute and strict liability offences where the prosecution does not have to prove that the accused intended to offend. In such cases, the committee considers that the explanatory memorandum should justify the fairness of such provisions, with detailed responses for their inclusion. Provisions which reverse the usual onus of proof raise similar questions. Here the committee looks to see that the standard of proof placed on the accused is the lower evidentiary standard. Other provisions affecting personal rights which the committee mentioned during the present sittings included exclusion of matters from freedom of information provisions and abrogation of the privilege against self-incrimination. Committee discussions on personal rights and liberties may involve difficult judgments. One bill in particular provided for measures which would assist a business sector including many small operators, but which did this at the expense of long-established consumer rights. The question here was where to draw the line and I am pleased to report that the committee addressed this in its usual nonpartisan fashion.

Another important aspect of the committee’s role of the protection of personal rights and liberties is to ensure that bills provide for appropriate review of administrative decisions, whether those decisions are made by a minister, a public official or a body. The initial presumption is that such decisions should be subject to merits review by the Administrative Appeals Tribunal or a similar specialised tribunal. In the current sittings the committee has commented on provisions which not only failed to provide for AAT review but also expressly precluded any other avenue of review or appeal. Another provision excluded judicial review under the Administrative Decisions (Judicial Review) Act. In relation to administrative decisions, the committee’s role is also to check that the discretion in question has been properly defined. For instance, the committee comments on administrative discretions which are not guided or controlled by suitable objective criteria.

The other main function of the committee is to guard parliamentary propriety, more importantly in the context of the delegation of legislative power and parliamentary scrutiny of the exercise of such power. During the present sittings, the main concern here
has been the incorporation of extraneous material with legislative effect as in force from time to time. The result of such provisions is effective abdication of legislative power—in two cases to anyone at all, and which may be exercised in most cases without even being subject to gazettal or tabling. In one instance, the minister advised the committee that the purpose of this was to save unnecessary administrative work. In another, the bill provided for the regulations to incorporate material as in force from time to time, thereby subdelegating legislative authority.

The committee also commented on several ‘plain vanilla’ delegations of legislative power without parliamentary scrutiny. One of these related to the parliamentary review of a funding agreement, and another, which admittedly may have been an oversight, and hopefully so, provided for the disallowance of amending instruments but not of the original principal instrument. It is obvious that cooperation from ministers is crucial to the operations of the committee and I am pleased to report that this continued at a high level during the sittings. At its meeting this morning the committee considered a response it received from the minister yesterday in reply to an inquiry—it was sent only last Thursday. In this case, as in a number of similar cases, the minister and her staff made an extra effort to finalise the matter. The committee is grateful for this cooperation, which is made possible because ministers know that the committee operates on a non-partisan basis.

Another aspect of ministerial cooperation is amendments sponsored by ministers to address matters raised by the committee. In previous tabling statements on behalf of the committee I have drawn attention to these pleasing developments, which may be increasing. Here again it is possible for ministers to do this because the committee does not concern itself with party political issues. This morning the committee held its annual sausage sizzle—which I am thinking about renaming a ‘barbecue’, by the way—where members of the committee welcomed other senators, ministers, advisers and staff to a very relaxed and informal function to discuss legislative scrutiny. More than 50 people accepted, which is one more indication of the beneficial relationship between the committee and ministers.

Opposition senator interjecting—

Senator McLUCAS—And there were very good sausages—yes, I acknowledge that. Can I take this opportunity on behalf of the committee to thank the secretariat of the committee, Mr David Creed, Ms Margaret Lindeman and Ms Bev Orr, for their excellent and efficient support and advice. Further, we would like to thank Professor Jim Davis, who was identified as a national treasure by the UK human rights committee when they were visiting earlier this year—something which I think we all agreed with. We thank him for his sound and reasoned advice to the committee over the last year. I also would like to place on record my thanks to the members of the committee, who I believe have all contributed significantly to the deliberations over the six months that I have been involved in the committee.

Finally, on less weighty matters, the committee would like to highlight a couple of provisions which would be worthy of inclusion in any legislative miscellany. They are all notes in the body of a bill which the committee scrutinised this morning and I will quote them verbatim. One reads:

This item repeals items that relate to an amendment that does not exist.

Another reads:

This item repeals items that contain amendments that had already been made.

Four others read:

This item repeals an item that omits words that do not exist in the relevant provision.

The notes also refer rather ominously to other ‘inappropriate amendments’. Another item renumbers section 160AQCO of an act as section 160AQCNCK, which we agreed this morning sounds a bit like a call sign from Star Wars. However, for the true connoisseur of bills, perhaps the crowning glory of this collection is an item, the purpose of which is to:

... repeal an item that omits words from a provision and inserts the identical words into the provision.
Senator JOHNSTON (Western Australia) (4.26 p.m.)—On behalf of the Parliamentary Joint Committee on the National Crime Authority, I present the report of the committee on the examination of the annual report for 2000-2001 of the National Crime Authority, together with the Hansard record of proceedings.

Ordered that the report be printed.

Senator JOHNSTON—I move:

That the Senate take note of the report.

I seek leave to incorporate my tabling statement in Hansard.

Leave granted.

The statement read as follows—

The Committee has a legislative responsibility under section 55(1)(c) of the National Crime Authority Act 1984. This requires the Committee to examine each annual report of the Authority and report to the Parliament on any matter appearing in or arising out of any such report. During its deliberations, the Committee held a public hearing in Canberra on the 24 June 2002.

The Senate will be aware that the Committee also recently completed its report on the Australian Crime Commission Bill. The legislation which is due to commence on 1 January 2003 replaces the National Crime Authority with the Australian Crime Commission.

The material contained in the 2000-2001 Annual Report, together with the evidence obtained at the Committee hearing on that report was of considerable assistance in the Committee’s review of the proposed legislation.

However, the NCA’s 2000-2001 Annual Report gave the Committee some concerns about the Authority’s accountabilities in a number of areas. In particular, the lack of specificity in finance and performance standards left the Committee with a sense that it had little material on which to assess whether or not the Authority had successfully fulfilled its objectives.

The Committee acknowledges that such measures are difficult to define, but expresses concern about the period of time the Authority has been addressing it, with little result.

The Committee considers that there are clearly efficiency issues which require resolution. The financial statements reinforce this, as they indicate a relatively small organisation which is “top heavy” when compared to other agencies in the public sector. There has been no reason advanced for this by the Authority.

The Committee notes that the Authority has addressed the various reporting requirements in its Annual Report 2000-2001, and the Committee is confident that the changes which will occur as a result of the commencement of the Australian Crime Commission Act on 1 January 2003, will address the significant issues which have emerged during the examination of the NCA 2000-2001 Annual Report.

The Committee also looks forward to continuing its oversight role with the new organisation.

Question agreed to.

FINANCIAL SECTOR LEGISLATION AMENDMENT BILL (No. 2) 2002

Report of Economics Legislation Committee

Senator JOHNSTON (Western Australia) (4.27 p.m.)—At the request of the Chair of the Economics Legislation Committee, Senator Brandis, I present the report of the committee on the provisions of the Financial Sector Legislation Amendment Bill (No. 2) 2002, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

DOCUMENTS

Auditor-General’s Reports

Report No. 21 of 2002-03

The ACTING DEPUTY PRESIDENT (Senator Watson)—In accordance with the provisions of the Auditor-General’s Act 1997, I present the following report of the Auditor-General: Report No. 21 of 2002-03—Performance Audit—Performance information in the Australian health care agreements: Department of Health and Ageing.

COMMITTEES

Reports: Government Responses

Senator MINCHIN (South Australia—Minister for Finance and Administration) (4.28 p.m.)—I present the government’s response to the President’s report of 27 June 2002 on outstanding government responses to parliamentary committee reports, and I
seek leave to incorporate the document in *Hansard*.

Leave granted.

The document read as follows—

**GOVERNMENT RESPONSES TO PARLIAMENTARY COMMITTEE REPORTS RESPONSE TO THE SCHEDULE TABLED BY THE PRESIDENT OF THE SENATE ON 27 JUNE 2002**

Circulated by the Leader of the Government in the Senate

Senator the Hon Robert Hill
11 December 2002

**ASIO, ASIS AND DSD (Joint, Standing)**

An advisory report on the Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002

The response to the Committee’s recommendations was reflected in the House of Representatives debate of 19-24 September 2002.

**COMMUNITY AFFAIRS REFERENCES**

The patient profession: time for action—Report on nursing

The recommendations of the Senate Inquiry into Nursing must be considered in the context of the future of the nursing workforce and nursing education in Australia and with the National Review of Nursing Education which has been conducted over the same period as the Senate Committee’s Inquiry into Nursing.

**CORPORATIONS AND SECURITIES (Joint Statutory)**

Report on aspects of the regulation of proprietary companies

The response is being prepared. It is expected to be completed soon.

**ECONOMICS REFERENCES**

Report on the operation of the Australian Taxation Office

The response is being finalised and will be tabled shortly.

Report on the provisions of the Fair Prices and Better Access for All (Petroleum) Bill 1999 and the practice of multi-site franchising by oil companies

The response is being finalised and will be tabled shortly.

Inquiry into mass marketed tax effective schemes and investor protection—Interim report

The response is being finalised and will be tabled shortly.

Inquiry into mass marketed tax effective schemes and investor protection—Second report: A recommended resolution and settlement

The response is being finalised and will be tabled shortly.

Inquiry into the framework for the market supervision of Australia’s stock exchanges

As the report did not make any specific recommendations, a response is not required. The Parliamentary Secretary to the Treasurer wrote to the Chairman of the Committee in June 2002 acknowledging the importance and timeliness of the report.

**EMPLOYMENT, WORKPLACE RELATIONS, SMALL BUSINESS AND EDUCATION REFERENCES**

Universities in crisis: Report into the capacity of public universities to meet Australia’s higher education needs

The response was presented out of session on 24 October 2002 and tabled on 11 November 2002.

The education of gifted children

The response was presented out of session on 6 August 2002 and tabled on 19 August 2002.

**ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS LEGISLATION**

Report on the Broadcasting Services Amendment (Media Ownership) Bill 2002

The government responded to the Committee’s report with amendments to the Broadcasting Services Amendment (Media Ownership) Bill 2002 during the debate in the House of Representatives on 15 October 2002. The recommendations of the report were addressed in the revised Explanatory Memorandum to the Bill.
ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY AND THE ARTS REFERENCES

Report on the powers of the Commonwealth in environment protection and ecologically-sustainable development in Australia
A draft response has been prepared and will be tabled shortly.

Inquiry into Gulf St Vincent
The government is finalising the response to the report.

Inquiry into electromagnetic radiation
The response will be tabled soon.

Above board? Methods of appointment to the ABC Board
The response was tabled on 29 August 2002.

FINANCE AND PUBLIC ADMINISTRATION REFERENCES

Re-booting the IT agenda in the Australian Public Service—Final report on the government’s information technology outsourcing initiative
The government is considering the recommendations and will table a response in due course.

FOREIGN AFFAIRS, DEFENCE AND TRADE (Joint)

From phantom to force: Towards a more efficient and effective army and
A model for a new Army: Community comments on the ‘From phantom to force’ parliamentary report into the army
The response to the two reports has been delayed to take account of changing strategic circumstances and government consideration of the Annual Strategic Review. The response is likely to be tabled in the Autumn 2003 sittings.

Conviction with compassion: A report into freedom of religion and belief
The response was tabled on 14 November 2002.

A report on visits to immigration detention centres
The response was presented out of session on 6 December 2002 and tabled on 9 December 2002.

Australia’s role in United Nations reform
The response is under consideration.

Australia’s relations with the Middle East
The response was tabled on 19 September 2002.

FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES

Japan: Politics and society
The response will be finalised shortly.

Recruitment and retention of ADF personnel
The response is awaiting government consideration of the recommendations of a Review of ADF Remuneration and is likely to be tabled in the Autumn 2003 sittings.

INFORMATION TECHNOLOGIES (Select)

In the public interest: Monitoring Australia’s media
The government is considering the report against a background of broader reform of media legislation and will respond to the report in that context.

LEGAL AND CONSTITUTIONAL LEGISLATION

The response to the report took the form of government amendments to the Bills and the debate on the Bills. Both Houses of Parliament subsequently passed the Bills in amended form and received royal assent on 11 October 2002.

Inquiry into the provisions of the Security Legislation Amendment (Terrorism) Bill 2002 [No. 2] and 4 related bills
The response to the Committee’s recommendations was reflected in the Senate debate of 24-27 June 2002.

LEGAL AND CONSTITUTIONAL REFERENCES

Inquiry into the Commonwealth’s actions in relation to Ryker (Faulkner) v The Commonwealth and Flint
The response is under consideration and will be tabled shortly.

Inquiry into sexuality discrimination
The government will consider an appropriate response to the report in due course.

Inquiry into the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999
The response was tabled on 22 August 2002.
Humanity diminished: The crime of genocide—Inquiry into the Anti-Genocide Bill 1999
The response was tabled on 26 September 2002.

Order in the law: Management arrangements and adequacy of funding of the Australian Federal Police and the National Crime Authority
The response was tabled on 19 September 2002.

Inquiry into the outsourcing of Australian Customs Service’s information technology
The response was tabled on 14 November 2002.

MIGRATION (Joint Statutory)
Not the Hilton—Immigration detention centres: Inspections report
The response is being finalised and will be tabled shortly.

2001 Review of Migration Regulation 4.31B
The response was presented out of session on 6 December 2002 and tabled on 9 December 2002.

NATIONAL CAPITAL AND EXTERNAL TERRITORIES (Joint Statutory)
In the pink or in the red? Health services on Norfolk Island
A response is expected to be tabled after a visit to Norfolk Island by health officials.

Risky business: Inquiry into the tender process followed in the sale of the Christmas Island Casino and Resort
The response will be tabled shortly.

NATIONAL CRIME AUTHORITY (Joint Statutory)
The law enforcement implications of new technology
A draft response is under consideration and will be tabled shortly.

NATIVE TITLE AND THE ABORIGINAL AND TORRES STRAIT ISLANDER LAND FUND (Joint Statutory)
Second interim report for the s.206 inquiry: Indigenous land use agreements
The response is being finalised and is expected to be tabled in the 2003 Autumn sittings.

PUBLIC ACCOUNTS AND AUDIT (Joint Statutory)
Corporate governance and accountability arrangements for Commonwealth government business enterprises, December 1999 (Report No. 372)
The government is presently conducting a “Review of Governance Arrangements of Statutory Authorities and Office Holders”, and finalisation of the response is expected following that Review.

Review of Coastwatch (Report No. 384)
The response was tabled on 19 September 2002.

Review of the Auditor-General Act 1997 (Report No. 386)
The response was tabled on 19 September 2002.

Review of the accrual budget documentation (Report No. 388)
Preparation of the response has required extensive consultation within government portfolios. The response will be tabled shortly.

RURAL AND REGIONAL AFFAIRS AND TRANSPORT LEGISLATION
An Appropriate level of protection? The importation of salmon products: A case study of the administration of Australian quarantine and the impact of international trade arrangements
The response will be tabled shortly.
The proposed importation of fresh apple fruit from New Zealand—Interim report
The response should be tabled before the end of the year.

Inquiry into the administration of Motor Vehicle Standards
The response was presented out of session on 6 December 2002 and tabled on 9 December 2002.

Quota management control on Australian beef exports to the United States
A second related report is expected to be tabled during December 2002, after which a response will be prepared.

RURAL AND REGIONAL AFFAIRS AND TRANSPORT REFERENCES
Airspace 2000 and related issues
The response is being finalised and will be tabled shortly.
The incidence of Ovine Johne’s Disease in the Australian sheep flock—Second report
The response is being finalised and will be tabled shortly.
Air safety and cabin air quality in the BAe 146 aircraft
The response was presented out of session on 28 June 2002 and tabled on 19 August 2002.

SCRUTINY OF BILLS (Senate Standing)
Fourth report of 2000: Entry and search provisions in Commonwealth legislation
Preparation of the response has required extensive consultation across government portfolios. The response will be tabled shortly.

Sixth report of 2002: Application of absolute and strict liability provisions in Commonwealth legislation
Preparation of the response is in progress.

SUPERANNUATION AND FINANCIAL SERVICES (Senate Select)
The opportunities and constraints for Australia to become a centre for the provision of global financial services
The response was tabled on 14 November 2002.
A ‘reasonable and secure’ retirement?: The benefit design of Commonwealth public sector and defence force unfunded superannuation funds and schemes
The response will be tabled shortly.

Report on the provisions of the Parliamentary (Choice of Superannuation) Bill 2001
The Bill was discharged from the Notice Paper on 17 September 2001. The government does not propose to respond to the report.

Prudential supervision and consumer protection for superannuation, banking and financial services: First report
The response was presented out of session on 24 October 2002 and tabled on 11 November 2002.

Prudential supervision and consumer protection for superannuation, banking and financial services: Second report—Some case studies
The response was presented out of session on 24 October 2002 and tabled on 11 November 2002.

Prudential supervision and consumer protection for superannuation, banking and financial services: Third report—Auditing of superannuation funds
The response will be tabled shortly.

Report on early access to superannuation benefits
The government is currently considering the response and will table it shortly.

TREATIES (Joint, Standing)
UN Convention on the Rights of the Child (17th Report)
The response will be tabled shortly.

Privileges and immunities of the International Tribunal on the Law of the Sea and the treaties tabled on 27 February and 6 March 2001 (39th Report)
The response was tabled on 19 September 2002.

Extradition—a review of Australia’s law and policy (40th Report)
The proposed response is being considered and will be tabled in due course.

Who’s afraid of the WTO? Australia and the World Trade Organisation (42nd Report)
The response was tabled on 29 August 2002.

Thirteen treaties tabled in August 2001 (43rd Report)
A response is not required.

The Statute of the International Criminal Court (45th Report)
The proposed response is being considered and will be tabled in due course.

Treaties tabled 12 March 2002 (46th Report)
In response to Recommendation No. 5, the Treasury developed a methodology to quantify, where possible, the economic benefits of double tax agreements and presented it at an informal meeting with the Committee members, including the Chair, Ms Julie Bishop, on 27 August 2002. The Committee was satisfied with the outcome. No further response is required.

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES
Message received from the House of Representatives agreeing to the amendments made by the Senate to the following bill:
Telecommunications Competition Bill 2002

TAXATION LAWS AMENDMENT (EARLIER ACCESS TO FARM MANAGEMENT DEPOSITS) BILL 2002
First Reading
Bill received from the House of Representatives.

Senator MINCHIN (South Australia—Minister for Finance and Administration) (4.29 p.m.)—I move:
That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.

Second Reading

Senator MINCHIN (South Australia—Minister for Finance and Administration) (4.29 p.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This bill amends the Income Tax Assessment Act 1936 to provide an exception to the rule that Farm Management Deposits have to be held for twelve months in order to qualify for tax concessions for farmers in Exceptional Circumstances declared areas.

The Farm Management Deposit scheme allows eligible primary producers to set aside pre-tax income in profitable years to establish cash reserves to help meet costs in low-income years. Normally, the accompanying tax concessions are only available when deposits are held for twelve or more months. The exception to the twelve month rule is one of the initiatives announced by the Prime Minister on 27 November 2002 to assist rural communities and our farmers cope with the current drought.

The initiatives provide additional funding and support to meet a number of concerns including cashflow for farmers, pest control, environmental protection and community support for struggling farmers.

The change to the twelve month rule will help farmers manage the cash flow impact of the drought and build on the significant funding already provided by the Commonwealth to managing the drought. In addition, the Government will streamline consideration of advice on exceptional circumstances applications to ensure there is no unnecessary delay in the coming weeks.

Further minor amendments will also be made to the taxation laws to enhance the flexibility and operation of the FMD scheme.

Full details of the measures in this bill are contained in the explanatory memorandum.

I commend this bill.

Debate (on motion by Senator O’Brien) adjourned.

TAXATION LAWS AMENDMENT (STRUCTURED SETTLEMENTS AND STRUCTURED ORDERS) BILL 2002

Consideration of House of Representatives Message

Message received from the House of Representatives returning the Taxation Laws Amendment (Structured Settlements and Structured Orders) Bill 2002, acquainting the Senate that the House has agreed to amendments (1) to (8), (10) to (12) and (14) to (64) made by the Senate, disagreed to amendments (9) and (13) and requesting the reconsideration of the amendments disagreed to.

Ordered that the message be considered in Committee of the Whole at a later hour.

PRIMARY INDUSTRIES (CUSTOMS) CHARGES AMENDMENT REGULATIONS 2002 (No. 6)

PRIMARY INDUSTRIES (EXCISE) LEVIES AMENDMENT REGULATIONS 2002 (No. 10)

PRIMARY INDUSTRIES LEVIES AND CHARGES COLLECTION AMENDMENT REGULATIONS 2002 (No. 7)

Motions for Disallowance

Senator O’BRIEN (Tasmania) (4.30 p.m.)—by leave—I move:

No. 1—That the Primary Industries (Customs) Charges Amendment Regulations 2002 (No. 6), as contained in Statutory Rules 2002 No. 293 and made under the Primary Industries (Customs) Charges Act 1999, be disallowed.

No. 2—That the Primary Industries (Excise) Levies Amendment Regulations 2002 (No. 10), as contained in Statutory Rules 2002 No. 294 and made under the Primary Industries (Excise) Levies Act 1999, be disallowed.

No. 3—That the Primary Industries Levies and Charges Collection Amendment Regulations 2002 (No. 7), as contained in Statutory Rules 2002 No. 295 and made under the Primary Industries Levies and Charges Collection Act 1991, be disallowed.

These regulations introduce a tax of $30 per tonne on sugar for domestic production and consumption, which tax is scheduled to commence from 1 January 2003. The government describes it as a levy. The proposed
tax will wholly fund the government’s obligations under the Sugar Industry Reform Program. In the view of the opposition, the government should fund its commitment from consolidated revenue, not from the introduction of a new tax.

The Sugar Industry Reform Program is the Howard government’s response to Clive Hildebrand’s independent investigation into the Australian sugar industry. The government’s initial response to the Hildebrand report was silence. Its second response, from mid-September, was a series of rushed, poorly detailed and inadequate media statements. The first such announcement was made by Mr Truss, the Minister for Agriculture, Fisheries and Forestry, on 10 September. It was a flimsy statement delivered in the knowledge that its detail would be obscured by the first anniversary of the terrorist attacks on New York and Washington. The 11th paragraph of this statement contained the promise of a new tax. Mr Truss said that his new tax would be applied to domestic sugar sales and would fund ‘a large proportion’ of the yet to be detailed package. On 27 May last year, the Prime Minister told Meet The Press: ‘We do not intend to increase any taxes in our next term, full stop.

That is not quite the same language as the Prime Minister’s ‘never, ever’ on the GST but it is still pretty clear. There can be no doubt that the proposed impost upon sugar is nothing more than a tax. It is called a levy, but it is a tax nevertheless, despite some claims to the contrary. For confirmation of this, one need do no more than refer to an answer given by the Assistant Treasurer Senator Coonan to the Senate on 21 October in which she—who one would suspect, given her problems of recent times, would know what a tax is—referred to the so-called sugar levy as the sugar tax.

Mr Truss’s second statement on his sugar tax was issued on 25 September under the headline ‘Commonwealth releases sugar industry assistance details’. This time the statement extended to five pages and contained a few costings. Buried on page 5 of the statement was a single line that said: A large component of the funding for the Sugar Industry Reform Program will come from a levy on domestic sales of sugar.

There were no details of course, just another tax promise. The third statement in the series was issued on 17 October under the heading ‘Commonwealth releases more sugar assistance details’. This statement came with a handful of Centrelink pamphlets and a promise that the details were still being finalised. For the details of the sugar tax we had to wait for the minister’s fourth statement, entitled ‘Further Commonwealth sugar assistance details’, which was released on 29 October. The tax details in this statement were buried in the 18th and 19th paragraphs. In it we finally learned that the government intended to use the Primary Industries Levies and Charges Collection Act 1991 to impose its taxation measure. We also learned that the government intended to fund the full cost of the program from the tax.

This detail, sneaked into the minister’s fourth statement and later confirmed by the Department of Agriculture, Fisheries and Forestry at Senate estimates, tells us much about the government’s handling of this matter. On 10 September the Howard government thought so little of the sugar industry it was prepared to fund just a fraction of its sugar program from consolidated revenue. By 29 October the government had decided to spend nothing. It is not prepared to spend one cent of this year’s projected $2,100 million surplus to assist the sugar industry.

As well as the quantum of the tax to be collected, the period of collection has become malleable. These regulations do not provide for an end to the Howard government’s sugar tax: once imposed, the tax is ongoing. All we get is an intention to end it. As a promise, it has about as much chance of being kept as the Prime Minister’s pledge to raise the standards of ministerial accountability.

It is worth reflecting on why we are debating the merits of the Howard government’s latest tax grab. It is not because there is any fundamental disagreement in this parliament on the need for sugar industry assistance. In fact, Labor called for interim financial assistance for the sugar industry in the
middle of the year and released the details of a preferred industry assistance package months ago. If the government had advised the parliament of its intention to assist cane growers and sugar communities with funding from consolidated revenue, it would have met no resistance from the opposition. The government did not do that because there was no-one inside the government willing or able to advance a strong argument on behalf of the industry, least of all Mr Truss, who is incapable of carrying out his brief at the cabinet table and too timid to take on the Treasurer and the Minister for Finance and Administration.

It is times like this that the true weakness of the National Party is exposed. The Nationals are adroit at making excuses for their impotence, but it is their incompetence that leaves them the most exposed. There is no member of the government more exposed in this regard than the Minister for Agriculture, Fisheries and Forestry. Sugar communities should not have to bear responsibility for the National Party’s inability to win a debate in cabinet. The decision to impose a tax has made the details of the package subject to the whim of the Democrats. If the tax is supported today, the final package will not reflect the needs of the sugar industry; it will reflect the terms of the government’s deal with the Democrats.

Rather than be honest about its intentions and introduce an appropriation bill, the government in this regard has sought to misappropriate the industry levy regime. In 1997, the Howard government introduced levy principles it said must be met before any new levy proposal would succeed. The guidelines that accompanied the levy principles say the initiator of a new levy must demonstrate compliance with the 11 principles. I will be very interested to hear the government say how this levy meets those principles, because clearly it does not. In relation to the proposed sugar tax, the government has comprehensively ignored its own principles. If these regulations are permitted to stand, I say that the next time an industry group comes to the government with an inadequate levy proposal the government will have no real basis on which to refuse its consent. It is blindly obvious that the proposed levy payers—members of the Australian food industry and retail purchasers of sugar—have neither proposed nor consented to the introduction of a $30 per tonne tax. Rather, that tax will be imposed on them if this motion fails.

About 85 per cent of domestic sugar consumption is used to make food—making Australian food processors the direct target of the government’s tax plan. It is obvious that the representations to government from this sector have been loud and clear. A six per cent input tax on sugar will hurt this key industry sector, which is not just one of Australia’s most efficient and competitive industries but one that employs 165,000 people, many in regional cities and towns. We are talking about an industry that employs one in five of our manufacturing work force. Make no mistake: a tax on sugar will cost jobs in this sector. Mr Dick Wells, the Chief Executive of the Australian Food and Grocery Council, says this new tax will manifest itself in lost contracts, the scaling back of production lines and casual and permanent job losses.

There are two issues of particular concern to industry. The first is the enormous compliance burden imposed on food processors by the complex imposition of this tax and the even more complicated export rebate regime. This burden will fall most heavily on small and medium sized firms. The second concern relates to the failure to address the competitive advantage the regulations give to imported food goods containing sugar. Australian food goods will be subjected to a six per cent input tax on sugar but foreign goods sitting on the same shelves will not. I ask why we would put a single job at Master Foods in Victoria or Classic Foods in Tasmania or any food plant in any part of Australia at risk by introducing this unnecessary tax.

We know the Department of Industry, Tourism and Resources opposes the tax. It told the cabinet just that in the coordinating documents submitted to the 10 September cabinet meeting. The department is concerned the tax will penalise the food processing industry, cost jobs and affect the com-
petitiveness of the industry in international markets. More broadly, the department says:

A levy is equivalent to a product tax or tariff, the imposition of which is contrary to the philosophy of tax reform and tariff reform and, together with cost-shifting to consumers, creates an undesirable precedent.

The government sought to rely on the Queensland government’s partnership in the overall sugar program to buttress itself against criticism of its proposed tax. I have no doubt that the arrangements will get a run from the government today, but it is a superficial defence. The key difference between the Queensland government’s contribution to the sugar program and that proposed by the Howard government is this: Premier Peter Beattie is not introducing a new tax to pay for his government’s contribution.

Senator Ian Macdonald—The whole $30,000.

Senator O’BRIEN—It is $30 million. I am surprised the minister thought it was $30,000. It is clear from the Queensland government’s response that it understands the importance of this key rural industry. The Australian sugar industry is a world leader in the efficient and sustainable production of raw sugar. The production of about 6,700 cane growers generates thousands more jobs in the harvesting, transport and milling sectors. In addition to its domestic performance, the industry is one of Australia’s key commodity earners for exports, and the Beattie government clearly understands this fact and, notwithstanding the precedent that the federal government is setting, has not introduced a new tax to support its contribution.

The Howard government has used the plight of the industry to increase its tax take. This is despite the fact that the government is already collecting more income tax than any Commonwealth government since Federation. This financial year the government will collect $127.3 billion in income tax, up from $82.4 billion when the government came into office in 1996. Taxpayers will pay up to 17 per cent of GDP in income tax in 2002-03. The total tax take, including GST, is now a massive $187 billion. Over the past six years the Howard government has introduced a plethora of special taxes, and it plans to add the new sugar tax to the top of the pile. The special taxes include the gun buyback tax, the dairy tax, the Ansett tax and the Medicare surcharge. This government is now considering the imposition of additional taxes—for example, a new tourism tax—and has refused to rule out a special tax to fund Australia’s participation in the war on terror.

Labor is opposed to the government’s sugar tax for all the foregoing reasons, but there is also one other reason. It is a new tax on food. A few short years ago Labor failed to prevent the application of a new broad based tax on food when the Democrats joined the government in introducing the GST. It is our fervent hope—but I suspect a vain one—that the Democrats will not join the government in its latest tax escapade. I know the Democrats have quite genuine environmental concerns which are in some respects deeply held, but I would have hoped that Senator Cherry and his colleagues would have realised that there is no connection between the government’s sugar tax and improved environmental outcomes for the Great Barrier Reef. Improved environmental outcomes are a key ingredient of industry sustainability. Their delivery is not dependent on a new tax but on the will of the government, the sugar industry and the Queensland community to find better environmental solutions. The sugar industry, particularly in Queensland, supports the COMPASS program—COMbining Profitability and Sustainability in Sugar. That is a clear demonstration of the industry’s will with regard to the environment.

The development and the delivery of the government’s sugar package has all the characteristics of the minister’s touch. The usual pattern has been present: firstly, ignore the problem; secondly, find the wrong solution; and, thirdly, muck up the delivery of a last-minute plan. For an illustration of this point, I urge senators to talk to some of the cane farmers who thought they could rely on Mr Truss’s empty promise of interim income assistance from 1 October this year. Despite the rhetoric we hear from Senator Boswell and other representatives of the National Party, both inside and outside this place, the coalition is no friend of the sugar industry. I
remind the Senate that it was the Howard government that removed the industry’s tariff protection.

Senator Boswell—And who voted for it?

Senator O’BRIEN—You did, Senator Boswell.

Senator Boswell—And so did the Labor Party.

Senator O’BRIEN—The Howard government failed the industry in international trade negotiations. I am glad you are here, Senator Boswell. I thought that, as usual, the National Party was big on words but would never deliver anything for the sugar industry. We will see what you are going to deliver shortly. In recent days the government has said that if the Senate does not agree to the tax it will withdraw or diminish its assistance. So much for the influence of the National Party. Let us be clear what that would mean. The government is prepared to withdraw its promised assistance to the sugar industry rather than fund $20 million to $25 million from its budget for the next four or five years. It is saying this in a year when the projected budget surplus is $2.100 million—that is, the government could fund the entire five-year package from this year’s budget surplus with a remaining surplus of $1,980 million. I am sure the sugar communities would be interested to hear that, in comparison to that, last year alone the Howard government spent $314 million on consultants even though it has 101,000 public servants on its payroll.

Labor reject the rotten tax which is contained in these regulations. We call on the government to abandon its approach to fraudulently use the levies collection legislation to collect this new tax and to fund its commitment to the sugar industry through consolidated revenue. The opposition would support such a move. It is time the government stopped talking about tax and started to deliver assistance that meets the needs of Australia’s sugar communities. I urge senators to support all three motions.

Senator CHERRY (Queensland) (4.50 p.m.)—The Democrats will be opposing Senator O’Brien’s disallowance motion this afternoon, although we acknowledge the spirit in which it has been moved by the Labor Party. It is very difficult to decide at what point to support a new tax, particularly one that affects food products. In this particular case the government has made it quite clear that without this levy going forward there will be no assistance to the sugar industry in Australia. That would obviously be of concern to a number of Queenslanders, including me. It would also be of concern to the Premier of Queensland, Mr Peter Beattie, who on the release of the $120 million sugar package said:

I congratulate the Federal Government for its commitment to the future of the industry ... I said that we would work with the Federal Government on the changes that the Federal Government views as necessary in Queensland’s legislation and we have done so.

Mr Truss, the Minister for Agriculture, Fisheries and Forestry, said:

The Commonwealth and Queensland Governments agree that securing a long-term viable future for the sugar industry is a priority because of the industry’s importance to regional economies and communities.

Mr Tom Barton, the Queensland Minister for State Development, said:

Both governments will work together to deliver this package at a regional level, with the close involvement of local industry and community representatives.

I acknowledge that there has been an enormous amount of debate about this sugar package over the last six months in my home state of Queensland and also here in Canberra. The debate has coalesced around the components of the package itself. There is concern among quite large sectors of the cane industry that the package has been inappropriately structured and that it should contain more of an element of income support rather than restructuring and regional development assistance. There has been debate over whether the sugar levy itself is an appropriate taxing mechanism, about its impact on the food sector and so forth.

I will give the Senate a bit of a history of agricultural levies in this country, because it makes interesting reading. This particular levy will be the 48th levy in the current budget dealing with agricultural produce.
These levies currently raise $536 million a year. It is fascinating, when you read through the list, to see that almost every conceivable agricultural commodity has a tax on it. One that leapt out at me is the deer slaughter levy—$209,000 a year—introduced by Simon Crean as Minister for Primary Industries and Energy back in 1992, I believe. There are other levies on dairy, as we well know, and on fish products and wheat. There is a $4.3 million sugar cane research levy in place at the moment. As a matter of interest, that levy was increased by 50 per cent by Simon Crean in 1992. There is a meat chicken levy, there is a market milk levy, there is a rice levy, there is a pig slaughter levy, and so on.

There is plenty of precedent in this country for the principle that the beneficiaries of Australia’s low agricultural food prices and free trade—essentially Australian consumers—should contribute to the costs of restructuring industries. This principle has been supported by all parties in this place for a very long time. In fact, the act under which we are implementing this levy is a Labor government act that took effect on 1 July 1994, one month after Simon Crean became Minister for Primary Industries and Energy. So there is plenty of precedent for what we are doing.

I am interested to hear that Labor are concerned about the tax on food and the fact that this particular levy will impact on sugar manufactured products. It is a pity that concern did not exist in the 1980s when they imposed a wholesale sales tax on confectionary products and soft drinks for the first time, or in 1993 when they increased the tax on confectionary products and soft drinks from 10 per cent to 12 per cent. I remember it well. From a tax point of view I can understand the concern, but there is a countervailing argument to the arguments which Senator O’Brien has raised. The real question is: is the package worth supporting? If the package is worth supporting, the funding mechanism the government has put up for it has to be supported as well.

The Democrats went back and looked at the Hildebrand report. We acknowledge that the Hildebrand report recognised that the industry needed fundamental change if it was going to have an environmentally and economically sustainable future. That is the context within which we started discussing our concerns with government, starting with the package but also looking at the collection of the levy. I note that Senator McLucas is in the chamber today and I acknowledge the work both Senator McLucas and my colleague Senator Bartlett have done on trying to highlight the very important issues relating to the protection of the Great Barrier Reef.

The Hildebrand report itself highlights a continuing concern that sugar cane production, as a very intensive farming practice, continues to impact on water quality in the Great Barrier Reef lagoon. I briefly quote from the Hildebrand report about the importance of wetlands, one of the issues I will be addressing later in my statement. The Hildebrand report notes that 30 per cent of the land brought into sugar cane production between 1993 and 1996 was environmentally unsuitable for such production and that 60 to 80 per cent of coastal wetlands in the Great Barrier Reef catchment have been lost. The report notes:

Wetland clearing and drainage reduces the filtering and buffering effect of a catchment, allowing sediments, pesticides and nutrients to enter freshwater, coastal and marine ecosystems, and contributing to aquatic habitat degradation and loss of biodiversity. The draining of wetlands also affects the local hydrology, affecting irrigation works, groundwater levels and aquatic organisms.

That is very important, because that is what we are really talking about here. We are talking about the economic and environmental sustainability of one of the key industries in Queensland.

I acknowledge that the Queensland and federal governments have started doing some serious work on that. On 13 August the Prime Minister and the Premier of Queensland signed a memorandum of understanding on the Great Barrier Reef. One of the components which it touched on was the importance of wetlands. The two governments agreed that, as a first stage in the protection of the reef, a major goal is ‘stabilising and reversing the decline in water quality
entering the lagoon as soon as practicable’. This highlights the interaction happening in Queensland between two reform processes that are going on at the same time—the need to ensure that we get water quality targets up in the Great Barrier Reef lagoon and the need to ensure that the sugar industry is restructured—and the fact that these two processes are to a large degree interrelated. That was one of the issues the Democrats took into our discussion with the government today.

We were also concerned about the criteria under which the $60 million worth of regional projects grants were going to be allocated. We wanted to make sure that there was an appropriate balance of economic, regional and environmental components. We also wanted to make sure that they were tight and that they would not turn into a political pork barrel. I note that there will be extensive industry and community involvement, and at least there are two governments of two different flavours involved with the grants system. But we also ensured that the minister agreed to a more rigorous prioritisation process for grants when the recommendations come from the industry guidance and regional guidance groups. So we will at least have a process we can audit with a paper trail we can follow to make sure that the grants are going where they are actually needed.

Today the government and the Democrats have agreed to further enhancements of the measures dealing with the sugar industry and the Great Barrier Reef in North Queensland. I will take the Senate through some of those. The Democrats have secured a $16 million commitment for a Great Barrier Reef coastal wetlands protection program to work in conjunction with the reef water quality protection plan, which is currently being negotiated between Queensland and the Commonwealth. The program will extend over five years and will include acquisition, restoration, binding conservation agreements on private land and ongoing management of coastal wetlands. The government has agreed to fund an inventory assessment and prioritisation of coastal wetlands, which will form the basis of the wetland program. Program design will be refined in consultation with the Democrats. Ongoing management will focus on control and eradication of aquatic weeds, fencing, protection and restoration of natural hydrology, improved water quality and the protection, restoration and revegetation of buffer zones. The Commonwealth has also offered an additional $7.5 million in NHT2 funds to Queensland for wetland conservation. This will be subject to the Queensland government providing matching funds and subject to the negotiation of appropriate criteria.

Senator McLucas—Has that been ticked off?

Senator CHERRY—Queensland is still thinking about that. Let us hope that Queensland comes through, because I am sure the Queensland government recognises the importance of wetlands preservation. The Democrats have also secured funding for a significant CRC research project that will develop and implement improved indicators for long-term water quality monitoring. The Democrats have additionally secured changes to the $60 million sugar industry reform program regional projects grants criteria to ensure that ecological requirements are incorporated into planning and projects. Some of those changes include: ecological sustainability matters will be included in the industry reform plan; environmental representatives will be included on the regional guidance groups; a requirement that the regional business plans be ecologically sustainable; a framework in those plans that will deliver improved environmental performance and outcomes consistent with continual improvement of water quality; achieving on-farm best practices so that agricultural runoff is substantially reduced and riparian areas and native vegetation are protected; project grants will require a substantial reduction in on-farm sediment nutrient and pesticide runoff and compliance with the industry’s Compass program for best practice; and the accountability for merits assessments will be improved by requiring the industry guidance group to prioritise projects recommended for approval, thereby minimising the scope for ministerial intervention and discretion.
The government will provide additional flexibility in the collection of the sugar levy by giving refiners up to 60 days to finalise the first two months payments, allowing more time to get new administrative systems in place. The export rebate, which I suppose is a new initiative in levy collection, will be based on a simple self-assessment form to minimise compliance costs. The government has also said it will now consult very urgently with industry to nail down some boundary issues about the definition of sugar and also provide advice to industry as a matter of priority through the Food and Grocery Council on methods involved with the collection process. The government has also agreed to amend the sugar levy regulation to provide for a maximum five-year life to this regulation, preventing the possibility of special pleadings leading to its continuation. The Democrats give a commitment that we will agree to extend the levy but only if it is necessary to meet a shortfall in the funding for the package and only as long as is necessary for that shortfall to be met. The government has again committed that, if the levy does collect more than the cost of the package, the levy will be finished earlier than in five years.

For the Democrats, this is a lineball issue because we do not like new taxes. By the same token, we believe that when the government decides to do something, it should by and large try to pay its way. I think it is an important principle that has been in every Democrat policy ever put out during an election campaign. We have always included the costings and the revenue that will actually pay for the initiative. I wish the government had adopted the principle of paying its way a bit earlier on, particularly before it brought up its $6½ billion of unfunded election promises since the last federal election. Certainly, on this particular occasion, the Democrats will be opposing the disallowance of these regulations because they are an essential part of funding what is a very important package. We believe the package will deliver economic reform to the industry, it will help to broaden the economic base of the sugar dependent regions of North Queensland and it will provide a very significant incentive to get some preservation and rehabilitation in some of our key wetlands, which will in turn improve the water quality in the Great Barrier Reef lagoon. Overall, it is a package worth supporting and I commend the package and its funding mechanism, which we are currently discussing, to the Senate.

**Senator IAN MACDONALD** (Queensland—Minister for Fisheries, Forestry and Conservation) (5.03 p.m.)—I am pleased to hear support from Queensland senators to this proposal, because the sugar industry is so very important to those of us who live in Queensland and those of us who support industries in Queensland. I am delighted to hear Senator Cherry’s contribution, and I know that Senator Bartlett, another Queenslander, is very keen to make sure that the sugar industry in Queensland does not fail. I know that Senator Boswell is speaking on this and that he will be supporting it. My colleagues Senator Mason, Senator Brandis and Senator Santoro will all be supporting this package because it is good for Queensland and it will save the sugar industry in our state—an industry that has done so much for the development of coastal regions, particularly in North Queensland. I think it is an industry that, in spite of its present difficulties, still has a very big future.

I am distressed to hear that the Labor Party are not supporting this package for the sugar industry. I can understand why Senator O’Brien, Senator Hogg and Senator Ludwig, who are all city based people from the south of the nation, are not supporting this, but I am absolutely devastated to learn that Senator McLucas will not be supporting this package. Senator McLucas lives in Cairns. She should understand the sugar industry. She should understand the very severe difficulties that the sugar industry is in and will be in unless this package goes through. In the past, Senator McLucas and her party have supported wholesale sales tax increases across the board. As Senator Cherry nicely pointed out, they have also supported levies on any number of agricultural pursuits over the years. I am particularly grateful to Senator Cherry for his research pointing out that the current—and I emphasise current—leader of the Labor Party, Mr Simon Crean, was the minister when a lot of those levies
were introduced. I suppose Senator McLucas, or any of the other Labor senators who follow in this debate, might explain why a levy is a levy under a Labor government but under a Liberal-National Party government it somehow takes on another name.

I am also delighted to see that the Queensland state Labor government, and all of the state members up and down the coast, are also supporting this package and supporting the levy. I understand there are a lot of factional difficulties for Senator McLucas up in the North, but she should leave factions out of this and get with her state colleagues and support this bill, because it is so very important to the sugar industry. Not only do the Queensland Labor government and most of the Queensland senators in this place support this package but the cane growers and leaders in the industry generally also support the levy, because they understand the need for this particular package.

At this stage I pause to congratulate the Minister for Agriculture, Fisheries and Forestry, Mr Warren Truss, on the tremendous work he has done to get this package through. It is not always easy to get a $150 million package for any industry in Australia, particularly in a government that is very careful about how it manages the economy. Mr Truss has done an absolutely fabulous job. I happen to know the amount of work Mr Truss has put into working towards a package which will be of benefit to the sugar industry. I want to congratulate Mr Truss. I also should congratulate his staff, who I know have put a lot of work into this, as have Senator Cherry’s staff. Although Senator Cherry’s staff were not always easy to deal with and they drive a hard bargain, I do appreciate their courtesy and the cooperative way in which we were able to deal with these issues.

I should also acknowledge the huge amount of work the public servants—and I emphasise public—have put into this. That includes those in Environment Australia and AFFA, and of course the Minister for the Environment and Heritage, Dr Kemp, and his staff, who have also done a lot to make sure this package is good not only for the industry but for the environment as well. I do thank the sugar industry and the manufacturers who have met with the government so many times in consultation over this levy. We do appreciate the fact that they have come together—that they have made their points. They have assisted the government in designing a program that will least adversely impact on the manufacturing industries but will give the maximum benefit to the sugar industry.

The package devised by the government was always a very good one. It is a very good one for the industry and a very good one for the environment. But I have to acknowledge that the Democrats did actually work with us to focus some of the environmental initiatives. I thank them for that. As a result of their input, there will be an additional $16 million. There will certainly be $8 million from the Commonwealth and, we hope, there will be $8 million from Queensland—we have put that to Queensland. This is absolutely new money. This is not part of the Natural Heritage Trust where money has been put aside. This is additional money that has been going to some environmental initiatives.

I want to acknowledge that, because this is what happens when you work cooperatively with a government. Together we can make a good package even better. The Labor Party are just dummy-spitting all the time and trying to score political points regardless of the interests of the sugar industry. They try to make it difficult for the government to balance a budget. Labor are blocking most of last year’s budget bills—we still have not got them through—and they are hell-bent on destroying the economy and the magnificent economic framework that the Howard government has put in place to make sure Australia goes forward.

It is quite clear to all of us here that Labor are simply not serious when it comes to any package of support for farmers and for people who live in rural and regional Australia. I can understand why they are not interested: they have practically no representatives from country Australia.

Senator Boswell—What about Senator McLucas?
Senator IAN MACDONALD—I will come to that. She is not a representative of country Australia, Senator Boswell. If she were representing country Australia, Senator McLucas would be supporting this package. I challenge Senator McLucas to come over to this side and support the sugar industry. Give away the Labor Party’s regimentation. Come over here and support the sugar industry. I challenge you to do that. I note that you are on the speakers list, so you will be able to tell us that you are coming over here to support the sugar industry.

Apart from Senator McLucas, you would give the Labor Party away because there are very few who understand country Australia, although I would have thought that Senator Ludwig might have been supporting us because the AWU used to be a great union in the sugar areas and Senator Ludwig’s father was very much a supporter of the sugar industry in days gone by. I ask Senator Ludwig to give his father, Bill, a phone call this afternoon in order to understand how good the industry is and to come over with Senator McLucas and join us in voting for the sugar industry.

Senator Sherry has very nicely exposed Labor’s hypocrisy on this matter. Not only did Labor introduce the levy bill; it was Mr Crean who was there when the last of the levies were put on by a Labor government. So all of this babble about looking after the Treasury, making sure it comes out and does not affect the manufacturing industries, is a great load of hogwash or, to put it more politely, a great display of the hypocrisy for which the Labor Party in this parliament has become so well known. Remember in Labor’s term of government—and fortunately those memories are dimming as every year of the Howard government goes by—how every year the taxes used to go up. The wholesale sales tax, that inequitable tax, kept increasing election after election. I should say after every election, because they would always talk about reducing it before an election, but, as soon as the election was over, up the wholesale sales tax would go.

I regret to say, Senator Cherry, that in the former incarnation of your party, your then leader used to join with Labor and vote with them to increase wholesale sales taxes. History has shown why that happened. Your former leader, going back a few, obviously was more aligned to the Labor Party than we ever knew about. That may explain why your party, in that incarnation, always supported Labor when these taxes went up. We all remember the I-a-w law tax cuts. They actually legislated to reduce income tax.

The ACTING DEPUTY PRESIDENT (Senator Bolkus)—Order! Senator Macdonald, you are straying from the topic.

Senator IAN MACDONALD—It is all about levies and taxes, Mr Acting Deputy President.

The ACTING DEPUTY PRESIDENT—I ask that you get back to the topic.

Senator IAN MACDONALD—It is all about levies and taxes; Senator Cherry mentioned levies and Senator O’Brien talked about taxes. I simply want to point out that Labor were all about it—and I know the Labor Party are sensitive about this. They said they would legislate to reduce income tax but, as soon as the election was over, they actually legislated to get rid of that reduction. And they have the hypocrisy to come in here and talk about taxes and levies. This is a levy, the same sort of levy that, as Senator Cherry has mentioned, has been imposed on agricultural products and elsewhere on a number of occasions.

Labor’s approach to these sorts of things is to promise the world. You know the sort of thing: ‘We would have paid for this out of revenue’—the same way as they are going to pay for the Coastguard and the same way as they are going to pay for new education. Where is the money coming from? We never hear about that, but we look to the record of the Labor Party and see what happened last time the Labor Party were in charge of the treasury bench. If they were very lucky, sugar farmers in my area used to get their interest rates at 18 per cent. Most of them were paying 20 to 22 per cent to the banks and, as I say, a lot of the banks would not deal with them. When I was in my former profession we used to try to help them by getting private money, but that private money was only available at something like
26 or 27 per cent. This is what sugar farmers had to pay when Labor were in charge because of the way they mismanaged the economy and the treasury bench, and they want to do the same again.

Sugar farmers well remember those interest rates that they were paying. They well remember the inflation rates of 11 and 12 per cent. They remember the taxes going up, and they remember that, as a result of Labor’s mismanagement, we had a government debt in the order of $90 billion. You do not have to be an Einstein or a doctor of some economic theory to understand that that sort of thing is what kills an economy and a nation. Unemployment went through the roof—and that happened because Labor simply could not manage the economy and did in those days what they are talking about now: ’Give everybody everything they want. Don’t bother about how you pay for it, just put it on the tick and you get those sorts of interest rates.’

Ask sugar farmers what they would rather be paying—six, seven, eight, nine or 10 per cent interest rates or the 18, 19, 20 or up to 27 per cent interest rates they were paying under Labor. We should never forget that, because talk is pretty cheap; talk is easy. ’Oh, yes, we’d have funded this out of revenue,’ they say, but the facts of Labor’s administration are clear, and there would not be a sugar farmer in Queensland or anywhere in Australia who would want to go back to those days. They understand better than the Labor Party think the absolute need for financial vicissitude and good management of the country.

This is a good package for the sugar industry. I regret that we have got to the situation where this package is needed, but the industry have been beset by a number of difficulties and problems, not the least of which is the overseas price, over which they and the Australian government have absolutely no control. It is a difficult situation. Like most primary producers, they are price takers and they have to accept that and manage their businesses with that in mind. But on top of this there have been difficulties in climates and difficulties with pests—across the board there have been difficult times. The Howard government want to give the industry a chance to prepare for the future and to adjust for the future. We are doing that in any number of ways that are mentioned in the package we are funding by the levy, which the Labor Party is trying to defeat today. That package will provide income support for those who really do need bread on the table, so to speak. It will provide exit assistance for those who really cannot stay in the industry. Through our industry guidance groups and regional guidance groups, we will be looking, at a regional level, at how the industry will prepare itself for the future.

It is very important that this motion be defeated so that the money is available and the package can go ahead. I call upon the Labor Party to reconsider their attack on the sugar industry by joining with us in this vote. It does appear from what Senator Cherry has said that the motion will be defeated, but it would be great for the sugar industry if the farmers, the workers in the mills and the milling industry could all understand that the federal parliament is unanimous in its support for the industry by all senators coming to this side and opposing the motion. It would show the industry parliament’s support—and the industry do need some comfort; a bit of moral support. They need to know that the federal parliament understands their difficulties and is prepared to support them in their hour of need. It is not a lot to ask of the Labor Party, and I do hope that the Labor Party will reconsider that proposal, throw aside the hypocrisy and get on board and support the industry.

I invite those who will speak in this debate who are not from our side—and those speaking on our side are Queenslanders—to get up there and have a talk to the real sugar industry, have a talk to those who do have a plan for the future. They are not seeking government handouts. There are a small group of farmers who want more and more, but I have to say, gratefully, that they are a very small group, a very small part of the industry.

Most people in the industry understand the problem. They understand that governments in any country cannot continue to prop up an industry that cannot look after itself in a dif-
difficult world trading environment. All of the sugar industry leaders, a majority of the sugar farmers, all of the workers and all of the manufacturers understand that. They understand that there is a need to move forward, to readjust to today’s situation. They also understand that this has to be done in a way that is environmentally sensitive. I am delighted that the whole package, as it originally was and in its slightly enhanced form, will concentrate on a sustainable industry for the future, one that can benefit not only the industry but the ecology and our way of life generally. I urge senators to vote against the Labor motion. I plead with the Labor Party to show solidarity with the people in the sugar industry by also voting against their own motion, coming over to this side with us and rejecting this ridiculous attempt to try and attack the sugar industry.

Senator MclUCAS (Queensland) (5.23 p.m.)—From the outset, we have to recognise some of the facts in this debate. Firstly, let me make it absolutely plain that Labor recognise that the sugar industry needs assistance and needs it now—in fact, it needed it six months ago. Today, Labor are not blocking the sugar industry assistance package. Today, what we are saying to the Howard government is: fund this package from your budget. The recently released mid-term economic statement confirmed what we all know: this government is the highest taxing government in history. I will come to the detailed figures in a minute, but it is clear from that statement and the huge sums of money that this government is continuing to waste that there is no need for a new tax on sugar.

In the lead-up to the last election the Howard government spent over $170 million of taxpayers’ money on advertising—and that was in the election year alone. Nothing has changed. The government has $50 million earmarked for advertising the Pharmaceutical Benefits Scheme changes; $27 million is allocated for a terrorism education campaign; and $20 million every year is spent on so-called lifestyle benefits, including payments for things like CDs, golf clubs and camping tents, through the private health insurance rebate. Managing a budget is about managing priorities. It is clear to me, and to the people in the sugar industry and in sugar towns in Queensland, that there is no priority being placed on the sugar industry by this government.

Not only does the government collect record amounts of money, it wastes record amounts. I am fearful that there will be significant amounts of money wasted as part of the sugar industry package as it is currently structured. I am pleased that Senator Ian Macdonald has acknowledged my involvement with the sugar industry. I thank Senator Cherry and recognise that he acknowledged my involvement too. I know that the industry is also concerned about the package and the way it is targeted. Like me, they are concerned that large sums of money will be wasted on more committees and consultants. The package allocates $10 million for the administration of the industry and regional guidance groups, there is $5.6 million for administration in federal government agencies and $6 million is set aside for viability tests and business planning for those applying for interest rate subsidies. There is only $8 million set aside for those subsidies. That is a total of $21.6 million for committees, administration and consultants to be funded by a sugar tax. There does not seem to be much money in this package for farmers or local communities.

The Howard government does not seem to understand that what the industry needs now is confidence—confidence to plant next year’s crop, confidence to participate in discussions about innovative uses of sugar, confidence to embrace better farming practices—but there is not much in this package to build that confidence. I want to register my concern about the time frame for delivery of assistance to industry through industry adjustment through the regional guidance groups. I am concerned that when it comes time for planting in June-July next year we will still be talking about what we might do—we will still be having a committee meeting. These people need assistance and they need it now. We do not want large numbers of committees to talk for another six months to make decisions about what might happen in the future.
I have visited sugar growing areas across North Queensland on many occasions this year and found that most regions already have established regional groups involving millers, growers, harvesters and the local community. Many of them are well advanced in terms of planning for diversification and new industries. Mossman is a great example of where growers, millers and the local community are working together. They are well advanced with plans to develop an ethanol plant and are working together to ensure the industry is environmentally sustainable through the Douglas Shire’s Sustainable Futures project. The federal government package, however, fails to recognise the work that is already occurring and, instead of building on the efforts of local communities and local structures, seems set to impose another level of bureaucracy—another level of very expensive bureaucracy.

Like the industry, Labor are not happy with elements of the package but, in the interests of getting some support to the industry in a timely way, we will support it. But we will not support another tax. I, like the industry, am also concerned about what the federal and state governments will do with the single desk arrangements for marketing sugar. The Prime Minister insisted that the Queensland government reassess the single desk when, on 4 September this year, he said:

The other thing that has got to be on the table are the provisions of the Queensland Sugar Act which provide some fairly restrictive monopoly trading conditions for the mills and some growers.

Mrs Kelly, the member for Dawson and the Chair of the government’s Sugar Task Force, fleshed this out further in the Mackay Mercury on 14 September, outlining her support for the dismantling of the single desk. She said:

Domestic refiners will be able to enter into arm’s length contracts with farmers, through their mill, for the purchase of raw sugar for the domestic market.

Clearly Mrs Kelly is supporting her Prime Minister in calling for the abolition of the sugar single desk. I therefore found it somewhat amusing to read in Monday’s Mackay Mercury an article where Mrs Kelly claims, I think somewhat illogically, that Labor is supporting the big end of town in disallowing the sugar tax. It is Mrs Kelly and the Howard government—and now, it seems, the Democrats—who are pandering to the big end of town, not Labor.

It is the Howard government which is leading the charge for the abolition of the domestic single desk and in effect handing market power to the Coca-Colas of this world. Let me make it clear: it is the Howard government that put the single desk on the table as a condition of this package. I also know that some millers and growers would like increased flexibility in the way the single desk operates. But I do not think anyone in the industry is arguing for a complete abolition of the domestic single desk. Let me make it absolutely clear that I understand the importance of the single desk to the sugar industry.

Sugar is not like any other primary industry commodity. You cannot load up a truck full of sugar cane and sell it. There are over 6,000 cane farmers growing sugar that is eventually marketed to 20 or so large refineries. Australia exports between 80 and 85 per cent of that crop, of which the majority is grown in my state of Queensland. So it is quite simple: the single desk provides these 6,000 growers with some market power in what we all recognise is a corrupt world market for sugar. I am concerned that the Howard government will use the current crisis in the industry as an excuse to press for the complete deregulation of the sugar industry. The impact of this would be devastating not only for farmers but also for the associated sugar communities.

I find it quite strange that Australia is looking to get rid of its single desk marketing arrangement, through the pushing from the Howard government, when I am told by industry that Brazil is currently looking at establishing one. The industry certainly needs to investigate every possible means to make itself more efficient and, where appropriate, diversify. It is important to recognise, though, that Australia’s sugar industry is one of the most efficient, if not the most efficient, in the world. At this stage, however, it is not
clear to me how the abolition of the single desk domestically is going to achieve improved efficiency, given that we market 85 per cent of our sugar overseas and most domestic consumption is marketed through a few large companies. We need to be very careful that we do not throw out the baby with the bathwater if there are going to be changes in the marketing arrangements for domestic sugar.

The industry has a long history in North Queensland. It is a major driver of our region’s economy. In November 2002, a report commissioned by Advance Cairns found that the industry supported 15,000 jobs and generated $300 million in income in Cairns and Far North Queensland. The report did not look at other sugar areas, including Townsville and Mackay and surrounds, but suggested that the industry is even more important to those economies. In the past decade, however, the industry has faced growing uncertainty about its future. The industry has faced growing financial pressures following a series of bad seasons caused by weather, pests and diseases. On top of this, the industry, as we all know, is competing in a corrupt world market. The industry recognises that there is some need for change and is looking for assistance from the government to assist it through that change. But it is not time for the government to abandon the industry. We need to get in and work with this industry so that it has a profitable and sustainable future.

So let me make it absolutely clear that Labor supports assistance to the sugar industry, despite what some of the members of the Howard government might say. I note that Mr Peter Lindsay, the member for Herbert, gave a speech to that effect on 4 December, just last week. It is quite novel to see Mr Lindsay taking an interest in the sugar industry, given its importance to the Townsville economy. This was only Mr Lindsay’s second speech dealing specifically with the sugar industry since he was elected in 1996. His first speech about the industry was on 16 August 2000. It took Mr Lindsay four years in government before he spoke about the sugar industry at all. Now we find him having something to say about the industry for a second time, and I wonder whether it has got anything to do with the 3,000 people that walked down the streets in Townsville a couple of weeks ago.

If we look at the record of Mr Entsch, the member for Leichhardt, in speaking about the sugar industry, I have got to say that it is worse than Mr Lindsay’s. Since his election in 1996, he has not dedicated one speech in parliament to this important industry. Mr Entsch has mentioned the industry in passing on a couple of occasions, but at no stage has he spoken specifically about the sugar industry since his election in 1996. Yet he has the sugar town of Mossman in his electorate, with the Mossman mill right at this moment facing severe financial difficulties.

The Prime Minister had to be dragged to the table before he met with the industry when he visited Cairns earlier this year— Senator Boswell—That is not true.

Senator McLUCAS—only on the urging of Labor through the media—and you know it, Senator Boswell. Contrast this with Labor. Labor’s shadow minister for primary industries and resources has travelled extensively in North Queensland on two occasions this year to meet with growers and communities to discuss the difficulties facing the industry. The Leader of the Opposition, Simon Crean, met with Canegrowers leaders recently during his visit to Cairns. Labor, unlike the government, is prepared to sit down and work with the industry so that it has a future. Labor does care about the industry and Labor supports assistance to the industry.

As I have said, we, like many in the industry, are not happy with the package in its entirety that the government has put forward. We do recognise that there is a need for assistance and we will not block this package. However, we will not support a tax to fund it. We will not support another tax on consumers to raise $25 million a year when the government is wasting so much money on so many other things. The government should fund this package through the budget and not slug consumers, manufacturers and their workers further down the supply chain.

I believe it is a sign of the weakness of the National Party that they could not get Mr Costello to find $25 million a year for the

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sugar industry out of a budget surplus of $2,100 million. The Howard government can find $200 million for the car industry from the budget, and I support that, but not one cent for the sugar industry. The government has announced another $368 million for drought affected farmers from the budget. I do not begrudge drought affected farmers this money, and I support the allocation of extra funds to farmers in drought. But I am disappointed that the government effectively can find no money for the sugar industry. Every cent earmarked for the sugar industry through this package paid for by the federal government is raised through a tax.

The Howard government, as I have said, are the highest taxing government in history, but they cannot find $25 million a year for five years for the sugar industry. When the Howard government came to power in March 1996, taxpayers paid $82.4 billion, or 16.4 per cent of GDP, in income tax. This increased to 17.9 per cent of GDP in 2000. We have since had the GST and the Howard government’s so-called tax cuts. This financial year, taxpayers can expect to pay $127.3 billion, or 17 per cent of GDP, in income tax alone. The total tax, including income tax and GST, paid to the Howard government has soared to $187 billion, or 24.9 per cent of GDP. Mr Howard and his government have broken the promise they gave in 1996 when they said that there would be no increase in the overall tax burden from 1996-97 levels.

Australians not only pay more income tax but now live with the government’s hands in their pockets every day through the GST. On top of this, we have had a raft of other taxes, including the milk tax, the gun tax, the ticket tax and the stevedoring tax. No doubt we will have a war tax on top of the proposed sugar tax. Like the GST, this tax, as Senator O’Brien clearly said, is going to be an administrative nightmare. I know that farmers and small business people struggling with new computer systems following the introduction of the GST will understand what an administrative burden a new tax will create. It is not a simple case of taxing all sugar produced at 3c a kilo. That 3c is compounded when it goes into manufactured goods. It has the GST applied to it. If the food is exported the manufacturer can apply for a rebate. The domestic food manufacturing industry is a strong exporter, and this tax will be an administrative nightmare for food manufacturers. A strong domestic manufacturing industry is good for the sugar industry, and we should not be penalising this industry through a complex and unnecessary tax.

No doubt the government will say this is good financial management and no doubt as part of that argument it will trot out the stories about how it has reduced foreign debt. The Howard government mantra of $61 million in debt repayments loses its charm when you look at the figures in detail. The Howard government has financed its debt repayments by selling assets—assets like Telstra. The government finance statistics released by the Australian Bureau of Statistics reveal that that debt reduction is almost entirely attributable to the sale of assets. The figures show that $38 billion worth of assets—including financial assets like Telstra and non-financial assets like the sale and lease-back deals for government buildings—is how they paid off great debt. The Howard government has fabricated around itself a myth on economic management. The government is a big taxer and a big waster of government funds.

Before I conclude, I want to say that I am going to be watching very closely the deal that the Democrats seem to have stitched up with the government. Senator Cherry seemed to be saying very proudly that he has got $16 million out of the Commonwealth for a range of things—environmental programs and a couple of other things—to add to the package. But we have to be really clear—and Senator Ian Macdonald made it quite clear—that $8 million has been allocated and $7.5 million is conditional on the support of the Queensland government. That is not $16 million in my book. The Queensland government are playing their part in terms of the industry assistance package. They are not putting in a new tax to fund their contribution to the sugar industry package. I do not know what the negotiations with Queensland have been, and I think that for the Democrats and the government to be trumpeting $16 million at this point in time may be somewhat premature.
Managing a budget is about managing priorities. The sugar industry, farmers, harvesters, millers and mill workers, along with the communities in which they are based, recognise that the Liberal-National government place no priority on this important industry. The sugar tax is unnecessary. If the government placed any priority on the sugar industry, they would have found the money from consolidated revenue.

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (5.42 p.m.)—The contribution from Senator McLucas was quite extraordinary. She virtually said that Labor recognise that the sugar industry need assistance but they are not going to give it to them. If Labor were going to give assistance to the sugar industry they would not have put up this disallowance motion.

I must say that I am very pleased that Mr Beattie, the Premier of Queensland, has decided that he is going to support the sugar industry despite the fact that his colleagues in the federal party in Canberra are turning their backs on the industry by running interference in the putting forward of a package that would amount to over $150 million over four years—$20 million supported by the federal government, $30 million from the Queensland government and $100 million from a sugar levy.

Let us be perfectly frank about this. I would have preferred not to see a levy. But this is a responsible government. We are not going to run up a government debt of $90 billion—as Labor did in their term of government—by putting everything on tick. Labor ran the debt up, and the implications of that included an interest rate of 23 per cent, a dollar that was high—higher than it is now—and inflation going through the roof. Labor want to repeat that and do nothing about it.

Senator McLucas says that the government want to get rid of the single desk. Let me tell you, Senator McLucas—and you know this very well because of your family associations—that only one government can remove the single desk. Even if this government wanted to remove the single desk, they do not have the power to do so. The single desk on the sugar industry is a state government piece of legislation. Even if we wanted to remove it—and we do not—we could not.

Senator McLucas—That’s not what the Prime Minister said.

Senator BOSWELL—It does not matter what the Prime Minister thinks; he has not got the power to remove the single desk. It is only the Beattie government that can remove it. The Prime Minister might want a lot of things, but it is only the Labor Party government in Queensland that has the power to remove the single desk. So do not go and shift blame onto everyone else, because it has nothing to do with us. We do not get a vote on the single desk, and neither do you—and the same goes for anyone else in this parliament. Do not come in here crying crocodile tears and saying that it is all the fault of the federal government that the single desk is going to be removed. We do not have a say in it; we cannot do one thing about it.

Senator McLucas—That’s not true.

Senator BOSWELL—You know it’s true. You try to put up a piece of legislation—a private senator’s bill—in relation to the single desk. It is impossible for us to
have any influence on the single desk. In fact, after a meeting in September with key representatives of the Australian sugar industry to discuss the implementation of the recently announced assistance, the Minister for Agriculture, Fisheries and Forestry, Warren Truss, said that no decision had been made to dismantle the single desk arrangement and that it was the state government’s prerogative to do so if they wished. He said that we certainly would not be giving any support to the dismantling of the single desk and that it was purely a matter for the states to decide. So do not come here and shift blame. If the single desk goes, go and talk to your colleagues in the Queensland Labor Party who are supporting this package, despite what you are doing here.

This package does not please everyone. Sometimes it is very difficult with these types of emergency packages to get everyone on side. At the moment it already gives $36 million in income support—400 farmers are drawing income support on this package. If this package were unfortunately to go down, I do not know what would happen to those people. They would immediately lose their income support—their food on the table and sustenance. We would have to race in another bill, which we would not get up until after Christmas. If that were the mind of the government, we would have to put in another bill to override the disallowance motion so that those 400 people could get food on the table. We would not be able to do it until sometime in March or early February at the earliest.

Senator O’Brien—So you would not pay it.

Senator Boswell—I do not know how we could if you disallowed the regulation. You are putting this package at risk by your refusal to endorse it. If that is what you want to do, we could take up a few bob here and there and raid a few hollow logs, but that is not the point of this exercise.

Senator McLucas interjecting—

Senator Boswell—Senator McLucas, you have made your contribution, and it was spectacularly unsuccessful. We have been accused of not considering the sugar industry overall. Let me run through some of the money that has gone to the sugar industry under this government. I do not think anyone could say that the sugar industry has not received priority. We have the $150 million package that the Queensland state government and the federal government have put up, which you are trying to knock off today by running this disallowance motion. Do you recall what we did in September 2000? We introduced another $80 million package, which was drawn down to $60 million because the industry kicked in in the end and prices came good again. And I understand that over the last couple of days prices went up to 8c a pound. They have dropped a bit now, but that shows a light at the end of the tunnel. At 8c a pound, which is a reasonable price, people can get by and make a bit of profit. So that is $60 million in 2000. Research into increased sugar levels in 1998 and 2002 received a package of $13.45 million. Renewable energy programs received $32.5 million. A sugar package for the northern regions to get a higher CCS content came to $19 million, and earlier in the piece the sugar industry received $100 million. In total, the sugar industry has received $374.95 million through some form of industry package when it has needed it. So do not come in here and say that the National Party and the government have not looked after the industry; they have looked after the industry.

The industry has been looked after in many other ways. Let me just run through some of them that you may not even have understood. Do you recall in the Queensland sugar industry when the Sugar Corporation went over to being Queensland Sugar Ltd? There was a double tax on it. It was us on this side that had to race the legislation through to make sure that Queensland Sugar Ltd in its new form did not have a tax implanted upon it, with the industry and the growers then having another tax. We did that—you did not know about it; it just happened. When the South Johnston mill went down, it should have been a state government bailout. But we went in and put $4.5 million into it. The federal government should not be doing those things, but we tried to assist the industry.
We enshrined the single desk marketing and acquisitions data for the Sugar Corporation in the federal Trade Practices Act. I do not know whether you knew about that. We are in constant contact with the industry. There is the $90 million package that I mentioned for the northern sugar areas and there are franked dividends going to the cooperatives. That is a huge boost for the cooperatives. So do not say that we do not do anything. We assisted in getting a bounty on the roll-on, roll-off ship. We have done so many things for the sugar industry. We are in touch with them all of the time. In fact, there are some people out there who are ringing members of parliament today, saying, 'Don't vote for this package. They probably think that if they do not support this package they will get the counter-package. But even Senator O'Brien would consider that a long shot.

I rang the sugar industry today—and they are people who are elected and voted for—and said, 'What are your feelings on this—what do you want to do with it?' They said, 'For goodness sake, vote for it—we need it desperately.' I said, 'I am getting information through some of the senators here that there are sugar growers who do not want it.' I was talking to someone at the very top of the industry. He said, 'We are desperate for this; we need it, so for goodness sake get the Democrats or anyone else you can get on-side.' To come in here and suggest that the industry need support and help but that you are not going to give it is hypocrisy at its worst level.

This particular package is going to give interest subsidies of five per cent or half interest, depending on which is less. For instance, if a person is paying eight per cent, he will then pay four per cent. If he is paying 10 per cent, he will pay five per cent. That is a tremendous boost to the industry. It puts food on the table for people who are absolutely at their last stages and need help desperately. That is important. But this $60 million is also going into job creation programs. I know these work, because we have been involved in them. We have a number of them in place in Queensland at the moment. So that will create jobs and development in sugar areas, which are going to be dependent on industry reform. I just want to take the opportunity to talk about this eight-point plan.

Senator O'Brien—What is it?

Senator BOSWELL—It is a counter eight-point plan.

Senator O'Brien—What are the eight points?

Senator BOSWELL—I will read them out to you. If you did not want to support a 3c levy, I do not think you will be supporting this particular plan, because it has a 23c to 25c levy on all domestic sugar sales to raise $200 million per year, which would be given to growers to distribute initially on a per hectare basis to boost the pool prices. Of course, everyone would want that, but the reality is that if that plan was to go into production it would have an impact on the manufacturing and processing industries—it would just knock them out of the ring. The other point is temporarily determined industry production, where we cut our production while the rest of the world increases theirs. Then the next point is the financing of the insurance fund to boost pool prices. You would be paying your own insurance to get a price. That is just not on.

I know that when you are desperate all of these things sound good, particularly when you get hyped up in a meeting. But the truth is that down here a number of people are trying to bring in something that is possible. What is possible is in this plan. If people run around the country and advocate what is impossible then they are telling people what they want to hear but not what they need to know. There are 6,500 sugar growers out there who need to get the correct information on what is happening, not some pie in the sky eight-point plan that can never be implemented. Even if it could be implemented—and it cannot be—how can it be implemented by an Independent? It cannot be. The only way you can ever get anything done down here is to be part of a party that is part of a government that can put $345 million into the sugar industry. Anything else is just a myth.

You can go around, call meetings and march up and down the street for as long as
you like, but it is the people down here who are doing the hard yards. I would include the people in the Labor Party among those who are trying to do the hard yards—they are trying to get a reasonable package that is credible. Unless you can do that, you are deceiving the 6,500 growers. You are building up false hope and false expectations and you will never be able to deliver. This is a reasonable package. I know that it does not suit everyone. I know that people are concerned about the single desk. I understand that, and I understand that there is only one government that can remove the single desk—that is, the Queensland ALP. This package is the best we can do under the hard pressures of economic circumstance. It is a package that will put $150 million into the sugar industry, and I support it.

Senator BROWN (Tasmania) (6.00 p.m.)—I agree with other speakers that this is an extraordinarily difficult decision to make, but the Greens will not support the disallowance motion on the sugar industry. It is better that there be a poor resolution than none at all in these circumstances. I want to say at the outset—because we must not forget it—that there are very wide ramifications whatever we do with our primary industries in Australia and other people around the world do with theirs. I was in Africa very recently at the Earth Summit, and I saw people protesting because the Europeans are dumping sugar onto the world market, including the African market. When Senator Boswell talks with great heart about the difficulty for people to get food on their tables, this dumping by rich countries onto the poorer countries is creating total hardship. It is destroying families, it is destroying farming areas and it is destroying communities. We should always take that into account. If we are part of a globalising economy—and that is the mantra of this government—then we have to be part of the globalising of benefits and take a humanitarian approach to that globalisation.

Back to the matter at hand, the government ought to be taking this money from general revenue. I agree with the Australian Labor Party on that. It is the obstinacy of the government that is creating the problem, because the Howard government is saying that either it is done this way, by a levy, or there will not be an outcome. There is an element of political blackmail involved in that. Nevertheless, that is the option as it stands. The Leader of the National Party in the Senate, Senator Boswell, has just said, ‘We have to put on a levy because we’ve got huge expenditure going out on defence and other matters.’ But only last week I heard the Prime Minister indicating on television that he is looking down the line at tax cuts. So that argument is specious. Let us make it clear: this is a decision by the government to take the worst option to get an outcome that we all want to see.

The Democrats have achieved an environmental outcome here, and in direct terms we cannot argue against that. But I think the government gets away with far too much on this front. In the budget just this year it cut $110 million out of the Natural Heritage Trust Fund for the environment. So it can afford to give a weighted $8 million now; we are still $102 million backwards. I think we have to be very wary about being caught in the business of this government using the environment as leverage to get the outcome it wants when it is doing that through the wrong mechanism.

As I say, firstly, the government ought to be getting this money from general revenue and, secondly, it should be funding the environment adequately without using political blackmail to give out disbursements when it sees an alternative advantage coming out of it. I think the Minister for Agriculture, Fisheries and Forestry has sold this package poorly. I think there is division within the community. I disagree with Senator Boswell on the point about people marching down the street with placards: they have a right to do that. These are people who are considering the industry, whose lives and livelihoods are dependent upon it and they have every right in our democracy—

Senator Boswell—I didn’t say they didn’t.

Senator BROWN—I know you didn’t say they didn’t, but you were pouring some scorn on them, Senator Boswell.
Senator Boswell—Not on them I didn’t.

Senator BROWN—You can’t have it both ways. You can’t say that people are marching down the—

Senator Boswell—I was pouring scorn on the people that tell them to do that.

Senator BROWN—You are saying that the people are misinformed—

The ACTING DEPUTY PRESIDENT (Senator Watson)—Order! Senator Brown, direct your comments through the chair, please.

Senator BROWN—Mr Acting Deputy President, Senator Boswell is implying through interjection that the people who get out on the street are misinformed. As a person who has been on the street very often in protest, I will never allow that to be said.

Senator O’Brien—It proves the point, Bob.

Senator BROWN—Senator O’Brien, who apparently has not been on the street in protest situations, is agreeing with Senator Boswell here. But I do not. I think citizens have a right to act on the information they have. If they are misinformed, that is the responsibility of the minister, and in this case Minister Truss has failed them. This is a very difficult decision, and it goes against the grain as far as the Greens are concerned both in the way that the levy is being applied and in the environmental advantage that is to come out of it. The Greens want to see a resolution of this matter, and we absolutely want to see the environmental benefits, small as they may be, that will flow from it. Therefore, we will not support the disallowance motion.

Senator HARRIS (Queensland) (6.06 p.m.)—I will commence my contribution to the debate on the disallowance motion by giving a thumbnail sketch of the Queensland sugar industry. I have spoken to groups of people in the sugar industry from my home town of Mareeba, which is a sugar-producing area, and people from the Mosman mill, the South Johnston mill, the Burdekin and Mackay. I made a point of being in Mackay when the Mackay sugar group had their AGM, and I would have spoken to 400 growers that morning. The sugar package is an extremely perplexing problem. In Mackay, I was told that the ratio of growers who support the package was about 9 to 1. It is interesting to note that those who were supporting the package tended to be younger farmers who had very high debt levels and who would be able to access the package. Those who were requesting that the package be opposed tended to be older farmers who had saved their money in the good times, had diversified as the government had asked them to do and had off-farm income. So they found themselves in the situation that, no matter what the government put in the package, it would not assist them at all.

One of the farmers I spoke to in Mackay, who had been through the process of being assessed for the supplementary income, told me that at the end of that process he was informed that he would be entitled to $35 per fortnight. That equates to $910 per year. The next step for this farmer to attain that $35 per fortnight was for him to go to his accountant to get a certified sugar determination, for which the accountant would be paid $1,100. So the farmer and his family get $910 for the year in supplementary assistance and his accountant—who probably got the information off a computer program and would have already had copies of the farmer’s taxation documents; we should be generous and say he did two hours work—would pick up $1,100. If it happened to be an extremely complex assessment, then the accountant could apply for that fee to be increased to $1,600. So we have still got the same farmer receiving $910 for the year in supplementary assistance and his accountant—who probably got the information off a computer program and would have already had copies of the farmer’s taxation documents; we should be generous and say he did two hours work—would pick up $1,100. If it happened to be an extremely complex assessment, then the accountant could apply for that fee to be increased to $1,600. So we have still got the same farmer receiving $910 in assistance for the year and his accountant is paid $1,600. The package is wrong, and this is what people are saying. It is not that people do not want a package; it is that they believe that the package has strings attached to it that will be to the detriment of the industry.

When we look at what has happened over the years to the sugar industry, we see that one of the major issues that has assisted the farmers has been the single desk selling program and cane allocation. When the idea of giving assistance to the cane farmers was first brought forward, the original intention was that a levy be put in place and, according to my understanding, that it be put only
on retail sugar. It was not intended to affect wholesale sugar or sugar used in other products. Therefore, it was only going to be applied to the sugar that we purchased from the supermarket shelf.

We need to look at that. The figure paid to farmers for what is called in the industry ‘mill white sugar’ is as high as $280 or as low as $220. The farmer gets only two-thirds or 61 per cent of that amount. The return to a farmer can be as low as $18 per tonne of cane that they have cut. The mill white then goes off to the refinery, and the accepted industry price out of the refinery is $800 per tonne. So it has gone from—we will use the higher figure—$280 per tonne as mill white to $800 per tonne after it has been processed by the refiner. What does that cost you and me when we go into the supermarket? On average, it costs us $1.35 per kilo, which is $1,350 per tonne. The farmer who spends 12 months of the year going through all of the heartache—‘Will it rain; have we got cane beetle; do I have to replant a much higher percentage of cane than I should?’—will receive $280 per tonne for mill white. It comes out of the refinery at $800 per tonne and appears in the supermarket at $1,350 per tonne. If you do your homework, you will realise that between the refinery and the shelf price somebody is picking up $550. To clarify that: having worked all year, the farmer gets $280 per tonne for mill white sugar. There is no more value added to it when it comes out of the refinery—the only cost is the distribution—and that end of the industry gets $550 per tonne.

That is where the problem is, and that is why the proposal was to pay 25c from the retail price of sugar on the shelf into a pool for distribution to cane growers based on their cane allocation. If you had a 4,000 tonne allocation, you would get an appropriate portion of the pool. If you were a major producer and had 15,000 to 20,000 tonnes, you would get a larger percentage accordingly. The farmers with small 4,000 to 5,000 tonne cane allocations are at the very efficient end of the industry and generally have very little debt. Those who are doing what the government has asked them to do—that is, get big or get out—have enormous financial commitments. To say that people are eligible for low-interest loans or supplementary income provided they do not have assets over a certain value excludes a large percentage of the farmers who have done what the government has asked them to do. That is what this package is about—forcing people out of the industry unwillingly.

It is constantly said that Brazil is the problem. Yes, we know that, but what is actually causing that? In 1997, the exchange rate for the Brazilian real was approximately 1.1 to the US dollar—it was actually 1.1065, for anyone who really wants to work it out. Brazilian farmers were almost getting parity for their sugar. If they put a pound of sugar on the export market, they were almost getting the equivalent of the US cents per pound price. The exchange rate in 2002 is 3.5882. The devaluation in the Brazilian Real means that in 2002 Brazilian sugar farmers get three times what they were being paid in 1997. That is why Brazilian farmers can put sugar on the world market at the equivalent of US5c per pound and make a profit. They are getting three times what they were getting, by virtue of the exchange rate. It is not that our Australian sugar industry is inefficient. I am not saying that the Australian government should have devalued the Australian dollar. I am saying that is the problem. When your major competitor is getting three times what they were getting in 1997 on both the home and the export markets, it does not matter how efficient your industry is—you cannot compete against them.

In his contribution, Senator Boswell made mention of the single desk process and said that it is the Queensland government which would ultimately make the decision to remove it. That is correct. What Senator Boswell did not tell you is that in their latest assessment of Australia’s economic outlook the World Trade Organisation were extremely caustic in relation to our single-desk process. They even had the audacity to use our dairy industry as an example: they said that it had been through a deregulation program and was thriving as a result. Well, excuse me: talk to a dairy farmer. It is pressure on the Australian federal government from the WTO that will ultimately lead to the removal
of the single desk process. One of the ways that the federal government can bring pressure on the state governments is through the federal assistance grants, commonly referred to as FAGs. They are tied to the state governments’ implementation of federal government policies. There is a distinct link between the allocation of funding and the pressure that the federal government brings on the state governments to effect federal government policies.

Let us look at what I will call the South Johnstone debacle, close to my home in Mareeba. The South Johnstone Mill was taken over by the Bundaberg Sugar Group, but how it was done was not in the best interests of the growers. The National Australia Bank had made loans to the South Johnstone Mill and, accordingly, had mortgages over the mill. As well as its infrastructure, the mill owned two very large cane farms. The National Australia Bank appointed a receiver to the South Johnstone Mill. I know that the growers applied to the receiver to do due diligence on the mill’s books with the proposal of the growers taking back the mill as a cooperative. The receiver did not assist them in any way. I will not go so far as to say that he hindered them, but he certainly did not assist them. There were also proposals to sell the two cane farms the South Johnstone Mill owned, which would have cleared the entire debt to the National Australia Bank. Again, they were refused.

Senator Boswell referred to the Commonwealth providing $4.5 million to the mill. Yes, the Commonwealth did do that, and it did help the mill. But the insidious thing, which Senator Boswell did not tell you, was that that was underwritten by the growers. They guaranteed to pay that $4.5 million back to the Commonwealth over a period of years by paying a levy on their cane. When the deal was done between the National Australia Bank and Bundaberg Sugar, the $4.5 million received by the mill was a debt left with the growers, and it is there today. So you have a receiver who settles with an asset and then leaves the growers with the debt. It concerns me that we are staring the same thing in the face at Mossman. Again, the National Australia Bank holds the mortgages over that mill. If the growers enter into another agreement to underwrite funding, Lord help them—and I do not say that facetiously.

Why are the growers so strongly opposed to this levy? They are not opposed to the levy; they are opposed to the strings that are tied to the levy. One of the Queensland government’s conditions of accepting the levy is to look at removing the single desk, and they are also looking at removing the guaranteed cane allocations. Once they are gone, the growers will have no ability to negotiate with the mills. A grower whom I was speaking to in the last two days said that the mills now require the growers to split all of their properties up into allocated areas. When their cane goes into the mill, the ticket on the wagon has to show the species and the lot that it has come from. You do not have to be Einstein to work out that within the next 12 months, if those cane allocations are removed and the mills do not have to take all of that cane, they will selectively tell growers, ‘We will take blocks X, Y and Z’—knowing full well that the CCS is higher on those—and leave the growers with the rest of the areas. These are the problems that the sugar industry is facing. For that reason, One Nation will reluctantly oppose the measures. (Time expired)

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (6.26 p.m.)—I realise that we need to conclude this debate on the disallowance motions by 6.50 p.m. and that Senator O’Brien has to close the debate. But, as a Queensland senator, I thought it appropriate to put my views about this on the record. The Democrats are very pleased with the extra money for the environment that we have managed to negotiate from the government. Some of it is new money and some of it is redirected money. The total amount will of course depend on how much the Queensland government wants to put in. But the basic fact is that it is money being directed towards improving water quality in the Great Barrier Reef Marine Park and restoring and maintaining wetlands around coastal areas, which will assist significantly with water quality. It is
money that would not have been there except for the Democrats, and the Democrats are pleased to have ensured that the money is being directed towards that important environmental problem. As a Queenslander, I am very keen to ensure that more is done to protect and improve the health of the Great Barrier Reef Marine Park.

The Democrats certainly do not suggest that this package put forward by the government is the magical solution to every problem the sugar industry faces. We do not think it is the best package possible, but it is the only package on the table. The choice for the Senate is between this package and no package. If this levy were knocked off, it would possibly be funded from general revenue. We do not know. The government says that it would not. Who knows? I do not think cane farmers should be stuck in the middle of that sort of political game playing. They deserve certainty.

Another issue is whether it is appropriate for the package to be funded by consumers, as is the case with this levy—or this tax—rather than from general revenue. I certainly do not mind calling it a tax. It is a tax, even if it is collected under levy legislation. There may not be a strong case for one industry to get significant resources paid for by all taxpayers, but there is an argument that that funding should come from consumers—people who use the products that industry produces. The sugar industry is being treated equally to many other agricultural industries, in the sense that the consumers and producers of the product are directly paying a levy that goes back into the industry in various ways—in assistance packages like this or in research, promotion, et cetera. That is a consistent, longstanding practice and one that I think is much more acceptable, in many ways, than expecting the entire taxpayer community to bail out a particular industry. If you do that for one industry, why not do it for another? In that sense, there are arguments in favour of using this levy as a funding mechanism.

Whilst this package will not address everything in the sugar industry, including what people in financial difficulties need or the restructuring of the industry so that it can deal with the very different economic, scientific and research climate of today compared to the past, there is no doubt that this amount of money is going to be a lot more help to the sugar industry than no money at all. That contrast needs to be put forward. In many ways, the other factor from the Democrats’ point of view is that, if this levy were knocked off, whatever else the government proposed to do in its place, if anything, would not give the Democrats the opportunity, as an environmentally concerned party, to use our balance of power to get more support for a marine park and for environmental issues. We think it is appropriate, in our role as a party in the Senate—and Senator Cherry and me being Queenslanders—to use the opportunity to get a better outcome for Queensland and for the environment. We see it as part of our role in the Senate to ensure that we get constructive outcomes and raise issues where we can—as we have done repeatedly in relation to the marine park—but also to try to get concrete outcomes. I am pleased that we have achieved that in this case.

There are issues for the sugar industry that the Democrats believe need to be acknowledged in the long term. When I was going around Queensland I spoke to sugar growers in Mackay, in Cairns and in Brisbane, and I spoke to the Mayor of Douglas Shire, which is a significant cane growing shire. I found it perplexing that every time the Democrats mentioned the word ‘environment’ or talked about the environmental performance of the cane industry there was this incredibly defensive reaction as though everything that needs to be done is now being done. Whilst I do not dispute that the cane industry has improved its performance in recent years, I do not think any industry would suggest that they are doing everything perfectly. We are pleased that we have been able to change the criteria for the allocation of this funding so that environmental standards, including using the industry’s own Compass standard as a benchmark, will ensure that the money is used in a way that will improve the environmental performance of the industry.

I think the industry needs to acknowledge that raising the need for them to improve
their environmental performance does not mean that we are calling them mindless environmental vandals. We are not saying that at all. But we are saying that there are genuine issues. There is no doubt, as the research shows, that one of the causes—although not the only cause—of impacts to water quality in the marine park and to loss of vegetation, and particularly to wetland degradation, is activity with the sugar industry. Those issues need to be addressed. I think the industry, more broadly, recognises that.

I would like to particularly commend the work of the Douglas Shire and its mayor, Mike Berwick, and indeed the Mossman Mill, who are being very creative in trying to minimise the environmental impact and maximise their standards and the value they can get from the sugar cane product. That is the sort of direction that the Democrats believe the industry needs to go in. Like all agricultural industries, it needs to recognise that there are limits to the areas that it can cultivate and limits to the size and appropriateness of the land on which sugar can be grown. Again, the Douglas Shire and the growers there, and the way they are working together, have put forward a good example. I would urge the rest of the industry to look at what is being done in that area, which I think is the northernmost cane growing region in Queensland.

In short, the Democrats do not support this disallowance motion, as has already been indicated by my Queensland colleague, Senator Cherry. We recognise that the package is not perfect, but it is better than no package. We also express our pleasure, and I guess our thanks, to the government for its willingness to provide extra resources and extra strengthening of the environmental criteria of the package as well as support through the CRC funding program for further research into water quality issues. These are issues that need more attention and focus. The Democrats will continue trying to get more focus for those issues. We believe this is a small step forward. Again, it is not going to solve every issue, but it increases the resources that are being provided and at the same time provides some assistance to those in the cane industry who we recognise do need assistance.

The final message I would leave for the cane industry, though, is that assistance cannot continue for ever and ever. I think every industry realises that. Eventually, significant adjustments will have to be made—there is no doubt about that. It is for the industry itself to work out how best to go about doing that. But if that adjustment is not made then the problems will only get worse and the ability of government, the public and consumers to continue to fund assistance packages is going to have an end point at some stage. Broadly speaking, I think the industry recognises that, but it needs to acknowledge that these sorts of assistance packages are not done easily. The level of public tolerance and acceptance of assistance packages to all industries has its limit, and that needs to be acknowledged and absorbed by the industry.

Senator O'BRIEN (Tasmania) (6.36 p.m.)—I was wondering when I was going to get a chance to respond. With the diversity of comment in the debate, I thought David Attenborough might have liked to have passed a commentary on it—particularly on the mutual predators of the Greens and the Democrats bidding their credentials up in the environment stakes and using a tax on the food manufacturing industry as the basis for leveraging some relevance. A former colleague of mine Gareth Evans once made the mistake of saying that he felt he was suffering from 'relevance deprivation syndrome'. We have seen that today from the Democrats, with their absolute need to do some sort of deal on a package that involves taxing an industry that employs 165,000 Australians just so they can get a couple of paragraphs in the newspapers tomorrow to bolster their alleged environment credentials. The Democrats asked a question today in question time, bagging the government on withdrawing funding for the CRC for Renewable Energy. They have not managed to restore that. That was very important at lunchtime; this afternoon it is wetlands in Queensland.

Senator Bartlett—We can't do everything at once!

Senator O'BRIEN—You can manage to impose a tax on the jobs of 165,000 Austra-
lians in one fell swoop by opposing this disallowance motion. It was interesting to watch the positioning of the Democrats and the Greens in relation to this motion. I will come back to the Democrats later. Senator Brown certainly had two bob each way, if you will forgive the pun. He does not really want to help the sugar industry—you would have to take that from his contribution—but he could not be seen to be opposing even a minuscule environmental outcome that might have been leveraged by the Democrats. So he had to jump on the bandwagon and oppose the motion, because he was frightened that the Greens might be seen to be not supporting some sort of environmental funding.

It is interesting to note the reference that Senator Cherry made to this being the 48th levy. I do not think he really believes this is a levy; in fact he used the word ‘tax’ quite consistently in his contribution. He compared this to the wholesale sales tax. I suppose it is comparable in the sense that it is a tax, but he did try and confuse the argument. There are 11 principles that this government laid down as the criteria for the establishment of a levy. Senator Cherry tried to criticise a number of levies that would meet those criteria, suggesting that they were equally taxes. That has never been an argument that the Democrats have put in relation to the imposition of the majority of the levies that Senator Cherry suggested could be equated to this matter. He talked about the deer slaughter levy. He did not tell us what it paid for. It is no doubt to do with the costs of inspection in relation to the services the government provides, and research and development, and industry promotion. It is levied on its own industry. Here we have what is called a levy but is really a tax being imposed on the food manufacturing industry to help the sugar industry. He talked about the market milk levy. That probably is somewhat comparable, but the justification for that was a major restructure and deregulation of the industry, in the context where the price of market milk went down, absorbing the cost of the levy to the consumer. And it did not apply to the manufactured milk at all; it only applied to the milk that we buy in the supermarket.

Senator Bartlett—It was still a tax on milk.

Senator O’BRIEN—The reality is that it was a tax on milk, but it was offset by a reduction in the price and it did not effectively flow on to the consumer—but this will. If the Democrats are saying that every levy is sustainable on the basis that you should raise funds for any measure, then we are going to have this government bring a myriad of measures before the Senate to receive the support of the Democrats to raise additional funds, which will be great for the government because they will just sock the money away for their little war chest for the next election. We will see plenty of levies being put forward. I see that Senator Troeth is smiling. She agrees with what I am saying there.

Senator Troeth—Not necessarily.

Senator O’BRIEN—I am certain that you believe that. We are faced now with the reality that this tax is going to be imposed on the Australian food manufacturing industry, which, as I said, provides 165,000 jobs. Some people in the industry probably do not even realise what is going to hit them in 20 days, but there is no doubt that it will impact on jobs. You only have to talk to the people who run the food manufacturing industry to know that the margins are quite tight and competition with overseas manufacture is very important, yet the Australian food industry will be competing with products on the same shelves that do not attract the tax. There will be decisions taken, where companies have manufacturing operations in other countries, to move the product from Australia to, say, New Zealand. Those will be the sorts of things that will happen. Of course, that does not worry the Democrats because they are going to get a bit of publicity out of this, and that is the motivation for this.

There are several criticisms I would make of some of the points made by Senator Harris on behalf of One Nation. Firstly, let us consider his suggestion that Brazil is the problem for the sugar industry. Brazil is a major competitor and a reasonably efficient producer, but the problem is not Brazil. The problem is the European Union and the United States, with their heavily subsidised
industries—with export subsidies and production subsidies that inflate the production of inefficient industries. If you took away the subsidies, they would not be producing the sugar, and the Australian sugar industry would be competing in a world market where the price would not be artificially lowered by the subsidies paid by those two large economic groupings. That is the problem for the sugar industry in Australia. Brazil is not the problem. Brazil is a major competitor, but it does not provide those sorts of subsidies at all. Yes, there has been a problem with a devaluation of the real, but we have had a devaluation too. The Australian dollar went from 65c down to 49c at one stage. Look at the effect that that had on the value of the product in US dollar terms. At one stage the Australian sugar industry was doing quite well. The recovery of the currency will pose some problems for major agricultural industries, including the sugar industry.

I was interested to hear some of the comments that Senator Harris made about the actual implementation of the package—the so-called food-on-the-table approach from the government, which is not providing food on the table—and some of the anomalies. It will be very interesting to look at those things, and I look forward to seeing how that works.

If I were going to give some credit to the Democrats, it would be for apparently placing some limits on the extension of this tax, because we have seen this government sock away money from the Ansett levy, and we do not know when it is going to stop that. This would be just another opportunity for that to happen. So we will be looking closely to see how those protections that Senator Cherry talked about will work.

Let me come to the government’s position. Firstly, I invited Senator Macdonald, in his contribution, to tell us how this levy fitted in with the government’s own 11 levy principles. I cannot recall one word that Senator Macdonald uttered addressing that point in his defence of this tax. I am not surprised, because it would be impossible for him to do so. As I said, it will now be a matter for the government to defend themselves. With every request by every group in the community who wants to impose a levy, the government will have to justify why they will not support the levy the industry wants when they are prepared to do it for the sugar industry.

It is very clear that the government were reluctant to give any support to the sugar industry. The minister had no ability to leverage the government into paying money out of consolidated revenue for this particular package, and so the only option that the minister could get up in cabinet was, ‘Let’s raise another tax to support it.’ So we have the case again that the Nationals are blowhards in the bush and cowards in Canberra. They will run away from the problem, thinking that it is a simple proposition where you take a measure to cabinet which gets up or fails, or you take a proposition to cabinet, you kowtow to your Liberal colleagues—and I use that word advisedly—and you come back and try to sell to them the compromise measure that you have been forced to wear. It is interesting and there are many comments I could make.

I will be having a good look at the comments that Senator Boswell made in which he suggests that, perhaps, even if this measure were passed, the government would have funded this package. If that is true, why was Senator Macdonald suggesting that the survival of this package was dependent on the survival of the levy? That is one thing that Senator Boswell had better explain to his constituents in North Queensland. The reality is that the opposition has always believed that, if the government were playing the political game that they appear to be playing on this, and if they had to provide something for the sugar industry because of their concern for the seats in the House of Representatives that sit within the sugar industry, they would ultimately have funded some sort of package and indeed could not have walked away from the package they proposed.

I remind the Senate that Queensland put up $30 million and no tax; the Commonwealth put up zero but have funded $120 million out of the tax which is being called a levy. That is a shameful proposition from the government. To allow this matter to be put, I will cease my comments at this stage. There
are many more things I could say but I will conclude my remarks.

Question negatived.

BUSINESS

Rearrangement

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (6.49 p.m.)—by leave—I move:

That consideration of government documents be not proceeded with today and that government business order of the day No. 1 (Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002) be considered from 6.50 pm to 7.20 pm.

Question agreed to.

AUSTRALIAN SECURITY INTELLIGENCE ORGANISATION LEGISLATION AMENDMENT (TERRORISM) BILL 2002

In Committee

Consideration resumed.

The TEMPORARY CHAIRMAN (Senator Watson)—Senator Greig, are you going to move Democrat amendments (3) and (7) on sheet 2779 revised?

Senator GREIG (Western Australia) (6.51 p.m.)—Mr Temporary Chairman, I will not move Democrat amendment (7) on the basis that we have now determined the outcome of that, given that the same issue is contained within Democrat amendment (1) on sheet 2789, which we have previously dealt with. I will now proceed with Democrat amendment (3) only. Therefore, I move Democrat amendment (3) on sheet 2779 revised:

(3) Schedule 1 item 24, page 14 (line 8), at the end of subsection (1), add:

; (i) the person’s right on request to an interpreter.

This amendment is about advising a person of their right to request an interpreter. It seeks to ensure that any person detained for questioning under the act is specifically told of their right to an interpreter as soon as they are brought before the prescribed authority. In order to exercise the right to an interpreter, it is important that a person is aware of that right. The same principle contained within this amendment was in the amendment the committee agreed to earlier when we dealt with the principle supported by the committee that people be advised of their legal rights the moment they are brought before a prescribed authority. This simply extends the same principle to ensure that they are advised of their right to an interpreter the moment they are brought before a prescribed authority. I think the amendment speaks for itself. It follows on, as I say, from the same principle that the committee has endorsed earlier. I ask for the committee’s support for this amendment.

Senator NETTLE (New South Wales) (6.53 p.m.)—I indicate that the Greens will be supporting this amendment as an improvement, again, on the flawed piece of legislation we are debating today. We will be supporting this amendment because we believe it is part of the recommendation from the committee that people have access to an interpreter. We have just passed a motion allowing access to an interpreter. This motion ensures that someone being questioned under the regime put forward in this legislation is told that they have the right to request an interpreter. I think it flows on well from the government amendment we passed previously. We will be supporting the amendment put forward by Senator Greig.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (6.54 p.m.)—As is so often the case in a committee stage debate like this, everything turns on one two-letter word. The word is in Senator Greig’s amendment, which is amendment (3): ‘the person’s right on request to an interpreter’. I think that is what we are dealing with. I pointed out before the rather substantial break in this committee stage debate that, as the amended bill stands, this is a matter for the prescribed authority to determine. If this were to say ‘the person’s right to request an interpreter’, I suspect it would be totally in concert with what has previously been determined by the committee.

I pointed out to the committee before the break that, in terms of the regime that is being supported by the opposition, a person being questioned would have the right to a
lawyer. It is appropriate in this circumstance for the prescribed authority to be making decisions in accordance with the processes that were agreed a little earlier as a result of the government amendments that were moved by Senator Ellison. I am not persuaded by the arguments to move away from that particular approach. As I said, the government amendments in relation to the provision of an interpreter are good amendments, which are strongly supported by the opposition. I have indicated that as a result of those amendments I will not be progressing with one of the opposition amendments. Even though I have had many hours to consider my earlier remarks, I see no reason to change the thrust of them.

Question negatived.

Senator GREIG (Western Australia) 
(6.57 p.m.)—I move Democrat amendment (R5) on sheet 2779 revised:

(R5) Schedule 1, item 24, page 16 (lines 26 to 30), omit paragraph (c), substitute:

(c) anyone holding the person for questioning under this Division must, if the person requests, give the person facilities for contacting:

(i) any person whom the person is permitted to contact pursuant to paragraph (a); or

(ii) the Inspector-General of Intelligence and Security or the Ombudsman to make a complaint orally under a section mentioned in paragraph (b).

This amendment relates to permissible contacts by a detainee— or a questionee, as Senator Faulkner would have it. This is a relatively minor amendment. What it seeks to ensure is that a person detained under the act has the facilities that would be required to contact a family member or any other person whom they are permitted to contact pursuant to that warrant. Proposed section 34F(9) already requires that the person must be given access to facilities for contacting the inspector-general and the Ombudsman. This amendment simply extends that requirement to facilitate contact with other persons specified in the warrant. I think it is quite clearly arguable that a person's right to contact family members and other people in accordance with the warrant implies that they must have access to the facilities that would be necessary to enable such contact. This amendment seeks to ensure that there is no doubt about this obligation on the part of those holding the person in detention.

Question negatived.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (6.59 p.m.)—by leave—I move opposition amendments (23), (25), (28), (29) and (33) to (35) on sheet 2764.

(23) Schedule 1, item 24, page 14 (line 8), at the end of subsection 34E(1), add:

; (h) the person’s right to make a request under 34F(11).

(25) Schedule 1, item 24, page 14 (line 18) to page 16 (line 32), omit section 34F, substitute:

34F Conduct of questioning

(1) The prescribed authority shall regulate the conduct of questioning by the Organisation of the person under warrant.

(2) The prescribed authority shall only allow questioning to proceed or continue if the prescribed authority is satisfied that the person has not been questioned for a continuous period of more than 20 hours or for more than a total of 20 hours within a period of 7 days.

(3) If at any time the questioning of the person reaches or exceeds the time limits set out in subsection (2), the prescribed authority shall require the Organisation to immediately cease questioning the person.

(4) Questioning of a person under warrant before the prescribed authority may not be conducted:

(a) at times which interfere with the provision of medical attention to the person;

(b) when the person is intoxicated;

(c) at times when the prescribed authority considers the person is unfit to be questioned;

(d) at times when the prescribed authority considers questioning would interfere with reasonable rest or recuperation.

(5) When a person first appears before a prescribed authority, they may be
questioned for a period not exceeding 4 hours.

(6) If on application by the Organisation, the prescribed authority is satisfied that:

(i) there are reasonable grounds to believe further questioning is likely to yield relevant information; and

(ii) the person has access to legal advice consistent with subsections 34U(1) to (3), the person may be questioned for a further period not exceeding 8 hours in addition to the questioning allowed by subsection (5).

(7) If on application by the Organisation, the prescribed authority is satisfied that there is a threat of an imminent terrorist act and that there are reasonable grounds to believe further questioning is likely to yield information relevant to that threat (including information relating to preparation or planning for a terrorist act), the prescribed authority may allow the person to be questioned for a further 8 hours in addition to those periods allowed by subsections (5) and (6).

(8) The prescribed authority may authorise a person who is or has been before the prescribed authority for questioning under warrant to disclose to other persons information about the warrant, the questioning or the production of records or things.

(9) The prescribed authority may authorise a legal practitioner who is accompanying or has accompanied a person who is or has been before the prescribed authority for questioning under warrant to disclose to other persons information about the warrant, the questioning or the production of records or things.

(10) An authorisation to allow disclosure of information made by the prescribed authority under subsection (8) or (9) shall be in writing and shall specify the information which may be disclosed and the persons to whom the information may be disclosed.

(11) A person appearing before a prescribed authority may at any time request the prescribed authority to make an authorisation under subsection (8) or (9) and the prescribed authority must immediately consider such a request.

(12) An authorisation to allow disclosure of information made by the prescribed authority under subsection (8) or (9) may be revoked at any time.

(13) This section does not in any way limit contact between the person and the Inspector-General of Intelligence and Security or the Ombudsman under:

(a) sections 10 and 13 of the Inspector-General of Intelligence and Security Act 1986; or

(b) section 22 of the Complaints (Australian Federal Police) Act 1981; as the case may be.

Note: The sections mentioned in this subsection give the person an entitlement to facilities for making a written complaint.

(14) Anyone holding the person in custody under this Division must give the person facilities for contacting the Inspector-General of Intelligence and Security or the Ombudsman to make a complaint orally under a section mentioned in subsection (13) if the person requests them.

The opposition have come to the view that with appropriate and strong safeguards ASIO should be able to ask questions during interviews. We have only come to that view after close consideration of a number of alternative models and a range of issues which were considered at great length during the Senate Legal and Constitutional References Committee inquiry. We say that the information gathering regime must be broadly consistent with other questioning regimes that are em-
ployed by Commonwealth and state law enforcement agencies such as royal commissions, the NCA and state crime commissions. The opposition believe that to interview people about terrorism offences ASIO should have powers which are similar to those that bodies such as the NCA or ASIC have in relation to corruption or corporate crime.

I want to stress to the committee that the opposition support five very significant safeguards in relation to questioning. Firstly, the opposition believe that the questioning should be supervised by an experienced retired judge. The chamber has been dealing with this particular matter—it was dealt with earlier today—but I think it is important to note in the context of safeguards that a person of seniority and standing should supervise such a questioning regime. Secondly, the opposition believe that warrants should be for a limited period and should be for questioning only. Thirdly, we say that the person being questioned should have a lawyer. Of course, this committee will be dealing with that substantial issue a little later. But I do think it is important to take account of it as we examine this broad question of safeguards. Fourthly, we believe that the Australian Federal Police should be responsible for all the logistical arrangements. Fifthly, but still very importantly, we say that any interviews must be videotaped.

It is the view of the opposition that if these safeguards are in place it is not only reasonable but appropriate that questioning for intelligence about possible terrorist activity is done by experts who know their brief and whose responsibility is to investigate such matters. In terms of the sort of information that is being sought by ASIO, one would expect that they are either going to get answers to these questions within a day or so of rigorous questioning or it would seem pretty unlikely that they are going to get them at all. The opposition strongly believes that the legislation should include the maximum time a person can be questioned and it should include provisions ensuring that once questioning is completed a person is free to leave. I stress the fact that the government has always said that this bill is about intelligence gathering. If it is, then it is impossible to argue against the principle that once questioning is completed a person is free to leave.

The time for questioning under the warrant should be broadly modelled on the investigation periods set out in the Commonwealth Crimes Act. It is imperative that the time limits should not be such as would turn a questioning regime into a detention regime. It is essential that we remember in this debate that we are dealing with people not suspected of any criminal offence and we do not think that they should be treated worse than people who are suspected of committing serious crimes. The time which applies for questioning of criminal suspects in Commonwealth criminal matters is four hours, with the potential to roll that over with an extension for another eight-hour period. So that is four hours plus eight hours of solid questioning.

In addition, the Commonwealth Crimes Act provides that there will be substantial—at times very substantial—down times. Meal breaks are down times, toilet breaks are down times and breaks waiting for a lawyer or an interpreter may be down times. It is very common for a person to be in a police station pursuant to these questioning provisions for the best part of a day or, as I am sure senators realise, sometimes even into a second day, all because of this continuing four hours plus eight hours of questioning. Consistent with the recent unanimous Senate committee report and the provisions of the Crimes Act, opposition amendment (25) provides:

When a person first appears before a prescribed authority, they may be questioned for a period not exceeding 4 hours. That period can be extended by up to eight hours only if, on application by ASIO, the prescribed authority is satisfied that there are reasonable grounds to believe that further questioning is likely to yield relevant information. The extension of questioning past four hours can be granted only if the person has legal representation. The opposition do believe that these time frames are appropriate. We make an exception—and I say to the committee that I would hope that this is an exception that would never need to be used—that, where on application by ASIO
the prescribed authority is satisfied that there is a threat of an imminent terrorist act and that there are reasonable grounds to believe that further questioning is likely to yield information relevant to that threat, the prescribed authority may allow the person to be questioned for a further eight hours. I do think that this committee needs to take account of these possible extraordinary circumstances where there may be a massive threat to public safety.

I want to say this also, and be frank with the committee: if ASIO cannot get answers to their questions within four plus eight hours then I suspect they will probably have little to get from the person being questioned, or perhaps the person is very recalcitrant and uncooperative and is likely then to find themselves subject to the criminal charges which would apply to those who refuse to answer questions or who would give dishonest or misleading answers. Under the amendments proposed by the opposition, if an experienced judicial officer is satisfied by ASIO’s advice that there are reasonable grounds to believe further questioning may yield information relevant to a terrorist attack, then and only then can a person be held for further questioning. We do not resile from the fact that we believe that in these sorts of circumstances a high threshold is appropriate.

Also in this raft of amendments that I have moved on behalf of the opposition are amendments (28) and (29), which have the effect of amending proposed section 34G to remove the evidential burden placed on the person who is appearing for questioning under the warrant to show that he or she does not have the information sought or possession or control of the relevant record or thing. Again, I want to say that this amendment is consistent with the Senate committee recommendations. Section 34G reverses the onus of proof—making a person have to prove, for example, that they do not know something. The use of a reverse onus of proof violates any presumption of innocence. It is also of concern that these provisions would unduly impact on vulnerable detainees, including children and people who might have language difficulties.

As well as dealing with questioning times, opposition amendment (25) makes it clear that a person can ask to contact family members or their employer. This goes to an issue that Senator Greig was looking at in the previous amendment. We expect that such requests would be dealt with sensibly and allow a person to notify people without prejudicing the content of questioning. Finally, I will not be moving opposition amendment (31), which provides that a person shall be provided with an interpreter if they request one, because the government has proposed a viable and effective alternative. (Time expired)

Senator GREIG (Western Australia)
(7.14 p.m.)—by leave—I move Democrat amendments (1) to (3) on sheet 2788:
(1) Amendment (25), after subsection 34F(7), insert:

(7A) The prescribed authority may authorise a person subject to a questioning warrant to contact other persons during questioning and may identify those other persons by reference to a particular familial relationship with the person being questioned. This does not limit the ways in which the prescribed authority may identify persons whom the person is permitted to contact.

(2) Amendment (25) after subsection 34F(12), insert:

(12A) This section does not in any way limit the right of a person subject to a questioning warrant to seek a remedy from a court in relation to the warrant, the treatment of the person in connection with the warrant, or the questioning or custody of the person in connection with the warrant.

(3) Amendment (25), omit subsection 34F(14), substitute:

(14) Anyone holding the person in custody under this Division must, if the person requests, give the person facilities for contacting:

(a) any person whom the person is permitted to contact pursuant to subsection 34D(4) or 34F(7A); or

(b) the Inspector General of Intelligence and Security or the Ombudsman to
make a complaint orally under a section mentioned in subsection (13).

We Democrats are supportive of the amendments being proposed by Labor but feel that opposition amendment (25) could be better enhanced with some Democrat proposals. Opposition amendment (25) principally seeks to replace section 34F in the bill, as Senator Faulkner stated. Section 34F deals with procedures during the detention of a person and, in particular, the various directions which the prescribed authority may make. Section 34F contains a provision enabling the prescribed authority to make a direction authorising the person being questioned to contact other identified persons.

We Democrats believe that Labor’s substitute section 34F is preferable to that currently exists in the bill for a number of reasons, including, in particular, that it limits the period of detention to a period of four hours, with possible extensions up to a maximum of 20 hours. Labor’s section 34F incorporates a provision enabling the prescribed authority to authorise a person being questioned to disclose to other persons information about the questioning. However, unlike the existing section 34F, it does not contain any provision enabling the prescribed authority to permit the person being questioned to contact other specified persons. It is perhaps arguable that this power exists by implication in Labor’s section 34F, but we Democrats believe that, to avoid any doubt, such power must be expressly provided for.

The ability of a person being questioned to contact other identified persons should not be limited to those specified in the warrant. The Democrats believe that a degree of flexibility should attach to this right. It may become apparent to the prescribed authority over the course of questioning that there is good reason for the person to be permitted to contact another specified person. For example, the questioning may proceed for longer than originally expected, and the prescribed authority may consider it appropriate to permit the person to contact his or her employer to inform them that he or she will not be attending work. Ultimately, a person’s right to contact other identified people during the period of questioning will still be determined and regulated by the prescribed authority at all times.

The Democrats believe firmly that this piece of legislation must enshrine the right of a person to apply to a court to determine the legality of their detention and to seek a remedy from the court relating to their detention. This is a fundamental right stemming from the ancient doctrine of habeas corpus, and there must be no doubt that it applies in the context of this legislative regime. Democrat amendments (2), (4) and (5) on sheet 2788 seek to make it abundantly clear that none of the provisions in sections 34F, 34G or 34U in any way limit that right. Democrat amendment (5) on sheet 2788 replaces a very similar provision in Labor amendment (39), but it expressly extends the right of the person being questioned to communicate with a court, whereas the Labor amendment limits this right to a person’s legal adviser. The Democrat amendment seeks to recognise that, in some circumstances, a person being questioned under the act may choose not to seek legal advice but may, nevertheless, wish to pursue their right to seek a remedy from a court relating to their detention. The Democrat amendment also provides that the person being questioned or a person’s legal adviser may contact another legal adviser for the purpose of seeking a remedy from the court. This recognises that the person’s legal adviser is likely to be a solicitor who may wish to brief a barrister for the purposes of any court proceedings.

Democrat amendment (3) on sheet 2788 seeks to amend opposition amendment (25) to make it clear that anyone holding a person in custody under the act must provide the person with facilities for contacting not only the Inspector-General of Intelligence and Security or the Ombudsman but also any other person whom the person being questioned is permitted to contact. Again, this is arguably implied in the provisions of the bill in its current form, but the Democrats believe that it is important to expressly provide for this obligation under the act. There is little point in permitting a person in detention to contact another specified person if the
person is not provided with the facilities required to make such contact.

Progress reported.

ADJOURNMENT
The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order! It being 7.20 p.m., I propose the question:

That the Senate do now adjourn.

Multiculturalism
Senator PAYNE (New South Wales) (7.20 p.m.)—Yesterday was International Human Rights Day. I see it as an opportunity to reflect on all that we have achieved in this country to build a harmonious society, where difference within the bounds of Australian law is not only tolerated but embraced and welcomed. Harmony is only diminished by comments like those of the Hon. Fred Nile MLC and some less than responsible media debate and reporting. Attitudes have shifted in Australia following 11 September 2001 and the Bali bombing, and I want to reflect on where we are today with respect to Australia’s cultural diversity and the right to freedom of religion and expression.

Last Friday in Canberra I attended a conference of the Federation of Ethnic Community Councils of Australia, where future directions in multiculturalism were discussed. On Sunday I was a guest at the Multicultural Eid Festival in Fairfield, celebrating the end of Ramadan, with tens of thousands of Muslim Australians from dozens of different national backgrounds, where the emphasis was on the courage, compassion and service of Islam.

It seems to me that the end of this difficult year is a good time to make these reflections. I have considered how we have travelled over the past decade as part of that assessment. In a 2002 report released last week by SBS called Living diversity: Australia’s multicultural future, Australians were surveyed on their opinions of multiculturalism. The majority expressed support for immigration and multiculturalism. Two-thirds of the national sample believe that immigration has been of benefit to Australia. In contrast, and interestingly, a recent UK survey commissioned by the BBC found only 30 per cent support it in Britain.

Australians are qualified in their support for multiculturalism, yet they engage strongly in a culturally diverse lifestyle. The majority of the national sample support multiculturalism and cultural diversity, respectively 52 per cent and 59 per cent, but to a lesser extent than they support immigration. In the national sample, the younger the age group the more support there is for multiculturalism—from 46 per cent in the 55-plus age group to 64 per cent in the 16 to 24 age group, signalling a clear mainstreaming of multiculturalism in contemporary Australia.

The term ‘multiculturalism’ was originally borrowed from Canada. It recognises and celebrates our cultural diversity. It accepts and respects the rights of all Australians to express and share their individual cultural heritage within an overarching commitment to Australia and to the basic structures and values of Australian democracy. Multiculturalism is the way we address the challenges and opportunities of our cultural diversity. I think the key to its success is inclusiveness. This cultural diversity is one of our great social, cultural and economic resources. The unity in this diversity is built on the moral values of respect for difference, tolerance and a common commitment to freedom and to Australia’s national interests.

For multicultural Australia to flourish, multicultural policies should be built on the foundation of our democratic system like any others, using some basic principles: firstly, civic duty, which obliges all Australians to support those basic principles of our society which guarantee us our freedom and equality; secondly, cultural respect, which, subject to the law, gives all Australians the right to express their own culture and beliefs and obliges them to accept the right of others to do the same; thirdly, social equity, which entitles all Australians to equal treatment and opportunity so that they are able to contribute to the social, political and economic life of this country free from discrimination, whether that be on the grounds of race, culture, religion, language, gender or place of birth; and, finally, productive diversity, which maximises for all Australians the significant cultural, social and economic divi-
dends that arise from the diversity of our population.

I think the second of those principles, that of cultural respect, was most recently breached—and, in my view, outrageously—by the Reverend Fred Nile, when he suggested a ban on Muslim women wearing the chador in public places. I do not think his call is logical; I think it is discriminatory and divisive. It will do nothing to enhance Australia’s national security. In fact, it would give enemies of Australian ethnic harmony one of their key goals: that is, to polarise our society and make the war against terrorism appear to be a war against Islam by Western countries, which it most emphatically is not.

My personal view is that his argument is illogical. He appears to think that banning the chador will mean that it in particular cannot be used to hide terrorist weapons—apparently as a response to the Moscow theatre terrorist incident. So, equally logically—or illogically, perhaps—why not ban all baggy and bulky items of clothing? If his argument is taken to its logical conclusion then I assume that, equally, businessmen should give up wearing overcoats and Catholic nuns who adopt the traditional dress should not wear habits. Proposals like this are even counterproductive from a national security perspective. Rather than uniting Australians in the war on terrorism, it will have the opposite effect of dividing the nation and of pitting moderate Muslims against Christians and other elements of our multicultural society. Because they are easily recognisable as Muslims, they are open to abuse and they face persecution and harassment within the wider community. It is happening in my city of Sydney all too often.

I make my remarks on this issue from the basic principles of liberalism. I quote a former distinguished senator Sir John Carrick, from an article in the *Australian Quarterly* of June 1967:

> If Australia is to survive and be free, we must learn to be good neighbours. We must respect the rights of others to be different, to be separate and free. Our definition of freedom should connote our responsibility to respect and defend the freedom of others. These things demand an understanding of political philosophy and a recognition that our social values are not absolutes to be thrust at others. For these challenges, I believe the Liberal philosophy to be adequate.

The words of Sir John Carrick are also what I stand for.

The role of the media and the need for the media to participate in constructive debate in this area are important, indeed fundamental. But, unfortunately, it is not uncommon to hear discussion on talkback radio these days in this area that can at best be described as distressing and at worst as blatantly racist. There are discussions that victims of race-hate crimes ‘bring it on themselves’. While one late-night talkback host allegedly referred to some Muslims as ‘the raw sewage of humanity’, the point should also be made that so-called ‘shock jocks’ often do not make racist or discriminatory comments themselves but do allow them to go to air with little or no demur. I think some leadership in that area is important.

I want to quote the words of the Prime Minister at the Bali victims memorial ceremony in the Great Hall on 24 October. He said that we should:

> ... continue to live the kind of lives that we regard as the birthright of all Australians. And we’ve also been reminded of the great tolerance of the Australian people. The Australian people deeply angered and grieved as they are are not about to abandon the spirit of openness and tolerance which is also one of our great hallmarks.
That spirit of openness and tolerance is not one which is imposed on the Australian people but one which has been achieved gradually, through waves of largely post-war immigration and also particularly through the initial efforts of the Fraser government, whose major achievements included the recreation of the Department of Immigration and Ethnic Affairs and the establishment of the Australian Ethnic Affairs Council, both in 1976, and the establishment of the Institute of Multicultural Affairs to conduct research and advise government. Also, importantly, I believe that the establishment of the Special Broadcasting Service in 1980 has done much to take cultural diversity into living rooms across this country.

Work has obviously continued in ethnic affairs since that time, and in recent years this government adopted the New Agenda For Multicultural Australia, in 1999, and established the Council for Multicultural Australia, which works to promote respect for our differences and to promote the social, cultural and economic benefits of multiculturalism for all Australians and for community harmony. I particularly want to acknowledge the very valuable work of Ben Chow as chairman of the council.

We as a nation have a history that is complex, multifaceted and varied, but I suspect it is not nearly as complex, multifaceted and varied as our future will be. Maintaining and continuing the success of this bright, tolerant, open and diverse nation will take leadership—not just the leadership of people who fill parliaments like this around the nation but leadership of communities, leadership of the media and leadership of those who wish to see that sort of nation sustained. I am pleased to count myself as one of those people.

Parliamentary Delegation to the Netherlands

Senator HUTCHINS (New South Wales) (7.30 p.m.)—I was fortunate, with a number of my parliamentary colleagues, to be part of a parliamentary delegation, my first, to represent this parliament in the United Kingdom and the Netherlands, from which we have just recently returned. The delegation consisted of Senator Michael Forshaw, Senator Bill Heffernan, Mr David Hawker, Mr Anthony Albanese, Mr Bob Baldwin and me. The secretary to the parliamentary delegation was Ms Denise Gordon, who did a great job.

This evening I want to speak about an opportunity we had while in the Netherlands to lay a wreath at the gravesite of two Australian airmen, whom I will talk about in a moment. About 12 months ago, Mrs Jo Jordan, who is the niece of the late Pilot Officer Alan Hart, and Mrs Val Duncan, who is the sister of the late Flight Sergeant Harold Boal, were in the Netherlands to commemorate a ceremony and a special service for the interment of the bodies of those two Australian airmen. On 30 January 1944, a Lancaster JB659 from the 97 Squadron of the Royal Air Force took off from Bourn Airfield, in Cambridgeshire, with a crew of three Britons, two Canadians and two Australians. Their destination was Berlin. While returning from that mission, the aircraft was intercepted by a German night fighter at about five past 10 and shot down over Amsterdam, crashing into a farmhouse. Two of the crew, Pilot Officer Hart and Warrant Officer Williams, were buried shortly after the crash. Six members of the Van de Bijl family—the farmer, his wife and their four youngest children—were also killed. The four eldest children were asleep in another area of the farm and survived. The aircraft broke in half and the end was driven into ground reclaimed from the sea. This made excavation, and therefore burial of the five remaining crewmen, impossible.

However, last year the remains of the other five crew were discovered when the crash site was excavated by the Royal Netherlands Air Force. Individual identification was not possible, but forensic examination revealed that those five airmen had been found. One of the seven members of the crew was Pilot Officer Alan Hart from the Royal Australian Air Force. He was only 22 years old and, as I said, his body was found immediately after the crash in 1944 and was buried. He lived in Murrumburrah, New South Wales prior to his service. He was a farmer prior to enlisting and he enlisted in Sydney on 19 July 1941.

One of the other members of the crew was Sergeant Leslie Clifton of the Royal Air
Force Volunteer Reserve, who was 24 years old. His body was found last year and was buried at the service. Flight Sergeant Harold Boal, from the Royal Australian Air Force, was a navigator and only 20 years old. He was born and grew up on the family farm located at Echuca, near Shepparton, Victoria. He worked in the accounts branch of the GPO in Melbourne prior to enlisting, and he enlisted on 12 September 1944. His body was found last year and was buried at the service.

Another crew member was Warrant Officer Gordon Williams, from the Royal Canadian Air Force, and he was 21 years of age. His body was buried immediately after the crash. The body of Sergeant William Jones, of the Royal Air Force Volunteer Reserve, was found last year and was buried at the service. He was 21 years of age. Sergeant Douglas Hicks was 24 years old and was from the Royal Air Force Volunteer Reserve. His body was found last year and was buried at the service. Flight Sergeant Melville Price was 30 years old and was from the Royal Canadian Air Force. His body was found last year and was buried at the service.

As I said at the commencement of my remarks, last year Mrs Jordan, who I understand lives at Peakhurst, New South Wales, was asked if she wished to be at the service, as was Mrs Duncan, who is the sister of the late Flight Sergeant Boal. Both women made the trip to Amsterdam for the service on 29 November 2001, and on 29 November 2002 a number of my colleagues and I were honoured to lay a wreath and to visit the site where these men died in those circumstances during World War II. The special service was held at the Christian Church at Halfweg, Amsterdam, and the remains of the recently discovered five missing crewmen were reinterred with full military honours at Zwanenburg General Cemetery, Haarlemmermeer, Amsterdam. All of the airmen are also commemorated on the Runnymede Memorial in Surrey, England. The honour guard at last year’s service consisted of airmen from Australia, Canada and the United Kingdom.

Squadron No. 97 had been a squadron within the Royal Air Force on and off since 1917. The men who flew in that squadron were acting under instructions from Bomber Command to break the morale of the Germans by bombing the infrastructure of Germany. As casualties in that war go, around 55,000 servicemen under Allied Bomber Command lost their lives in combat during World War II. That is a very hefty component of men who served. In bombing raids on Berlin on the night of 30 January 1944 alone—that is the night our two servicemen lost their lives—32 Lancaster aircraft were shot down, each of which was manned by a seven-man crew.

I want to complete my speech tonight with the recollections of Mr John Rimmington, who also flew with Squadron 97 on the bombing operations during the Battle of Berlin on that same evening. He says:

During the Battle of Berlin I did several trips to that city which included the one on the 30 January. I am sure that most aircrew will agree with me when I say that to see at the briefing, that red tape going from base to Berlin brought a feeling of apprehension, in particular when one had been there the previous night, it was not a pleasant sight. By this time we would be well aware that we were in for a long trip, because in the early afternoon we would have got the petrol load from the ground staff which would give us some indication that it was going to be a trip deep into Germany.

We had to be out at the dispersal an hour before take off, to check engines etc then out of the aircraft to have a cigarette. Strangely, the target would not be talked about at this time only to say ‘not again’ that by the way is the polite way to say it. It was then back into the old Lanc. hoping that everything was still alright and no problems, if there were, it was then a mad dash to the reserve Lancaster and by the time we were ready for take off, everyone else had gone on their way, not a good start for an Op.

The men who got into those Lancasters on 30 January 1944 were very much aware that there was a big chance that they would not come back. Our two servicemen, Pilot Officer Hart and Flight Sergeant Boal, did not come back. It is only right—and I think my colleagues who attended with that delegation would agree with me—that we remember them. I thought it appropriate that we record their story here this evening, and to thank the Ambassador, Mr Hussin, and Stewart Page.
and Marina Tsirbas from the embassy for their assistance.

**Taxation: Reform**

Senator MURRAY (Western Australia) (7.40 p.m.)—There are conflicting and confusing messages in the media about tax right now, aided by sloganeering from our leading politicians. Australians at large want more money spent on essential services. That means raising more revenue. Against that there are regular calls for cuts in income tax, ranging from the venal, self-serving calls of the wealthy to genuine pleas for relief from salary earners. Most commentators focus on the nominal tax rate, not the effective tax rate.

Lowering the top 47 per cent tax rate plus 1.5 per cent Medicare levy has real validity for some poor souls earning $60,000 without deductions or concessions. But the higher up the earnings and wealth scale you go, the less meaningful is that 48.5 per cent tax rate, as welfare and tax dodges for the well-off kick in. Based on the 2000 tax statistics, I am told the effective tax rate for all individuals earning $70,000 or more is 39 per cent. How to reconcile these conflicting calls? More importantly, how to pay for them? If you want the top rate to come down, I see no option but to reduce the hidden subsidies. Government’s usual levers are to increase tax rates or taxes, which both major parties pretend they have ruled out, except for seemingly endless variants of that tax art form, the levy. They could increase public sector debt but, given the uncertain times we are in, they are rightly cautious about that.

Labor sold off most of our assets and the coalition wants to finish off the job. The Senate stands in the way of that, so that is off the list for the moment. That leaves the coalition and Labor’s main hope relying on economic growth and bracket creep to bring in the revenue. Unfortunately, it is not enough for both tax cuts and growing expenditure needs. And, as for surpluses, the Prime Minister and Treasurer spend them as fast as they appear. An editorial in the Australian Financial Review on 28 November joined the call for lower income tax rates. It also added this remark:

... Labor and the Democrats emasculated the GST, keeping consumption taxes at a very low level ... Breathtakingly wrong—and interesting, given that the Fairfax group asked for an exemption from GST in submission 854 to the Senate Select Committee on a New Tax System.

Labor of course opposed the GST and they had nothing to do with its form or rate. The coalition chose the tax rate level of 10 per cent. They also proposed extensive GST exemptions for dwelling rentals, health services, education, financial services and exports, totalling over 20 per cent of GDP. The Democrats agreed with those exemptions and then broadened them to include basic and fresh food, plus extending the exemptions in the health, education and charitable services sectors.

The government proposed to cut income tax rates for better-off Australians by raising taxes on food for all Australians. The Democrats disagreed. Why in this time of great world uncertainty, this year’s fiscal deficit, low future fiscal surpluses and the danger of rapidly rising security costs is there a campaign by some Australians for expensive income tax cuts? Why when there is a great cry from most Australians for more government spending on creating jobs, on the environment, on defence and internal security, on industry programs and on health and education services is credibility given to a tax cuts campaign? When I hear moronic nonsense about this government being the highest taxing government in Australia’s history from the very people inconsistently and simultaneously clamouring for a greater spend on health and education, I feel exasperated—especially when Australia’s total tax take is amongst the very lowest in the OECD. However, it might be possible to do both—to cut and spend. But it will take political courage.

If you were contemplating tax cuts, the first step would surely be to end bracket creep. Indexation of tax scales is costly. Restoring the indexation of petrol could be used as a partial trade-off for starting to index at least the bottom rung of the tax rates. How else could you pay for it? Reducing unwarranted tax expenditures and concessions is a possibility. When I last looked, tax expendi-
ture was over $30 billion—and growing—and a $7 billion to $10 billion reduction is feasible. The budgetary cost, distributional implications, efficiencies and imperfections of tax expenditure policy have not been systematically studied. They should be; if they were, reform would release many billions of dollars. Eliminating tax rorts and cutting wasteful tax expenditure are always attractive options.

Very seldom—I might almost be tempted to say never—do I hear those calling for income tax cuts tell us how they will pay for them. The most transparent and fairest way is to cut out corporate welfare and welfare for the well off. Not all government industry assistance programs, support schemes, subsidies and tax concessions are needed. They do not just help corporations; they help individuals through businesses run as a family trust, a partnership or a small proprietary company. Many exporters, farmers, manufacturers and entrepreneurs are well off, and they get the hand-outs too. There are corporate assistance packages for major industries and their highly paid executives. Highly paid executives get private health insurance rebates, child-care benefits, first child tax refunds, free or subsidised Medicare and concessional treatment of superannuation contributions. Treasury estimates say that superannuation concessions are reaching toward $12 billion. Other wealth-creating measures include capital gains tax relief for individual shareholders and institutional shareholders, venture capital concessions and capital gains discounts for individuals.

The Democrats are game to consider any reform program on its merits, provided additional money also goes to meet legitimate unmet needs. There are three main principles to look for in taxation: equity, efficiency and simplicity. For the moment simplicity is just too hard, so let us concentrate on the first two. It is not fair to tax superclubs less than hotels or to tax one cereals manufacturer less than its competitors just because it is owned by a church. Neither is it efficient; nor from a revenue point of view is it very smart. Australia’s overall tax burden is not too high, but some people and businesses are not paying their fair share and others are paying too much. Then there is the need to incentivise people to move from welfare to work.

There is a problem between the feds and the states with regard to responsibilities, cost shifting and efficiencies. In their budget submission earlier this year the Australian Council of Social Service estimated that the government could raise more than $7 billion per year in additional revenue without increasing the rate of tax. The government’s private health insurance rebate will soon reach $3 billion per year. Based on tax statistics, nearly 75 per cent of the money goes to the top 40 per cent of income earners. Capping and means testing this rebate would deliver savings of $1.1 billion. The government’s backdown on the equitable taxation of family trusts is costly. In 2002-03 alone the cost of this backdown is $450 million. The concessional treatment of company cars under fringe benefits tax costs more than $800 million per year. The Ralph Review of Business Taxation estimated that $200 million could be collected from the introduction of modest reforms to the taxation treatment of company cars. It is estimated that up to $600 million can be raised by reforming employee share schemes that benefit some employees and not others. The overall value of work related deductions is about $7 billion. Up to $500 million could be raised by rationalising and capping work related deductions.

The majority of overseas countries, including the USA, the UK and Canada, do not allow or severely restrict negative gearing. It costs Australia well over $2 billion a year and tax reform could save at least $700 million of that. Removing the mutuality provision tax exemption from the large big business clubs and others that operate on a commercial basis would save upwards of $200 million a year. We could reduce funding to wealthy private schools by $150 million and reduce funding for offshore asylum seekers by $100 million. You get the picture. Why don’t we agree on how much we want to cut income tax by and how much more we need to spend on essential needs, add the two together, work out how to pay for it and see what the trade-offs are? It is a better idea than whingeing, don’t you think?
Election to the Senate

Senator SANTORO (Queensland) (7.50 p.m.)—Not one of us makes it into this place without the help, the love, the commitment and the loyalty of many people within our families, our parties and the broader community. We all owe our place in the Senate to a great number of people who have stuck with us over many years through thick and thin, never asking for anything back for themselves and always being prepared to give without hesitation, qualification or regret. They are our true friends—our personal friends, the friends of our parties and the loyalists to the philosophies, principles and policies which we, from our different but in the main sincere perspectives, seek to enunciate in this place day in and day out.

Last week in my first speech I started to thank the people who made it possible for me to become a senator. The list could not be a long one; time would not allow me to thank many more people. Tonight I wish to make the public record more complete by recognising some of the many other individuals who have been my friends and who have continued to be so under often difficult circumstances. They fall under many categories and headings, but they are all my friends. I thank the people in the Clayfield electorate branches who supported me over 15 years. They are often referred to as the ‘little people’, but they are giants in my political and personal life. They include the whole Nicholls family—Peter, Barbara and their children, particularly Tim, my former campaign director; Ernie and Gwen Ginn; Robin Rogers; Leo and Cynthia Giddens; Scott and Helen Wassman; the tireless Anne Reid, a good friend to so many; Peter and Tricia Johnson; John Miles and his extended family; Peter Wyer; John and Jan Keevers; Bill and June Dunn; Geoff Jennings; Ron and Ada Gray; Cam Spencer; Regina McGuire; Tony Marshall; Tony Barrett and his wife, Sue; Noe Vicca; John Greenhalgh; Sally Hannah; David and Suzy Ross; and Nick and Donagh Lytras, just to name a few.

I also wish to place on record my appreciation of five other special friends. John and Patsy Quayle welcomed me into their group of friends and family many years ago. John has been in the news over recent times, as has one of his Queensland colleagues, Dr Robert Patterson—one as the chairman and the other as a director of UMPS, the medical insurance company that has been much in the news. I regard those gentlemen as two of the most ethical, effective, honest and hard-working doctors and businesspeople I know. I say thank you to a very special friend, Frank Ryder and to his wife, Patricia. Frank is a most trusted and valued friend, whose wisdom and encouragement has often got me out of a personal and political trough. Frank is a very special human being and friend.

When I go beyond my immediate electorate of Clayfield, so many other great, almost anonymous but totally dedicated Liberals come to mind—Liberals who have been good to me but, more importantly, have continued to be very good to the Liberal Party: Neville and Kaylene Stewart; Robin Faridoulys; Bob, Peg and Melinda Holborn; Ray and Lynne Friis; Kathy Lynch, Bill Gollan; Gordon Voltz; Ian Weller; Chris Mills; Ron and Di Baldwin; Cuong Bui; Maria Forbes; Elaine Bowers; Daryl Low; Jim MacNally; Gerard Puynter; Chris Penglis; Sandy Sharmon; Tanya Roberts; John Wallerstein; Mark McCabe; Debbie Wardle; Penny Coker; Elaine O’Keefe; Joan Stomfai; Keith Schafferious; Adrienne Jackson; the whole Mills family from Rockhampton; Betty-Ann Ashworth and her husband, Graham; Penny Edwards; Kirby and Denise Leekie; John Phelan; Tom Plunkett; Lorraine Ralph; Fraser Stephen; Andrew Fairman; Zena Belcher; Ken and Margaret Fry; Ruth Finnegan; Scott Malcolmson; Jean Bidstrup; Andrew Champion; Adrian Schrinner; Ross Vasta; Robin Mills; and Bruce Davidson, one of my former state colleagues and one of my very good friends.

I also thank my Young Liberal friends who, because of their ability and commitment, will be the leaders of the Liberal Party in the future. I have mentioned Lee Benjamin but I mention him again, along with Nick Park, Andrew Park, Mark Powell, Denise Button, Arthur and Estelle Chrenkoff, Rob Whelan, Scott Delaney and Karl Eaves—young people of enormous ability, dedicated to a real philosophy and a real
cause. They are, I state again, leaders of the future.

As I have indicated previously, the personal and political support of my parliamentary colleagues in this parliament has been a great encouragement and inspiration to me over many years, but particularly during recent difficult times. I thank Steven and Astra Ciobo, Peter Dutton, Kay and Dave Elson, Margaret and David May, Cameron and Sharen Thompson, Peter Slipper, Gary Hardgrave, Michael Johnson and Ian Macfarlane for their open and strong support during trying times. Your trust in me will be repaid by more of my traditional hard work, loyalty and commitment to the Liberal Party and to you.

I acknowledge the strong friendship that I enjoyed over many years with two outstanding Queensland Liberals, Con Galtos and Bob Carroll. They were two of my best mates and greatest supporters once, but we fell out and things are not as they used to be. It is a pity. Things may be okay again with the passing of time, but tonight I thank them for their past support, which was and still is very much valued. To my interstate colleagues like Jeannie Ferris, Andrew Southcott, Pat Secker, Chris Ellison, Ian Campbell, Alan Cadman and Tsebin Tchen: thank you for always being there over so many years.

When I lost my seat in the state parliament last year I very quickly found out who my real friends were. All of the abovementioned were and still are, but there is another group of people I wish to acknowledge as good friends who have stuck by me and who are some of Queensland’s leading businesspeople in their respective fields. They include Jim Toohey, John Hastie, Brian Swinton, Fel Bevacqua, Tino Arquilla, Richard Flanagan, Mark Brodie, Clive Bubb, Maha Sinthanamby, Stephen Williams, Phil Smart, Dudley Martin, Tim Crommelin, Frank Haly and John Jamieson. These people, together with help and advice from others including Peter Rasey, Robyn Kleinschmidt and David Okines, were of immeasurable assistance as I transformed myself for a while from a politician to a businessman.

Coming from Queensland, as a Queensland Liberal, it is fair to say that the road I have travelled has not been an easy one. I also want to recognise tonight a number of people who greatly assisted and motivated me over a long period of time but who are regrettably no longer with us. I acknowledge in this place tonight the nurturing, affection and support given to me freely by the late Betty Brown, Terry Barlow and George Pippos. They were good people, committed to good causes and particularly committed to me. I value very much the support that they gave to me, and I recognise them and salute them in this place tonight.

As I said, it is fair to say the road that I have travelled has not been an easy one. Indeed, the road for the Liberal Party in Queensland has been a very hard one for most of the 26 years that I have been a member of my party. At one time or another, indeed at many times, I have sought to spur on and motivate all of the above and many more friends and Liberals. It has not been easy and often it has been a struggle. As I have done so, I have reminded myself and my friends of—and indeed we have been motivated by—the reflections of renowned author Italo Calvino in relation to his hero, Amerigo Ormea, an Italian political activist in the 1950s. Italo Calvino observed the long suffering Amerigo often pursuing seemingly unreachable goals and often experiencing bitter disappointment and, one day, he formally observed:

As for Amerigo, he had learnt that changes take a tortuous course in politics, and that he must not expect them to happen overnight or bank on fate doing an about-turn.

For him, as for many others, acquiring experience had meant becoming a trifle pessimistic. On the other hand, there was the moral law which required you to continue doing your best, day after day in politics and elsewhere.

If you are not stupid, it’s these two principles that matter—To have no illusions and not to stop believing that everything you do can be useful.

I have never stopped believing, and neither have my friends. For this, in this place tonight I salute them and again I say to them thank you.

_**Senate adjourned at 7.59 p.m.**_
DOCUMENTS

Tabling

The following government documents were tabled:


Private Health Insurance Administration Council—Report for 2001-02 on the operations of the registered health benefits organisations.


Snowy Mountains Hydro-electric Authority—Report for 2001-02.

United Nations—

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment—Committee Against Torture—Communications—

No. 138/1999—Decision.

No. 211/2002—Outline.


International Covenant on Civil and Political Rights—Human Rights Committee—Communications—

No. 880/1999—Australian government’s comments on the Committee’s final views.

No. 1053/2002—Outline.

No. 1065/2002—Decision.

No. 1087/2002—Decision.

Tabling

The following documents were tabled by the Clerk:

Civil Aviation Act—Civil Aviation Regulations—Airworthiness Directives—Part—


107, dated 28 November 2002.

Commonwealth Authorities and Companies Act—Notice under paragraph 45(1)(e)—Variation in Commonwealth rights as a member of Aboriginal Hostels Limited.

Quarantine Act—Quarantine Amendment Proclamation 2002 (No. 1).

Sydney Airport Curfew Act—Dispensations granted under section 20—Dispensation No. 13/02 [2 dispensations].
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Environment: Indigenous Culture
(Question No. 813)

Senator Nettle asked the Minister representing the Minister for Foreign Affairs, upon notice, on 21 October 2002:

(1) Does the Minister accept that under the International Convention for the Elimination of all Forms of Genocide, destruction of culture is a form of genocide.
(2) Is the Minister aware that the ongoing destruction of Indigenous culture at Sandon Point, New South Wales, is seen as an act of cultural genocide by senior Indigenous community figures.
(3) What measures will the Minister be taking to ensure that Indigenous culture at Sandon Point is protected in accordance with the Convention.
(4) Will the Minister contact local Indigenous authorities at Sandon Point to investigate their claims of cultural genocide under the terms of the Convention.
(5) Will the Minister take action to apply the provisions of the convention to those responsible for the destruction of Indigenous culture at Sandon Point.
(6) Will the Minister be guided by the principles of Article 13 of the Draft Declaration on the Rights of Indigenous People, which accords them the right of access in private to their religious and cultural sites.
(7) Is the Minister aware that the rights of access and privacy accorded to Indigenous people under this declaration are being transgressed by a housing development at Sandon Point.
(8) What action will the Minister be taking to investigate the claims that rights accorded to Indigenous people under Article 13 have been denied at Sandon Point.
(9) What actions will the Minister be taking to see that the Burra convention is appropriately applied to Aboriginal sites at Sandon Point.
(10) Will this include contacting local Indigenous authorities at the Sandon Point Aboriginal Tent Embassy.
(11) Is the Minister satisfied that articles 10, 23, 25, 26, and 27 of the Burra Convention have been observed in relation to Aboriginal sites at Sandon Point.
(12) If the Minister is not satisfied that these articles have been observed, what measures do they propose to take to see that they are.

Senator Hill—The Attorney-General has provided the following answer to the honourable senator’s question:

In response to the question asked by Senator Nettle of the Minister representing the Minister for Foreign Affairs on 21 October, I wish to state that as the issue does not fall under the Foreign Minister’s portfolio responsibility, the answer can be found in the response to Question on Notice 814 provided by the Attorney-General.

New South Wales: Relocation of Services to Central Coast
(Question No. 821)

Senator Hutchins asked the Minister for Finance and Administration, upon notice, on 22 October 2002:

Does the Government have any plans or strategies in place to strategically relocate any agencies, departments or buildings to provide jobs for the regions in need of them; if so: (a) would the Minister class the Central Coast region of New South Wales as one that is in need of the sort of jobs boost that could be achieved by relocating a Federal Government agency, department or building; and (b) can details be provided of any plans or strategies that may be in place to relocate any agencies, departments or buildings to the Central Coast to provide much needed jobs and a boost to the region’s economy.

Senator Minchin—The answer to the honourable senator’s question is as follows:

The Government’s strategy is to have Commonwealth agencies and departments located where they can administer programmes in the most efficient and effective way, having regard to the ability to provide
services to their designated customer catchment area, whilst obtaining value for the taxpayer’s money. The Government does have representational offices located at Gosford on the Central Coast of New South Wales. Agencies represented include Austrade and Centrelink.

Defence: Protective Suits for Chemical or Biological Agents

(Question No. 832)

Senator Chris Evans asked the Minister for Defence, upon notice, on 1 November 2002:

(1) How many: (a) full protective suits; and (b) components of protective suits, does the Australian Defence Force (ADF) currently have for personnel operating in combat environments where there is a possibility of chemical or biological agents being used.

(2) For (1)(a), what type of protective suits; and for (1)(b), what components and how many (eg 20 masks).

(3) Have any additional: (a) protective suits; and (b) components of protective suits, been ordered; if so: (i) what type and how many of each type have been ordered; and (ii) when are they expected to arrive.

(4) What units have been trained to operate in combat environments wearing: (a) protective suits; and (b) components of protective suits.

(5) How many personnel in each of the units detailed in (4) have been so trained, including as a percentage of the total personnel that form each of these units (eg 25 out of a total of 150 in one unit of the SAS are trained to operate in a full protective suit, 25 out of 100 in the Chemical, Biological and Radiological Squadron in the Incident Response Regiment, etc).

(6) How long does it take to train personnel to operate wearing: (a) protective suits; and (b) components of protective suits.

(7) How many personnel can be decontaminated, per hour, in the event of involvement in a combat environment where chemical and/or biological agents might be used

(8) What unit or units have the capability to decontaminate personnel.

(9) Can the Incident Response Regiment (IRR) decontaminate trucks, tanks, or any vehicle; if so: (a) what vehicles; and (b) how many per hour is possible.

(10) Can the IRR be called out within Australia by a decision of the federal Government acting alone, or can it be called out only after a request for assistance from the relevant state or territory.

(11) Can the following be provided: any unclassified documents that describe the current legal requirements and administrative arrangements/guidelines that exist to coordinate the resources of the federal Department of Health and Ageing and the Department of Defence, in respect of responding to any domestic terrorist threat.

(12) Are these arrangements, guidelines or protocols currently being revised; if so: (a) when is the decision on any changes expected to be made; and (b) will it be made public.

(13) Does the department have any agreements with health agencies or state emergency agencies in the states or territories with respect to emergency responses; if so: (a) which agencies in which states and territories; and (b) can copies of these agreements be provided.

(14) Does the IRR have capability to defuse bombs; if not, do any other units in the ADF have this capability; if so, which ones.

(15) (a) What equipment does the ADF have for detecting, identifying and monitoring biological and chemical hazards; and (b) can information be provided on the capability the ADF has for predicting bio/chemical hazard duration and movement.

(16) (a) Does the ADF have any of the following: (i) the Man-portable Chemical Agent Detector, (ii) the Fuchs Nuclear and Chemical Reconnaissance and Survey Vehicle (and how many), (iii) the Prototype Biological Detection System, and (iv) the Multi Purpose Decontamination System; and (b) in relation to any of these technologies which the ADF does not have, can details be provided of any alternative capabilities, and how the latter differ from the technologies listed at (i) to (iv).

Senator Hill—The answers to the honourable senator’s questions are as follows:
(1) Due to the sensitive nature of the capabilities of the Australian Defence Force (ADF) in relation to operating in chemical and biological environments detail pertaining to quantities of equipment on issue is classified and, therefore, cannot be released.

(2) ADF personnel deployed on operations in areas where there is increased threat from CBR hazards will have access to the appropriate natures of protective equipment.

(a) Types of protective equipment (includes components) available to the ADF include:

(i) the Mark 4 CBR IPE which is complemented by the S10 CBR respirator, filters, boots and gloves; and

(ii) specialist personnel within the IRR have a variety of other specialist equipment to support decontamination tasks and chemical device disposal tasks providing increased protection to higher threats of contamination and effects of blast commensurate with their employment in threat areas.

(b) Detail on the quantities of equipment on issue is classified and, therefore, cannot be released.

(3) Since the attacks of 11 September 2001, Defence has commenced procurement of additional CBR IPE and associated equipment. Additional resources are also being procured through Joint Project 2087 – Enhancement of the IRR. (a) and (b) Detail on the types, quantities and delivery dates of equipment is classified as it reveals ADF capability and, therefore, cannot be released.

(4) Personnel within the IRR, the Special Air Service Regiment and 4th Battalion Royal Australian Regiment (Commando) maintain high levels of competency to operate in combat environments wearing CBR IPE. In addition, selected personnel within combat units have been trained as instructors on a four week Nuclear, Biological and Chemical (NBC) Instructors Course at the School of Military Engineering, Moorebank, Sydney, to rapidly train other members within their units to operate in combat environments wearing complete CBR IPE. Some ADF units utilise the NBC Instructors to conduct familiarisation training in order to develop confidence in the IPE. (a) and (b) Personnel are traditionally trained to wear complete CBR ensembles, not individual components of the suit.

(5) 100% of the personnel within the IRR (that is, 205), approximately 75% of the personnel within the Special Air Service Regiment (that is, 400) and 40% of 4th Battalion Royal Australian Regiment (Commando) (ie 200) have been trained to operate in combat environments wearing complete CBR IPE. Approx 243 NBC Instructors (13 Navy, 200 Army and 30 Air Force) have completed the NBC Instructors Course over the last five years. These personnel can rapidly train personnel within their service to operate in combat environments wearing complete CBR IPE. Some ADF units utilise the NBC Instructors to conduct familiarisation training in order to develop confidence in the IPE. (a) and (b) Personnel are traditionally trained to wear complete CBR IPE, not individual components of the suit.

(6) A person with no experience can be trained to wear CBR IPE within approximately 1½ days. The training includes: an introduction to the CBR threat, introduction to CBR agents and materials, first aid in a CBR environment, and immediate action and emergency drills. (a) and (b) Personnel are traditionally trained to wear complete CBR IPE, not individual components of the suit.

(7) Decontamination rates are dependent on a number of factors, including the nature of the hazard, location and meteorological environment. Approximately 30 to 120 personnel can be decontaminated per hour using a personnel decontamination station operated by one Engineer Troop.

(8) Engineer Construction Squadrons, Engineer Support Squadrons (within Combat Engineer Regiments) and the IRR have elements that are able to decontaminate personnel.

(9) The IRR can decontaminate a variety of small equipment. (a) and (b) With current equipment and training, approximately 1-2 tanks and like vehicles can be decontaminated per hour with 3-6 trucks and like vehicles per hour. In time, 4-5 tanks and like vehicles per hour and 8-10 trucks and like vehicles per hour should be achievable. This is greatly dependent on the level of contamination of the vehicles and meteorological factors.

(10) Where domestic violence is occurring in a State or self-governing Territory and they are unlikely to be able to protect Commonwealth interests, the Governor-General, in council, may make the order to call out ADF assets with or without a request from the Government of the State or Territory. In relation to a State or Territory initiated use of the ADF, if the Government of a State or Territory is unable to protect the State or Territory against a domestic violence, it may apply to the Commonwealth to protect the State or Territory. The authorising Ministers must still be satisfied that the State or Territory is unable to protect itself against the domestic violence before the Governor-General may make a written order to utilise the ADF.
Australian counter terrorism responses are coordinated by the Protective Security Coordination Centre in the Attorney-General’s Department. (Further information about Australia’s national security framework can be obtained from the Attorney-General’s Department). Defence Legislation Amendment (Defence Aid to Civilian Authorities) Bill 2000 provides the framework under which the ADF can be called out to domestic incidents.

Relevant counter terrorism documents and processes have been reviewed recently including the signing of an Inter-Government Agreement on Counter Terrorism. (Further information about Australia’s national security framework can be obtained from the Attorney-General’s Department).

No. Defence relies on the Attorney-General’s Department to set formal agreements with other departments and agencies for domestic incidents. Australian counter terrorism responses (including use of the IRR) are coordinated by the Protective Security Coordination Centre in the Attorney-General’s Department. If called out, the ADF would liaise with State and Territory police to determine any support that may be required. Defence practices these working relationships during national counter-terrorism exercises involving the ADF, other Commonwealth Departments and agencies (including relevant health agencies), State and Territory police and emergency services. (Further information about Australia’s national security framework can be obtained from the Attorney-General’s Department).

The IRR retains a full disposal capability including chemical, biological and radiological ‘bombs’ and is tasked to undertake disposal action within Special Forces operations and deployed force support tasks. ‘Bomb’ disposal action within the Australian domestic security environment is undertaken by the Joint Ammunition Logistic Organisation through its nationally position regional network disposal teams. Explosive Ordnance Disposal Technicians within Engineer units, and specialists in the Navy and Air Force also maintain ‘disposal’ capabilities that may be deployed if required.

Information on Defence’s ability to detect, identify and monitor and predict the duration and movement of CBR hazards is confidential in nature.

Details on the types of CBR detection equipment used by the ADF is classified. Information of the in-service detection equipment is classified. In this regard Defence is equipped to world class standards.

Rural Financial Counselling Service: Funding

(Original Question No. 894)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 11 November 2002:

1. Has the department met all internal and external deadlines for assessment of Rural Financial Counselling Service funding applications in calendar year 2002.
2. Can details be provided of adjusted internal and external deadlines in calendar year 2002, including extensions to application dates.
3. When did the assessment of funding applications for the period July 2002 to October 2002 occur.
4. When were applicants notified of this assessment.
5. When did the assessment of funding applications for the period November 2002 to June 2004 occur.
6. When were applicants notified of this assessment.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

1. and (2) Funding agreements for 2001-02 were due to expire on 30 June 2002. The intention to implement a four month extension to the agreements was advised to applicants on 18 January 2002.

The Parliamentary Secretary for Agriculture, Fisheries and Forestry announced funding for a new Rural Financial Counselling Service Program on 14 March 2002 and applications for the twenty-month period 1 November 2002 to 30 June 2004 closed on 3 July 2002.
Applicants were advised that an outcome of the assessment process for the twenty-month period was likely to be announced in mid-September 2002. The date of the announcement was 23 September 2002.

(3) and (4) Applications were not called for the period July to October 2002. Agreements were extended as described in 1 & 2 above.

(5) The assessment of funding applications occurred on the following dates:
   The National Rural Advisory Council met on 26 August 2002 and at a follow up teleconference on 14 September 2002.
   Applicants were notified of the assessment status of their applications by the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry on 19 September 2002. These were faxed to applicants on 20 September 2002.