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

**FUEL: ETHANOL**

**Return to Order**

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (9.30 a.m.)—by leave—On 16 October, the Senate ordered the government to table documents relating to an ethanol excise and production subsidy. The government made an interim response to the order on 21 October 2002 and indicated that, due to the number of agencies involved in the coordination of the request, it was not possible to comply by the due date. At that time, I indicated that the government expected to be in a position to respond shortly. I gave a further response on the very last sitting day of 2002—in fact, I think it was in the early hours of the morning—and I re-scrutinised that Hansard last night. I anticipated at that time that if we failed to comply that Hansard may well be quoted back to me in the new year—and I still have that sense of anticipation.

At that time, I did advise the Senate that the response to the order had involved an extensive search of documents held in the six portfolios, that this was a lengthy and time-consuming task, that consideration of the documents was close to conclusion and that the government was not able to provide its final response prior to the rising of the Senate. I further added that I had spoken to the coordinating minister, the Minister for Industry, Tourism and Resources, Mr Macfarlane, and also to Senator Kerry O’Brien who has been pursuing this matter. I do not think Senator Kerry O’Brien would mind me saying that we have had a number of discussions in the days leading up to Christmas and I reiterated my own commitment to the government providing a response. Unfortunately, the response has not been able to be made.

Over the summer recess, the documents have been thoroughly gone through in regard to the normal protocols that apply to tabled documents responding to a Senate return to order. The government has been unable to stand by the commitment that I made on behalf of it back in mid-December. The government is seeking to conclude its consideration of these documents and its compliance—albeit very late—to the order of the Senate. My latest advice is that the government will respond as soon as possible.

Senator O’BRIEN (Tasmania) (9.34 a.m.)—by leave—I must say that I am not envious of Senator Ian Campbell’s position in relation to this matter. He is, as he advised the Senate, making statements in effect on behalf of the responsible minister, the Minister for Industry, Tourism and Resources, Mr Macfarlane, in the other place. He was right: I am going to quote back to him his words from the last day of sitting last year—not so much to embarrass him but to point out that he was passing on a commitment to the Senate. His words were—and he was referring to Mr Macfarlane:

The minister is happy for me to commit to tabling those documents out of session by next Tuesday.

That Tuesday was 17 December 2002. He goes on to say:

I am confident, dare I say—the Hansard might be quoted back to me next year!—that we will achieve that, and I have said that to Senator O’Brien privately and now on the record. Shortly after the 17th, of course, when the documents were not provided, I spoke to Senator Ian Campbell and he assured me that all was being done to comply. Today, we are told not that the government commits to a response by a certain time—perhaps it is a case of being once bitten twice shy on behalf of Senator Campbell in that regard—but that, on the words given to the Senate today, we are further away from the government complying with this return to order.

It is totally unsatisfactory that the government, through Senator Ian Campbell, has given a commitment to the Senate that it will do certain things. I am not seeking to cast doubt on the integrity of Senator Campbell in this regard; he was clearly giving a commitment on behalf of Mr Macfarlane. The concern I have is that, apparently, the commitment was given quite cavalierly—not only was the response not provided by the time it was undertaken to have been provided, but
we are still unable to learn when it will be provided.

I think that this is a disgraceful performance by Minister Macfarlane. I remain unaware of the reason why this could not be complied with. There have been many more onerous returns to order than this one that have been complied with in a much shorter space of time. I am concerned that there is a reluctance to comply with this return to order. We saw in the newspapers yesterday that the Manildra Group's donations to the Liberal Party exceeded $200,000 last year. In the absence of the production of these documents, we are entitled to conclude that where there is smoke there will be fire. I look forward to seeing the documents about this matter.

Senator HARRIS (Queensland) (9.37 a.m.)—by leave—I also take note of Senator Ian Campbell's reference to the ethanol matter. I want to raise concerns about the time factor in relation to providing these documents to the Senate. The documents are very important to the function of the Senate, but they are equally important to the sugar industry. I ask Senator Ian Campbell to attempt, through the minister, to assure the industry that the benefits from the ethanol actually flow through to the producers in the cane industry.

I realise that it is state legislation that affects that control. By way of explanation, when a farmer delivers his cane crop to the mill, at the point of the mill accepting it, ownership of that cane transfers to the mill. All the products from it—the sugar and the gas—are then value added to the benefit of the mill. Through you, Mr Acting Deputy President, to Senator Ian Campbell—

Senator Ian Campbell—On a point of order, Mr Acting Deputy President: I think that these comments are outside the standing orders. The statement I made was in relation to the timing of the tabling of documents. It did relate to ethanol and Senator Harris is raising very important issues, but I think that this issue can be discussed at other times. We are going into the detail of policy and even state government policy. They are important issues but I think that if Senator Harris wishes to comply with the standing orders he might raise these issues at another time.

The ACTING DEPUTY PRESIDENT (Senator Watson)—Senator Harris, could you raise these issues at another time and be more relevant to the matter being debated?

Senator HARRIS—Further to the point of order—

The ACTING DEPUTY PRESIDENT—I have ruled on the point of order.

Senator HARRIS—Senator Ian Campbell raised a point of order and I am speaking to it. In my opening comments I clearly indicated to Senator Campbell that my reason for giving the explanation related to the importance of the documents being provided to the Senate. I think I have sufficiently conveyed to Senator Campbell the reasons for that importance. If he does not want the remainder of that on the public record, I am quite happy to speak to him privately.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (9.41 a.m.)—by leave—I am very happy for things to be put on the public record. My point of order was to ensure that they are put on the public record at the right time. It is an important debate. I am not trying to gag Senator Harris. I do not want to hear from him privately. I am happy for him to have it on the public record. However, I think the standing orders demand that the Senate deals with things in an appropriate and timely manner and that subject can be dealt with later.

MINISTERIAL STATEMENTS
Iraq

Debate resumed from 4 February, on motion by Senator Hill:

That the Senate take note of the statement, upon which Senator Faulkner had moved by way of amendment:

At the end of the motion, add “and:

(a) censure the Government for forward-deploying Australian troops to a potential theatre of war with Iraq in the absence of any United Nations authorisation and without revealing to the Australian people the commitments on which that deployment was based;
(b) declare its opposition to a unilateral military attack on Iraq by the United States;
(c) insist that the disarmament of Iraq proceed under the authority of the United Nations;
(d) express its full support and confidence in our servicemen and women, while expressing its opposition to the Government’s decision to forward-deploy them;
(e) express its total opposition to any use of nuclear arms and declare that Australian support should not be provided to any operation where such weaponry may be used; and
(f) declare that it has no confidence in the Prime Minister’s handling of this grave matter for the nation.

and upon which Senator Bartlett had moved by way of amendment:

At the end of the amendment, add “and that the terms of this motion be communicated to the governments of all members of the United Nations Security Council”.

Senator SANTORO (Queensland) (9.41 a.m.)—Before the adjournment yesterday I was saying that the world should not be taken in by Saddam’s militaristic rhetoric. He knows that he can really only count on the Republican Guard if it comes to a real fight. He knows too that, in the time-honoured tradition of his country, if he miscalculates and brings disaster down on the people, they will finally deal with him.

These are not things with which Australia or any other country should concern itself. Regime change is not a legitimate policy option for anyone other than the Iraqi people themselves. Bringing democracy to Iraq is not an option either. There is only one genuine parliamentary democracy in the Middle East and it is not an Arab one—it is Israel.

The legitimate objective of current diplomacy—and we must accept that this may have to become a war aim—is to render Iraq no longer a threat to its neighbours and to the wider world. The Prime Minister will also visit Jakarta on his trip next week. It is important to include Indonesia in the consultative process that Australia is going through over Iraq. It will also, as the Prime Minister has said, be an opportunity to thank President Megawati for the way in which the Indonesian authorities have handled the aftermath of the Bali bombings.

The Iraq issue and terrorism, as others have stated, are not directly linked. Getting Saddam to stop being a threat to his neighbours is one issue and terrorism, in which Iraq is implicated, is another. But godless terrorism is a threat to every nation in the world. Countries in this region have an opportunity to fight it now before it becomes a more widespread and deadly problem. Of course it is dangerous and of course it puts Australia in harm’s way, but it is a job that has to be done. I am keener than anyone else to avoid Australian casualties in the defence forces or anywhere else. It is also appropriate at this point to state that I have had many submissions from people who, for the best of motives, oppose the deployment of Australian troops in the Middle East. I appreciate what they are saying and where they are coming from, but what they are saying basically amounts to indecision. However, I submit that indecision cannot be the answer. If we are trying to avoid war, indecision now may in fact generate war and loss of Australian lives. Decisiveness and unity now may well avoid it.

In the post September 11 environment, a rogue state through its terrorist surrogates can only bring about global calamity. In this context, Saddam Hussein must disarm or must be disarmed. Our country’s current diplomatic efforts and deployment of Australian forces are, in my view, appropriate responses to a growing and murderous threat to peace-loving nations. Together with our friends and allies, we need to send Saddam the message that we are strong and that we will prevail.

Senator BUCKLAND (South Australia) (9.44 a.m.)—The Bush administration’s efforts to build a case for war against Iraq using intelligence to link Iraq to al-Qaeda and the development of prohibited weapons has created friction within the US intelligence agencies. That is according to officials of the US government on Monday of this week. Some CIA analysts have complained that senior administration officials have exagger-
ated the significance of some intelligence reports about Iraq, particularly about its possible links to terrorism, and they have done this to strengthen their questionable political argument for a war against Iraq.

On the other hand, at the FBI, some investigators said that they are baffled by the Bush administration’s insistence on a solid link between Iraq and Osama bin Laden’s network. President Bush claimed in his State of the Union address last week that Iraq was protecting and aiding al-Qaeda operatives. But US intelligence and law enforcement officials said the evidence was fragmentary and inconclusive. ‘It is more than just scepticism,’ one official said, describing the feelings of some analysts in the intelligence agencies. The official said:

I think there is also a sense of disappointment with the community’s leadership that they are not standing up for them at a time when the intelligence is obviously being politicised.

The Gallup poll published on Monday showed a majority of the public polled in France, Germany, Spain, Britain and Russia were against war against Iraq in any situation. The poll, which sampled 1,000 people in each of the five countries and the US, showed that Spain—whose government has backed America on the crisis against Iraq—led the poll with 74 per cent of the people saying that they were against any strike on Iraq. One French weekly paper said the poll asked whether people would either be totally against military intervention in Iraq, be in favour of a strike only if authorised by the UN, or support a unilateral strike. The overwhelming evidence of course was that they were against any strike at all. In Russia, 59 per cent were against war.

This is not isolated to the countries I have mentioned. Yet yesterday we heard the Prime Minister deliver his statement on Iraq to parliament, aimed at influencing domestic opinion behind his government’s stance before taking his arguments on a whistlestop trip to America, Britain and Indonesia. He has acknowledged that his government does not enjoy popular support for its position, and he has also stated, ‘It is evident that the community wants as much debate as possible.’ It is highly unlikely that the debate we are having here will be sufficient to satisfy the wants of the community.

The Prime Minister also stated that his trip will be an opportunity for him to convey directly to the President the views of the Australian government on matters relating to Iraq. And yet, at the end of the day, the Australian government is essentially governing on the mandate of the Australian people. The Prime Minister then must convey the views of those who gave him that mandate. Of course, those views do not support action against Iraq. Those who support the Labor Party’s position that there should be no military action taken to disarm Iraq without the authority of the United Nations are in the majority. Labor will support a decision of the UN Security Council to enforce resolution 1441 in the event of Iraq’s noncompliance, and Labor will not support a US military attack made on a unilateral basis.

However, although Mr Howard has tried to win public support for strong military action against Saddam Hussein, he said on Monday that he would be prepared to take action even if it remained unpopular action in the view of the people. He said:

I will try very hard to put my case, effectively, to the Australian people, but this is one of those issues where while one listens very carefully to what people say ... in the end we have to do what we believe is right and I believe that what we are doing is right and I intend to continue with what we are doing.

They are the words of the Prime Minister. Mr Howard is making commitments to the Bush administration, an administration whose intelligence agencies are saying the evidence about Iraq being connected with al-Qaeda is fragmentary and inconclusive and who have been quoted as saying that intelligence is being overpoliticised.

In making these commitments to the US, the Prime Minister is not conveying the views of the people he was elected to govern. He is no more than a puppet, with the Bush administration pulling the strings. The Prime Minister is saying that his trip, and his access to President Bush, showed the importance of Australia in the UN and in the solution in Iraq. Firstly—and we need to be very clear on this—the Bush administration has already
stated that America would continue with a pre-emptive strike without the backing of the United Nations. Secondly, an area where John Howard has avoided questions is that of the cost of the Australian deployment to date and the likely further cost to the Australian people. That is the financial cost, let alone what human cost may be involved. The deployment of the SAS, frigates, FA18s and air refuellers was budgeted to cost $200 million in 2002-03. Given the higher intensity of any likely operation in Iraq, the cost could be as high as $300 million to $500 million. The government has not been clear on costs in anything it has said publicly.

But to bring all this into perspective, we have the Bush administration so preoccupied with the war on Iraq that it has evidently lost sight of the war on terror. Wasn’t it both the Bush administration’s and the Howard government’s punchline that all this was war against terrorism? It is incredibly simplistic to say that a war with Iraq is a war on terrorism. As mentioned earlier, even US intelligence have questioned the Bush administration by saying that their evidence is fragmentary and inconclusive. Why now the focus on a pre-emptive strike on Iraq when there are plenty of other contenders? The Federation of American Scientists has identified 33 countries that are believed to have weapons of mass destruction, including nations with very poor records on human rights and known past links to terrorists. Are we now saying all is forgiven in their cases?

After 11 September 2001 a terrorist network linked to Afghanistan was uncovered. Recently those links with al-Qaeda have been traced to many countries, such as Pakistan, Yemen, Somalia, Iran, Syria, the Philippines, Indonesia, Malaysia and Saudi Arabia, along with some of the former Soviet republics near Afghanistan. Iraq has been perceived as at most a minor player on this list. How serious then are we all about a war on terrorism? General Brent Scowcroft, a former national security adviser to Republican presidents Ford and Bush Sr, has commented:

The central point is that any campaign against Iraq, whatever the strategy, cost and risks, is certain to divert us for some indefinite period from our war on terrorism.

Even Australia’s former Chief of the Defence Forces during the Gulf War, General Gration, could not have made it clearer when he said:

It is not in our national interest to get involved in a US (non-UN) operation ... I don’t believe in pre-emptive strikes.

(Time expired)

Senator MURPHY (Tasmania) (9.54 a.m.)—We are now into the second day of the debate on the ministerial statement on the government’s decision to ‘pre-position’—as I think is the description being put forward by the government—Australian troops in the Middle East in light of the situation of potential war with Iraq. Last year the Prime Minister said that he would consult the Australian people prior to making any decision in respect of the deployment of Australian troops to the Middle East. That commitment has clearly not been kept. One would have thought the easiest option for the Prime Minister would have been to have raised the issue in this parliament prior to any decision being made. Of course, having made the decision, which seemingly came out of the blue, the justification given for it was that we would increase the pressure on Saddam Hussein in respect of the position that he had taken over the disclosure of alleged weapons of mass destruction.

I am not sure how one can conclude that, with all the might of the US and British military heading towards the Middle East, much of it already having arrived, sending an almost token Australian presence would somehow cause Saddam Hussein to cave in and fess up where he is hiding all of the weapons of mass destruction. Frankly, that justification just does not wash. We have now had a statement in this parliament that is supposed to be further justification, an explanation as to why the decision to have a forward deployment of troops has been taken, and the Prime Minister has been reported in various papers as having said that he believes what he has done is right. I have read the ministerial statement a few times and it is certainly my view that you really cannot find real justification for the decision that has been made.
You know a Prime Minister is in trouble when a ministerial statement contains the statements of other persons, particularly those in opposition who have been in a representative position—in this case, Mr Beazley, the former Leader of the Opposition. You know a Prime Minister is in trouble when they put into ministerial statements statements by others to try to justify a decision that they have taken that they know actually reneged on a commitment to the Australian public. The Prime Minister has not justified his decision. If the Prime Minister were completely honest with us, he would say what he did. He would say, ‘Look, George Bush, the President of the United States, rang me and, because he was in some difficulty because so many countries were starting to question what the United States was doing, he needed some support from somewhere and he asked me, the Prime Minister of Australia, to give him that support. I took a decision to do that, because that is the reality here.’ That is what the Prime Minister has done; that is what the government have done—and that is what they should say they have done, because at least that would be being honest. The government come in here with a ministerial statement that talks about anything and everything without giving any real justification for the forward deployment. If there is one thing in the statement that might be considered to be a half-reasonable position for sending troops into the Middle East if there were to be a UN sanctioned attack on Iraq, it would be the fact that you might say, ‘At least they are there and they are becoming acclimatised to the conditions within that region.’ That would be a half-reasonable justification for taking a step of this nature, but there is nothing else of justification—not one thing—in the statement.

We all know the allegations with regard to the weapons of mass destruction; we all know that primarily they do exist. Whether Iraq has destroyed any of them or none of them we do not know. We can make all the statements we like, but we simply do not know. We have to come down to the decision that was taken for the forward deployment of troops. As I said, it is my view that the Prime Minister is not being honest here. The reality is as I said. The President of the United States has rung the Prime Minister. I quote the Prime Minister from an article written by Karen Middleton in the West Australian:

I listen to people, but in the end I’m charged with the responsibility of doing what I believe in my heart is in the best interests of this country...

I ask the Prime Minister and the government: what is in the best interests of this country with regard to the decision that he and the government have taken with regard to the pre-positioning of Australian troops in the Middle East? What aspect of that decision is in the best interests of this country? If it were the case that the UN and the Security Council were certainly going to take a decision to say to Iraq: ‘Look, you’ve had the time, you haven’t complied. Given that you’ve had 12 years, one year’—however much time you state—‘you just haven’t complied with the decision of the world community, the requirements of the world community, in respect of weapons of mass destruction; you have been dishonest and we are going to authorise military action that will lead to the removal of those weapons, the destruction of them, and the removal of your capabilities as a country to produce them,’ then you could say, ‘We are fully justified in any approach.’ But what is in the best interests of this country?

Generally, there is little that the US has done for us, except when you go back in the history of this country when there is no question about the importance of the alliance with the United States from a military point of view. But we are looking at an action that, on the one hand, seems to be little needed. The justification given by the Prime Minister originally was: ‘We’re going to send the troops over there to pre-position them, and that is going to bring great pressure to bear on Saddam Hussein.’ So Saddam is sitting there staring at the might of the US and British military and all of a sudden, when the Australian forces come trundling across, he says, ‘Oh no, the Australians are coming, so I must fess up.’ That just does not wash—not now and not at the time that the Prime Minister said it. There is no justification that the decision that has been taken is in the best interests of this country. The US has never
considered any action in terms of our agricultural interests, nor did it back in 1991. Frankly, that is why I will support the opposition’s amendment and I will support the Democrats’ amendment to that amendment. I will not support the Greens’ amendment. Should the UN Security Council take a decision—which it probably should, given some of the evidence—if Iraq does not come clean, then action is justified and it should proceed.

Senator BRANDIS (Queensland) (10.04 a.m.)—As I have been sitting here listening to Labor Party speakers contributing to this debate in the last day and a half, I have had a sense that this is not the late summer of 2003 but the spring of 1938. Indeed, there is something of a flavour of the 1930s about this debate. For it was in the spring of 1938, on 27 September 1938, that the Labor caucus unanimously resolved that the Labor Party would not support Australian involvement in a European war to stand up to Hitler. Mr Curtin told the House of Representatives on 27 September 1938:

Our view, based on an acute realization of all that has happened to Australia in the last twenty-five years, is that the wise policy for this Dominion is that it should not be embroiled in the disputes of Europe. I have said before and I say now that we have not the power to solve or appease them; and we should not risk the lives of our own people in an endeavour to achieve what appears to be doubtfully possible. The wars of Europe are a quagmire in which we should not allow our resources, our strength, our vitality to be sunk ...

As the months ticked by and the threat posed by Hitler in Europe became more and more apparent, Curtin realised that he had made a terrible error. As his very sympathetic biographer Lloyd Ross writes:

The desire to avoid involvement in war carried ... Labor ... to the edge of disaster. Labor traditions of internationalism were long forgotten. There was no knowledge of Hitler’s ideology and ambitions, no recognition of the threats to Australian security.

Now, two-thirds of a century later, the Labor Party is repeating the same error—once again, it is behind the game—but there is this difference: this time nobody can say that we are not aware of Saddam Hussein’s ideology or agenda. The United Nations Security Council has insisted that he disarm and he has refused to do so. We know that from the findings of the United Nations’ own agency, and in particular the findings of Dr Blix and Dr ElBaradei.

Let us not forget what this debate is about. It is about disarmament. It poses three questions: when does the international community use force? By what process does it decide to use force? What is the role of the United Nations in that process?

One of the statesmen who founded the United Nations was the American Secretary of State Cordell Hull. In September 1943, Cordell Hull said this:

It is abundantly clear that a system of organised international co-operation for the maintenance of peace must be based upon the willingness of the co-operating nations to use force, if necessary, to keep the peace.

The whole basis of collective security is based, first of all, on the concept of pre-emption—the very concept that is invoked against Saddam Hussein. It is the attitude that says, ‘We will remove a threat to peace before it develops into a war and, if necessary, we will use force to do so.’ And that is the second point: the whole international system is based on the notion that force may be used to remove threats if necessary.

A process developed over the decades through the United Nations has established certain protocols and criteria by which force will be used. In this case, what the United Nations Security Council has done over the last 12 years has been to pass no fewer than nine resolutions concluding that Iraq poses a threat to world peace and that it must disarm both in the interests of the stability of its own region and for the sake of the peace of the world. It has insisted that Iraq disarm and it has established a body, the United Nations Monitoring, Verification and Inspection Commission, UNMOVIC, to supervise and police Iraq’s compliance with that sequence of UN resolutions, in particular, resolution 1441. Nobody doubts the neutrality of UNMOVIC, of Dr Blix or of Dr ElBaradei.

We know that last week they reported to the Security Council, and this is what Dr Blix said:
... Iraq appears not to have come to a genuine acceptance—not even today—of the disarmament which was demanded of it and which it needs to carry out to win the confidence of the world and to live in peace.

So the United Nations processes have resolved and declared that Iraq is in material breach of the series of resolutions culminating in resolution 1441. Now it is up to the United Nations to enforce its decree.

The United Nations predecessor organisation, the League of Nations, was destroyed and the world was thrown into a terrible war largely because it failed to enforce its sanctions against Italy when Italy invaded Abyssinia in 1935. That weakness of will, that failure of policy destroyed the League of Nations and hurried the world into the yawning chasm of the Second World War. The United Nations cannot allow the same thing to happen again. It cannot allow a weakness of will among any of its member states, including any of the permanent members of the United Nations Security Council, to weaken its determination to stand up to the new Hitler. If it does, then the liberal democracies of the world must take action of their own. That is what Prime Minister Blair, a social democratic Labour Prime Minister of Britain, and President Bush, a conservative Republican President of the United States, have jointly declared, as has our own Australian government.

There was something sad and pathetic in Mr Crean’s speech to the House of Representatives yesterday. Mr Crean spent most of his speech attacking our ally, the United States, and barely did he mention the threat that everyone knows is posed to international and regional security and stability by Saddam Hussein—as if our ally were the enemy. The Labor Party have not learnt the lessons of the 1930s, and the way they are travelling at the moment they seem bound to repeat them.

Let me deal with the suggestion, because it is about in this country, that the United Nations Security Council is the sole arbiter of international legality. It is not. The United Nations Security Council is a political body; it is not a court of law. It is simply wrong—it is a legal error—and it is political blindness to say that anything the United Nations Security Council resolves is sanctified and anything that the United Nations Security Council does not sanction is forbidden. Let me give three examples. The intervention in Kosovo, which saved so many lives, was not sanctioned by the United Nations, yet how many lives were saved because the Clinton administration resolved to intervene in that territory? Twenty years ago, the Falklands War was not sanctioned; it did not proceed under the auspices of the United Nations. And in 1962, when the Kennedy administration intercepted the missiles on the way to Cuba and so forestalled a threat to the territorial security of the United States, that was not sanctioned by the United Nations either.

The United Nations has decreed and declared that Saddam Hussein must disarm. It must now enforce its decree lest it run the risk of going the way of the League of Nations. But, if it does not, the Western democracies, led by Britain, Australia and the United States, are entitled and, I believe, politically, strategically and morally obliged to intervene to protect the liberal democracies of the world.

Senator HOGG (Queensland) (10.14 a.m.)—I rise in this debate—

Senator Kemp—It’s a hard act to follow, Hoggie!

Senator HOGG—It is not hard at all, I can assure you, Senator Kemp. The current debate generally degenerates in the broader community into an anti or pro war, anti or pro peace, or anti or pro United States position. That is the unfortunate way in which the debate tends to degenerate because people do not seek to find out the full range of facts that must apply in such a debate. To me, the debate should really be about how we as a nation play our part as a responsible international citizen. This may well mean being, in some instances, anti war or pro war, anti peace or pro peace, but it means taking a responsible position to ensure that the general wellbeing, the general good and the common good of people are preserved such that they can live in reasonable freedom and liberty and enjoy no fear of persecution and repression in the society in which we live.
Having said that, I must say that I have a longstanding respect for the alliance that Australia has had with the United States. That alliance has served this nation well. It has served us and the best interests of the defence of this nation over a long period of time. However, I stand critical of the inept handling of the Iraq issue by the Howard government, including in particular our relations with the United States and our Asian neighbours. That factor has been forgotten in this debate. While the Prime Minister has been toadying to the United States and going cap in hand, he has forgotten the repercussions of any of our decisions on our near neighbours in the South-East Asia region. They have been put completely out of the question. Of course our neighbours do not understand our motives. The government are not about to explain to the Australian people or to our near neighbours how we think, why we think it, what we do it and the reasons for the way in which we go about our business. So there is this air of cynicism by the Australian people about the approach of the government—and rightly so—and there is this air of cynicism by our neighbours about the way in which a major player in the region, Australia, behaves.

This issue comes about because of terrorism. Everyone deplores terrorism. No-one wants it and no-one wants its consequences. Everyone wants to live in peace. That is the easy path to go down; that is the easy position to adopt. There are conflicts around the world and they are a fact of life, and they bring horrendous consequences to the people in the countries where they are occurring and to neighbours and other nations as well.

In the Iraq debate, Labor has consistently and repeatedly called for all appropriate and peaceful means to be used to resolve the noncompliance by Iraq with UN resolutions to disarm. At the centre of this debate is the noncompliance by Iraq. As alluded to by Senator Brandis in his speech on this issue, there are a number of resolutions in the United Nations Security Council on this issue of noncompliance, and the noncompliance has been going on for a substantial period of time. The issue is this: when do you say, ‘Enough is enough; we have had enough; the noncompliance has to stop; we now are looking for the appropriate compliance to take place by Baghdad’? On every occasion that Hussein has been given the opportunity, he has effectively thumbed his nose at the processes of the United Nations. Nonetheless, in spite of that, Labor has gone down the path of repeatedly and consistently saying that the processes of the United Nations have to be used. Labor’s response has not been the erratic knee-jerk response of the Howard government. Labor has advocated going down the path of the UN, who people must remember first authorised action against Iraq for its irresponsible action of invading Kuwait, as the proper and legitimate vehicle for the resolution of the continuing impasse with Iraq.

As I and others have mentioned, UN Security Council resolution 1441 of 8 November last year went through a number of issues, including identifying the number of resolutions that have been taken on this issue in the UN Security Council. It went into the noncompliance with council resolutions and the proliferation of weapons of mass destruction and long-range missiles and the threat that they pose to international peace and security. Part of resolution 1441 explored the fact that Iraq has not provided an accurate, full, final and complete disclosure as required by resolution 687 of 1991. That 1991 resolution was taken more than 11 years before resolution 1441 was taken. People cannot claim that in that period of time Hussein, who runs an abhorrent regime, did not have time to comply with the resolutions of the United Nations. That is a key factor that must weigh on the minds of people in this nation when we determine our final position after we hear the outcome of the reports to the United Nations.

That is what Labor has been doing. Labor has been consistently going down the path of the United Nations. Hans Blix’s report cast real doubts about the issue of chemical weapons, biological weapons and missiles. It was a strong report. A subsequent report is still to be brought down by Blix, this week or next week. But there was and still is a need to see that the UN process draws to its logical conclusion. Labor has not sought to pre-
empt the outcome of the United Nations process at this stage. Labor has consistently said that the process needs to be seen through to its logical conclusion. Having said that, Labor has said it would support the outcomes of the process. That has been consistent in the resolutions of the party since April last year. This is in marked contrast to the actions of the Howard government. The behaviour of the government shows a blind, slavish following of the US-led initiative on Iraq. The mean and tricky Howard government did not come clean with the Australian people about their commitments or undertakings that must have been in place some time ago in respect of Iraq, and they still have not come clean today.

Labor’s consistent position has been to support the outcomes of the UN. Clearly, it is difficult to predict the outcomes of the UN, but, in the end, Australia must play its role as a responsible member of the UN. This may entail some difficult decisions. We will need to be cognisant, in the wake of any UN decision, of our relationships with the US and our Asian neighbours. That has been completely ignored by the government in this particular issue. Saddam Hussein runs a reprehensible regime that thumbs its nose at the UN. Subject to UN support, Australia should play its role in the support of UN-backed intervention in Iraq if that comes about. Australia had no difficulty in participating in other UN sanctioned actions, such as in INTERFET in East Timor. This saw the commitment of ground troops in a combat role. Australia also played a role, as people know, in UNTAET. (Time expired)

Senator ALLISON (Victoria) (10.24 a.m.)—I want to put on the record my strongest opposition to any attack on Iraq. This is a very important debate. It is in marked contrast to the very shallow rhetoric that we have so far had to endure from the Bush, Blair and Howard team about the US being forced to take action against Iraq. The fact is that Iraq has not threatened anyone and is not a threat to the US, to Australia or to anybody else at this time. We need a rational, truthful debate that does not rewrite history, does not ignore international law and that does take a cold, hard look at what kind of war this is going to be and what the long-term implications will be for Australia and its troops, for Iraq, for the United Nations and for world peace. It can be hard for people to sort out the truth from the lies, but, fortunately, over the last few weeks no shortage of eminent, well-informed and experienced people have come forward to correct the record and to point out how stupid and irresponsible the Bush, Blair and Howard team is being.

The Prime Minister said yesterday that Australia did not need to wait for any UN authorisation, arguing that ‘the terms of UN Security Council resolution 1441, together with previous resolutions, already provide sufficient legal basis for military action without further resolution’.

Scott Burchill, who is a lecturer in international relations at Deakin University, says this view is highly contested by most credible and independent international lawyers. Even if it were true—and there are grave doubts—this would only be an authority to disarm Iraq of its weapons of mass destruction. There is no mention of regime change in any of these resolutions, and it would be for the Security Council to determine this, not individual members.

Richard Woolcott, a former head of the Department of Foreign Affairs and Trade, and our last representative on the Security Council in 1985-86, has reminded us that the fundamental role of the UN Security Council is to preserve peace, not to authorise war. He says the case has not been made that Iraq and Saddam Hussein are a threat to anyone, much less to Australia. He says Iraq has been well contained and is much weaker than it was in 1991, and that any regional ambitions Saddam Hussein had were thwarted at that time. The fact is that Iraq was much more dangerous and much more heavily armed when it was a great friend of America—when it was fighting the Islamic state of Iran, for instance. In fact just one month after 5,000 Kurdish men, women and children in the Iraqi city of Halabja were killed from a cyanide based chemical weapon in March 1988, America resumed the shipping of components and materials for weapons of mass destruction.
History tells us that you can never take at face value the arguments mounted by people determined to go to war. We cannot assume that they are driven by justice, moral virtue or global peace. Right now in America, one in every two people believes that Saddam was responsible for the attack on the World Trade Centre. John le Carre says:

... the American public is not merely being misled. It is being browbeaten and kept in a state of ignorance and fear.

Like the majority of Australians, I ask: where is the evidence for the claim, repeated ad nauseam by the Prime Minister, that Iraq still has weapons of mass destruction? Hans Blix says that he has not found them and that his weapons inspection team is not being obstructed in looking for them. President Bush declared yesterday that an empty cylinder had been found that would have or could contain chemical weapons. Is an empty cylinder the most serious threat facing world peace? Our Prime Minister says he believes that an empty cylinder had been found that would have or could contain chemical weapons. Is an empty cylinder the most serious threat facing world peace? Our Prime Minister says he believes that Iraq’s ‘aspiration to develop a nuclear capacity’ might be sufficient reason for Australia to join in pre-emptive action. It is about as difficult to prove that you do not have an aspiration as it is to prove that you do not have weapons of mass destruction. Is an aspiration okay as a reason to attack another country, and how does that sit with international laws? These are questions that have not been answered in this place.

We are not heading off to a war against Pakistan, which not only has aspirations but also has nuclear weapons and has threatened to use them. As justification for attacking Iraq, the Prime Minister says that only two countries stand accused of breaching the nuclear non-proliferation treaty: Iraq and North Korea. At least these two countries have signed the nuclear non-proliferation treaty. The only reason Israel has not breached the treaty is that it refuses to sign it. Pakistan and India are not even authorised by international agreement to possess nuclear weapons, but the Bush-Blair-Howard team is not rushing off to declare war on these countries.

Yesterday, the Prime Minister was defensive about Israel, talking about the courageous efforts of Ehud Barak, whose generous offer to give the Palestinians the ‘bulk of their demands’ was ‘repudiated’ by Yasser Arafat. Like so much of what the Prime Minister is saying, this is untrue. Barak offered to negotiate only a small percentage of the Palestinian territory that Israel occupies, in spite of United Nations resolutions. The Prime Minister talks of the murderous pattern of suicide bombing that continues to be inflicted on the Israelis, but not of the 35 years of brutal, illegal and humiliating occupation inflicted on Palestinians. Mr Howard claims there is already a mountain of evidence in the public domain about Iraq’s nuclear capacity. Perhaps he thought that by saying this there would be no need to actually produce the evidence. Australians are not that stupid, and that is why so many of them are saying this war against Iraq is wrong.

Scott Ritter, a former UN weapons inspector, says in his book War on Iraq that in 1998 nuclear infrastructure and facilities had been 100 per cent eliminated. The Sydney Morning Herald reports that Mr Ritter, who describes himself as a card-carrying Republican, has called the President a liar over his claims that Saddam Hussein is a threat to America and said the manufacture of weapons of mass destruction would have been detected by satellite by now. He says Iraqi scientists would still have the knowledge to reconstruct these weapons but this would be a very gradual process and would not be possible while weapons inspectors are there. Ritter says that suggestions Iraq may have nuclear weapon capacity or be on the verge of attaining nuclear weapons are nonsense. Gamma particle atomic radiation from the radioactive materials in the warheads would have been detected by Western surveillance, as would the centrifuges needed to enrich uranium. The former UN Under-Secretary General, Count Hans von Sponeck, told the Sunday Herald that he too believes the West is lying about Iraq’s weapons program. He visited the Al-Dora and Faluja factories near Baghdad in 1999 after they were comprehensively destroyed on the orders of UN inspectors. He returned last July and said both plants were still wrecked.

Of course, the nuclear infrastructure that Iraq once had did not come out of thin air,
although President Bush might want us to think so. The recent United States Senate report said:

The US provided the government of Iraq with dual use licensed materials which assisted in the development of Iraqi chemical, biological and missile-system programs.

The 12,000 page inventory produced by Iraq includes a list of its weapons of mass destruction suppliers. This inventory was, by all accounts, edited by the United States before being handed on to the 10 non-permanent members by taking out the chapters on procurements in Iraq’s nuclear program and Iraq’s relations with companies, representatives and individuals for its weapons of mass destruction programs.

Former UN weapons inspector David Albright said in the Guardian that there would be widespread embarrassment if the extent to which Western companies had supplied Iraq’s weapons was known. Yesterday the Sydney Morning Herald listed details of the suppliers. Iraq’s weapons came from the United States, China, France, Great Britain, Russia, Japan, the Netherlands, Belgium, Spain and Sweden. Of course, the United States sold Iraq the most, with 24 American companies as well as the United States departments of defence, energy, trade and agriculture trading weapons of mass destruction. Both Hewlett Packard and Tektronix provided nuclear weapons components. Nelson Mandela said a few days ago, ‘It is a tragedy what is happening, what Bush is doing to Iraq.’ He condemned President Bush as ‘a president who has no foresight and cannot think properly’. He said that Bush ‘is now wanting to plunge the world into a holocaust’. He said, ‘Because they’—the Americans—‘decided to kill innocent people in Japan, who are still suffering from that, who are they now to pretend that they are the policemen of the world? If there is a country which has committed unspeakable atrocities, it is the United States of America. They don’t care for human beings.’

I expect that the holocaust that Mr Mandela was referring to was a nuclear war. In the 50 years since America dropped its devastating bombs on Hiroshima and Nagasaki, treaties and agreements to not use nuclear weapons pre-emptively have successfully stopped nations using the many thousands of much more powerful nuclear bombs that have been developed and stockpiled since. I seek leave to incorporate the remainder of my speech. I have circulated it in the chamber.

Leave granted.

The speech read as follows—

The serious question not addressed by the Prime Minister yesterday is will a pre-emptive use of nuclear weapons trigger an escalation of nuclear weapons in so-called rogue states and would this result in a catastrophic nuclear war?

We cannot assume this is a remote possibility—the rhetoric from the Whitehouse is not cautious. Last week STRATCOM said the US would shatter Iraq ‘physically, emotionally and psychologically’ using 800 cruise missiles in two days—twice the number launched during the 40 days of the Gulf War. These will presumably be loaded with depleted uranium as they were in the Gulf War.

America has now effectively removed the distinction between conventional weapons of mass destruction and nuclear weapons. President Bush says the US Administration will use nuclear weapons if necessary. What will make their use necessary? We don’t know.

A few days ago, American Nuclear weapons analyst, William Arkin, Senior Fellow at the John Hopkins University said the US Strategic Command is compiling potential target lists with planning focussed on roles for nuclear weapons on underground facilities. Apparently STRATCOM knows where they are. Perhaps they should tell the weapons inspectors!

These bombs are euphemistically called bunker busters. When asked about this report, Whitehouse spokesman Ari Fleischer said that all military options were available.

Last Sunday, the UK Defence Minister Geoff Hoon went further “Saddam can be absolutely confident that in the right conditions we would be willing to use nuclear weapons.”

What are those right conditions? We don’t know and Mr Howard probably doesn’t know either, despite committing our troops to this war.

Just yesterday the Prime Minister said the use of nuclear weapons had been ruled out by the United States. Why is it that he is the only one on the team saying so?
Oxfam wrote to all parliamentarians a few weeks ago with advice on the current condition of Iraq and its people:

Iraq's economy is already devastated. Child mortality rates have rocketed since the United Nations imposed sanctions on Iraq in 1990. Up to 16 million people—more than two thirds of the population—already rely on a fragile system of food rationing for their survival. Even with the food rationing system set up by the international community, malnutrition is widespread, especially among women and children.

The water and sanitation system is on the verge of collapse. Most urban homes get piped water but two thirds of it is untreated. In rural parts of central and southern Iraq, only 46 per cent of homes have piped water. In the towns, the trucks that empty cesspits and septic tanks aren't working properly because there are no spares, tyres or batteries. Sewage flows back into people's houses.

The Prime Minister admitted that sanctions and containment have had little influence over a dictator who cares nothing for the wellbeing of his people. That suggests to me that every effort should be made to find an alternative. It also suggests that attacking the country with nuclear weapons and cruise missiles will not bring wellbeing to ordinary Iraqis.

Even if Saddam Hussein is overthrown what will be left of the country, what is the long term plan and who will take over control of Iraq?

There has been a lot of speculation about this being a war about Iraq's considerable reserves of oil. The Prime Minister rejects this, saying if the US had wanted low priced oil it would have done a deal with Iraq to lift the sanctions years ago.

But commentators say this is about control, not access to cheap oil. The US has no interest in the cheapest possible oil. It needs the price to be maintained at a level high enough for profits but low enough to encourage consumption and avoid inflation.

Tony Walker, for the Fin Review, says Australian officials in Canberra are understood to have had preliminary talks with their American counterparts in Washington about the possibility of BHP Petroleum and Woodside sharing in some of the post-war action in Iraq.

The Democrats say we have a right to know if this is a war for oil as so many suspect.

There has to be something more to this dangerous and costly war than disarming a country that, on all available evidence, is not armed.

Richard Woolcott said “War is not, in fact being “forced” on the US, as Bush said in his State of the Union address. The truth is that an unnecessary war is being forced on Iraq.”

Senator EGGLISTON (Western Australia) (10.35 a.m.)—This debate on the situation in Iraq and whether or not Australia should be involved in any possible military action to produce a change in the governing regime in Iraq is of vital interest to the Australian community. One might ask: what is the case against Saddam Hussein and where do most Australians stand on the question of military action? In my view, most Australians believe that Saddam is an evil man who has committed hideous atrocities and suppressed human rights in his country.

According the United States Department of State, the atrocities Saddam has committed include the use of poison gas and other war crimes against Iran and the Iranian people during the 1990-98 Iran-Iraq war. Iraq also summarily executed thousands of Iranian prisoners during that war as a matter of policy. Another atrocity committed was the Al-Anfal campaign in the late 1980s against the Iraqi Kurds, including the use of poison gas on cities. In one of the worst single mass killings in recent history, Iraq dropped chemical weapons on Halabja in 1988, in which as many as 5,000 people, mostly civilians, were killed.

Crimes against humanity and possible genocide against Iraqi Kurds in northern Iraq have also been committed. This included the destruction of over 3,000 villages. The Iraqi government’s campaign of forced deportation of Kurdish and Turkomen families to southern Iraq has created approximately 900,000 internally displaced citizens throughout the country.

Another atrocity is the crimes against humanity, and possibly genocide, committed against the Marsh Arabs and Shah Arab in southern Iraq. Entire populations of villages have been forcibly expelled. Government forces have burned their houses and fields, demolished houses with bulldozers and undertaken a deliberate campaign to drain and poison the marshes. Thousands of civilians have been summarily executed.
Saddam’s record on human rights is especially heinous. The executive summary of the report of the Bureau of Democracy, Human Rights and Labor, entitled *Iraq: a population silenced*, states:

In 1979, immediately upon coming to power, Saddam Hussein silenced all political opposition in Iraq and converted his one-party state into a cult of personality. Over the more than 20 years since then, his regime has systematically executed, tortured, imprisoned, raped, terrorized and repressed Iraqi people. Iraq is a nation rich in culture with a long history of intellectual and scientific achievement. Yet Saddam Hussein has silenced its scholars and doctors, as well as its women and children.

The Iraqi people are not allowed to vote to remove the government. Freedom of expression, association and movement do not exist in Iraq. The media is tightly controlled—Saddam Hussein’s son owns the daily Iraqi newspaper. Iraqi citizens cannot assemble except in support of the government. Iraqi citizens cannot freely leave Iraq.

The executive summary concludes:

Saddam Hussein has given the Iraqi people a terrible choice—to remain silent or face the consequences. But despite his regime’s attempts to silence the Iraqi people, their voices are still being heard.

One of the most pertinent questions in this debate is that of whether or not Saddam Hussein has weapons of mass destruction. The International Institute of Strategic Studies assessment states that Iraq has made substantial efforts to avoid revealing the location of its weapons of mass destruction and has not participated in their subsequent destruction. Just prior to the Gulf War, Iraq was on the verge of being able to produce sufficient amounts of highly enriched uranium that would have allowed it within two to three years to produce its first nuclear weapon according to the IISS statement. The IISS believes Iraq still harbours nuclear potential—the scientific and technical expertise remains and Iraq’s core nuclear teams are ‘in place working on various civilian projects’.

In addition, the institute believes that most of Iraq’s key biological weapons facilities emerged unscathed from the Gulf War. It says:

By the time UNSCOM’s work ended in 1998, it was only able to account for a portion of Iraq’s BW munitions, bulk agents, and growth media. Again, Iraq retains the expertise and industrial capability to produce agents quickly and in volume if desired.

Over the years, since the end of the military action to evict Iraq from Kuwait, Saddam—as Senator Brandis pointed out in his speech—has failed to comply with many United Nations resolutions that he disarm. Disarmament was, in fact, a requirement of the ceasefire agreement at the end of the Gulf War. Saddam has also frustrated the work of the United Nations inspectors, leading to the withdrawal of UNSCOM in 1998. In these circumstances, it is impossible, in my view, not to come to the conclusion that Saddam Hussein probably has maintained his arsenal and that, but for the imposition of no-fly zones in northern and southern Iraq, which have effectively contained Saddam Hussein, Iraq would have been a source of further threats in the Arab world in the years since the Gulf War.

In conclusion, I believe that most Australians do regard Saddam Hussein as an evil man and understand that he has committed hideous atrocities against, and has suppressed the human rights of, his people. I think Australians also believe that Iraq probably does have weapons of mass destruction and therefore believe that it would be preferable for him to be removed from office. Quite clearly, Australians would prefer this end to be achieved by peaceful means and, if military force proves necessary, would prefer it to be under the auspices of the United Nations. The Australian government is seeking a diplomatic solution and a second UN resolution, but it needs to be said that, in the final analysis, evil only prevails when good men do nothing. The people of Iraq surely have suffered enough under the brutal regime of Saddam Hussein. Iraq is a potentially wealthy country of 25 million people who deserve to enjoy a better way of life and a well-established civil society which respects human rights. These objectives will, I believe, only be achieved by the removal of Saddam Hussein.

**Senator MARK BISHOP (Western Australia) (10.43 a.m.)—** It is indeed a very
healthy sign of a vibrant democracy that we have this opportunity today to debate a major strategic issue for the world and Australia’s part in it. It is an issue on which we must provide leadership but, in doing so, we must explain and inform, providing the detail, proper perspective and necessary context. However, I believe that before governments make such momentous decisions they must ensure that the community is well informed of the facts and all of the options without misinformation, propaganda or lies. Unfortunately, where government is so easily swayed by opinion polls which are based on poor information, slogans and emotional reaction, we have the worst of both worlds: a populace which does not understand all the issues and is without any context within which to frame its attitudes, and a government unwilling to lead by providing education and information as to the realities and choices, a government which is hooked on its own sloganeering.

Today I would like to add some perspective and context to this debate, particularly from the Labor Party’s point of view, which is based on the desire to maintain our national independence and our desire to be a responsible member of the world community. It goes without saying that Australia is a small but wealthy country far from the power blocs of the world. We have to make our own way. The policy of the Labor Party in this context is simple. Three legs of policy have emerged or evolved over the last 60 years which are worth restating. Firstly, we recognise the reality that since the early days of World War II we have moved from a relationship of dependence on the United Kingdom to a relationship with the United States which has brought not just defence benefits but a wide range of economic ties based on the same common values. This relationship was formalised in the 1950s as the ANZUS alliance. This alliance has stood the test of time and served Australia well, and it continues to be as relevant in 2003 as it was when it was drafted almost 50 years ago.

Secondly, we have become strong members of the United Nations in every facet of its activity, including the preservation of world peace—the first instance of which was in Korea and the most recent in East Timor. It was the then leader of the ALP, Dr Evatt, who contributed so much and who bound Australia so tightly to the UN charter. Thirdly, we have shifted the focus of Australia to our relationship with Asia, entailing, as it does, matters of security, trade and economic development. This is commonly referred to as Australia’s engagement with Asia. In common with the international values of the UN, we also have a number of principal values which underpin our entire approach to national government and our attitude towards the rest of the world. They comprise a commitment to democratic processes, human rights and the rule of law. These legs of foreign policy reflect our geographic reality and the values of our community. Together they are an integral part of our national interest. We are also a multicultural society, hopefully without prejudice, whose aspirations are for greater international cooperation on trade and economic growth based on more open markets in a way that enables the world community to better share the benefits that this interaction brings. That is the context in which we approach the problem with Iraq.

There is no doubt on our side that Saddam Hussein is aberrant in all those values, hence his disdain and contempt for the United Nations and hence our agreement that he is a person whose regime needs to be dealt with simply because he threatens what we and all other members of the United Nations value. Dealing with bully boys who threaten the world order is not a new problem. It is sad for peace-loving people who believe in the shared values of the world community and who work hard to protect it in the common good, and for self-interest of course, that sometimes we have no alternative but to resort to force. That is why we fought so hard and at such huge cost against the likes of Hitler and the Japanese in a global sense in World War II, and that is why we support the United Nations both globally and regionally.

For those who have reacted on this issue with some anti US sentiment may I also provide some context. When you look at the history of the Western world, commencing with the ancient Greeks and Romans and the
development of international spheres of influence, hegemonies, empires and global systems of all different kinds, the primary driving motive has been, in later years, the desire for influence. The nature of this influence has been one of promoting strong common values, including religious tolerance and democratic values, human rights, economic exchange, dispute resolution and the interdependence we have become accustomed to and accept as a given. In our own short history as a nation we have seen two such powers: first, the British, of which we were a direct part, and we continue to cling to the remnants of that legacy; and now, following World War II, the United States. We therefore, as a result of that history, share many of the values of those powers and continue to benefit from their influence.

In modern times these powers have made major economic, social and cultural contributions to world development. There is no doubt that their driving force was self-interest, but the result has been global gain simply because of the economic value that this interest brought and the inevitable interdependence which grew from it. While it might seem a contradiction to some, the broad self-interest of such national powers as outlined above and the total health of the international community are one and the same. It would be nice if the ideal of an international government once promoted by Woodrow Wilson and others could be achieved, but the realities are different. The continuing differences of view in the UN between the major powers is evidence of that and, indeed, the history of the UN is such that, without the support of the principal power, the US, it would have been pretty ineffective.

Put simply, we do need to be realistic about the power structure of the world and how it works. Maintaining peace is indeed paramount. Further developing economic growth internationally will continue to promote interdependence. It would seem that, in the absence of any better model, the growth in democratic processes and having more liberal and open markets is a formula which works well, albeit imperfectly. For those who are critical of the US and of the history of its foreign policy some understanding is needed, because it has not always had a policy of isolation and withdrawal, as some might argue. Nor are the American people a warlike people who fight without good cause.

From its earliest colonial days the US has been a major international trader, fostering its own interests and the interests of the world economy in which its own and everyone else’s interests prosper. It has rarely, if ever, been an imperial nation with territorial possessions. We may sometimes be critical of the missionary zeal with which it has promoted the values on which US society is built, but it must be remembered that those values are often our values too and we equally benefit.

So, in dealing with Saddam Hussein, we need to consider the larger picture. We need to understand what is at stake here, and it is much more than the behaviour of a minor dictator. There are many minor dictators in the world, but they do not attract the same attention. It is about the lawful regulation of the world order and of the way in which the stability of the international economy is dependent on it. And, yes, there is some self-interest, and I suggest that as Australians we have a vital interest for the same reasons the US and UK do. Firstly, we are committed members of the UN and we need to know that there are members of the Security Council who have the will to make the UN live up to its charter. When the US brings its weight to bear to have the UN enforce its own resolutions to properly deal with crises of security worldwide, we should support that approach. We need access to markets and resources and, as a member of the global community, our interests should not be at the risk of being held to ransom by a madman.

We need stability in the Middle East, as a major market, and in a world which is threatened not so much by major conflagration but by the insidious behaviour of minor groups with narrow ideological bents who draw their support from regimes like those in Iraq and other countries. Equally, we need to support the principles of the UN, which we on this side were key proponents of through H.V. Evatt. While ever Saddam Hussein thumbs his nose at those values and princi-
ples set in the UN Charter, we are obliged to have him mend his ways. Saddam’s reputation does not bear repeating in detail, but he is a killer. The abuse of human rights in Iraq is indeed a major issue.

In summary, apart from the particularities of Saddam’s sins there is a much broader view of the importance of this issue, and it is one which goes much further than the particular self-interest of the US or the UK, as some allege. It is one where we should not be distracted by the rhetoric and the spin doctors. It is about protecting global interests. At heart we all prefer peace, but we have a choice: we can leave Saddam to continue to threaten the stability of the world order as we know it, or we can do something about it. There seems to be no disagreement from anyone—(Time expired)

Senator NETTLE (New South Wales) (10.53 a.m.)—Like so many other Australians I find it extremely difficult when talking about this issue not to get intensely angry at the government’s dismissal not only of the views of this parliament but also, most importantly, of the views of the Australian people. In making a decision to send Australian troops over to be involved in a war in Iraq, Prime Minister Howard is putting US economic interests ahead of the lives of Australian men and women in our defence forces and ahead of the lives of Iraqi civilians. In doing so, I believe that he will be condemned by history and by the Australian people for making this decision. So far the role of parliament in this decision has been reduced to a farcical sideshow. Despite the Prime Minister’s assurances that there would be full parliamentary debate, even today there remains no resolution before this chamber whereby the elected representatives of the people of Australia are able to make a decision voting for or against Australian involvement in a war on Iraq. Instead, the Prime Minister has made that decision and his denials are convincing absolutely nobody.

I said six months ago in my first speech in this chamber that a war on Iraq cannot be justified. Nothing we have heard from Mr Howard, Mr Blair or Mr Bush since that time has changed this situation. The government purports to have provided the public with a case to justify Australian involvement in an invasion of Iraq. Instead of accurate information about the situation, we have been given distortions, partial reports and, on occasions, outright lies. The misinformation that this government has associated itself with cannot be overstated. We have seen it in the form of continuously fruitless attempts to link Saddam Hussein to Osama bin Laden. We have seen the US administration editing Iraq’s weapons declaration to the United Nations to remove embarrassing information about the involvement of Western corporations and governments in arming Saddam Hussein. And these are not isolated incidents. Without accurate information about the situation, people are in no position to be able to assess the government’s claim. Instead, they are expected to blindly follow our government’s leaders into a course of action which will have tragic consequences.

It is preposterous for anyone to argue that all peaceful options to resolve this conflict have been exhausted. The United States continue to bulldoze all attempts at diplomacy, refusing to let the United Nations continue to do their work and undermining alternative suggestions that have been put forward by other countries, and instead pushing ahead with their own agenda and their own timetable. We have seen no serious debate about the alternatives to war. We have not seen the necessary discussion about the need for an international effort to support the people of Iraq to establish their own democracy. We have seen no discussion about a redirection of even a fraction of the military spending to address the problems of poverty and structural injustice that sit at the base of issues in the Middle East. Instead, we are being presented with a fait accompli that military action is the only way to resolve the situation. The Australian people will not accept, as the government is trying to make us accept, the expectation that they believe the only way to liberate the people of Iraq is by bombing them. Such a proposal is preposterous.

Throughout this debate we have seen from political leaders and parliamentarians a complete lack of moral responsibility. I find it astonishing to see the extent of buck passing from some MPs and some political parties
who seem unprepared to take responsibility for the courses of action they are advocating. Instead, they would rather offload this crucial decision to the United Nations. If the United Nations is bullied by the US into letting them go ahead with their war, that does not remove the responsibility of Australian parliamentarians to decide what our course of action should be. For politicians to take a position on Australian involvement in a war on Iraq which boils down to saying, ‘The war is just if the United Nations says so,’ is to fail a crucial moral test. Any debate must deal with all consequences of such a decision. I was appalled yesterday to hear the Prime Minister give a 34-page statement to the House of Representatives supposedly outlining the case for war and not once deal with the horrendous human consequences of the decisions that he is making. It is crucial that any country that is making a commitment to war has a real and absolute understanding of the inevitable human consequences of such a decision.

In this war, soldiers from the United States, Australia and Britain will be protected by the massive military technology imbalance between our countries and Iraq. There is a chance that Australians and others will be killed, but it is a certainty that thousands or tens of thousands of innocent people who are not Australian, British or American will be killed.

They will be blown to pieces, they will be maimed and they will die in pain and in fear. Their homes and their businesses will be destroyed, and their families and communities ripped apart. Many of them will starve and a whole generation will be traumatised. These things are a certainty and they are our responsibility. These deaths will weigh on the conscience of our nation throughout the course of history. Once a decision to wage war has been made, the consequences are unavoidable. We must bring back the troops before it is too late and we must say no to a war on Iraq. I know that I speak on behalf of millions of Australians and many more people all over the world when I say that I am angry about this war. I am angry about the decisions being taken by the Prime Minister.

Senator Brandis—Should we have fought against Hitler?

The ACTING DEPUTY PRESIDENT (Senator Bolkus)—Senator Brandis, you are out of order; you are not in your correct seat.

Senator Nettle—I am angry that this government’s decision will affect the lives of ordinary men, women and children who happen to live under a vicious dictator in Iraq, and that this means so very little to Mr Howard, Mr Blair and Mr Bush. A war on Iraq cannot be justified. If the opposition ultimately supports a war under a UN sanction, the Greens will continue to state that any involvement by Australia in a war on Iraq is immoral. We will join with Australians who, like many millions around the world, will take to the streets to call for peace on the weekend after next. We are proud to be a part of this movement; we are proud to stand up and speak for peace. It would be fantastic to see some moral courage from parliamentarians in this chamber so that they come on board and show a genuine commitment in calling for peace.

Senator Mason (Queensland) (11.02 a.m.)—I will restrict my contribution to the debate this morning to the intellectual argument underpinning much of the opposition to Australian involvement in the military action in Iraq. The United Nations, particularly the Security Council, is at the heart of international efforts to disarm Saddam Hussein. Australia and her allies are devoted to the UN process. The UN of course has a tough job—I think all of us recognise that. Despite its failures it remains our best hope for international peace.

When the UN, in particular the Security Council, gives its authority to act, nations tend to do so with greater diplomatic and political authority for their actions. It makes it much easier for governments to justify to their people and internationally that military or other action is warranted. That is why the vast majority of Australians support military action in Iraq only if it is authorised by the UN Security Council: so that the Security Council might supply political and diplomatic authority for military action.
This might all seem rather mundane and obvious, but it follows from this that the failure to obtain UN Security Council approval means that the political and diplomatic hurdles are much greater. Perhaps they are insurmountable. But the argument developed over the last day or two by the vast majority of the Labor Party and many of the Democrats—and this is their key argument—is that a UN Security Council failure to sanction military intervention in Iraq not only makes political and diplomatic battles far more difficult, but also any Australian military action would lack moral legitimacy. That is the key argument.

To restate, the vast majority of those opposite are now arguing that UN Security Council authorisation makes military action morally legitimate. If you do not have Security Council endorsement, your military intervention lacks moral—not political and diplomatic but moral—legitimacy as well. This very curious argument underpins the entire opposition case: that the UN Security Council, and in particular the five permanent members, are somehow moral arbiters; that somehow the collective national self-interests of the United States, the United Kingdom, Russia, France and China constitute some sort of ethics board to duchess military action with moral legitimacy.

There is some evidence, of course, that Russia and France have interests in Iraq that they may wish to protect. Does their veto mean that military intervention lacks moral authority? That is the Labor argument, and it is not a very good one. Labor’s argument is that the political and economic interests of the five permanent members of the Security Council equate with moral legitimacy. This is, of course, ridiculous. The moral legitimacy of military intervention in Iraq has nothing to do with the Security Council, though, as I say, it may have a lot to do with the political and diplomatic strength with which a country might operate.

Labor is now sanctifying the Security Council with Saint Augustine’s capacity to determine a just war. Let us briefly test this thesis. For example, during the Cold War, according to the vast majority of speakers on the Labor side, the exercise of the Soviet Union’s veto would have deprived any military action by the West of moral legitimacy. The Soviet Union during the Cold War as moral arbiter!

The case of Korea springs to mind. If the Soviet Union had turned up to the Security Council meeting and exercised its veto, what the United States and allies such as Australia and New Zealand did in the Korean War would have lacked, according to the Labor argument, moral legitimacy. It is not a strong argument. Take the Falkland Islands war. Britain did the right thing; there is no doubt about that. I remember the Labour Party in Britain, and poor old Michael Foot, waiting for the UN to do something. What did they do? The Security Council did not act. Britain acted unilaterally with some Australian support and did the right thing. Once again, veto or inaction by the Security Council cannot constitute moral authority. Again, the UN under threat of a Russian veto did not intervene in Kosovo to stop the slaughter of ethnic Albanians, giving rise to the horror of ethnic cleansing. No-one here would argue that the unilateral action by the United States and some NATO allies was not justified. Again, moral legitimacy does not flow from the Security Council. Despite your best efforts, it does not work.

If anyone thinks that the General Assembly is any better, and that somehow it is a greater moral arbiter, I remember that when I was in high school the United Nations General Assembly passed a resolution by a majority of 70 to 29 which stated, ‘Zionism is a form of racism and racial discrimination.’ You cannot say that the Security Council or the United Nations General Assembly are bastions of moral legitimacy. It is a failure to understand history that leads the Labor Party to equate multilateralism and internationalism with moral legitimacy. Multilateralism is so often the talk of the lowest common denominator, not necessarily the voice of justice or a just war.

Sure, we need the UN. It is our best hope for peace and for collective security. Of course the UN processes should be adhered to. It is highly desirable that the Security Council endorses any action in Iraq. All of us would concede that. But to claim that moral
legitimacy is spawned from a Security Council decision is rubbish. The Security Council is not the arbiter of morality and that is where the Labor Party gets it fundamentally wrong. Military action in Iraq may or may not be moral—I think it is—but you do not ask the Security Council for its moral code book.

Let me leave a question, particularly for the Left of the Labor Party, but actually for most of it: if the UN Security Council does endorse military action in Iraq, does that therefore mean that the war is morally legitimate? Does that give the war some sort of ethical sanction? I will leave my friends on the left and their moral vanity to ponder that.

However, there is some agreement around the chamber. In fact, there is a lot of agreement. Indeed, I concur with some of what Senator Nettle said earlier. Saddam Hussein is a murderous dictator. He is a greater threat to his people than anyone else. He murdered the Kurds and the marsh Arabs. His total lack of concern for young men and women, and indeed boys and girls during the Iran-Iraq war in the early eighties, shows that. No-one here is defending Saddam Hussein and I understand that. But do not therefore hide behind the Security Council to make your moral decisions. Do not let the Security Council be the moral arbiter for your conscience: make that decision yourselves.

Let me remind you of what that respected and venerable commentator Alistair Cooke said the other day on Letter from America when he was talking about the beginning of World War II. He said:

... a majority of Britons would do anything, absolutely anything, to get rid of Hitler except fight him.

At that time the word pre-emptive had not been invented, though today it’s a catchword.

After all the Rhineland was what it said it was—part of Germany. So to march in and throw Hitler out would have been pre-emptive—wouldn’t it?

He went on to say:

And so many of the arguments mounted against each other today, in the last fortnight, are exactly what we heard in the House of Commons debates and read in the French press—over the last few days. And, very sadly, we continue to hear them from the opposition benches.

Senator GEORGE CAMPBELL (New South Wales) (11.12 a.m.)—Let me make it clear at the outset that I condemn Saddam Hussein and his murderous regime. I always have and I always will. However, I have not heard anyone on the other side make the point that a lot of the weapons—the so-called weapons of mass destruction—that the Americans now want to go into Iraq and take from Saddam were actually supplied to him in the early nineties by the Americans when he was an ally fighting a war for them against Iran. The reality is that two wrongs do not make a right. For us to invade Iraq without the sanction of the UN would be a second wrong.

The deployment of Australian forces to the Gulf was a mistake. It jumped the gun and undermined the actions of the UN inspections team and the legitimacy of the UN process. No-one can seriously suggest that these forces will not be involved in an attack on Iraq regardless of whether the UN sanctions the action or not. The Prime Minister has already committed young Australians to a war without legitimacy at the moment. That has been confirmed in the past 24 hours by what has occurred and the disclosure of the discussions between the foreign minister and the New Zealand government.

The Sydney Morning Herald reported some interesting statistics on Iraq recently. For example, clean bottled water costs 10 times as much as petrol. Seventy per cent of the 1.7 million children who have died since 1990 did so from preventable sanitation-related diseases, according to UNICEF: Half a million tonnes of raw sewage are dumped in fresh waterways each day. The mortality rate of children under five is 10 times as high as that in Rwanda and South Africa. Yet we are expected to believe that this is the nation that poses the greatest threat to world security. You have to ask yourself a question: who will suffer the most if an invasion takes place in Iraq?

For the United States to invade Iraq with help from the UK and Australia, without the sanction of the UN Security Council, would
be a tragedy. It would result in the further destabilisation of the region and it would erode multilateralism. These are not just my feelings; they are the feelings of the Australian people. A Newspoll published in the *Australian* revealed that 76 per cent of Australians do not support military action against Iraq without UN backing. The Prime Minister can respond to this with his usual mantra of ‘I’m doing what is right, not what is popular.’ The reality, in this instance, is that what he is doing is neither popular nor right.

The uneasiness of the Australian people is shared by most of the world. In a recent *Time Europe* poll, people were asked which country poses the greatest threat to international security: Iraq, North Korea or the United States. Eighty-three per cent of the 250,000 people who voted said it was the United States. I do not agree with that sentiment, but it does illustrate that being the only superpower left comes with both rights and responsibilities. To outsiders, the Americans—or at least their government—seem to have stopped caring about the international system as such. And how much should we make concessions to the US position on international issues such as global warming, the Kyoto protocol and the International Criminal Court when the US refuses to join in anyway? It seems as if the US wants its own way or else it simply threatens to undermine the international structure that disagrees with it.

As to the legitimacy of American action, Bush’s return to the UN has helped. Even US public opinion is considerably more supportive of action with UN backing than without it, and in Europe the difference is even greater. Constitutional lawyer Professor George Williams has been reported as stating that Australian involvement in a war on Iraq without United Nations sanction would be a clear breach of international law.

The United States argues that two reasons justify invading Iraq: Iraq’s support for al-Qaeda and its possession of weapons of mass destruction. The original justification for US action in Iraq was the continuation of the war on terror. While the US has backed off a bit on this, Secretary of State Powell will discuss the al-Qaeda links with Iraq in the UN this week. Unless Secretary Powell presents substantively new evidence, no-one can confidently talk about clear links being established between Iraq and al-Qaeda. General Brent Scowcroft, former national security advisor to Republican Presidents Ford and Bush Sr, commented last year:

... the central point is that any campaign against Iraq, whatever the strategy, cost and risks, is certain to divert us for some indefinite period from our war on terrorism.

If the US is serious about prosecuting the war on terror, there are more obvious nations for it to target. At the moment there is no incontrovertible evidence that Iraq possesses weapons of mass destruction. While Iraq has failed to provide active assistance to the UN inspections team, they have reported that Iraq has generally complied with its disarmament obligations. The inspections team should be given more time to establish whether Iraq has breached resolution 1441.

The reality is that Iraq is more contained and less dangerous now than it was in 1991. There is time for the inspections to continue. The claims of Saddam Hussein’s bodyguard, for example, should be checked out. There was a report in the *Sunday Telegraph* in Sydney about this person, who is now in the hands of Mossad and who has been in the hands of Mossad for some considerable time. He has identified where these weapons are supposed to be stored. It strikes me as strange that this information has not been passed on to the inspection team. If it has been passed on, why hasn’t it been checked and why hasn’t it been verified? This is a person who was supposedly closer to Saddam Hussein than even some of his wives were. The claims include the existence of an underground chemical weapons facility and bunkers containing biological weapons.

Unilateral US action would forestall this and destroy any chance of a truly multilateral approach backed up by indisputable evidence of weapons of mass destruction. If Iraq does possess weapons of mass destruction, they are most likely to be used if they are invaded with their backs to the wall. At the moment, however, neither the existence of weapons of mass destruction nor substantial links with al-Qaeda have been established. Without
these, there is no justification for action against Iraq.

Without this evidence, there is the suspicion that unilateral US military action against Iraq would be motivated by the desire to control Iraq’s vast oil resources. This suspicion is reinforced by the extraordinarily close links between oil companies and the Bush administration. I do not know if everyone in this chamber saw the 60 Minutes report a couple of months before Christmas in which it was clearly demonstrated that there were convoys of oil trucks 100 miles long heading out of the north of Iraq through Kurdistan, which was charging them a toll fee to pass through the country, into Turkey and out into the Western world. No-one can tell me the US administration was not aware of that occurring. But what were they doing? They had a couple of ships stationed at the other end of Iraq to prevent the oil coming out by sea into the Persian Gulf. What a joke! They did not take action to enforce the sanctions. They knew the oil was coming out, but that was more important than the issue of preventing the loss of lives and preventing further destruction of people within that country.

The importance of the UN as a principle and as a tactic in this particular instance should not be underestimated. Even Tony Blair, Bush’s greatest European supporter on this issue, has faced real dissent from within his own party. (Time expired)

Senator RIDGEWAY (New South Wales) (11.22 a.m.)—I also rise to respond to the Prime Minister’s statement on Iraq and I join my colleagues in the Democrats in stating my full opposition to military action against Iraq. Like my colleagues, I also support the amendment to the motion that was tabled yesterday by the Leader of the Opposition in the Senate, Senator Faulkner, and I welcome the ALP’s support for the Democrats’ amendment to that motion as I believe the members of the United Nations Security Council should be made aware of the position of the Australian Senate. There is one element of the Prime Minister’s statement that I do agree with, but for reasons very different to those that he outlined. The burden of resolving the current crisis with Iraq is not a responsibility that should be left to the USA, the UK and Australia alone. It is, in my view, a responsibility for the entire international community to resolve through diplomacy and peaceful means. The clear message of the ministerial statement though is that the forward deployment of Australian troops is designed to put enough pressure on Saddam Hussein so that he will be forced to fully comply with UN resolution 1441 and disarm Iraq of all weapons of mass destruction. In other words, the government would have Australians believe that sending some 2,000 Australian troops to the Gulf to join US and British forces is the only way that anyone will be able to achieve the active cooperation of the Iraqi government, including the elimination of its stockpile of weapons of mass destruction and the cessation of its programs that produce these weapons.

The disarmament of Iraq is an outcome that I believe everyone in this chamber would dearly like to see. However, the question on the minds of many Australians is why our defence forces are being sent to the Gulf to apply pressure when the international community—and indeed the Australian community—is not supportive of this unilateral act by any nation. The accusation that Saddam Hussein has treated the UN resolutions with contempt does not justify another nation treating the United Nations and the agreed procedures of the international community with equal contempt. Yet that is precisely what the Australian government has done, and it is also trying to convince us all that two wrongs do make a right. Rather than adhering to the principles of international diplomacy, the government is prepared to compromise the standing and authority of the very body that the international community established, in the wake of the last world war, to maintain international peace and security. The Howard government is prepared, of course, to turn this international crisis into a crude test of the power of the United Nations. Yet the UN Security Council is the one international institution capable of resolving the Iraqi situation without the need for more bloodshed and additional suffering for the Iraqi people.
I think the Australian government should do everything possible to utilise the extraordinary capabilities of this institution, particularly to build a stronger human rights culture at the international level. The international community has made it quite clear that it is far from having exhausted all diplomatic avenues for resolution of the situation with Iraq. Indeed, some of the permanent members of the UN Security Council remain resolutely opposed to any unilateral action against Iraq and have made it clear that they are prepared to exercise their veto power to prevent such actions. At the present time I believe that the Prime Minister should heed the wise words of Nelson Mandela, who observed:

If you want to make peace with your enemy, you have to work with your enemy. Then he becomes your partner.

Instead our Prime Minister and the President of the United States are playing on our fears in an attempt to garner public support for their pre-emptive and provocative actions. We have nothing to fear from the Iraqi people themselves. It is their leader who is purportedly playing brinkmanship with the international community, and arguably Australia and the United States are playing right into his hands. US presidential historian Arthur Schlesinger Jr has pointed out that basing a declaration of war on fear, instead of on overt acts of belligerency, is not only illegal under international law and convention but also immoral. It cannot be right to kill a country’s civilians because you are afraid of what their ruler might do, yet this is precisely what the Prime Minister is asking Australians to sanction. Why else would the government spend $15 million on its antiterrorism mail-out? It is about blatant scaremongering at its worst.

I also believe there are a number of reasons why so many members of the Australian community do not want to see their defence forces engage in another war against Iraq. In addition to the reasons that I have outlined, many Australians are also deeply concerned about the danger that Australian Defence Force personnel will be exposed to and ask whether this danger can be avoided by exhausting all other diplomatic avenues.

As other senators have mentioned here today and yesterday, the Prime Minister is prepared to send some 2,000 Australian Defence Force personnel to the Gulf for involvement in a possible armed conflict, the biggest contingent since our involvement in the Vietnam War. Australians are also concerned about the financial cost of engaging in foreign conflict on the other side of the world—not in our region and certainly not on our shores—when countries in our region are also in crisis and in urgent need of support and assistance from Australia. East Timor, the Solomon Islands and Vanuatu have had serious breakdowns in their ability to maintain law and order. What are we going to do to assist in those cases? It is not surprising then that the message being put out in the media, particularly in yesterday’s and today’s Australian Financial Review, is that the government is saying that, whether it be in health, education or indeed tourism, we will inevitably have to compromise on our expenditure in these areas in order to take up war.

I think many Australians are rightly questioning whether our involvement in the Gulf at this time really is in the national interest because there are clearly a lot of other courses of action that are more immediately related to our national interest. Similarly, many Australians are questioning the morality of Australians participating in a war that will dramatically add to the suffering of the Iraqi people. Lost amidst the cries for war is the recognition of the shared responsibility of states and citizens alike to guarantee the human rights of all people, including the 24 million people of Iraq. These people have already suffered throughout the Gulf War and the following 13 years of crippling sanctions that the international community applied.

Whilst the Prime Minister referred in his statement to the fact that Saddam Hussein has ‘rorted’ the food for oil deal by ‘violating its provisions and evading its constraints’, there is incontrovertible evidence of the devastating effects that this deal and the associated sanctions have had and continue to have on the lives of ordinary Iraqis. In 1999 a UN humanitarian panel reported that under sanctions Iraq has ‘experienced a shift from rela-
tive affluence to massive poverty’. In that same year, a UNICEF survey estimated that over 500,000 Iraqi children had died as a consequence of the sanctions between 1991 and 1998 alone. Yet the international community has looked on with indifference and inaction to the appalling humanitarian cost of its own sanctions in Iraq, in the misguided belief that applying pressure to a civilian population would somehow ultimately affect and remove the leadership.

A confidential UN assessment warns of ‘disease in epidemic if not pandemic proportions’. Once Iraq’s electrical grid system is destroyed, the consequent disruption to the sanitation and public health systems will cause a spike in water-borne disease and child mortality. It goes on to say that there would be 500,000 direct or indirect casualties—assuming that only a conventional war and not a nuclear war is launched—and up to two million internally displaced persons and refugees. UNICEF has warned that in the event of a war against Iraq and the collapse of the monthly food distribution program that already operates across the country the international community can expect a ‘nightmare scenario’.

All the concerns that I have referred to have been raised in recent weeks by members of the Australian community, former prime ministers, leaders of the RSL, representatives of the churches, and other ordinary Australians. Yet the Prime Minister in his statement has failed to address the humanitarian concerns or to even acknowledge the moral and ethical questions that an attack on Iraq would inevitably entail.

I close by referring to comments by Martin Luther King in the hope that the Prime Minister will heed them. The wise words of Martin Luther King are:

If we do not act, we shall surely be dragged down the long, dark and shameful corridors of time reserved for those who possess power without compassion, might without morality, and strength without sight.

An action in this situation does not have to mean war. I seek leave to incorporate the remainder of my speech.

Leave granted.

The speech read as follows—

One matter that I do want to correct in the Ministerial Statement relates to the comparison the Prime Minister has made between the current crisis with Iraq and the situation leading up to Operation Desert Fox in 1998.

On page 25 of the statement, the Prime Minister says that these two international incidents are “so similar as to be nearly identical”.

This is simply not the case.

It is not appropriate to compare the current situation with Iraq with the situation that existed in the lead up to Operation Desert Fox in 1998—when Australia pre-positioned an SAS squadron and two refuelling aircraft in the Gulf, and joined with British and American forces in the Gulf.

At that time, the Government also held a debate regarding Iraq and its weapons of mass destruction, after Prime Minister Howard had already given the US President an in principle commitment to send Australian defence personnel to the Gulf as part of the US-led international military coalition.

But in contrast to the present situation, the Opposition supported the involvement of ADF personnel in the US-led coalition.

In further contrast, back in 1998, Australia was only proposing dispatching 190 ADF personnel: one SAS squadron and 2 air-to-air refuelling aircraft—NOT 2,000 ADF personnel.

And perhaps in greatest contrast to the present situation, the majority of Australians improved of Australia sending SAS troops to the Gulf if the US were to launch an attack against Iraq (according to a Morgan Poll taken in February 1998).

There simply was not the same level of anxiety and concern in the Australian community that the ADF personnel would be involved in an actual war. Nor did the US Government at the time flag the possibility of a conflict that could involve the deployment of nuclear weapons against the Iraqi people.

Today, the Government does not have the support of the Australian Democrats, or the ALP, or the Greens to send Australian forces to the Gulf without such action being sanctioned by the international community through the United Nations.

Nor do we believe that the Australian people support this forward deployment of ADF personnel, without the international community calling for it.
Senator McGauran (Victoria) (11.32 a.m.)—On 11 September 2001, with the terrorist attack on New York and Washington and its horrific effect, the war on terror began. It is worth noting that Australian lives were lost on 11 September, along with lives from 80-plus other nations. As the United States President said then, and our Prime Minister reiterated, this is a war that will be fought like no other because there is no front line. It would be a war long and protracted; above all it would be difficult and demanding on society. The truth is that the free world’s security would never be assured again and liberties would be curtailed.

The Australian government, with the full support of the people of Australia, joined this war in defence of our hard-fought freedoms. We could never have imagined that the Bali terrorist attack would entwine us even more in this war. Our determination, along with our powerful allies, has resulted in success that has assured us a measure of security—for example, the comprehensive arrest of the Bali bomb plotters. The Taliban regime fell very quickly in Afghanistan and al-Qaeda was put on the run. Many al-Qaeda operatives have been arrested or eliminated. Across Europe and Asia other terrorist connected organisations have been flushed out and dismantled or scattered. Behind this successful drive has been the policy of pre-emptive strikes—that is, to go out and meet your enemy before they have a chance to destroy you; to neuter their plans and their networks.

There can be no other sensible and more effective policy than pre-emptive strikes when fighting a shadowy enemy—an enemy who is not seeking firstly to take your land, towns or cities but an enemy who clandestinely attacks because they hate and seek to destroy your lifestyle, philosophy and religion. If we are to secure for the future our Western values and beliefs, all possibilities of links to terror must be pursued. Iraq has a clear link to terrorism, a link that threatens regional and global security. The Iraqi regime has been a sponsor of terrorist organisations, a harbourer of terrorists, a keeper of weapons of mass destruction, a user of weapons of mass destruction and a pursuer of a nuclear arsenal.

In the best interests of Australia and world security, action must be taken to disarm the Iraqi regime. Who is willing to gamble on the silk-thin line that now separates Saddam Hussein’s weapons of mass destruction from falling into the hands of terrorist groups? How could we take such a gamble post September 11 and post Bali? The consequences are grave and the risks cannot be taken. In fact, not to intervene would almost ensure that the terrorist groups link with Iraq.

The United Nations over the past 12 years has been pursuing that very point—that Iraq must disarm for the sake of international security. For 12 years Iraq has evaded the resolutions of the United Nations for it to disarm. It is beyond doubt that Iraq possesses weapons of mass destruction. In 1998, when Iraq forced the first United Nations inspection commission to leave the country, the commission confirmed the presence of chemical and biological weapons, nerve agents and other weapons of mass destruction.

Today the Iraqi regime is still ignoring and avoiding the United Nations. The chairman of the United Nations weapons inspection team, Hans Blix, after 60 days in Iraq, unambiguously reported that Iraq was violating the United Nations Security Council resolution 1441 to disarm. As Blix said, ‘There is no genuine acceptance by Iraq to disarm.’ It is therefore essential for the credibility of the United Nations and for world security that it enforces its resolution 1441. This means that, if all diplomatic channels fail and the next inspection report is the same as the last, military force becomes the only resort to force this dictator to meet his international obligations.

Because the military option has been looming as likely for some time, it has been necessary for the United States, Britain and Australia to be prepared. That is why forward deployment has been undertaken. It has had the dual effect of providing the necessary time for our forces to be prepared and, moreover, to display the will to enforce resolution 1441. It is because of the build-up of military force on Iraq’s border by America
and its allies that Saddam Hussein has cooperated to at least allow United Nations inspectors back into the country.

In this debate there is a clear dishonesty from the Left, which is epitomised by the comment from the Greens senator, Bob Brown, when he said, ‘More people are afraid of George Bush than they are of Saddam Hussein.’ The intellectual and moral dishonesty of that statement is nothing new. It was the rationale during the Cold War to equate communist Russia as a moral equivalent to the United States—that is, a dictatorship is morally equivalent to a democracy. That belief permeated the Left during the 70 years of communist rule. That belief even stretched to defending the Stalin regime and all its brutality. While governments of the Western world defended freedom and democracy, many of those enjoying that freedom and democracy intellectualised that moral equivalence. The wall was up and oppression and massacres took place, but the anti-Americanism, which represented Western democracy, was always attacked. History proved just how bankrupt the Left’s views were. History will also show that their support for Saddam Hussein’s regime through their anti-Americanism will also be found to be morally bankrupt.

The Australian government does not recoil from its full support of our alliance with the United States. We stand by it. What emotional frauds many in this chamber were after September 11. How quickly they forgot what happened to the world that fateful day. How quickly their hate for America and our alliance rose to the top at the expense of all else, not least the Iraqi people themselves. In reality, the so-called ‘peace team’ are joining Saddam’s privileged elite, because no-one else in Iraq is his friend, especially not the people of Iraq. Outside his elite, the people hate Saddam and they will not fight if an attack eventuates. The Geneva based International Crisis Group conducted an extensive survey of Iraqi opinion in October last year. The report was notable for the surprising honesty and bravery of the people it surveyed. They overwhelmingly supported the overthrow of Saddam Hussein, even if it meant an American led attack, which would be seen as liberating them.

Before any Australians jump on the Left’s bus to Baghdad, they ought to be aware of Saddam Hussein’s record towards his own people. Amnesty International has catalogued the human rights atrocities of this dictator in a report published in August 2001 entitled *Iraq: Systematic torture of political prisoners*. The brigade from the Left should also speak to the women of Iraq who are brutalised physically, psychologically and culturally. A report published in December 2002 by the Foreign and Commonwealth Office in the UK on the human cost of Saddam Hussein’s policies graphically describes the atrocities towards women. I quote from a part of that report:

The heads of many women have been publicly cut off in the streets under the pretext of being liars, while in fact they mostly belonged to families opposing the Iraqi regime. Members of Saddam Hussein’s gang have raped women, especially dissident women. The wives of dissidents have been either killed or tortured in front of their husbands in order to obtain confessions from their husbands. Women have been kidnapped as they walk in the streets by members of gangs of ... (Saddam’s sons) and then raped.

Even the children of Iraq have suffered under the corruption of this regime, which diverts revenue from the oil for food program developed by the United Nations towards Saddam Hussein’s opulent lifestyle, his personal guard and his power elite. The truth is stark in regard to this regime but the Left cannot handle the truth.

**Senator WEBBER (Western Australia)** (11.42 a.m.)—I do not think there is anyone in the Australian parliament who would try and prosecute the case that Saddam Hussein is a humanitarian. However, in considering this issue about this proposed war, the one question that constantly comes to my mind that still has not been answered is: why now? Why, in 2003, do we need to go to war? What are the conditions that make war appropriate in 2003 and not appropriate at any other time in the last 12 years? At the end of the Gulf War, the Iraqi military were defeated. There were no forces capable of resisting the allied attack and yet the attack was stopped after only four days. Why did
the allies stop? It would seem now, 12 years later, we are going to get a rerun.

President Bush was on television the other night making claims about not wanting to watch a rerun—he even said it was a bad rerun—of Iraqi noncompliance. So, just to differentiate the US from Iraq, we are going to get a rerun of the Gulf War. However, this rerun does not have the legitimacy of the Gulf War provided by the United Nations. As is often the case, sequels normally do not live up to the original. No sovereign nation has been invaded, as was the case 12 years ago. So what do we get? We get a trumped-up series of claims about Iraq’s weapons of mass destruction, that they have biological, nerve and nuclear weapons, and if we do not do something right now they will use them—after all, they used them on their own people. They are the publicly stated grounds for war. That is why it is now, and not at any other time during the last 12 years when they supposedly had these weapons. Well, that just does not cut it.

What about North Korea? Don’t they have weapons of mass destruction? Of course they do, but for some reason they are exempt from the current debate and the focus of this government. They are to be allowed to keep these weapons of mass destruction, apparently, but Iraq, who it is alleged also has them, cannot. There may be a different view amongst ordinary Australians, I fear, about this war if we apply the same rules to other nations as we will apply to Iraq. They are the publicly stated grounds for war. As some of my colleagues have pointed out to me in recent days, a diversionary attack is a standard military tactic. You divert the attention of the enemy by attacking somewhere else to mask your real intentions. So perhaps this attack on Iraq is a diversion. What could it be a diversion from? Following the dreadful events in the US on September 11, the President of the United States stated that he would use the full resources of the US to hunt down and destroy al-Qaeda and Osama bin Laden—the war on terror, as it became known. The US and its allies, including Australia, attacked the Taliban in Afghanistan. After a month, the Taliban and al-Qaeda were pushed from power and it appeared that the war on terror was won. However, a disturbing picture has emerged: no Osama bin Laden, and al-Qaeda, although damaged, was still operating. Had President Bush and his allies not won the war on terror? As time went on and al-Qaeda operatives committed additional atrocities, it appeared that the war on terror was ongoing: no Osama bin Laden dead or captured, and al-Qaeda still operating.

I recollect that it was early last year, at about the time that people started to realise that the war on terror was not over, that the talk about Iraq started. In fact, President Bush used his State of the Union address last year to start building the case. Some would say that America whistled and Australia responded like a good little lap-dog. For months last year, our country—our country, based in our region—was leading the charge against Iraq. After all this time we are about to participate in the largest diversionary attack in history. It is designed not to fool the Iraqis or the North Koreans—it would seem that they are not easily fooled at all—but so that the American and Australian public do not ask a lot of awkward questions about the failure of the war on terror.

Let us be clear that the war on terror has failed in its primary aims. Al-Qaeda continues to operate, with all the atrocities that that involves, and there is no proof that Osama bin Laden has been killed. The full resources of the United States have failed to deliver for the international community. We now see that the American involvement in Afghanistan is ongoing and that there are few signs that the warlords are now prepared to operate within a functioning democracy. The failure
of the war on terror also opens the case for
the aim of the war with Iraq. This is not sim-
ply an issue of disarming Iraq, although that
is the objective that is most talked about.
President Bush, it would seem, is not averse
to the idea of regime change. But what does
regime change really mean? Could it mean a
compliant Iraqi regime run by an Iraqi cur-
cently in exile? Could it mean a regime that
will need to be propped up for an indetermi-
nate period of time? Or are we seeing a fu-
ture Iraq where a new strongman is held in
power by a US military garrison? We need
answers to all these questions before we em-
bark on this folly.

For many people the real worry about a
war with Iraq is what will happen once it is
over. There is little support for a war with
ambiguous aims that is conducted outside the
auspices of the United Nations and without
any real justification as to why now. The
Americans have had ample opportunity in
the last 12 years to seek a military solution to
the issue of Iraq. Until now they have failed
to act because there was no clear case for
such action. They have failed to convince
world opinion that there are such grounds
now, and that is why this war should not be
supported without a UN resolution to justify
it.

There is no compelling case for Austra-
lians to be preparing to invade Iraq. There is
no reason our service men and women
should be anywhere other than in Australia
or East Timor. Australia needs to look to its
own interests first. Only if there are compel-
ling reasons in our national interest and if the
action is supported by the United Nations
should we ever become involved. The cur-
rent debate and the current actions of this
government are a sham and Australia should
not be participating at this time.

Senator WATSON (Tasmania) (11.51
a.m.)—A major threat to world peace and
security is Iraq’s continual refusal to adhere
to international obligations on weapons of
mass destruction. For over a decade Saddam
Hussein has thumbed his nose at the world in
relation to international law and United Na-
tions resolutions which require Iraq to dis-
arm these weapons. It is imperative that
Australia and our allies apply pressure on
Iraq, as it is only by demonstrating the con-
sequences of noncompliance that the peace-
ful, diplomatic resolution the world desires
can occur. It is necessary to show Iraq that it
is at the request of not only the United States
but also the larger world community that it
disarm these weapons of mass destruction.
The international community needs to in-
crease pressure to turn Iraq’s cooperation
from passive to active, as it is only via mili-
tary threat that Saddam has accepted the re-
sumption of United Nations weapons in-
spections.

This is especially necessary when we con-
sider Saddam’s track record in ignoring the
rest of the world on all issues, including hu-
man rights matters. I think it is important to
draw attention to a few of these human rights
matters. Since the beginning of the 1980s,
hundreds and thousands of Kurds and Shia
Muslims have disappeared. Their cases re-
main unresolved. In a campaign of mass ar-
rests and killing of Shia activists, the Ayat-
tollah Baqir al-Sadr and his sister were exe-
cuted in 1980. In 1983, 18 members of an-
other Shia family were arrested, of which
six—all of whom were religious leaders—
were executed. In 1987-88 the campaign of
attacks on Kurdish villages had Amnesty
International estimating that more than
100,000 Kurds were killed or had disap-
peared during that period. In the last 18
months, a number of prominent Shia Muslim
clerics have been killed in southern Iraq in
circumstances that suggest that they may
have been extrajudicially executed, possibly
by government forces or forces acting on
government orders.

Since 1991, according to the United Na-
tions Commission on Human Rights, 94,000
Kurdish individuals have been forcibly ex-
pelled by security forces from their homes in
the north to areas controlled by the two
Kurdish political parties in Iraqi Kurdistan,
on the basis of their ethnic origin. A 20-year-
old Kurdish businessman from Baghdad,
who was married with two children, was ar-
rested in December 1996 outside his home
by plain-clothes security men. Initially, his
family did not know of his whereabouts, and
started going from one police station to an-
other, inquiring about him. Through friends,
they found out that he was being held in the headquarters of the General Security Directorate in Baghdad. The family were not allowed to visit him. Eleven months later, the family was told by the authorities that he had been executed and that they should collect his body. His body reported evidence of torture: his eyes were gouged out and filled with paper, and his right wrist and left leg were broken. The family were not given any reason for his arrest and subsequent execution. However, they suspected that he was executed because of his friendship with a retired army general who had links with the Iraqi opposition outside the country and who was arrested just before the young man’s arrest and also subsequently executed.

Every day in Iraq, Kurdish people and people of many other ethnic minorities are suffering at the hands of Saddam Hussein and his supporters. Based on this evidence and Iraq’s shocking human rights record, we cannot any longer go on expecting that one day Saddam will do the peaceful thing and disarm his weapons of mass destruction. It is quite the opposite; it has already been 12 years. With the spreading threat of terrorism, it is time that the world stood up and put a stop to this stockpiling of chemical and biological weapons. If it had not been for the actions of the United States and Great Britain, the weapons inspectors would not be in Iraq now.

Previously, Iraq has shown no hesitation in using chemical weapons—for example, during the Iran-Iraq war. Many of the victims of that conflict are still in Iranian hospitals, suffering from the long-term effects of the numerous types of cancer and lung disease associated with these types of weapons. In 1988, Saddam also utilised mustard gas and nerve gas agents against the Iraqi Kurds in northern Iraq. According to Human Rights Watch, up to 5,000 people were killed and 10,000 or more were injured. The use of chemical warfare and Saddam Hussein’s method of controlling his civilian population are not very diplomatic behaviour, and yet this was against his own people in his own country. Saddam ensures that there is no-one else in power in Iraq. Members of the opposition abroad have been the targets of assassination attempts conducted by Iraqi security services. Army officers are vital informants for Saddam’s regime. Any officers suspected of having ambitions outside serving the Iraqi president are immediately executed, even to the degree of taking pre-emptive action against those who Saddam feels may pose a threat to him.

I certainly would prefer to see a peaceful resolution to this crisis, and I know that the rest of Australia would as well. Although the government believes that the UN processes should be allowed to continue unhindered, it is only through the support of Australian troops that a dangerous man such as Saddam Hussein will be pressured—and that is the emphasis—into taking some positive action to ensure that the weapons of mass destruction are disarmed. The deployment of Australian forces in the Persian Gulf is the same as the action that we took in 1998, which was supported then by the opposition. The ultimate aim of sending troops is for Australia, as a supportive non-Security Council member of the United Nations, to assist in maintaining pressure on Iraq to enable a peaceful end to this international crisis.

Senator CARR (Victoria) (11.58 a.m.)—The opposition’s amendment to the government’s motion to take note of the ministerial statement highlights our deep concern about the gross inconsistency that the government has shown in this pursuit of a war with Iraq. We make it very clear from the start that we support our troops. We support the military forces of this country on the simple basis that they are obliged to follow orders and they do follow orders. We do not support the issuing of those orders. Surely there could be no more important question for parliament to discuss than the question of war. We are asking our troops to go into a war where they will kill and potentially be killed. In those circumstances, it is appropriate that we give very serious consideration to the issues that are involved.

There is great uncertainty about the present circumstances. We have been in a period for the last 10 years in which we have been promised a brave new world which simply has not come to pass. We have been faced with a whole series of quite difficult deci-
The claims that are being made with regard to the regime in Iraq are not really at the core of the debate, because there is no-one here who seriously argues that there is any legitimacy to the actions of Saddam Hussein. However, our position would be stronger if there were greater consistency in the approach taken throughout the world. For instance, if we heard that support for the Kurds was to be part of the debate at the moment, we would be in a much stronger position if we supported the Kurds not just in Iraq but also in Turkey.

We would be stronger in our determination if we opposed the use of chemical weapons in all cases. We saw with regard to the war against Iran that it was Western companies that supplied the equipment and supplied the materials that allowed those weapons programs to be established by Iraq. We would have a much stronger case if we were to argue that the gross abuses of human rights in all military dictatorships, not just the one in Iraq. Throughout the Cold War, how many military dictatorships were supported by the Western alliance as a bulwark against communism? We would be in a much stronger position to argue that we are in the business of disarmament of nuclear weapons if all countries were required to disarm. But that, of course, weakens the position from which people on the other side have been arguing.

It is an appalling a-historical view that is being presented to us here today, as though we are all mugs, as though the Australian people are mugs who do not understand the complexities of these arguments. We live in an era in which the concept of the great power has fundamentally changed. Since the early 1990s, the United States has been the only recognisable classic great power. Other countries, like Japan, Germany and even those in the European Union, do not meet that criterion because they simply do not have all the ways and means that the United States has at its disposal.

We have seen significant changes in the way the government of the world functions. We have seen the disappearance of a whole range of assumptions that we have come to expect as being the status quo. We live in a period characterised by insecurity and permanent crisis. However, we have also seen the disappearance of the essential acquiescence that people of the world have shown towards the occupation of their countries by colonial powers. Before the First World War, Bosnia was able to be governed by a very small administrative group of people from the Austro-Hungarian Empire. Today, it requires 30,000 troops to keep order. We saw in the 19th century in the Sudan General Gordon had a bit of an exhibition of military power. It was not a unique circumstance of our time; there were considerable periods of time throughout the 19th and 20th centuries when small administrative groups could, in fact, run countries. That is no longer the case.

So when we are debating a war in Iraq, we have to seriously think about the consequences of that war. Anyone who understands the events in Mogadishu in 1996, when the United States sent 20,000 troops to that city, would also understand just how difficult the circumstances are likely to be. And the armchair warriors on the other side, who are only too happy to send our troops into a warfare situation without thinking through the implications, ought to bear in mind their responsibilities. They ought to consider the consequences of a prolonged period of occupation of a conquered Iraq. They ought to consider what the implications are in terms of the regional insecurities that are likely to flow from such a war. They ought to consider, particularly from Australia’s point of view, the domestic consequences of increasing the risk that Australians will face internationally as a result of participation in this undeclared premeditated move towards war by the Australian government, working in league with the British government and, of course, the United States government. They ought to consider the full implications of those matters.

The United States has been only too happy to launch a whole series of wars in recent times. We have had the war on drugs, we have had the war on poverty, we have had the war on terrorism and now, of course, we have the war on Iraq. It strikes me that the enormous resources, capacities and talents of
a country like the United States could well be served and put to better use than they are at the moment, when there seems to be an underlying contempt for any capacity to resolve these issues through the United Nations. Those resources could be used, as I say, to defeat the causes of terrorism: the instability, the insecurity and the poverty in this world. They could be put to greater use in terms of the war on drugs.

All we have seen today, and what we have seen from a number of serious military analysts, is that the circumstances we are seen to be pursuing in the war that is being proposed are, in fact, detracting from those very important and worthwhile objectives. If there were such a serious question about the war on terrorism, we ought to be having a look at Saudi Arabia. Remember this: 15 of the 19 people who took part on the attack on the United States were from Saudi Arabia. If we were seriously concerned about changing the level of commitment to democratic values throughout the world, we might want to have a look at the long list of countries that have governments which are in power not as a result of due democratic process but as a result of other means.

I ask: what is the implication of embarking upon a campaign of regime change in one particular country? Will that flow through to Egypt? Will that flow through to Syria? Are we now saying that we are going to have a campaign in Iran? There are enormous implications from what is being proposed by this government in unilaterally seeking to invade another country without going through the proper processes of the UN.

Finally, let me deal with the issue of the material breach argument. People say we have circumstances here in which resolutions have been passed and Iraq has not met its obligations. It appears that that is a substantive view held around the world. The arguments for that are very strong, but whether or not that justifies a military invasion is another question entirely. There is a whole series of measures that could be undertaken by the United Nations to prosecute its decisions to enforce disarmament. There is the issue of biological weapons, or germ warfare, which dates back to one of the oldest treaties that exists—back to 1925 if I recall rightly.

It is appropriate that the full resources of the international community be placed to make sure the world is safe. But does that automatically mean that we should commit to the murder of many innocent civilians as a result of unlawful military action? That is the sort of question that comes up. It strikes me that the issue of the United Nations decision process is paramount. It does not automatically follow, however, that an invasion using military force is appropriate under the present circumstances. This is not just a question for people who have an interest as members of parliament. Significant military figures, such as Major General Alan Stretton, British General Sir Michael Rose and others, have indicated that it is much more difficult than anyone could possibly contemplate. (Time expired)

Senator KEMP (Victoria—Minister for the Arts and Sport) (12.08 p.m.)—I rise to speak on this extremely important debate. For many people it is a difficult issue, and I accept that people of good conscience may well differ on this issue. Despite the difficulty of the issue, it is something that we cannot run away from. Of course there are risks if military action is taken, but there are enormous risks if no action is taken and Saddam Hussein refuses to disarm. We all share a common opposition to the horror of war—and that was a point that you made well in your speech, Mr Acting Deputy President Watson—but these horrors already exist under the regime currently in power in Iraq. There are some corners of the world that have bred the most terrible evil, and this evil must be fought.

There are two issues I want to particularly draw to the attention of the Senate today. One is the appalling leadership that Simon Crean has shown on this issue. We have just heard a speech by Senator Kim Carr, who is a leader of the Left in the Labor Party. To think that Mr Simon Crean feels he has to pander to the likes of Senator Carr rather than stand up for the national interest of this nation is absolutely appalling. If you look at Senator Carr’s speech you will see the same rabid, anti-American approach taken by a
number of Labor speakers who have, unfortunately, chosen to follow Mr Simon Crean in his remarks.

Not all Labor speakers have followed that road. In the Senate I have noticed that Senator Mark Bishop and Senator Hogg—and there may be a couple of others yet to stand up—have spent quite a bit of time supporting the American alliance and underlying the importance of that alliance to Australia. Senator Ludwig nods in agreement. But that was not apparent in the often insulting remarks by their leader, Mr Simon Crean. Nor was it apparent in the remarks that followed, such as those by Mrs Julia Irwin in the lower house. Of course, we also witnessed a speech by Senator Webber in this chamber in which some of the old furphies of anti-Americanism were pulled out. This does not mean that America is right on every issue, and no-one would say this; but with an issue as grave as this we are entitled to expect that we do not degenerate—as Mr Simon Crean and some of his followers have degenerated—into mindless attacks on the American alliance and mindless attacks on the American President.

There are Labour leaders who have shown great leadership on this issue. Mr Tony Blair is a Labour leader who has been able to grasp the nettle of how serious this issue is that the world is facing. He is prepared to go out and argue the case and to attempt to bring a divided party with him. Mr Simon Crean does not have that capacity, so yesterday we saw that tragic speech from the Leader of the Australian Labor Party. Certainly, when you think of the Curtins and the Chifleys of this world and, indeed, of the leadership that was shown by Mr Hawke and others in relation to the Gulf War, it is a tragedy just how far the Labor Party has sunk. There is a monstrous evil in this world at the moment. It exists in Iraq and it deserves every action to be taken by the international community to deal with this problem, one way or another. It is important that the Labor Party recognises that there are national interests above and beyond the narrow party interests of a bitter and divided party.

It is interesting, when you listen to members of the so-called Labor Right, how their remarks differ remarkably in tone and content, typically, from the remarks of the Labor Left, to which Mr Simon Crean wishes to pander. Senator Chris Evans—I will say this, and I am happy to say this—is one of the more intelligent people on the frontbench of the Labor Party. He is not someone I agree with always and, in fact, I may not agree with him often, but Senator Chris Evans is one who understands an argument. When you carefully read his speech, you see that there are none of the mindless personal attacks or the anti-Americanism that so marked Mr Simon Crean’s speech. But there is a contradiction at the heart of Senator Evans’s speech. He makes a point that rather intrigued me as I read his remarks. He said:

There is no doubt that Iraq must be disarmed of its weapons of mass destruction. Saddam Hussein is an evil, dangerous dictator who poses a serious risk to regional and international security. He is quite right on that. But what does he then go on to say? You read down his speech and he says that no convincing case has been made for the deployment of combat troops. We understand from Senator Evans that this is a dangerous dictator who poses a serious risk to regional and international security. But no action apparently should be taken by Australia. Australia should in fact sit back and let others do the work. Someone has to take a lead in this world. We would have preferred the UN took the lead but, as we know, it is countries like America, the UK and Australia which have put some pressure on the UN to make sure the resolutions that they have passed on Iraq are enforced. Failure of the UN Security Council to enforce the resolutions would be catastrophic for the credibility of the UN and the international system.

But you do not get that feeling from the Labor Party Left. You do not get that feeling from Mr Simon Crean’s speech. In the wider community we hear the argument that this is about oil. The Labor Party caucus were clearly told they were not to use that argument because it was a nonsense. It is true I think that when you look through most of the speeches—the ones that I have had time to read—that the Labor Party did not go down that track with that furphy as we see the
Greens and the Democrats doing. If the issue were just cheap oil there would be far easier ways to get cheap oil out of the area than to take the action that is being taken. Of course it is not about oil. The Labor Party caucus were told not to argue with us about oil. That did not stop the member for Fowler, but very few Labor Party speakers in this chamber have gone down that route, which occupies the attention of so many letter writers to newspapers these days and the attention of the Democrats and the Greens.

This is a difficult issue. This is an important debate. I believe the government has shown very important and strong leadership on this issue. Above all, this government is a government which thinks of the national interest. The Labor Party has got it wrong on a few big issues in the last decade. It got it wrong on East Timor. It got it wrong on border protection and, if you listen to Mr Simon Crean, I think we are right to suspect the Labor Party will get it wrong again.

Senator MOORE (Queensland) (12.17 p.m.)—Yesterday in the Prime Minister’s statement he stated:

We must take a decisive action on Iraq.

Further on he said:

We must be clear, unambiguous and decisive. These are all words to which we relate, but it is actually seeing the meaning behind the words that this debate is about. In this same place in 1991, during a similar debate about war and who was right and who was wrong, my predecessor the senator for Queensland Margaret Reynolds made a series of statements. One of the things she said that still rings true in many of the arguments that we are hearing across the whole parliament now was:

Everyone in this parliament wants peace, but we disagree on the means to ensure it.

I think that in this debate we must face exactly where we are coming from and what we hope to achieve. There is absolutely—and I do not use the word lightly—violent agreement that we want peace. However, there is a significant difference of opinion as to exactly how we can acquire it. The Prime Minister will be going to America next week—and we have heard a lot of argument about the reason for the visit. But the public statement is that he will be talking with the American community about how the Australian community feels about the environment in which we are living at the moment. When the Prime Minister goes it is essential that he speaks from the heart of the Australian community, not from any particular group of interests but from where we as an Australian community want to be. All over the country members of the Australian community have been contacting their elected representatives, of all flavours, and saying that they are worried about this proposed war. It does not really matter what words are used—whether ‘predeployment’ or ‘deployment’ or ‘preparation for war’ or ‘war’—people are scared. They are writing to and emailing people and saying, ‘Tell the Prime Minister that we do not want this war. Tell the Prime Minister that we as a community are afraid. Tell the Prime Minister that we are not supporting Saddam Hussein.’

Already in this House we have been hearing the violence of words alleging that various people are somehow supporting the atrocities that are going on in Iraq. It seems pretty easy to talk about the horrors of the abuse within Iraq and about the unquestioned violence that is occurring there. We have heard that discussed in quite clear detail in various speeches in this place. But we have not heard about the horror of war. It is not as if there is a competition about whether war is more horrible than what is going on in Iraq at the moment, but that is somehow where the debate has degenerated. It seems to be worthy to support warfare, with all the horrors that that implies, because there is injustice and violence happening in the community in Iraq. We abhor what is going on in Iraq. We abhor what is going on in a whole range of communities across this planet. There is injustice and there is violence. However, the way to support that is not to encourage further violence. You do not argue with weapons of mass destruction by bringing in more weapons of mass destruction. It does not make it okay to kill people because they are killing others. We share the abhorrence but we do not share the argument.
People are writing in and they are actually identifying themselves by saying, ‘We are not fringe radical loonies.’ We have already heard in some speeches in this place that anyone who would oppose this war would be a ‘fringe radical loony’. People who are opposing war are not. I have had letters which say, ‘We who are opposed to this conflict are ordinary’—and I often wonder what an ordinary Australian is, but they identify themselves as being ordinary—‘fairly conservative Australians. We cannot bear to contemplate the inevitable mass destruction of life without making a protest. We want our voices heard. When the Prime Minister goes to talk about how Australia is feeling about any proposed conflict, make sure the message picks up that people do not support war.’

There has been some discussion about the way the war could be fought. It worries me that we are talking about the war being fought, not about the potential that it may be fought but the fact that it will occur. And the media is talking as though it is a laid down solution that there will be war. There should not be any acceptance that it must happen. We must, as we said earlier, share the desire for peace. When we talk about how it is going to happen, people seem to be able to run away from the realities of the loss, the death and the destruction. They seem to be able to run away and talk in sanitised debates, such as we are having here in this place, about how you would deploy troops and how it would operate and what would occur. War is not a sanitised debate; war is the reality of loss and destruction.

We talk about the potential of using nuclear weapons. We hear it is possible that, if there are nuclear weapons being predeployed or deployed in this potential conflict, or if it becomes clear that there will be weapons of mass destruction used in this conflict, we would be able to withdraw. I am at a loss—as Senator Webber has said in terms of the questions that need to be asked—as to how you withdraw when you suddenly become aware that a weapon could be, may be or is a weapon of mass destruction. How do you define that? How do you withdraw? Once you actually start that conflict there is no withdrawal. There is no noble way of withdrawing from that kind of conflict. We need to get that message now. It is too late after the predeployment becomes the deployment.

This debate reflects what is going on across communities in our country. All of us who identify ourselves being as representatives of the people are being contacted by people who say that they need to know what is going on. People have opinions about this issue but they feel as though they are not having their opinions put forward. It is not enough just to use the words. The words seem to flow quite freely and for extended periods of time. It is not enough just to use the words; it is about listening to the meaning behind the words. Hopefully, this is what this debate will achieve. People will have the opportunity not only to have their say about how they feel personally—whilst that is important—but also to convey what the people in the local communities, at the local rallies and in the shopping centres are coming up and saying about how they feel about this process. We get letters that start by saying, ‘We wish to express the strongest opposition to any possibility of war with Iraq. We are concerned about the build-up of weapons of mass destruction wherever they exist.’

In 1991, when similar debates were going on, a group of women sent some emails around the place on their concerns about war. They made a statement which I echo now and which my predecessor Margaret Reynolds quoted in one of her speeches:

We believe that only through recognising our common needs and seeking to explore ways of settling our differences can we live in peace. We know that conflict will always exist between individuals and between nations but believe that we can work to minimise this and to find creative solutions which do not involve death and violence. War is neither natural nor necessary but an archaic and dangerous way of solving disputes. That message in 1991 has been real ever since. It is real now. When we discuss in this place—as we must; there is no way that such decisions should not be discussed in this place—that we must take decisive, clear and unambiguous action, we must make sure that the background to that decisive, clear and unambiguous action reflects the need of our
community for a peaceful solution and a commitment to saving lives, not killing.

Senator CROSSIN (Northern Territory) (12.27 p.m.)—I seek leave to incorporate three speeches from the Australian Labor Party. The reason these speeches are being incorporated is the time constraints we have this morning. We wish to ensure that the chamber has dealt with this debate prior to our session at 12.45 p.m. The speeches are from Senators Denman, Lundy and Ludwig.

Leave granted.

The speeches read as follows—

Senator Denman

I am proud of Labor’s consistent position on this issue. We have firmly argued for the role of the United Nations Security Council, an organisation with a charter that assigns its responsibility to the maintenance of international peace and security. In these difficult times, when we are experiencing definite threats to world peace and security, I believe—we are—and have been—correct in placing our trust in the United Nations Security Council. To date, the United Nations Security Council has been able to carry out an independent investigation into whether or not Iraq does hold weapons of mass destruction. In my opinion, it would have been wrong for Australia to rush blindly into any military involvement for a war against Iraq, back in September of last year, when this issue first started heating up—without having the benefit of a comprehensive and independent investigation. It’s true on 28 January, this year, Hans Blix, the Chief Weapons Inspector, delivered an inconclusive report that suggested Iraq had committed violations but that there was no firm evidence to support this. The results of further investigations are likely to be reported on 14 February. The coming days are going to be difficult and stressful for so many. The American Secretary of State will address the United Nations on 5 February—he may or may not reveal further evidence concerning Iraq’s weapons of mass destruction.

However, today, without evidence—with nothing concrete—we cannot conclude guilt. We have given our support to the United Nations process, and we must show our patience, commitment, and trust, in following that process through. We must heed the advice of the United Nations Security Council. Labor considers that to speak of war, or even more unwarranted; for the Australian Government to deploy troops is premature, presumptuous and unfair. Especially to those employed in the Australian Defence forces, their families, and, let us not forget all the innocent Iraqi people. The deployment of Australian troops to the Middle East has angered and frustrated many Australians, for our Government led us to believe that they would wait for the United Nations Resolution in relation to Iraq, before acting. Given that the investigations are ongoing; and the United Nations Security Council Resolution has not yet been handed down—Australia should not be deciding on it’s course of action, regardless of instructions from the United States of America. However, what is becoming increasingly unclear in recent days, is whether our Government will in fact wait for the Resolution, or whether they will act in support of any unilateral action that may be taken by the United States. Certainly at this point, a persuasive case has not been for the actions that our Government is currently taking and has already taken in preparing for war.

The Labor Party has consistently argued for the role of the United Nations Security Council, regarding any decision on Iraq. Recent opinion polls have shown that the majority of Australians share this view. An AC Age Nielsen Poll conducted on 14 January of this year reflected that 62% of Australians consider that Australia should be involved in a war against Iraq only as part of an United Nations approved force. This poll also revealed that another 30% of Australians opposed Australia’s involvement in a war against Iraq. Against this backdrop, it really is puzzling why the Australian Government has decided to act against the wishes of so many Australians.

In speaking today, I make an appeal, on behalf of all of those Australians, to the Executive of the Australian Government—because it is their call on whether or not we are involved in a war against Iraq. This is an important debate—for Opposition Parties it is our only opportunity to make a contribution to this crucial decision, on behalf of the Australian people. I cannot think of a decision more serious or likely to have more dire consequences than becoming involved in a war. I will admit I fall into the 30% of Australians who oppose war. My hope is that we can avoid war. We had avoided a war up until this point by pursuing diplomatic processes, a course of action consistently called for by the Labor Party.

The Labor Party, like all Australians would like to see our Government show leadership on actions that are best for Australia’s interests, rather than the interests of the United States. As a nation, Australia has much to be proud of, and protect. We have economic and security interests much closer to home. Weapons of mass destruction can be found much nearer in our neighbourhood and
our attention should also be on establishing a
diplomatic solution with North Korea.
I am unconvinced that the ‘costs of war’ can ever
justify ‘going to war’. It would be naïve for this
vital debate to shy away from the ugly and brutal
facts. In supporting a war, we also place at risk
Australians—our sons and daughters—with
families of their own. For some, involved in the
recent deployments of troops, their destiny is
already unknown. In a recent article, by my col-
league, Carmen Lawrence, Member for Freman-
tle, she noted that Medact, the British equivalent
of Australia’s Medical Association for the Pre-
vention of War, estimates that if the threatened
attack on Iraq eventuates, between 48 000 and
260 000 people on all sides could be killed. And
yes, while these estimates could prove untrue,
they do show that war will cost one life too many.
Not to mention, the incidence of injury, diseases,
or the disruption to communities and infrastruc-
ture.

Senator Lundy
We should not be here today debating WHEN we
should decide to join the attack on Iraq. We
should be debating IF we should go to war at all.
It is important to remember the UN has long worn
criticism for being the political plaything of the
US. So in the first instance, a UN sanctioned con-
flict should not and does not necessarily mean
that the conflict is principled or morally justifi-
able. So it is not surprising that the US and Aus-
tralia for years advocating the importance of the
UN.
But the world is headed towards war and it would
appear that despite the existence of the United
Nations, which is the body established to collec-
tively decide the appropriate action, in this case
against Iraq, our Prime Minister is intent on join-
ing a US lead unilateral attack.
This has been proved by the leaked memo re-
leased yesterday, confirming what we have been
saying all along. John Howard is committed to a
war against Iraq.
Continuing the rhetoric of the ‘War on Terror-
isim’, Bush has mobilised the same terms to argue
for an invasion of Iraq. Iraq and Terror are now
synonymous thanks to the manipulative political
campaign by the Bush administration. The rhe-
toric of the US president has been repeated by the
Australian Prime Minister.
Both campaigns have mobilised divisive and rac-
ist sentiment by playing with the notion of the
West and the Rest, where Islam is painted as the
‘Other’, something different and dangerous to the
Australian ‘way of life’.
Labor principles and my personal convictions
determine that I argue for a more inclusive Aus-
tralia. In doing so in the context of this debate I
reject this appalling rhetoric and have sought to
examine the truths of the arguments behind an
invasion of Iraq.
Any debate on this issue must include an explicit
rejection of racism, and an explicit recognition of
the fact that Australia’s society embodies a diver-
sity of cultures and beliefs. This cannot be sub-
sumed into John Howard’s dichotomised per-
spective on the world.
The Prime Minister tells us that he doesn’t want a
war, but his actions speak far louder than these
words. Australians certainly do not want war and
are smart enough to challenge the propaganda and
I commend the community leaders who are
speaking out against the Prime Ministers shame-
less acquiescence to the Bush agenda.
So when Mr Howard tells us he wants to put to
President Bush directly the views of the Austra-
lian people, we know his real intention is to build
his international profile, and to assure the US
President that in spite of the widespread opposi-
tion to US unilaterism, Australia will remain by
Bush’s side.
In the United States, support for a unilateral inva-
sion of Iraq remains at 30%, a fraction of the sup-
port for the previous invasion of Afghanistan.
There is increasing reluctance in both the United
States and Australia to be drawn by spurious ar-
guments of the links between Al Qaeda and Sad-
dam Hussein.
This link remains unproven—American intelli-
gence agencies have acknowledged as such—and
so Bush has sought to justify his determination
for invasion on other grounds.
Historical resistance on the part of the Iraqi re-
gime to UN weapons inspections and repeated
violations of human rights by the regime have
been presented as alternative motivations for war.
These are the issues that need to be debated; the
divisive and empty rhetoric of Bush and Howard
cannot be our justification for war.
Iraq has acquiesced to the obligatory weapons
inspections under Resolution 1284 of the Security
Council.
American and British pressure on other members
of the Council to pass a new resolution, that in-
cludes a right to strike as an automatic conse-
quence of non-compliance with the new resolu-
tion, has met a cool response from the other per-
manent members.
France, China and Russia have all emphasised alternative, non-military, resolutions prior to consideration of multilateral military action.

The Bush administration, however, is determined to follow the latter course by "push[ing] Baghdad into a corner and creat[ing] a pretext for a war they've already decided to wage'.

In rejecting Saddam's acquiescence to the existing UN resolution and persisting in pressuring other members of the Security Council to support this new resolution, Bush is backing Saddam, and the Iraqi people with him, into a conflict they cannot escape.

Howard's support for Bush-style militarism strongly suggests the commitment of Australian troops to this probable unilateral action; this both goes against Australian commitment to the primacy of the UN in international relations, and commits Australian troops to an unjust war without pursuit of diplomatic solutions.

The level of international debate around the issue of Iraq, with concern about the access to weapons munitions by UN inspectors and the divisive rhetoric of world leaders such as Bush and Blair, has shown little concern for the Iraqi people.

The impact of the oppressive regime under which they live is compounded by the devastation on the population of poor infrastructure and malnutrition.

In the twelve years since the imposition of UN sanctions on Iraq, the economy has failed to recover from the 50% contraction caused by the 1991 Gulf War.

Despite the 1996 introduction of the oil-for-food programme, poverty and starvation are rife; one in eight Iraqi children will not live beyond their fifth birthday.

The Gulf War Allied use of depleted uranium has resulted in a massive cancer rate, the majority of which cannot be cured because of the ban on importation of necessary medical supplies under the UN sanctions.

The oil-for-food programme contains no cash component and so necessary infrastructure such as hospitals and schools remain in drastic need of rehabilitation—one in four Iraqi children drop out of school, and it is estimated that 8000 schools are in dire need of rebuilding.

The economy is unable to support such a massive rebuilding effort—its oil fields, among the richest in the world, remain largely unexploited because of outdated machinery.

The machinery cannot be updated because of the UN sanctions, which prohibit the importation of necessary spare parts.

Russia, as a permanent member of the Security Council, has already indicated their primary interest in Iraq lies in the exploitation of its oil-fields.

Powerful business interests in the United States and elsewhere in the West have expressed similar intentions. Yet invasion of Iraq would cement the misfortune of its population.

Aid organisations around the world have lobbied governments to oppose an invasion of Iraq, arguing that "years of war and sanctions have already created an extremely vulnerable population whose ability to cope with any hardship is very limited".

The sanctions imposed on Iraq by the UN have had little effect on Saddam or his military—"the economic sanctions have not hurt him ... just the ordinary people who are his victims".

Invasion would serve only to compound that suffering. Military intervention of any kind would create a further humanitarian disaster, rather than address any that currently exists.

In engaging in this debate it is imperative to consider the lives of those who have been forgotten, and to consider the impact of such an intervention on those lives.

I remain entirely unconvinced by the rhetoric; this war is about oil and domination more than disarmament".

There is no humanitarian motivation in military intervention into Iraq, only a concern for the bank balances of the West.

Labor has a strong tradition of supporting a multilateral approach to international relations, which would be profoundly contradicted by us following Bush blindly to war.

John Howard is fear-mongering, in the same way he did in the Children Overboard Affair and with the Tampa.

Labor must set the boundaries of debate by arguing, with passion and conviction, against taking up this barbaric task we have been set.

Senator Ludwig

Labor’s policy since March last year has been to support a full parliamentary debate on the question of Australian policy on Iraq, in particular, the conditions which would need to be met for Australian military support for US action in Iraq.

This sort of debate is absolutely necessary for the nation, because we need to canvas the facts which are not so far being canvassed in all the by the foreign minister, the Prime Minister and others on the question of Iraq.
We needed, for example, to explore what specifically is Iraq’s current weapons of mass destruction status, how has that changed over times most recently, how does it relate to other states possessing weapons of mass destruction in the region.

We needed to have this debate before our troops were sent to the Gulf.

In the eyes of the world, the deployment of Australian Defence forces to Iraq without a resolution by the United Nations shows John Howard has little regard for the UN process of resolution by committing Australian troops to a potential conflict that has not been sanctioned. You cannot withdraw such troops that you have committed.

The United Nations has resolved to get Saddam Hussein to disarm, and that task is being performed as we speak. Dr Hans Blix most recent report to the United Nations shows us that they are doing their job albeit with a basic lack of cooperation, however there may still be a peaceful outcome. The United Nations needs Australia’s full support, and should not be preempted by the sort of decisions Mr Howard has taken in deploying forces.

On the first of November 1945 Australia was admitted to the United Nations as a member. We recognised that one of the primary purposes of the United Nations is the maintenance of international peace and security. Since its creation, the United Nations has often been called upon to prevent disputes from escalating into war, to persuade opposing parties to use the conference table rather than force of arms, or to help restore peace when conflict does break out.

When Prime Minister Chifley made the application to become a United Nations member on the first of November 1945 he agreed to accept all obligations of the UN Charter including:

- ensuring by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and
- to unite our strength to maintain international peace and security, and
- to cooperate in solving international problems.

The Governments action in pre-empting deployment of our forces has in reality questioned the United Nations ability to complete its objectives as witnessed by the Ministers statements here yesterday when he questioned the credibility of the United Nations. We should let the UN finish the task—we as a member expect them to do.

Although the threat that Saddam Hussein will use biological and chemical weapons is very real, the United Nations has not completed its process whereby Australia or any other country could initiate military action against Iraq under UN authority.

There is a real possibility that this may come to pass, however it is the Labor Party’s belief that troops should have remained at home until that resolution came through.

- The Australian people and defence force families are entitled to the facts—
- They are entitled to know why their troops are being forward deployed ahead of a United Nations mandate.
- They are entitled to expect debate on the Government’s intentions if a UN resolution is not forthcoming.
- They are entitled to know why our Defence forces are operating on a shoestring in relation to Defence spending.
- They are entitled to know whether all of our units are fully supported and combat capable.

Instead of flaunting our intentions to the UN by following in the footsteps of the US and the UK by amassing forces along Iraq’s border without proper resolutions being passed we should endeavour to assist by supporting the UN Security Council in its efforts.

Whilst there were references to the information compiled by the United States and the United Kingdom, information which will be presented to the UN Security Council in the near future, the fact remains the UN has not sanctioned its members to take military action against Iraq.

Australia whilst not occupying membership on the Security Council should endeavour to support the UN in its efforts to arbitrate a peaceful solution.

The Minister made mention of Saddam Hussein using weapons against his neighbouring countries, however, the Financial Review has informed us of a Pan Arab stand formed by 18 countries surrounding Iraq to cease any action that would further destabilise the already volatile region. Unlike Australia it seems these countries are willing to await results of Dr Han Blix’s return to Iraq and subsequent rulings by the UN before taking action. They are further prepared to listen to the information the US Secretary of State Colin Powell is giving in his address to the UN Security Council and they further advocate a peaceful solution to this issue.
Our Defence forces whilst being amongst the most dedicated in the world are sadly lacking in support by this Government. Our defence force capabilities are not the priority of a Government who would send them to war. At a time when the Government has committed troops to assist with our allies they have cut future spending in Defence by 4 billion dollars—something which will leave troops believing they do not warrant the best equipment to assist them in their duties. All who care to look can see the absolute ineptness by this government in handling the best interests of the soldiers they have ministerial responsibility for.

This Government, which would deploy our troops, have become irresponsible in their commitment to

- The Defence Force by leaving it struggling to maintain combat readiness,
- They have faltered in their commitment to keeping the oath sworn as a member of the United Nations, and
- They have faltered in their commitment to uphold the basic principles other members of the United Nations expect and demand.

The Minister speaks of the damage to the United Nations if the compelling terms of this latest resolution are not enforced—but what damage is this Government doing to the UN’s reputation as a mediator when it clearly cannot wait to deploy its troops without a resolution being passed?

**The ACTING DEPUTY PRESIDENT**

(Senator Watson)—The question is that the amendment moved by Senator Bartlett be agreed to.

**Question negatived.**

**Senator Brown**—Could I have the Greens’ support for that amendment—both Senator Nettle and mine—recorded.

**The ACTING DEPUTY PRESIDENT**—Senator Brown, I now call you to move your amendment.

**Senator BROWN (Tasmania)** (12.29 p.m.)—I move the following amendment to Senator Faulkner’s amendment:

Omit, paragraphs (e) and (f), substitute:

(e) expresses its total opposition to any use of nuclear arms;

(f) oppose Australian involvement in an attack on Iraq;

(g) declare that it has no confidence in the Prime Minister because of his handling of this grave matter for the nation.

I indicate that I would be open to any party in the Senate separating those paragraphs if they so wish.

**Question put:**

That the amendment (Senator Brown’s) be agreed to.

The Senate divided. [12.34 p.m.]

(And Senator the Hon. Paul Calvert)

**AYES**

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

**NOES**

- Abetz, E.
- Barnett, G.
- Bishop, T.M.
- Brandis, G.H.
- Bolkus, N.
- Buckland, G.
- Calvert, P.H.
- Campbell, G.
- Carr, K.J.
- Chapman, H.G.P.
- Colbeck, R.
- Conroy, S.M.
- Cook, P.F.S.
- Coonan, H.L.
- Crossin, P.M.
- Denman, K.J.
- Eggleston, A.
- Ellis, C.M.
- Evans, C.V.
- Faulkner, J.P.
- Ferguson, A.B.
- Ferris, J.M. *
- Forshaw, M.G.
- Harris, L.
- Heffernan, W.
- Hill, R.M.
- Hogg, J.J.
- Hutchins, S.P.
- Kemp, C.R.
- Kirk, L.
- Knowles, S.C.
- Lightfoot, P.R.
- Ludwig, J.W.
- Lundy, K.A.
- Mackay, S.M.
- Mason, B.J.
- McGauran, J.J.J.
- Minchin, N.H.
- Moore, C.
- O’Brien, K.W.K.
- Patterson, K.C.
- Payne, M.A.
- Ray, R.F.
- Reid, M.E.
- Santoro, S.
- Sculion, N.G.
- Sherry, N.J.
- Stephens, U.
- Tchen, T.
- Tierney, J.W.
- Troeth, J.M.
- Vanstone, A.E.
- Watson, J.O.W.
- Webber, R.
- Wong, P.

* denotes teller

**Question negatived.**
Question put:
That the amendment (Senator Faulkner’s) be agreed to.

The Senate divided. [12.39 p.m.]
(The President—Senator the Hon. Paul Calvert)

Ayes......... 33
Noes......... 31
Majority....... 2

AYES
Allison, L.F.  Bartlett, A.J.J.
Bishop, T.M.    Bolkus, N.
Brown, B.J.     Buckland, G.
Campbell, G.    Carr, K.J.
Cherry, J.C.    Conroy, S.M.
Cook, P.F.S.    Crossin, P.M. *
Denman, K.J.    Evans, C.V.
Faulkner, J.P.  Forshaw, M.G.
Greig, B.       Hogg, J.J.
Kirk, L.        Lees, M.H.
Ludwig, J.W.    Lundy, K.A.
Mackay, S.M.    Murray, A.J.M.
Nettle, K.      O’Brien, K.W.K.
Ray, R.F.       Ridgeway, A.D.
Sherry, N.J.    Stephens, U.
Stott Despoja, N.    Webber, R.
Wong, P.

NOES
Abetz, E.        Barnett, G.
Boswell, R.L.D.  Brandis, G.H.
Calvert, P.H.    Chapman, H.G.P.
Colbeck, R.      Coonan, H.L.
Eggleston, A. *  Ellison, C.M.
Ferguson, A.B.   Ferris, J.R.
Harris, L.       Heffernan, W.
Hill, R.M.       Kemp, C.R.
Knowles, S.C.    Lightfoot, P.R.
Mason, B.J.      McGauran, J.J.
Minchin, N.H.    Patterson, K.C.
Payne, M.A.      Reid, M.E.
Santoro, S.      Scullion, N.G.
Tchen, T.        Tierney, J.W.
Troeth, J.M.     Vanstone, A.E.
Watson, J.O.W.

PAIRS
Collins, J.M.A.  Alston, R.K.R.
Hutchins, S.P.   Johnston, D.
Marshall, G.     Macdonald, J.A.L.
McLucas, J.E.    Macdonald, I.
Moore, C.        Campbell, I.G.

Question agreed to.
Original question put:
That the motion (Senator Hill’s), as amended, be agreed to.

The Senate divided. [12.44 p.m.]
(The President—Senator the Hon. Paul Calvert)

Ayes......... 34
Noes......... 31
Majority....... 3

AYES
Allison, L.F.  Bartlett, A.J.J.
Bishop, T.M.    Bolkus, N.
Brown, B.J.     Buckland, G.
Campbell, G.    Carr, K.J.
Cherry, J.C.    Conroy, S.M.
Cook, P.F.S.    Crossin, P.M. *
Denman, K.J.    Evans, C.V.
Faulkner, J.P.  Forshaw, M.G.
Greig, B.       Hogg, J.J.
Kirk, L.        Lees, M.H.
Ludwig, J.W.    Lundy, K.A.
Mackay, S.M.    Murphy, S.M
Murray, A.J.M.  Nettle, K.
Ridgeway, A.D.  Sherry, N.J.
Stephens, U.    Stott Despoja, N.
Webber, R.      Wong, P.

NOES
Abetz, E.        Barnett, G.
Boswell, R.L.D.  Brandis, G.H.
Calvert, P.H.    Chapman, H.G.P.
Colbeck, R.      Coonan, H.L.
Eggleston, A. *  Ellison, C.M.
Ferguson, A.B.   Ferris, J.R.
Harris, L.       Heffernan, W.
Hill, R.M.       Kemp, C.R.
Knowles, S.C.    Lightfoot, P.R.
Mason, B.J.      McGauran, J.J.
Minchin, N.H.    Patterson, K.C.
Payne, M.A.      Reid, M.E.
Santoro, S.      Scullion, N.G.
Tchen, T.        Tierney, J.W.
Troeth, J.M.     Vanstone, A.E.
Watson, J.O.W.

PAIRS
Collins, J.M.A.  Alston, R.K.R.
Hutchins, S.P.   Johnston, D.
Marshall, G.     Macdonald, J.A.L.
McLucas, J.E.    Macdonald, I.
Moore, C.        Campbell, I.G.

* denotes teller
Question, as amended, agreed to.

**MATTERS OF PUBLIC INTEREST**

*The PRESIDENT*—Order! It being after 12.45 p.m., I call on matters of public interest.

**Education: Boys**

*Senator SANTORO (Queensland)* (12.47 p.m.)—One of the most difficult issues facing Australia at present is the falling rate of boys’ achievements in the education system. It is a topic that deserves the closest scrutiny and national action. The issue is broader than that, and I want to speak a little about those broader aspects later. But first I would like to commend the actions of the Minister for Education, Science and Training in signing—with his colleagues the ministers for training, employment, youth affairs and community services, and state and territory ministers—a ministerial declaration called *Stepping forward—improving pathways for all young people.*

I recall with pride launching the ‘Pathways to your future’ guide to vocational education and training options in Queensland in 1997, the Year of Training, when I was the Minister for Training and Industrial Relations in that state. I said then, and I believe now, that it is very hard to decide what to do when you leave school. But the one thing young people can be sure of is that every workplace needs confident, competent young people with initiative, real skills and, in particular, a good attitude and that, for many, vocational or on-the-job training is the way to go.

The federal minister believes schooling needs to be responsive to the needs of young people in order to enable them to develop their talents and capabilities. I do not think there is anyone who would argue with the commonsense behind that proposition. It is for that reason that all Australian governments have adopted the National Goals for Schooling in the 21st Century. A key element of these goals is to encourage all young people to stay at school until the completion of year 12 or its vocational equivalent.

In relation to the ‘stepping forward’ declaration, it is important to note that this commits a joint national commitment to provide leadership and establish a common direction in developing opportunities for young people, particularly those most at risk of becoming disconnected from society. In turn, this picks up on the recommendations from *Footprints to the future*, the report of the Prime Minister’s Youth Pathways Action Plan Task Force. In short, it contains a raft of proposals to assist young people to grow into productive, community-minded adults.

This process is of particularly great importance to young men. Though this may be a generalisation, it does seem that young women have a greater capacity or willingness to get to grips with communal imperatives and demonstrate a more obvious readiness to make agreements among those with whom they must interact as opposed to those in their own circle—an important distinction.

This is the very basis of civic responsibility. It is the antithesis of the ‘me’ focus that has blighted and endangered Western society over the past 30 or 40 years. The federal minister has asked the Department of Education, Science and Training to develop new career and transition arrangements for young people, which will commence from January next year. That will be a significant advance towards the commonsense approach of a unified, or at least interlinked and essentially similar, whole-of-education program throughout Australia.

There is a more particular problem, to which I referred earlier—that of educating boys. More broadly, I believe it is an issue of raising boys. This has begun to attract significant attention nationally, and I know it deeply concerns a great many people. There is compelling evidence that boys are underperforming at school in the essential area of reading. Victorian studies show this distinction becomes greater as schooling progresses. In fact, females outperformed males in the final year of schooling in all states in 1995. These results are consistent with the declining academic performance of boys documented in North America, Europe and South-East Asia. Obviously, it is not just an Australian problem and it is not just an education problem.
In his 1997 book, *Raising Boys*, family therapist and parenting author Steve Biddulph provided a very useful primer for parents—and policy makers—on what boys need in their family and community circles. What boys benefit from most of all is a father—a resident, involved, disciplined father who has, and daily demonstrates, a very strong commitment to family and the upbringing of his children. In saying this, I acknowledge that school is not a substitute for a father. There are a number of ways in which a boy without a father directly and constantly in his life can be mentored. As a society, we need to look seriously and urgently at ways we can facilitate and encourage this.

As Biddulph notes, boys and girls are very different creatures. In recent decades we have sought to mask those differences, to pretend that there is really very little difference between the genders. Unfortunately, we have often foolishly misread the absolute, fundamental requirement in our society for complete equality between the genders as meaning that we should obliterate differences. In fact, we need to encourage differentiation between the genders—not on the arbitrary bases of the past, but on the basis that one’s gender does indeed determine how one lives one’s life.

At the practical level—and it is at the practical level that successful and effective policymaking must reside—the preparation of young people for productive and fulfilling adult lives is given greater force and effect through the education system. It is a fact that boys’ scholastic performance in several key areas of learning has fallen away in recent years. It is vital for their future and for Australia’s future that we reverse this dangerous trend. Boys often have fewer connections from the language half to the sensory half of the brain than girls. Because of this, parents need to read to young boys, tell them stories, talk to them a lot and explain things, especially up to the age of eight. Boys often need to have a clear set of rules and a clear knowledge of who is in charge. Because of that they need good, calm and orderly environments at home and at school and to be in a school where bullying is simply not part of the picture. Because boys have more muscular bodies than girls, we have to specifically teach them not to hit or hurt others and also to teach them to use words to communicate. Because boys have a predisposition to act first without thinking things through, we need to talk with them often in a friendly way about options, choices, ways to solve problems and what they can do in situations in their lives.

Outside the home, it is clear that we need a revolution in schooling. This brings me to a very worrying trend within Australian schools: the plummeting number of male teachers. According to the House of Representatives committee report on boys’ education, the percentage of male teachers in all Australian primary schools, state and private, fell by five per cent between 1991 and 2001. In 2001 only 21.3 per cent of Australian primary school teachers were male. Nationally, the proportion of male secondary teachers also fell to only 45.1 per cent in 2001. Since men are proportionately more likely than women to hold promotional positions, the proportion of male classroom teachers in both the primary and secondary sectors is lower than indicated by the Australian Bureau of Statistics data from which these figures are drawn. The minister for education warned last year, in the context of the national shortage of teachers, that the trend forecasts for male recruitment indicated even fewer males would become teachers in the future. This is not an issue of teacher quality—I want to make that crystal clear—but one of our need to address the gender imbalance in teaching so that boys have the benefit of male teachers and a male role model in their schooling.

It is a fact that more and more female teachers have to face physically intimidating and disrespectful boys. Boys in these circumstances create stress but they themselves are suffering. In fact, girls outperform boys in almost every subject area. In our analysis of where education policy should be moving, two elements stand out as essential debating points. The first is a later starting age for boys, whose fine motor skills and cognitive skills generally are slower to develop than those of girls. The second is more men in
schools—men of the right kind, men with a mixture of warmth and sternness, men who are obviously in charge but not in a way that necessarily challenges boys negatively. In this regard a now widely known experiment at a British school in shifting to single gender English classes is worth examining. At the Cotswold School, a coeducational secondary school in England, boys and girls in the fourth year of secondary school were placed in gender-segregated English classes for two years. As the new single gender classes got under way, teachers adjusted the curriculum—the choices of books and poems—to make it more interesting for the boys or girls in their class. They were no longer restricted by a need to strike a middle path between the interests of boys or girls. The classes began to take on a distinctly boys’ or girls’ flavour. The Cotswold results were impressive. Where the UK national statistics record only nine per cent of 14-year-old boys achieving grades in the A to C range in English, Cotswold recorded 34 per cent of boys, after two years in the single gender classes, having winning grades in the A to C range in their final exams, an increase of almost 400 per cent in the number of boys scoring high grades. The girls’ performance improved too. At the end of the two-year experiment 75 per cent of girls got scores in the A to C range, compared with 46 per cent a year before.

This is food for thought. I note that there are lessons—no pun intended of course—for Australian educational authorities to consider. Essentially one thing is obvious: we need to reverse the trend of declining male teacher numbers and we need to encourage males to think of the teaching vocation as one which is most worthy of pursuit, as indeed males have thought of it over the past century. I intend to canvass the broader community in relation to this most important issue. I believe that the community will be most interested in participating in this debate and in contributing ideas as to incentives that can be provided or made available to males within our society who are thinking of becoming teachers but then decide not to. The reasons for this are many, and I intend to discuss them in this place at some other time.
craving for comfort and the necessity of access to basic services that go hand in hand with what it means to be part of society in this fortunate corner of the world—security not just for ourselves or those who can afford it but for our children and future generations who have no voice in this chamber but whose lives are profoundly affected by the work we do every day.

Young people conceived of as something more than a vote or a consumer should be a high priority for any responsible government. It is a great shame then that, at this time when we should be planning for the major challenges which the global economy is throwing at us, we have seen six long years of the dismantling of our public university system and the burdening of a whole generation with debts they can ill afford to pay after years of living precariously on youth allowance. That young people are only able to access their youth allowance fortnightly payments as a lump sum if they take that lump sum in the form of a loan repayable to the government is shocking. The government is saying to young people: ‘We’re going to keep you on the poverty line, and if you can’t cope and you need some cash to pay a rental bond, to replace stolen goods or to visit a dentist, we will take away what we agreed to give you and make you pay it back with your HECS.’

On top of this insult, youth allowance recipients living away from home are not allowed to earn as much as youth allowance recipients who do live at home and enjoy subsidised or free rent. The point I wish to make is this: the payment that many young people rely upon to be able to participate in education or training is youth allowance. Yet youth allowance in its current form is a misplaced and counterproductive system of government assistance. The Youth Allowance system is so poorly structured that it often fails to assist those who are most disadvantaged. The tragedy is that youth allowance can only provide useful assistance to those who already have a level of advantage, while it discriminates against young people who try to gain that advantage themselves. The only conclusion that can be drawn by many who have fallen foul of this maze of mis-

guidance is that governments are only interested in helping those who help themselves, that governments punish those who need help and who attempt to get it. It is mean and it is tricky; it is irresponsible and it is bankrupt.

The living costs of young people are not less than those of older people. To this end, a youth payment for adults up to 25 years of age is nonsensical. What kind of logic does the government use to conclude that young women and men who study are paying less for their food, their rent and their lives than other adults? The income of one’s parents, especially for first-year TAFE and university students, is crucial now in determining whether a young person can get any youth allowance at all. This is not to suggest that there is no place for a means test in a welfare system; I simply say that using a family income of $27,000 per annum as the point at which youth allowance payments are reduced is a disgrace.

Families earning $27,000 a year are taking home barely $400 a week after tax—$400 is what is required to sustain one person adequately in a city, let alone a family. Yet we say to young people from these families: ‘You are from the undeserving middle classes; rack off and support yourself.’ Qualifying for youth allowance is one thing, but actually being able to live on it is another. The full rate of youth allowance is a little over a third of the minimum wage. As such, it is reasonable to suggest that the bedrooms, desks and libraries used by young people to build themselves a future are the new sweatshops of Australia. No young person trying to study and live in a major centre of Australia, where our universities are, can afford to live without having to work a substantial number of hours per week. Everyone, from the Australian Vice-Chancellors’ Committee through to my constituents, agrees that this is having a detrimental effect on young people. Constituents have written to me saying that they are being forced to choose between continuing university and looking for work, simply because they cannot afford to live on youth allowance and part-time work. One young man wrote to me explaining that he was prevented from earn-
ing enough money to live on because of the penalty measures that applied towards extra income while he was on youth allowance. The government would not allow him to earn any more money and he had to drop out of university because of that. He was particularly frustrated because his flatmate, who was also on youth allowance, was from a wealthy background and his parents were able to help him cover the shortfall in youth allowance without any penalty.

This is a fundamental problem with youth allowance. The government does not stop people from having money when they get youth allowance; in fact, you can own half a million dollars in assets and still get youth allowance. But if you don’t have that kind of money, you are not allowed to earn more than a hundred dollars a week. This is not a system that encourages young people to better themselves through education. This is a system that shuts out the many young people who are in need of assistance when studying but includes those who are better off. When students find they are unable to attend their classes because they must work, what is the point of trying to study? We need a system of education and support that sees young people treated with the seriousness and genuine attention that should be afforded to the leaders of tomorrow.

The inadequacy of youth allowance affects not only those at university but also young people looking for work. Studies show that young people who have left school early are more susceptible to unemployment and low-paying jobs and that they spend more time dependent on youth allowance. The more vulnerable a young person is, the more likely it is that he or she will have to deal with multiple agencies to continue receiving payments. The more agencies that young people are forced to deal with corresponds with the level of punitive measures taken against young people on payments. To this end the disadvantaged have more expected of them than the normal recipient, and often they have their payments cut due to their inability to meet these extra obligations.

The low level of youth allowance particularly affects a young person’s ability to find work, and this can place them in situations that disadvantage them for the rest of their life. Many young people spend between $20 and $40 a week travelling to and from Centrelink interviews, Job Network appointments, job interviews and other necessary meetings. As a result, they have even less money to live on. The Welfare Rights Centre in Sydney recently released a report entitled Runaway youth debt: no allowance for youth. The report cites the fact that over 50 per cent of young people have debts owing to Centrelink because of the miserly level at which youth allowance is paid. These low payments force young people to borrow against future payments. Alternatively, if they cannot meet the usual minimum of $100 per fortnight repayments, the Australian Taxation Office will seize the money from them when they file a tax return.

The Dusseldorp Skills Forum wrote recently:

It is likely that without significant and lasting reforms to develop more effective learning and work transition strategies during these relatively good economic times young people will be especially vulnerable during the next period of recession.

Only a fair Youth Allowance system can make young job seekers and those in training less vulnerable. Tragically, the only way many are surviving the current system is by taking advantage of the fact that nine hours class time a week now constitutes full-time study. This allows young people to squeeze in the extra work needed to supplement youth allowance and prepare for a lifetime of HECS debts. However, if the Minister for Education, Science and Training has any sense, his review of higher education will stop the nonsense such as nine hours study a week being a quality university education. How will young people manage then?

I call on the Minister for Education, Science and Training to incorporate into his review a plan that will see the end of the government’s denial of the woeful state of young people’s payments and the higher education system; a plan that will invest in the future of our young people; a plan that squarely shoulders the responsibility that government should have in providing the avenues for the improvement of its people and the nation.
The rates of youth allowance must be increased. The ability to take your benefit as a lump sum must be granted. The right to earn money in addition to youth allowance must be extended. The age of independence must be reduced as quickly as possible and the criteria for becoming independent from one’s parents must be eased. These are the issues that require addressing by this government immediately.

International Congress on Child Migration

Senator MURRAY (Western Australia) (1.09 p.m.)—I rise to speak on the first International Congress on Child Migration held in New Orleans in October last year. I have been informed that the various whips have agreed that I may table and incorporate the resolutions arising from that congress. I will seek leave to do that at the end of my remarks. I have copies available if anyone wishes to see those resolutions.

I was honoured to have been a keynote speaker at this historic event. The congress attracted international experts in the fields of policy, social work, psychology, psychiatry, law, politics, human rights and history, as well as speakers, representatives from governments and persons interested in child migration and child trafficking. A special session of the congress was convened for United Nations representatives to make a presentation and discuss child trafficking. The resolutions of this congress stand as a major contribution to understanding the consequences and issues arising from child migration and child trafficking, both past and present.

Unaccompanied child migration remains an active issue in the 21st century, as does child trafficking in its most common forms of child labour, child soldiers and child prostitution. With inter-country adoptions on the increase, resolution No. 4 calls for strong regulations to be put in place to ensure the consent of birth parents, the suitability of adopters and that no monetary profit be involved. Much inter-country adoption arises from poverty and lack of support for family structures. The resolutions also address the lasting consequences of children being forcibly removed from their countries of origin and family, as expressed in resolution Nos 1, 2 and 8.

Resolution No. 1 relates to a matter that concerns me greatly. Often the effects of child migration and trafficking are seen as primarily personal, but the long-term social and economic costs of child abuse are major. Resolution 1 reads:

Congress calls upon the United Nations and all Governments to recognise that the results from trafficking or forced migration can lead to a lifetime of adult problems with severe social and economic costs; asks those Governments to fund the research necessary to quantify the scale of children and adults affected; and the likely social and economic costs; and then to combine to develop effective and practical policies to address those problems.

Even a single incident of severe child abuse can result in decades of personal, social and economic harm for that individual and for society. Multiply that by the hundreds of thousands of Australians affected—and the many millions in the world—and the consequences for society are huge. With this resolution in mind, I again call on the Prime Minister and the Leader of the Opposition to address the issue of child abuse. This is a national issue of major, long-term importance. Australians recognise that. Late last year, a Clemenger Communications report titled The silent majority IV revealed that three of the top five issues of primary concern to Australians relate to child sexual assault and child abuse.

Media reports are common. Another priest has just been convicted in south-west Western Australia. Another case reported on just over a week ago involved allegations against a former Queensland Father of the Year. The criminal sexual assault of children was for too long a taboo subject, and so was child abuse. But with notification figures soaring in recent times, we have to face the unpalatable facts. For instance, in New South Wales abuse complaints have almost doubled from 40,514 in 1999-2000 to 72,427 in 2001-02. In Queensland, substantiated cases of abuse increased from 6,919 to 10,036 over the same period. Similar figures are recorded in other states and territories.
While abuse, by definition, is bad and violence or neglect does long-term harm to children, the sexual abuse of the young is particularly loathsome. Accordingly, I consider that two principal inquiries are needed: one to address the broader issues of the abuse of Australian children in institutions and in care—and this is for those not covered by the stolen generation or child migrant inquiries—and the other to address the criminal sexual assault of children. The former can be done by the Senate or a government inquiry; the latter is better done by a judicial inquiry or royal commission. An inquiry on child abuse or a royal commission into the sexual assault of children will not eradicate these disturbing and repellent practices. But unless we establish the scale of these occurrences—unless we comprehend the extent and true consequent social and economic cost—we will be unable to develop a much improved and national uniform policy approach to child protection matters.

Resolution No. 3 recommends that all governments give effect to the United Nations Convention on the Rights of the Child. If the Commonwealth were to do that, using the external affairs power under article 51 of the Constitution, it would be able to take a far stronger role in children’s matters than it presently does—because the states have prime responsibility here. And so it should, because the Commonwealth is carrying much of the health cost, social welfare cost, criminal cost and economic cost arising from the huge numbers of adults affected by abuse when they were children.

The Commonwealth has gone part of the way by ratifying the convention. Critically, it has not yet incorporated it into domestic law. Nevertheless, in 1995 the Australian Institute of Family Studies report The Commonwealth’s role in preventing child abuse pointed out that, as the Commonwealth had used the external affairs power to ratify the United Nations Convention on the Rights of the Child, it had a legitimate constitutional role in child abuse prevention. Additionally, the suggestion that a federal Australian children’s rights commissioner could be established would require not only a national strategy for children but also the setting up of appropriate and supportive structures. This would also require the Commonwealth, states and territories to drop their jurisdictional and philosophical battles over a divided policy area and become allies, rather than contestants, in this field. By having eight different child protection systems and abuse-reporting obligations, serious inefficiencies and complexities have emerged.

Not only is a national approach doable, it is now fundamentally necessary. Moira Rayner, the former Acting Deputy Director of the Australian Institute of Family Studies, who established the first Office of Children’s Rights Commissioner for London, wrote last year in the April edition of Eureka Street:

We should surely expect, now, a response that promises to lift dramatically the quality of life of all children, so that they are not abused or left to heal alone.

Professor Fiona Stanley, who has just been named Australian of the Year for her excellent work with and for children, repeated this sentiment recently. Commenting on the shocking statistics on the deteriorating well-being of children at a recent national early childhood conference in Melbourne, she claimed that Australia faced a looming social crisis and a lifetime of cost on the public purse if a national program for children’s welfare was not established. This insightful prediction finds empirical reality in a study by two academics from Griffith University which tracked the lives of abused children in Queensland from 1983. The 2002 report of this research, titled Pathways from child maltreatment to juvenile offending, found a disturbingly strong link between child abuse and juvenile crime.

We need to learn from history and from the research available to turn around the high incidence of child sexual and physical assault, child abuse and neglect, and to repair as far as we can those already harmed. In this sense, congress resolutions 6 and 7 both refer to the exceptional and longstanding skills that the Child Migrants Trust has in dealing with the adult survivors of childhood abuse. Established in 1987 to assist former child migrants in recovering their identities, it has built up substantial expertise in the area of historical abuse. While I applaud this gov-
ernment’s decision to contribute a rather modest $125,000 annually for the next three years so that the Child Migrants Trust can continue its work. I trust that future Australian governments will not only extend but also increase such funding, so that, as resolution 10 states, the trust will be able to continue and to expand its vital work. The work of the trust is so highly regarded that their director was recently asked to give a lecture series at Washington State University.

It is important for governments to support pioneers in this field, because their work not only tries to address pain and suffering but also will lead us to the insights that can save society a very costly burden. Professor Stanley’s research institute and the Child Migrants Trust are examples of bodies that deserve to be well funded. During and since the child migrant inquiry that reported in 2001, my office has been working on issues arising from the abuse and criminal sexual assault of between 100,000 and 200,000 Indigenous, non-Indigenous and foreign children in Australian institutions during the last century. In the process we have built up some knowledge of this frightful phenomenon.

I am absolutely convinced of the urgency and importance of a proactive and coordinated approach in this area. In the editorial of the West Australian on 16 January of this year, this need was expressed when it stated that:

The essence of good government lies in apportioning taxpayers’ money according to the competing needs of the community. Priority must go to those whose needs are greatest.

It is hard to imagine a group more in need than children who are being abused ...

I would like to conclude my remarks by repeating some points I made in a speech delivered to the Senate in August of last year. One of the worst, most extensive, most concerning and most vicious forms of child abuse, both globally and in Australia, is that of the criminal sexual assault of children. I pointed out in that speech that there were three categories of villains in child sexual assault. Firstly, there are those who commit the crime of sexually assaulting children. Secondly, there are those who criminally conspire to conceal those crimes and so protect the perpetrators. Thirdly, there are those who refuse to address the problem—for instance, churchmen who hush up internal procedures to keep paedophiles from being arrested, defence lawyers who terrorise child sexual assault victims who come forward, DPP offices that deliberately let files die and police who defer to a cleric’s collar rather than to a victim’s pain. In this third category also are those politicians who refuse to address the problem, have manufactured statutes of limitation that prevent victims from having their day in court, will not permit mandatory reporting, have poor public policy in this area or starve good agencies of money and resources.

I also pointed out that, thankfully, there are the warriors—determined police, dedicated lawyers, courageous health and social workers, community crusaders and priests who loathe the evil in their midst and who work tirelessly to make a difference. In the interests of the legions of children and adults so affected, in the interests of justice and in our mutual interest in reducing the huge social and economic costs, it is time that the Commonwealth showed some much-needed initiative to call an inquiry and/or a royal commission into child sexual abuse. I will also expect to get Senate support in March for my motion to inquire into the institutional abuse of children last century.

I believe this parliament, the opposition and the government all need to take up this challenge. Without that, the high personal, social and economic costs will grow and grow, to our great detriment. The alternative is a continuing downward spiral whereby vulnerable, neglected and abused children become adults with significant mental and physical health problems and relationship and social difficulties—or worse, who can descend into welfare dependency, crime, prostitution, drug or alcohol dependency and the like, and suicide. In the 21st century, with what we know now, this is just not good enough. The first International Congress on Child Migration was another step forward in the campaign for knowledge, understanding and some solutions. As I indicated at the
commencement of my remarks, I seek leave to table and incorporate the resolutions arising from that congress.

Leave granted.

The document read as follows—

1st International Congress on Child Migration
27-31st October 2002, New Orleans

CONGRESS RESOLUTIONS

The 1st International Congress on Child Migration brought together international experts in the fields of policy, social work, psychology, psychiatry, law, politics, human rights and history and convened a Special Session of the United Nations on Child Trafficking. Government representatives and Former Child Migrants were also represented.

1. CONGRESS calls upon the United Nations and all Governments to recognize that the results from trafficking or forced migration can lead to a lifetime of adult problems with severe social and economic costs; asks those Governments to fund the research necessary to quantify the scale of children and adults affected; and the likely social and economic costs; and then to combine to develop effective and practical policies to address those problems.

2. To assist former Child Migrants to establish their identity, Congress resolves all responsible Governments and agencies make available forthwith all their records to former Child Migrants and their families.

3. Congress calls on Governments to ensure that Article 8.1 and 8.2 of the Convention of the Rights of the Child are complied with, as follows:

8.1 States Parties undertake to respect the right of the child to preserve his or her identity including nationality, name and family relations as recognized by law without unlawful interference.

8.2 Where a child is illegally deprived of some or all of the elements of his or her identity States Parties shall provide appropriate assistance and protection with a view to re-establishing speedily his or her identity.

Congress further recommends that all governments give domestic effect to the United Nations Convention on Children’s Rights.

4. Congress recognizes that in some cases there may be good reason why people may wish to engage in inter-country adoptions: believes there should be strong regulations in such cases which ensure that proper consents have been given by birth parent(s), that the prospective adopters are suitable to adopt and that profit has not been made; believes however that much inter-country adoption arises from poverty and lack of support for family structures and calls upon all Governments to develop and enforce policies which underpin the family structures and redirect resources to enable inter-country adoption to reduce.

5. Congress strongly opposes any form of child trafficking and calls upon the United Nations to take the strongest measures to eradicate this form of child abuse.

6. Congress agrees that an international team of experts in the area of historical abuse be formed by the Child Migrants Trust to inform, advise and monitor Governments on these matters and ensure ethical and appropriate measures are implemented.

7. Congress notes that the Child Migrants Trust has unique and long-term experience in rectifying damage in adult survivors of childhood abuse and calls on the United Nations and responsible Governments to utilize the expertise of the Child Migrants Trust to assist in the development of appropriate tools for people and organizations addressing the consequences of child trafficking.

8. Congress calls on all responsible Governments to ensure that all former Child Migrants have free access to justice.

9. Congress calls upon the Child Migrants Trust to convene a further conference addressing the issues of child migration and child trafficking within two years and calls upon all responsible Governments to provide necessary resources.

10. Congress calls on the Governments of the United Kingdom, Australia, Canada, Malta, New Zealand and Zimbabwe and on the United Nations to ensure the Child Migrants Trust has sufficient and long-term funding to continue and to expand its vital work.

11. Congress calls for the next International Child Migrants Day (28th October) to be sponsored by the United Nations. This global event, inaugurated at this Congress, aims to raise awareness for the issues of child migration and child trafficking, past and present.

Bushfires

Senator TIERNEY (New South Wales)
(1.22 p.m.)—Almost 12 months ago—as a matter of fact it was on 14 February last year—I spoke in this chamber on a matter of
public interest. Again in December I addressed the same issue. And now, in the first sitting of the Senate for 2003, I must rise yet again on the same issue, and that is the issue of bushfires. This time, though, there is a significant difference for those of us who spend a lot of our time living and working in Canberra. This time the fires came incredibly close to this place. This time the bushfires had a devastating effect on those people who attend to our needs when we come to Canberra to debate the issues of the nation.

I doubt there would be a single Canberran who has not been touched by the events of 18 January in one way or another. I am sure that senators on all sides will join with me when I express my sympathy for those around us who have suffered such a great loss. We thank them for their dedication and for making sure that the parliamentary process continues as smoothly as it does despite the personal difficulties many of them must be suffering. Yet if I think back on the recent history of bushfires, particularly in New South Wales, I cannot do anything but feel angry. The people of Canberra did not cause these fires; they just suffered the consequences. Because the Australian Capital Territory lies slap-bang in the middle of New South Wales we have this massive problem. The fires came from New South Wales. Because Bob Carr and the New South Wales government turned a blind eye to their disastrous environmental policies—things I raised in this Senate one year ago and three months ago—those policies continue, and they continue to have a devastating effect. Bob Carr is so intimidated by the dark green movement in his state that he will not take the necessary steps to reduce the bushfire hazard. So while Bob fiddled on his prevaricator, Canberra burned.

Just look at what has happened in New South Wales while the dark greens have been in control of policy. There has not been a decent attempt at hazard reduction in New South Wales national parks since John Fahey was the Liberal Premier in the early nineties. In 1993 the National Parks and Wildlife Service in New South Wales carried out prescribed burns covering 47,800 hectares, but by 1999 the Carr government had reduced this figure to 6,700 hectares. That is a massive reduction of 86 per cent. But one of the crucial elements of bushfire control is hazard reduction. This involves burning off undergrowth during the cooler months. It brings about a cold fire that moves slowly through the bush. A cold fire will consume the undergrowth which is the potential fuel for summer fires. Because the fire is slow moving, animals have time to escape and the vital core of gum trees remain unharmed. On the other hand, if we do not reduce this undergrowth, it becomes dry and brittle, and in the hot summer results in the firestorms that we have seen over the last two years. Because the fire is so hot, it destroys the very core of the trees. Because the fire moves so quickly, the animals do not have a chance to escape.

But let us have a look at hazard reduction from another perspective—a scientific one. The CSIRO recommends that reduction should be carried out in between five per cent and seven per cent of the national park areas if bushfire control is to be in any way effective. In New South Wales the figure is 0.7 per cent. That is one-tenth of what the scientists recommend. The devastating effect of this misguided policy could be seen only several weeks ago in the Snowy Mountains, where back-burning has not taken place for over 50 years. The fuel had built up to such an extent that, once the fire started, it was unstoppable. Two weeks ago I flew over the Snowy Mountains with the awesome sight of fires on many fronts consuming the Snowy Mountains national park. Now 75 per cent of it has been burnt out—a charred ruin thanks to the misguided environmental policies of the Carr government. Last week the Bulletin magazine carried a fascinating article by Tim Flannery. Remember that Tim Flannery is not just a popular author, he is also our best-known earth scientist. In his article, Dr Flannery says:

Fire management in national parks is as much about ecosystem health as it is about firebreaks, and the very sick marsupial ghost towns that pass as parks today need urgent attention.

He goes on about fire management and says:

It is also about managing the plants. Some botanists contend that we don’t know enough about
the ecology of many species to burn parks without damage.

This opinion by some botanists is often given as an excuse for the lack of hazard reduction in the very areas from which some of the Canberra fires came. But I have to say that I agree with Tim Flannery when he says:

My response is that we have no choice but to learn as we go.

There is plenty of evidence that our failure to learn has in fact created the destruction of whole species by hot fires. If we really want to learn then we have to be prepared to accept the factual evidence. Dark greens in this place, like Senator Bob Brown, might not like to hear this. If we had been prepared to listen to the Tim Flannerys of the world and not just our nearest tree-hugging dark greenie, we might even be able to help the dark greens’ cause, because certainly there has been more destruction of forests as a result of their policies than there was as a result of previous policies.

Whether or not we are prepared to listen to the experts and practise hazard reduction we still need to be far more careful in this country about our planning of communities. As I said in a Financial Review article a few weeks ago, ‘As Australians we love our bush, but we don’t put sufficient thought into planning the interface between that bush and our dwellings.’ It is absolutely essential that we establish buffer zones. We saw the devastating effect of the lack of such zones in places like Duffy, where the forests and the houses do interface. Buffer zones obviously need to be established and to be much wider where they exist at the moment. Hopefully we will learn something from the Canberra fire experience.

There is no excuse for not taking serious preventative measures in New South Wales and Victoria. The main reason I mention these states is that south-eastern Australia, which is covered by these two states, is the most fire prone region in the world. This is something we do not seem to have caught onto too quickly. We are in the most fire prone region of the world, and we must take a double-edged approach if we are to solve the horrendous problem of bushfires in this country. We are always going to have bushfires, because of the nature of our ecology. But what we have experienced in the last few years are fires that burn far more intensively and extensively. The reason for that is a lack of fuel reduction in the bush. It is a result of those policies and it is a result of the lack of adequate planning of the interface between the bush and urban communities. In those two areas we must develop policies in this country. Of course, both those areas—urban planning and bushfire control—are state matters, and so we will need a cooperative approach across the whole of Australia to try and reduce this terrible hazard that we face each summer. It is amazing that so many courageous firefighters, most of whom are volunteers, are prepared to go out and risk their lives and do this in the situation where the Carr government has made disastrous mistakes in its planning and environmental policies.

**Drought**

**Senator O’BRIEN (Tasmania)** (1.31 p.m.)—I rise today to address yesterday’s exceptional circumstances declaration made by the Minister for Agriculture, Fisheries and Forestry. This exceptional circumstances declaration concerns the Walgett and Coonamble areas of north-western New South Wales. It has delivered a bitter blow to many farmers in that drought-stricken area of New South Wales.

This exceptional circumstances declaration is unlike most others in that Mr Truss has determined many farmers that live and work in the Walgett and Coonamble area are not yet suffering enough for his liking. Rather than extend the terms of his exceptional circumstances declaration to all farmers in the Walgett and Coonamble area, the minister has excluded all non-livestock producers from full exceptional circumstances relief. The minister has provided an exception to his exclusion for crop producers, but only if they prove catastrophic crop failure for two successive years. In addition, the period of interim exceptional circumstances assistance has been extended to June, making the interim period in this area—but no other—nine months.

These are further complications to a drought assistance scheme Mr Truss has al-
ready complicated beyond belief. What the government has now introduced is differentiation between producers within declared exceptional circumstances areas, but even the differentiation is not consistent. Two weeks ago, the Acting Minister for Agriculture, Fisheries and Forestry, Senator Ian Macdonald, declared the Riverina an area of exceptional circumstances. In respect of this declaration, non-livestock producers, including dairy and crop producers, are excluded and, unlike in Walgett and Coonamble, there is no entry path to exceptional circumstances payments if the individual producers prove additional hardship.

The exceptional circumstances program has become a dog’s breakfast. It is complicated and full of uncertainty—Senator McGauran—it’s called tailoring for the area.

Senator O’BRIEN—with the outcome of each application now subject to the whim of the minister. I will take the interjection from Senator McGauran and remind him that while in opposition the National Party told us that the exceptional circumstances program was too restrictive and that they would end forever the ‘lines on maps’ problem with exceptional circumstances declarations. But what they have done since 1996 is entrench the lines on the maps that define EC areas, and they have added further complication for good measure.

The latest complication is matched only by the complexity of the ad hoc package announced by the minister on 9 December last year. Rather than reform the exceptional circumstances program, the government created another assistance program, which was subject to rainfall deficiency criteria. On the morning of 9 December, Mr Truss joined the Prime Minister and the Deputy Prime Minister to make the announcement. I understand that this package was put together in great haste. It derived from the intense frustration experienced by senior members of the government with the minister’s management of drought assistance—both politically and administratively. I understand the Prime Minister himself engaged in very animated discussion with Mr Truss about his political management. Following this discussion, the former secretary of the Prime Minister’s department, Mr Max Moore-Wilton, had a similar discussion with the shell-shocked secretary of Mr Truss’s department, Mr Michael Taylor. It was from this that the ad hoc December package sprung.

There were in fact two versions of the media release outlining the 9 December package. One version was boxed in the parliamentary press gallery and another version was sent to some journalists electronically. I have a copy of both versions. Page 4 of the announcement was headed, ‘Drought affected areas eligible for Commonwealth assistance’ and showed local government areas in Victoria and Queensland that met the new rainfall deficiency threshold. The version that was boxed in the gallery included a number of inner urban areas in Melbourne in the section listing local government areas eligible for assistance. Some senators will recall the photograph of High Street, Preston, that ran on the front page of the Weekly Times on the Wednesday after the announcement. This photograph showed one of the areas declared eligible for assistance by the minister. If senators missed the article, they probably need only contact the drought-affected farmers living in western Victoria who were denied assistance in that package by the government—I am told that it has a place on plenty of fridge doors all over Victoria! It is not just farmers who noticed. I am told the Prime Minister and Mr Max Moore-Wilton had a series of discussions with the minister and his department which were even more lively than the first. It has been put to me that the rainfall deficiency test used to establish entitlement under the ad hoc arrangements announced on 9 December was among a number of measures tested to see which achieved the best political outcome. I trust that that is not the case.

The second version of the announcement—the one sent to some journalists in the gallery—had a number of urban areas removed. It was not a sophisticated operation. Rather, this version had a number of blank boxes, designed perhaps to tease the gallery with blank space. When journalists pointed out the difference to the minister’s office, I
understand staff could not explain the existence of two versions.

An article in the Preston Leader on 17 December highlighted the minister’s urban drought plan. It was headlined ‘Drought help in city denies rural area aid’. The minister’s press secretary is quoted directly throughout the story. In it, he valiantly defended the minister’s competence with the comment: ‘Apparently the inclusion of inner Melbourne in the drought package was justified because Mr Truss wanted to help eligible farmers quickly rather than delay assistance for months by getting hundreds of bureaucrats to draw lines on maps to exclude urban areas.’ Hundreds of bureaucrats! Geography is clearly not one of the minister’s strong suits, but it is a bit of a stretch to think there is no-one in the department who can identify central Melbourne as a non-rural area. I look forward to exploring these and other matters with Senator Ian Macdonald and his departmental officers at estimates next week.

However, I do not need an estimates hearing to form a judgment about Mr Truss’s management of drought assistance. The whole program—exceptional circumstances, restricted exceptional circumstances and ad hoc assistance—is a shambles. We have had urban areas in and rural areas out, rainfall deficiency tests varying from a 1-in-25-year phenomenon to a 1-in-20-year phenomenon, some farmers subject to full EC criteria, including rainfall deficiency and income—Senator McGauran—One size does not fit all.

Senator O’BRIEN—and some with special tests of their own. Senator McGauran would know all about drought in metropolitan areas. That is all I can say to that comment. Some farmers receive interim payments for six months but others receive them for an extended period, subject to nothing except the will of the minister. It is not surprising that many farm communities have just about given up on this minister and his ability to, firstly, understand the severity of the drought; secondly, do what he can to ameliorate its effects; and, thirdly, help farmers manage a sustainable, long-term recovery.

Some changes announced by the minister over recent months have been welcomed by the opposition. In December, Labor welcomed the overdue support for farmers forced to borrow money to sustain core breeding herds. We recognise the equity in extending assistance to some small businesses adversely affected by drought. The forced changes to the Farm Management Deposit Scheme, belated as they were, were supported by Labor in a spirit of bipartisanship. All these changes followed my joint release with Simon Crean of Labor’s six-point drought plan, which was issued on 19 November last year. That plan has the following elements, and I again commend it to the government: first, to cut through red tape by establishing a seven-day turnaround on prima facie assessment of EC applications and a 28-day turnaround for full EC assessment; second, to improve the Farm Management Deposit Scheme by providing flexibility in accessing farm management deposits to allow farmers in exceptional circumstances declared areas to withdraw deposits within 12 months; third, to help farmers protect core breeding stock by providing drought-stricken farmers with assistance to maintain core breeding stock to facilitate recovery once the drought breaks—Labor called for 100 per cent interest rate subsidies for loans used to preserve core breeding stock; fourth, to address feed grain shortage concerns by ordering an immediate national grain audit to assess current and future national grain supplies and investigate the impact of import protocols for feed grain to ensure current quarantine standards are protected; fifth, to stop the buck passing and squabbling and to work with the states to streamline the exceptional circumstances applications process; and, sixth, to get rid of duplication and target Commonwealth programs to help those in need by coordinating existing rural programs and adapting non-rural programs to better assist rural and regional communities, rural workers and families in need.

As already mentioned, farm management deposit reform introduced late last year adopted the Labor plan and the government went some way to meeting our demand on support for core breeding herds. However,
the other elements have been ignored. In the meantime, new complexity has been introduced into the drought assistance regime. The problems of the minister, in his attempt to extricate himself from the EC fiasco, are all of his own making.

Last May, all states agreed to an exceptional circumstances reform plan that would have improved the assessment and delivery of assistance. Rather than adopt the plan last May just as the worst of the drought was developing, the minister stonewalled. He thought—and the government obviously thought—that they could use the exceptional circumstances program to shift costs from his portfolio and its budget onto the states and that no-one would notice. Let me tell you, Mr Acting Deputy President, that farmers certainly have noticed and they will not forget.

The task before the minister is now greater than it should have been. He has to sort out the rules he has established for exceptional circumstances relief and associated drought assistance. It is not fair for some farmers to be denied full exceptional circumstances relief for no reason beyond the exercise of the prerogative by Mr Truss on a given day. It is not fair that some farmers are discouraged from applying for assistance because they cannot understand the rules. For senators who doubt that is the case, I encourage them to speak to farm organisations or have a look for themselves at the departmental web site that tries to explain the rules. Kafka lives and www.affa.gov.au is his home.

The minister must also turn his mind to assessing the EC applications which are still sitting on his desk today. Just before entering the chamber, I was advised that the assessment of some other exceptional circumstances applications concerning Queensland and South Australia has been completed today. It appears the minister’s new practice of differentiating between producers within EC declared areas continues. I intend to explore the details of these declarations at another time. I look forward to the opportunity to address this matter further in the chamber.
government—more so than the Victorian government. Being a National Party senator from Victoria, I will give some credit to that government for responding to the plight of the Victorian farmers—compared to New South Wales, I should add. It is a disgusting and disgraceful performance by the New South Wales government. They have spent $2 million in exceptional circumstances funding towards the plight of farmers.

In Queensland it is nearly as bad. The Queensland government have not put forward to the federal government any exceptional circumstances applications, which are their responsibility. Are they not representing that area, as a government? They have not put in any exceptional circumstances applications representing any area in Queensland. That has been carried out by private organisations. The utter failure of the Labor states to meet their responsibilities with regard to this severe and ongoing drought is to be condemned, but it was conveniently left out by Senator O’Brien.

The coalition government’s federal responsibilities have been met in an unprecedented way. Over a billion dollars has been spent thus far—not committed but spent, Senator O’Brien. Over one billion dollars has been spent, compared to a lousy $12 million by the states, and we expect that bill to go up. Never before have the exceptional circumstances drought relief payments to farmers been more flexible—which you do not concede—more tailored or more accommodating to the particular regions. The whole problem with exceptional circumstances funding prior to this, and under your regime, was that it was too fixed. It was one size fits all. If your local region did not fit the particular criteria, you did not get exceptional circumstances payments. This government—and this minister, I should add—have been able to tailor exceptional circumstances to the area.

For the first time, small business has been brought into the exceptional circumstances drought relief scheme. This has not been done before. For the first time, we are including a payment to maintain the breeding stock. So not only have we expanded the drought relief program but we have tailored it to particular regions. Where there is delay in assessing an area for drought and meeting exceptional circumstances under the old rules, we put in place a six-month interim drought relief program while that assessment is being undertaken.

Senator O’Brien comes in here and carps and criticises this government’s performance just because the funding is different from region to region. Why shouldn’t it be? It should be. But he does not get it. He seems to think it has to be rigid, that there has to be one set of rules and the minister and his advisers, the independent panel, cannot assess a region according to its particular needs. This is what Senator O’Brien is in fact criticising—that different judgments and assessments are made from region to region. He seems to think that, if one region gets a different assessment, different payments or different value judgments from another, there is something wrong. The weather does not work that way, Senator O’Brien. I am sorry, but the patterns can change basically from farm to farm. You do not seem to realise that. Your coming in here and mocking this government’s performance, conveniently leaving out each state government’s pathetic performance, is to be condemned.

Drought

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (1.51 p.m.)—I too would like to make a contribution on the matter of drought. Senator O’Brien has said that the criteria are not consistent and that that is causing confusion. I think that is the essence of his speech. The reason the criteria are not consistent is that the Minister for Agriculture, Fisheries and Forestry, Warren Truss, is tying himself up in knots trying to get drought assistance out. He is trying to not go down on lines or rainfall but to use every means within his ability and the ability of his department to get assistance out. So do not come in here and say, ‘The criteria aren’t consistent.’ We agree with you, the criteria are not consistent, and they are not consistent because we are using every means within our power—bending the rules, even—to make
sure that people get drought assistance. If you really want to assist the farmers, I suggest you get on to some of the Labor states and some of your Labor colleagues. Some of the reasons that these drought relief packages have not been going out—

Senator Buckland—Mr Acting Deputy President, on a point of order: I understood that this was a period for matters of public interest. I did not believe that it was a time when we would debate an issue raised by a senator in this chamber.

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

Senator Boswell—The Senate can debate anything at any time it likes. If Senator O’Brien wants to assist farmers, he should not come in here, as he does every Wednesday—it is almost a ritual; he has got a permanent booking here—and lay the blame for everything that goes wrong in agriculture at the feet of the agriculture minister. It is a nonsense. There is no government in the history of Australia that has done more for rural Australia. We have committed up to $900 million in this drought. Senator McGauran is perfectly right when he says that the states have not responded. The tardiness of some of the drought relief payments going out to farmers, to meet their expectations, is because the agriculture departments or the departments of primary industry of some state governments are just not declaring drought. Before you can trigger a package for drought relief, the declaration has to come from the state agriculture departments. Every day, as I have said, it is a ritual for you to come in here and complain about the minister for agriculture. It is almost a ritual in the National Party party room for the minister to get up and complain that he just has not received EC statements from the various state governments.

I am going from memory at the moment, but I think the State of Victoria has promised $20 million and has spent $12 million. That is the best state. For all the huffing and puffing and saying to farmers what they are going to do, the figure that was reported to me that the Carr government has spent is $2 million—in a state that is ravaged by drought more than any other state. The Queensland state government has got this wonderful ability to put money up and regenerate it and regenerate it and generate it again. It goes from the fishing industry to the drought and around in a big circle, but it is always the same money. It never gets spent, but it always goes around in a circle. So, Senator O’Brien, I know your genius is to attack the government. But, if you are going to do that, do it with a bit of honesty, do it with a bit of integrity and do it with a bit of fairness instead of coming in here ritually on Wednesdays and attacking Warren Truss when he is doing the best job possible trying to fill in for your failed state ministers who are not doing their jobs. If the criteria are inconsistent, they are inconsistent because the minister is trying to bend the rules to get the aid and the assistance out to Australian farmers.

Sitting suspended from 1.57 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Iraq

Senator Faulkner (2.00 p.m.)—My question is directed to Senator Hill in his capacity as Leader of the Government in the Senate and as Minister for Defence. Minister, has the government decided that no elements of the Australian forces currently deployed in the Gulf region will be withdrawn in the event of a US-led war against Iraq proceeding without Security Council authorisation? If so, why has the government insisted that no decision has been made about whether to withdraw the ADF from the Gulf if a war starts without UN backing?

Senator Hill—Australia has a number of forces in the region. It has two ships as part of the multinational interception force at the head of the Gulf; it has two P3 aircraft that have been deployed to the Gulf also as part of the war against terrorism; in recent times it is deploying certain other forces to the region, as has been stated publicly—forces that are designed to send the message clearly and unambiguously to Saddam Hussein that he must comply with UN Security Council resolutions; and it also has a presence to enable such forces to be properly acclimatised in case they are called upon to
take part in an action against Iraq in the future. So the issue of withdrawing the forces is not relevant at this time. They have been sent there for specific purposes, as I have just outlined, and the government has not therefore, logically, focused on the issue of the circumstances in which they would be withdrawn. That is something that the government can do at any time it so determines. I remind Senator Faulkner that the government decided to withdraw and withdrew our special forces from Afghanistan even though other coalition partners continue to have forces on the ground in Afghanistan. Similarly, the ships in the MIF have been rotated from time to time. Similarly, in relation to other forces the government is able to withdraw them at any time it so determines if it believes that the purpose for which they have been sent has been completed or for any other reason.

Senator FAULKNER—Mr President, I ask a supplementary question. My question went to whether a decision has in fact been made to withdraw the ADF from the Gulf if a war starts without UN backing. I wonder if the leaked comments by the foreign affairs minister demonstrate clearly that the government had made clear decisions as far back as October last year on the continuing nature of Australian deployments during a unilateral US attack on Iraq. I ask the minister: when does the government intend to come clean with the Australian people on all the decisions it has made regarding Australian deployments in the Gulf region?

Senator HILL—I do not know that Senator Faulkner actually listened to my answer. I set out for him the force elements that we have in the region and the reason for which they have been deployed. I said to him that the government can withdraw such forces at any time, as it has demonstrated in the past, but obviously it has not made any decision to withdraw them. Decisions about their future—whether their deployment will continue, whether their deployment will change or whether they are withdrawn—are decisions that the government would make in the future.

National Security: Information Kits

Senator LIGHTFOOT (2.05 p.m.)—My question is directed to the Special Minister of State, Senator the Hon. Eric Abetz. Will the minister inform the Senate of the measures which are being taken to advise Australians on the threat of terrorism? What advice is being offered to ordinary Australians to help them to assist authorities with the prevention of terrorism in Australia?

Senator ABETZ—I thank the honourable senator for his question and his interest in this important matter. As we all know, our splendid isolation has not kept Australians immune from terrorism. We lost countrymen and women in the attacks of 9-11 and the Bali explosions. Fortunately, the current wave of terrorism has not yet arrived on our shores—but, then again, many in the United States believed that it too was immune prior to 9-11. Our fellow Australians want information. They know that there is a threat and they want to know what the government has done to counter that threat. Moreover, they want to know what they personally can do to help in the fight against terrorism. The government has listened to the concerns and needs of Australians. Our task is to offer people advice on how they can be alert to the risks of terrorism. To this end, over the coming week people will be receiving copies of a booklet entitled Let’s look out for Australia: protecting our way of life from a possible terrorist threat. I strongly urge all Australian families to read it.

For those from a non-English-speaking background, the booklet will be available in 31 community languages. The booklet is very comprehensive and contains: information on what sort of things to be alert for; some examples of what constitutes unusual or suspicious activity and where to report any such activities; advice from leading counter-terrorism experts, such as the heads of ASIO and the Australian Federal Police; guidance on what to do in an emergency from the head of Emergency Management Australia and the Commonwealth’s Chief Medical Officer; details on how national security has been strengthened; and contact information for reporting harassment or discrimination.
It is of paramount importance that no group is singled out because of the behaviour of fanatics. All this information is vital for Australian families and is just as applicable for non-terrorist emergencies such as the recent bushfires experienced here in Canberra. Some people in the community, including people who know better, like the Labor Lord Mayor of Brisbane, have, for cheap political reasons, condemned this booklet without ever seeing it. What sort of narrow-mindedness would motivate you to say, 'Throw out this information booklet before you have even seen or read it'? Indeed, why would the Labor Party not want our ethnic communities to know where they can report racial discrimination in these current circumstances? It was the Labor Party's thoughtless opposition that got them into this embarrassing position. They did not know what was in the booklet, yet they sought to condemn it before they saw it. Australians do not appreciate their leaders playing divisive petty politics with important community information campaigns. I urge all fellow Australians to look out for the booklet, take the time to read it and take note of the important information it contains.

Iraq

Senator CHRIS EVANS (2.09 p.m.)—My question is directed to the Minister for Defence, Senator Hill. Minister, when the foreign affairs minister, Mr Downer, referred to the other presence in the Gulf that could be withdrawn if UN processes failed, wasn’t he referring to a number of ADF personnel who were in the region at the time outside of the multilateral interception force and personnel not referred to by you in your answer to Senator Faulkner? Didn’t this include the Australian headquarters in the region, which is now co-located with the command of General Tommy Franks in Qatar to liaise with the US on its plans for Iraq? Didn’t the other presence also include an ADF element in Kuwait training and liaising with their defence force? Didn’t these elements have nothing to do with the MIF and everything to do with plans for the invasion of Iraq? In acknowledging their presence in the Gulf and signalling that they would not be withdrawn if the UN processes failed, wasn’t Mr Downer stating that our commitment to those US war plans is absolute?

Senator HILL—The other forces that we had in the Gulf at the time of Mr Downer’s conversation included a naval support element for the ships in the MIF. It also included a small support and headquarters element for our special forces located in a Gulf state that preferred not to be named. It was offering special forces support for the primary force that was in Afghanistan. They are the only other elements that I can recall at the moment. I presume it is those elements to which Mr Downer was referring.

Senator CHRIS EVANS—Mr President, I have a supplementary question. I thank the minister for his previous answer and I ask: can he confirm that those were the only elements in the Gulf at that time? Isn’t it the case, as I alluded to in my first question, that in fact the Australian headquarters were located in the region and were liaising closely with American forces with a view to action in Iraq? Can he confirm which elements were actually in the Gulf at the time that were not part of the MIF? And wasn’t that in fact confirmed by the Chief of the Defence Force, General Cosgrove, during Senate estimates in November last year?

Senator HILL—I do not think that was so in October; I will check. The headquarters to which I was referring was one supporting special forces that we had operating in the war against terror that were serving in Afghanistan. They did not deploy directly into Afghanistan; they deployed through a Gulf state. From time to time they were rotated back into that Gulf state for leave and other purposes. They were also, pursuant to an arrangement we had, giving some training support to that Gulf state. That is the only headquarters that I can recall in the Gulf region at that time, but I will go back and get Defence to examine it and see if there is anything further I can add to my answer.

Drought

Senator SANDY MACDONALD (2.14 p.m.)—My question is to the minister representing the Minister for Agriculture, Fisheries and Forestry, Senator Ian Macdonald. Minister, will you outline to the Senate what
assistance the coalition government is providing to help farmers deal with the effects of the ongoing drought situation? Are you aware of what assistance might be forthcoming from state governments?

Senator IAN MACDONALD—I have just come back from Newcastle after this morning opening an $11 million truss joist factory in Newcastle—another 20 people employed in that $11 million facility, joining 86,000 other people who are employed in the forest and wood products industry in Australia. When flying back from Townsville at the weekend and when flying back from Newcastle this morning, I could not help but be devastated by the sight of the drought ravaging that part of Australia. Senator Sandy Macdonald, coming from that area, would well know how difficult the drought is there.

Opposition senators interjecting—

Senator IAN MACDONALD—If you look behind Newcastle in the area where Senator Sandy Macdonald is, you will see that there is a devastating drought there. I would have thought that as New South Wales senators you might have been aware of that.

It is therefore important that we as a government understand the hurt of the farmers, and that is why, as at the end of January, some 3,649 farmers are now receiving Commonwealth assistance, costing over $50 million. Centrelink announced yesterday that $3 million in drought relief had been rolled out to Australian farmers in the last two weeks. The Howard government has committed some $368 million over three years for interim drought relief. The Commonwealth expects that drought assistance for farmers qualifying under the exceptional circumstances program and additional drought relief will reach about $900 million over three years. All of this is Commonwealth spending. The states, as at the present time, are spending less than $100 million between them.

Mr Truss announced this morning that farmers in south-western Queensland and north-east South Australia can now access EC assistance. This now brings in a great deal of Australia covered by EC declarations, including the Western Division in New South Wales, the Riverina, Walgett, Coonamble, Bourke, Brewarrina, Peak Downs in Queensland, and the northern and southern wheat belts in Western Australia. Interim EC assistance is also being provided to farmers in other parts of every state in Australia. Of the 17 applications for EC assistance which have been submitted since late last year only four now remain outstanding. Senator Sandy Macdonald will be interested to know that they will be dealt with in the next couple of days.

The Commonwealth government has made a major contribution. We are delighted to hear that the New South Wales opposition promised $50 million to drought-stricken farmers in its drought policy that was announced yesterday. It is a regret therefore that Mr Carr, the New South Wales Premier, has budgeted only $28 million, and that was upped only overnight from a figure of $17 million. He is not even spending what he has budgeted. Half the measures of the New South Wales government are not even going to farmers. Mr Carr is trying to make politics about this by saying that the Commonwealth has ‘not paid a cent’. That is a blatant lie and Mr Carr well knows it. It is a shame that a Premier should lie over an issue as important as drought relief.

The PRESIDENT—Senator, I believe that your comment regarding the Premier of New South Wales is out of order. I ask you to withdraw that comment. As you would be aware, you are not allowed to accuse another person in another place.

Senator IAN MACDONALD—Thank you, Mr President. I withdraw that. Mr Carr certainly knows that what he said was untruthful. The Commonwealth has made a major contribution. We ask the New South Wales government—indeed, all state governments—to match the Commonwealth’s very substantial spending on providing relief for those who are stricken by drought.

Iraq

Senator CHRIS EVANS (2.18 p.m.)—I have another question for Senator Hill, the Minister for Defence, following on from my first question on this issue. Can the minister confirm that there are now more than 40
ADF personnel in Australian headquarters in the Gulf and that they have been there since before October last year? Can he also confirm that there are still ADF personnel playing a training and liaison role in Kuwait? Can the minister confirm also that ADF headquarters are now co-located with those of the US command of General Tommy Franks? Isn’t the role of these headquarters personnel to liaise closely with the US on its plans for a war in Iraq, given that the commitment to Afghanistan has concluded? At a military-to-military level, have Australian troops been factored into those US command war plans?

Senator HILL—There are a number of parts to that question, but the war in Afghanistan—I think that is what the honourable senator is referring to—which is really the war against terror as it is being played out in Afghanistan, is still continuing. It is just that Australia has withdrawn its troops because we believe that their specific task had been completed.

In relation to personnel who are in the Gulf and carrying out training functions, I answered that in the last question. As I said to the honourable senator, our host Gulf states prefer that they not be specified, so it is not our usual practice to specify such states.

In relation to the first part of the question, we have been saying for some months that Australians were involved with or present within the US planning process in the latter months of last year. We said that that was important from the perspective of ensuring that the Australian government was well informed as to any strategies that the US military might have in mind. It is true that when the Americans moved their headquarters within which the Australians were located some of the Australian military personnel went with them to the Middle East region. I think that answers the three parts of the question that were asked by Senator Evans.

Senator Bolkus interjecting—

Senator HILL—You can all have a turn.

They are there as part of the Australian contingency planning—(Time expired)

Iraq

Senator BARTLETT (2.23 p.m.)—My question is addressed to Senator Hill, representing the Prime Minister. I draw the minister’s attention to statements made on 30 January by White House press secretary Ari Fleischer stating that the US policy on the use of nuclear weapons against Iraq was to not rule anything in and not rule anything out. I also draw the minister’s attention to the comments made on 2 February by the UK Secretary of State for Defence that Iraq can be absolutely confident that the UK would use nuclear weapons in the right conditions. Given that the Prime Minister said on the 7.30 Report on 23 January that, if he thought nuclear weapons were going to be used, he would not allow Australian forces to be involved full stop, and given the repeated refusal from the US and the UK to rule out the possibility of using nuclear weapons, how does the Prime Minister justify the deploy-
ment of Australian troops in this circumstance? How does he substantiate his view that nuclear weapons will definitely not be used?

Senator HILL—I think that the Prime Minister was responding to the earlier statements made by Deputy Secretary Wolfowitz. He was asked in an interview by Kerry O’Brien, ‘In what circumstances would America consider using nuclear weapons in Iraq?’ He answered: ‘We don’t have any need for that. We have every capability we require with our conventional armed forces.’ That seems to me to be pretty clear-cut. I think that that was probably the basis upon which the Prime Minister made his statements.

Senator BARTLETT—Thank you, Minister Hill. If you could perhaps check with the Prime Minister that that is the full basis of the Prime Minister’s confidence, I would appreciate you informing the Senate of that, because it seems pretty flimsy to me. Mr President, I ask a supplementary question. Given the comments from the UK government, clearly not ruling things out, will the Prime Minister, on his international visits next week, seek full assurances from the President of the United States and Commander-in-Chief of their armed forces, and from Prime Minister Blair, that they will not use nuclear weapons under any circumstances in any action against Iraq? Will he promise to withdraw Australian troops from the Gulf if no such assurance is given?

Senator HILL—As I said, I think, from what the Prime Minister said, that he is satisfied that nuclear weapons will not be used. But if Senator Bartlett is asking the Prime Minister to ask it specifically of the President of the United States, then I will ensure that Senator Bartlett’s request is taken to the Prime Minister.

Iraq

Senator FAULKNER (2.26 p.m.)—My question is directed to Senator Hill, Leader of the Government in the Senate. Does the Australian government agree with United States President George W. Bush that the ultimate aim in undertaking military action against Iraq is not simply disarmament but must also encompass regime change? If the Australian government does not agree with this stated objective of the US President, can I ask the minister whether the Howard government has expressed to the USA its disagreement on this matter?

Senator HILL—As I have said before, the objective of the Australian government is not regime change as such. The objective of the Australian government is to end the weapons of mass destruction program of Iraq, to see that the weapons arsenal that Saddam Hussein has is destroyed, and to prove to the international community that that has occurred. I was asked a similar question in this place late last year, and I said I assumed that the United States objective of regime change was because they do not believe that the primary objective of ending the weapons program will be achieved without regime change. I think that there are probably many commentators who share that view. But our objective is to end the weapons program, because by removing the weapons we believe that you remove the threat. There are a lot of undesirable political leaders around the world. The difference between Saddam Hussein and some others is that this man has weapons of mass destruction, has used them on his own people, has invaded his neighbours and has further aspirations of regional expansion, and that creates a threat. Remove the weapons and that threat no longer exists.

Senator FAULKNER—Mr President, I ask a supplementary question. Minister, when you say ‘regime change as such’, what do you mean by the qualification ‘as such’? Minister, in the circumstance of the Australian government’s commitment of Australian troops to war in Iraq, when does the government intend to inform the troops, their families and the Australian community what the endgame is: disarmament or George W. Bush’s regime change? It is a reasonable question to ask, and the minister’s qualified answer is not adequate. What is the endgame, Minister, in the view of the Australian government, and have you indicated to the United States that that is the view of the Australian government?
Senator HILL—The endgame for Australia is an end to the weapons of mass destruction.

Senator Faulkner interjecting—

Senator HILL—No, it is not the regime. I thought I had made that clear. I said it last year. I said ‘as such’ because some people do not believe you can achieve an end to the weapons with Saddam Hussein remaining in office, but we want to achieve a peaceful outcome. A peaceful outcome means an end to the weapons program and Saddam Hussein stays in office. So obviously our endgame is not the removal of him; our endgame is an end to the weapons of mass destruction and the weapons of mass destruction program, because those weapons, in the hands of Saddam Hussein, make him a threat.

Iraq

Senator NETTLE (2.31 p.m.)—My question is to Senator Hill, representing the Prime Minister. Is the minister aware of a report titled Our common responsibility, which was launched yesterday by the Medical Association for the Prevention of War, which is the Australian arm of an organisation that won the Nobel Peace Prize in 1985? This report details the effects of war on the 13 million children in Iraq, including the probable deaths of tens of thousands of these children. Has the government made a decision as to how many deaths they believe are acceptable in the pursuit of US foreign policy?

Senator HILL—The objective of the Australian government is an end to weapons of mass destruction, because weapons of mass destruction have an asymmetric consequence. I invite the honourable senator to look at what Saddam Hussein did with chemical weapons to his own people, to look at the photos of the children whose lives were lost as a result of being bombed by Saddam Hussein in Iraq, his own people, Kurdish people that he destroyed—men, women and children—to achieve his domestic political gains. I suggest that the honourable senator focus on that just for a minute.

Senator Brown—Mr President, I raise a point of order. The question quite clearly was for an assessment by the Australian government of the casualties that will occur as a result of an attack on Iraq. While the minister is now asking Senator Nettle questions, he is obligated to answer the question she asked him.

The PRESIDENT—There is no point of order and, in any event, the minister has another three minutes to answer the question.

Senator HILL—It is true that we do not want Saddam Hussein in the future to either threaten or destroy men, women or children with his weapons of mass destruction. We are doing everything possible to achieve that outcome peacefully. That is why the Prime Minister is travelling around the world next week to put our views on how we believe that this matter can be resolved peacefully. We do not want war; we want this matter to be ended peacefully. We want Saddam to comply. He has had 12 years. For 12 years we have sought to have him comply with the reasonable demands of the international community that he disarm. We would still wish that to be the outcome, and then no children will lose their lives.

Senator Brown—Mr President, on a point of order: there is now little more than one minute left for the minister to answer the question about the government’s assessment of the casualties that will occur from an attack on Iraq. That is the question and the minister should answer it.

The PRESIDENT—I cannot instruct the minister how to answer the question, but he does have two minutes and 24 seconds left. Minister, I ask you to return to the question.

Senator HILL—Mr President, if our objective is achieved, the weapons will go and there will be no casualties. That is our focus.

Senator NETTLE—Mr President, I ask a supplementary question. Given that the minister was not able to answer that question, I will give him another one and we will see how he goes on that. Is the minister aware that the United Nations have asked for $US37 million to be given for humanitarian needs in the event of consequences after an invasion of Iraq? Can the minister inform the Senate if it is true that the Australian government has so far given no financial com-
mitment to help repair the damage and pay for the humanitarian costs of an invasion of Iraq?

Senator Hill—If Saddam Hussein complies with the demands of the international community to disarm—demands that he accepted 12 years ago—there will be no additional humanitarian costs. There will be no war. The world will be a safer place.

Senator Brown—Mr President, I rise on another point of order. There is less than a minute for the minister to answer the question, which is what is the contribution of the Australian government has been to this specific UN request to fund humanitarian post war aid to Iraq. Can he answer that question?

Senator Abetz—Mr President, is there a standing order that disallows a senator, on a broadcast occasion, to continually seek to hog the limelight to try to defend the indefensible? Mr President, I would have thought that one point of order might be appropriate but I think he is now on his third or fourth in a matter of a few minutes. This is just another stunt that we have had to suffer in this place for far too long.

The President—There is a standing order relating to frivolous points of order and I take note of that, but I would ask the minister, if he wishes, to continue with the answer.

Senator Brown—The point of order is that my request to you was not frivolous; it was serious, and I expect it to be taken in that context.

The President—As I said earlier, I cannot direct a minister how to answer a question.

Senator Hill—What I was going to say is that there are clear humanitarian needs in Iraq. Everyone knows that. If Saddam Hussein were not diverting the humanitarian aid that he is getting through the aid for oil program towards his weapons of mass destruction program, his own community would be better off. We will obviously support humanitarian causes as best we are able in the circumstances of Iraq or anywhere else. Our efforts in this enterprise are to avoid war, to avoid further humanitarian needs and to end the weapons of mass destruction—and that is a win-win outcome.

DISTINGUISHED VISITORS

The President—Order! I draw the attention of honourable senators to the presence in the chamber of a delegation from the Italian parliament, led by the Hon. Vincenzo Siniscalchi. On behalf of all honourable senators, I have much pleasure in welcoming you to our Senate and I trust that your visit will be both informative and enjoyable.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Iraq

Senator Mark Bishop (2.38 p.m.)—My question is to Senator Hill, the Leader of the Government in the Senate, the Minister for Defence and the Minister representing the Minister for Veterans’ Affairs. With reference to the deployment of Australian armed forces to the Gulf, as the minister announced on 22 January, has the minister made any declaration on the status of that service with respect to the Veterans’ Entitlement Act and the military compensation scheme—that is, is the service routine non-warlike or warlike? What have ADF personnel been told of the benefits attached to this deployment, including allowances and compensation cover, and if so what are they? If Australian troops are in fact deployed on warlike service, how does this possibly sit with the Prime Minister’s claim that no decision to go to war has been taken?

Senator Hill—It depends on which forces the honourable senator is referring to. Obviously, there are special conditions of service in relation to those engaged in the war against terror. There are different conditions of service in relation to those engaged in the multinational interception force. In relation to the predeployments that we have been referring to recently, there is not a declaration of warlike service, I want to check with the Minister for Veterans’ Affairs but I would therefore presume that the general provisions apply.

Senator Mark Bishop—Mr President, I ask a supplementary question. When will the government get round to finally implementing the recommendations of the 1999
Tanzer review into the military compensation scheme, which specifically covers entitlements to ADF personnel serving in the Gulf?

Isn’t it the case that any ADF personnel injured during deployment in the Gulf will only be covered under the old scheme of military compensation, which the Tanzer review found, four years ago, needed a significant overhaul and updating?

Senator HILL—We are in the process of updating the military compensation scheme. It has been a longer and more complex process than was envisaged. It is at the stage that a bill is currently being drafted. I spoke to the parliamentary draftsmen about it earlier this week because I had been told that it was going to be ready for public exposure last year. It was not because of the complexity and the extent of input from all of the various veterans’ organisations and other stakeholders. We do expect, however, that that exposure draft will be available in the not too distant future, so the process will continue. But I can say to the honourable senator that last year, when I compared our compensation scheme with those of others, our scheme seemed to be better than most. (Time expired)

Health: Policy

Senator KNOWLES (2.42 p.m.)—My question is to the Minister for Health and Ageing, Senator Patterson. Will the minister update the Senate on the successes of the Howard government’s policies to take pressure off the public hospital system? Is the minister aware also of recent comments or announcements concerning the future of the 30 per cent private health insurance tax rebate when in fact there are some state Labor ministers who are expressing concern that the membership of private health insurance schemes may go down, placing more strain on the states?

Senator PATTERSON—I thank Senator Knowles for her question and also acknowledge her longstanding interest in health. Yesterday, the eight state Labor ministers for health met. I thought I had been having a collegiate discussion with them on health care agreements over a period of time and I suggested to them that they should go back and have a look at what commitment they were going to make to the health care agreements into the future—since it always seems that the Commonwealth government has to lay out the full details, five years ahead, of what it is going to spend, and the states do not have to, which seems to me rather odd. I heard Senator Macdonald today talking about the Commonwealth bearing an enormous load in drought relief and the states not coming to the party.

The eight ministers got together yesterday. They did not bother to tell me, and I do not suppose they needed to bother to tell me. They issued a communiqué. They responded to a report that they had commissioned from Professor Deeble. I cannot tell Senator Knowles for sure what would happen to the rebate under Labor, but I can tell her what will happen under the coalition—it will remain. Under Labor I cannot tell her what will happen because for 12 months the Labor Party has had it under review. The health ministers yesterday sent a very mixed message about whether it would be on or off and whether I should review ancillaries or whatever. Actually, in the communiqué there were quite significant errors.

The fact is that, in the last five years, we have contributed $31.7 billion to the states for public health—a 28 per cent increase, which is a massive $7 billion increase. At the beginning of the last health care agreements, there was an agreement that—because under federal Labor private health insurance was on its knees, and there was pressure on the public hospitals because people were going out of private health insurance—as private health insurance membership went up, for every two per cent that it went up there would be a clawback on the health care agreements. That did not happen. So the states got a $3 billion windfall.

With our lifetime cover and the rebate we have seen an increase in private health insurance up to a level that is now sustainable. We have also seen an increase in admissions to private hospitals of 12 per cent and a decrease in admissions to state hospitals. So we have seen an increase in the funding from the Commonwealth—28 per cent over five years. And what is the average increase by the states? It is three per cent each year. They
come crying to us that they need an increase—and I think they mentioned over seven per cent in their communique yesterday. When they deliver seven per cent per annum every year for five years then the Commonwealth might take them seriously. What is good for the goose is good for the gander. To come crying to us that we are not giving them sufficient money and that we are not taking pressure off public hospitals is a nonsense when we have seen a 12 per cent increase in private hospital admissions and a decrease in public hospital admissions.

Private hospitals are now undertaking more than half of the many complex and lifesaving procedures. I think something like seven out of 10 hip replacements are being undertaken in private hospitals. Six out of 10 cataract operations are being undertaken in private hospitals. You wait a year under the system run by the states to get a cataract operation. I could go on. Fifty per cent of surgery for breast cancer is undertaken in private hospitals. It is taking the pressure off the states. It is crocodile tears for them to come and bleat about public hospitals, telling me how to run the private hospital system. They should be concentrating on the public hospital system. (Time expired)

Iraq

Senator O’BRIEN (2.46 p.m.)—My question is to Senator Hill, the Leader of the Government in the Senate and Minister for Defence. Whilst noting his answer to Senator Bartlett’s question earlier today I ask: what action has the government taken to clarify the comments from the White House Chief of Staff, Andrew Card, last week that the US might use nuclear weapons in the event of a war in Iraq? What position has the Australian government conveyed to the Bush administration about the possibility of the use of nuclear weapons? You have not answered that question, Minister. Does the minister consider the use of nuclear weapons by the US in Iraq justified under any circumstances, including in response to Iraq’s use of chemical or biological weapons?

Senator HILL—I do not know whether the Prime Minister has referred to this specific matter with the President. I said in answer to Senator Bartlett that I would pass that sentiment on to the Prime Minister. It sounds as if some honourable senators would like further assurances in this regard. In relation to the second part of the supplementary question, I cannot imagine any circumstances in which, in seeking to enforce UN Security Council resolution 1441, nuclear weapons would be appropriate.

Iraq

Senator BARTLETT (2.49 p.m.)—My question is again to Senator Hill representing the Prime Minister. I draw the minister’s attention to the multiple reports of the United States plans to adopt a military strategy against Iraq involving the launch of up to 3,000 missiles and bombs in the first 48 hours of an attack against Iraq, specifically targeting Baghdad in which almost five million Iraqis live. I ask the minister how this sort of blanket bombing can be reconciled with article 48 of the 1977 protocol to the Geneva convention, which requires states to ensure respect for and protection of the civilian population and civilian objects and at all times to distinguish between the civilian population and combatants and between civilian objects and military objectives. Will the Prime Minister give an undertaking that Australian forces will not participate in any
military action which would be in breach of the Geneva convention and which would fail to fully distinguish between combatants and civilians? Will he indicate whether or not the Australian government will make its support conditional on that Geneva convention being complied with?

Senator HILL—From the Australian government’s perspective we obviously comply with all our obligations under conventions to which we are a party. In relation to suggestions of blanket bombing, I think that is preposterous. There would be no way in which the United States would engage in blanket bombing of civilian areas. In fact everything I have heard from US spokespeople on this issue has been to the effect that with more accurate weapons the incidence of civilian casualties can be reduced, and to reduce that to the absolute minimum would be their objective.

Senator Carr interjecting—

Senator HILL—The best outcome would be no civilian casualties. How do you achieve that? If Saddam Hussein complies with the demands of the international community and disarms peacefully. What can the international community do to help that? It can get behind the campaign that demands that he do so, and does so now, after 12 years of effort to peacefully resolve this issue. That would be my suggestion to Senator Carr as to how he could make a contribution: support those who are trying to find a peaceful resolution to this issue. I do not know what reference Senator Bartlett is referring to, but I would certainly be confident that there would be no such United States intention, and it certainly would not occur.

Senator BARTLETT—Mr President, I ask a supplementary question. Given the fact that the last Gulf War, which it is likely will be less severe than this pending one, generated deaths of civilians in the tens of thousands from bombing alone, and over 100,000 after that from the destruction of infrastructure, and given that reports have repeatedly stated that the US will specifically target infrastructure such as power, water and bridges, will the Prime Minister ensure that on his visits and discussions with military leaders next week those particular—

Government senators interjecting—

Senator BARTLETT—The Prime Minister does not need that assurance because, as I have said to the honourable senator, the US would not be targeting civilians. The US would be making every effort to avoid targeting civilians. I acknowledge the complexity when Saddam Hussein stands behind civilians and uses civilians as shields. It does complicate the military task, but I would have thought that that would have been a condemnation by Senator Bartlett of Saddam Hussein rather than of the United States. The United States joins with others in the international community—in fact, almost all in the international community—that are demanding that the threat be removed by the destruction of weapons of mass destruction held by Saddam Hussein and that his program to further develop those weapons is ended so that we get a safer world for all, including the civilians of Iraq.

Defence: Incident Response Regiment

Senator LUDWIG (2.55 p.m.)—My question without notice is to Senator Hill, the Leader of the Government and Minister for Defence. Is the minister aware that General Cosgrove has stated that the Incident Response Regiment, which was established to respond to the ‘increasing threat and danger of attacks involving chemical, biological or radiological weapons’ at home is not fully operational? Hasn’t Defence confirmed that it will take another two years for it to be fully staffed and equipped? Can the minister assure the public that the ADF’s capability to respond to domestic chemical, biological or radiological attacks will not be diminished by the deployment of 30 of the most highly
trained and best equipped personnel from this unit to the Gulf?

Senator HILL—The force is operational. The answer I gave to Senator Evans on notice indicated that it will build up over the next couple of years. But it is operational and when it was declared operational it was said that it had missions both domestic and in support of Australian service personnel operating on deployment. In this instance, some will be deployed with the special forces to bring their special skills to bear in helping safeguard the special forces, and they will be able to do that without any loss of capability in relation to that element of meeting its domestic responsibilities.

Senator LUDWIG—Mr President, I ask a supplementary question. Has the minister refused to release information on the ADF preparedness against chemical, biological and radiological attacks when the same information is provided by the UK and US governments? Can the minister confirm that all troops sent to the Gulf will be fully equipped and trained in the use of protective suits and detection equipment?

Senator HILL—Our military advisers advise that they do not want us to disclose the level of their protection against various threats, chemical and biological in particular. Having said that, I can assure the honourable senator that the force is fully prepared to meet such threats—properly equipped to meet such threats—whether they are in terms of physical protection or, in the case of biological threats, with suits or, in the case of biological weapons, with inoculations and the like. We take the best advice from our military advisers on what is necessary to protect our service personnel in these difficult circumstances. We have taken that advice without debate and it has been implemented.

Bushfires

Senator REID (2.58 p.m.)—My question is to the Minister for Revenue and Assistant Treasurer, Senator Coonan. Can the minister inform the Senate of the response of the insurance industry to the victims of the recent bushfires? What is the situation faced by those who are not insured?

Senator COONAN—I thank Senator Reid for her question and for her interest in this issue not only as it affects the Australian community generally but in particular the ACT. I did not have an opportunity yesterday to make a contribution to the condolence debate but I do wish to express my very sincere condolences to those affected by the recent fires in Canberra, north-eastern Victoria, the Blue Mountains and around Sydney, with particular thoughts to those who have lost family members and friends and those injured as a result of the fires. As others did in this place yesterday, I commend the outstanding response from the men and women who volunteer in the emergency services and the rural fire services, and those who do provide such an invaluable and ongoing service to our community. It will, of course, take some considerable time for people to rebuild their lives.

I have been asked specifically about the insurance industry and those who may be insured and those who are not. I am advised that the insured losses arising from the fires in the ACT are estimated at $250 million with over 2½ thousand individual claims. This makes the Canberra fires of 18 January the eighth worst natural disaster in Australia since 1967 and the seventh worst bushfire disaster behind the Ash Wednesday bushfires in Victoria in 1983. Insured losses in north-eastern Victoria are currently estimated at $4 million. Unfortunately, the real financial cost of these disasters is likely to be higher than the insured losses.

It is a sad reality that many Australians are uninsured or underinsured. According to a survey undertaken by the Insurance Council of Australia, which was released in October last year, about a quarter of all households in Australia are still without home or contents insurance—that is an alarming statistic. Disturbingly, the survey also showed that almost 70 per cent of all tenants do not protect their property, and one in six small businesses have no insurance protection. In addition, of those that are insured many people do not take out adequate insurance. The ICA survey showed that nearly 30 per cent of homes are insured for less than 90 per cent of their true replacement value and, further,
anecdotal evidence indicates that 35 per cent of all policyholders under insure their home contents. Seventy per cent of uninsured or underinsured businesses affected by a major disaster actually go out of business. I would encourage all Australians to take this opportunity to consider their own position and to take action to protect their assets. It is also essential that governments, particularly state and territory governments, see what they can do to address the very real problem of underinsurance in this country. In an international comparison of taxation on insurance undertaken by Deloitte Touche Tohmatsu last year, it was found that country Victoria has the highest level of taxation on insurance in the world. The level of taxation on commercial insurance in Victoria is a whopping 78 per cent of the premium. For household insurance, the tax take in country Victoria is 44 per cent of the premium. The second highest in the world is metropolitan Victoria. Small businesses in Melbourne are paying 55 per cent of their premiums in taxes and 37 per cent of premiums for householders end up in the state government’s pockets. New South Wales have the honour of coming in as the third highest taxers of insurance in the world. Businesses in New South Wales are paying 55 per cent of their premiums in tax and householders are paying 36 per cent. New South Wales is followed by South Australia, Tasmania et cetera—I could go on—but the bottom line is that the cost of insurance in Australia is massively inflated by taxation, particularly state and territory taxation. (Time expired)

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

QUESTIONS TO THE PRESIDENT

Distinguished Visitors: Protocol

Senator IAN MACDONALD (Queensland—Minister for Fisheries, Forestry and Conservation) (3.02 p.m.)—Mr President, I have a question to raise with you. I did not want to do it earlier and interrupt question time; I did not want to be churlish or embarrass your guests. I assume that the Italian delegation are in the chamber as your guests, and I wonder if there is any rule about senators approaching them to present them with material. I do not know what was in the material that they received, but having observed the recipients of the material—

Senator Faulkner—Mr President, I rise on a point of order. This might be a perfectly reasonable thing that Senator Macdonald—

Senator Vanstone—He was in the middle of his point of order.

Senator Faulkner—He has not taken a point of order. It is a perfectly reasonable thing for Senator Macdonald to raise with you, but he ought not to have been given the call when you gave him the call in that manner. Senator Macdonald did not take a point of order, and he has rightly pointed out to us that he did not want to interrupt question time. I accept that at face value. I acknowledge that. But if he is to ask a question of you, there are other mechanisms to do so, and I do not believe that you should have given him the call like that in the manner that you did. I ask you to rule in favour of that point of order. I accept that the issue may well be an important one and ought to be dealt with, but it ought to be done in accordance with the forms that have been established in this chamber over a long period of time.

Senator IAN MACDONALD—On the point of order, Mr President: the question I was asking you could have been finished by now but, if that is the point, I can take the point. I could have taken a point of order because it was a matter that happened in this chamber. If it suits Senator Faulkner, I will withdraw the question and now take a point of order, Mr President. My point of order is this: is it appropriate—

Senator Cook—Under what standing order?

Senator IAN MACDONALD—I am seeking a ruling from the President on whether it is appropriate that senators should approach your guests with material. I do not know what was in the material, but from looking at the guests they were embarrassed and they did not know what to do. Of course, if every senator presents guests with material in the chamber, it does disrupt the chamber. My point of order goes to whether such ap-
proaches in the chamber are appropriate. Is there provision in the standing orders for this and, if there is not, could you make a ruling on it so we do not embarrass your guests in this chamber?

The President (3.05 p.m.)—There are several points of order but, generally speaking, at the conclusion of question time ministers may give additional answers to questions and then we move to taking note of answers. The conclusion of question time is not a time to be raising other issues. I thought you were going to comment on a question you had been asked or reply to a question for some other reason. I heard what you said, and I think you should raise that matter with me after we have gone through taking note of answers. I did observe what happened. I will look at the standing orders. I realise that once people walk outside the seating area in the chamber they are seen as being outside the chamber. Nevertheless, it did disturb the proper running of the Senate, and I will report back to the Senate in due course to clarify the situation.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Iraq

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (3.06 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Defence (Senator Hill) to questions without notice asked today relating to military action against Iraq.

We know that the Minister for Foreign Affairs, Mr Downer, in his talks with the New Zealand High Commissioner, told the high commissioner, Mrs Lackey, that he did not want the issue he was discussing—whether ships and other presence would stay in the Gulf if United Nations processes broke down—canvassed publicly. On the 7.30 Report last night, Kerry O’Brien quoted the Downer document in this form:

... and this was not a point that could be made publicly—Australia was not in a process if the UN process broke down to withdraw our ships and other presence in the Gulf.

So Kerry O’Brien asked Mr Downer, ‘What other presence?’ Mr Downer said:

It doesn’t talk about that.

But of course Mr Downer was wrong again. Unfortunately for Mr Downer, the memo says, ‘and other presence.’ And of course this is typical of Mr Downer and it is typical of ministers in the Howard government. Either Mr Downer is trying to deliberately mislead Australians or he is a buffoon—or both.

On preparations for the war last year, Mr Downer again last night told the 7.30 Report: The military do contingency planning ... They do contingency planning for all sorts of contingencies ... It’s nothing to do with Iraq, that’s their job.

He went on:

The point is that the Government hadn’t sat down and considered this issue of predeployments. That was a decision that was made on 10 January. We know that that is complete nonsense from Mr Downer. Of course we know that Mr Downer sees himself as some sort of home-grown aristocrat. He obviously regards the rest of us as pretty dumb. He thinks that we will accept that high-level work on military engagement with Iraq was not going on throughout this period. We know that Mr Howard met President Bush in June last year. Four days after Mr Downer talked to the New Zealand High Commissioner on 28 October last year, Mr Howard and Mr Bush met in Mexico. The day after that, Senator Hill and Mr Downer were at the AUSMIN talks in Washington. This was all happening and I am sure, if it was possible, it would be at the forefront of Mr Downer’s mind.

Mr Downer should have been absolutely briefed to the eyeballs on this issue. There is no doubt that the government was gearing up to go to Iraq when this conversation with the New Zealand High Commissioner happened. Senator Hill said it all when, less than a month later on 21 November, he was asked in estimates hearings by Senator Evans about ADF contingency planning, and he said:

It has not been linked to any particular UN mandate. It is very much the sort of contingency planning that militaries constantly do ... It has been designed to keep us as well informed as possible on the thinking of the US military. We believe we have been given valuable access and that it has helped keep the Australian government as informed as possible.
So planning for the deployment was well under way using US thinking, not UN thinking. Mr Downer has been so badly exposed on this. The real point here of course is that Mr Downer did not want this to become public. It is okay to talk to the New Zealand High Commissioner about these matters, but never take the Australian people into your confidence. Why not? Because that is standard operating procedure for the Howard government—cover up; never take the public into your confidence; operate in a sneaky and Nixonian way. That is Mr Downer’s method. That is the Howard government’s method. If you have a choice between a conspiracy and telling the truth, they will pick the conspiracy every time.

Senator PAYNE (New South Wales) (3.11 p.m.)—I rise also to take note of the answers given to questions in question time today. One of the most disappointing things in the debate in recent days and in some of the questions asked by those opposite in question time today is that noise, waving arms and volume really do not cover a complete lack of substance. We have seen that again and again in the comments made both in this chamber and in the other place. In fact, an objective observer could be forgiven for wondering whether some on the other side really believe that there should be a limit to the production of weapons of mass destruction at all. However, it is the contention of the government and of members of the government that the leader of Iraq must know that not just Australia but other like-minded countries are absolutely intent and serious in our intention to do just that—to limit the production of weapons of mass destruction at all. However, it is the contention of the government and of members of the government that the leader of Iraq must know that not just Australia but other like-minded countries are absolutely intent and serious in our intention to do just that—to limit the production of weapons of mass destruction at all. If 12 years of hampering the efforts of the United Nations to verify whether Iraq’s WMD capability and production programs have been dismantled or not, as the case may be, if that time and the failures therein are not enough, it is necessary to demonstrate to the leader of Iraq that he cannot ignore, or thumb his nose at, the international community.

As I understand it nobody—and certainly nobody in this place and certainly not me—is in a position of advocating going to war, not now, not before and not in the future. However, that does not mean that we must not be vigilant and it does not mean that we must not take appropriate steps to deliver that message in the most appropriate manner as Australia is doing.

In recent months we have had some less than edifying demonstrations of the political process. I am very disappointed to record that, in my view, one of the most disappointing was what the Leader of the Opposition, Mr Crean, said at the departure of HMAS Kanimbla. There are places and opportunities to say the things that we, as parliamentarians, feel about this and that is in this place. However, I want to read into the record this afternoon a letter that appeared in the Australian on 27 January signed and authored by Major David Bermingham from the peace monitoring group in Bougainville, PNG. The letter is on the public record and I feel comfortable reading it into Hansard here:

HMAS Kanimbla has seemingly departed without the full support of the nation. My greater concern is the puerile actions of Simon Crean. Combatants who depart on their nation’s business must do so with the full confidence of that nation. Simon Crean has perpetrated an act of sheer bastardry by bringing into question the efficacy of the deployment. While he may harbour these thoughts as a private citizen, as leader of the loyal—emphasis included in the letter—Opposition, he is meant to provide nothing less than full support to the nation’s defenders. Worse—

The DEPUTY PRESIDENT—Order! Senator Payne, I remind you that you should not utter unparliamentary language from a document. You can continue to read; I am just drawing it to your attention.

Senator PAYNE—Thank you, Mr Deputy President. I take note of your request. The letter continued:

Worse, he enunciated his thoughts in front of the families of the departing sailors. How much lower can he go?

I am convinced the majority of the nation is behind the deployment. As a serving officer in Bougainville, I can only express my full support for the men and women of Kanimbla and wish them a safe and speedy return.
I think that puts fairly and squarely on the record the views of the Australian Defence Force and the serving representatives of that Defence Force in—

Senator Chris Evans—What rubbish! You think they are all of one opinion?

Senator PAYNE—I will take that interjection, Senator Evans, and I will say that I think that people like the author of that letter who are prepared to stand up for their colleagues and stand up for those people who are doing as they are requested on behalf of this nation are the sorts of people I am prepared to look at with some pride and strength and am happy to have serving this nation.

Senator Chris Evans—You took a cheap shot because the letter suited you.

Senator PAYNE—The conflict that we are discussing in this chamber today is a very, very serious issue before the parliament. I have often been disappointed by—and Senator Evans would try to persuade you I may have added to this myself—some of the debate that has occurred on this matter. If you think that a cabinet or a government takes these decisions lightly then I think those who hold that thought are very much mistaken. They are decisions that are taken with great concern and great consideration. Even the Secretary-General of the United Nations has said that, without the United States’ recent deployment of troops, Iraq would not even have accepted weapons inspectors back into the country. Even the Secretary-General of the UN said that. Obviously a UN resolution is preferable and that is certainly the case in the government’s view. (Time expired)

Senator CHRISS EVANS (Western Australia) (3.16 p.m.)—I usually resist the temptation to be provoked, but I do want to reply to Senator Payne’s contribution because I think it was a very unfortunate and really unhelpful contribution. I want to make clear that I usually have a lot of respect for Senator Payne and it was not her usual sort of contribution, but it was a cheap shot and it was one that was totally inappropriate. The letter sent by that particular serving officer was the subject of a formal apology to Mr Crean by General Leahy, as Chief of Army, and indicated that it should never have occurred. No complaint was made by the opposition or by Mr Crean’s office but General Leahy, as I understood it, took the trouble of approaching Mr Crean’s office and apologising for the publication of that letter. It reflects one view.

I want to put on the record very clearly that I would have been very disappointed if Mr Crean had not gone to the Kanimbla farewell and been totally honest with our troops. What they wanted was honesty. There is a debate in Australia about whether or not we should be making this deployment. There is a real debate. There are divergent views in this community; we show them around this chamber and they exist in the broader Australian community as well. But it would have been cowardly of Mr Crean to do anything other than make it very clear what his and the Labor Party’s view was. He did put that very clearly and very frankly to the troops, and the feedback that I have had from families and from service personnel is that they appreciated it. Some do not agree with the message—that is quite clear. Some support the deployment, as others in the community do. Others are very concerned about the deployment and do not support it. But what Mr Crean did was to honestly explain to those troops the political difference and make it clear that our support remained for those troops, that they were acting under proper authority from the government. We concede the government had the power to take the decision to deploy. They have been deployed legally, with the authority of the Australian government. But Mr Crean made it clear we did not support that decision. He made it clear to them, so they understood where they stood, that we supported them, wished them well and hoped for their safe return, but that we did not support the deployment.

I think Senator Payne does herself a disservice to try to pretend that the military—ADF personnel—are of one view on this deployment. There are widely divergent views inside the military about whether or not this is a good thing, whether or not it should be occurring without UN sanction. I refer to former ADF chief Peter Gration’s
contributions to the debate. A large number of military officers have very serious reservations about this government’s commitment to a US-led attack without UN approval. Some ADF personnel who have been responsible for Australia’s proud record in enforcing UN sanctions and UN peacekeeping missions over many years have grave reservations about being involved in an action that does not have that authority. But there are divergent views. There is a mix of views from service personnel and their families about that. They are part of the Australian debate, but they have always in the past been encouraged to keep their views to themselves as serving officers. That is something that General Leahy took up with Mr Crean.

I think the key issue we want to raise today, though, is that Mr Downer spilled the beans yesterday. He let the cat out of the bag about the government’s strategy here. The strategy is to commit to war, to provide George Bush with the assurance that we will be there when he calls, but they want to conceal it from the Australian public. There has been some talk about this question in the briefing note about other presences in the Gulf. What I was keen to elicit from Senator Hill today was the fact that there were other presences in the Gulf. Sure, there were the two ships there under the MIF deployment, but we had a national command headquarters also positioned in the Gulf at that time, responsible for coordination with the United States of America on the war on terror but also responsible for actions relating to any involvement in Iraq, responsible for coordinating with US command under General Tommy Franks and responsible for liaison on any issues to do with planning a possible invasion of Iraq.

The minister also made it clear we had ADF personnel in Kuwait, so we did have other presences inside the Gulf. The briefing note was right to refer to those. They were quite clearly troops that could not be withdrawn, because the government had put them in there as part of the planning for an invasion of Iraq. They were not put there on the proviso that it would only occur if there were UN backing. They are there as part of a government commitment to the USA, to be part of the command structure, to liaise on military planning for an invasion of Iraq. *(Time expired)*

Senator LIGHTFOOT (Western Australia) (3.21 p.m.)—Let me rebut some of the comments that the previous speaker, Senator Evans, has made. The Australian government is conforming to United Nations resolution 1441 to the letter. The Australian government has not ordered any troops to invade Iraq. The Australian government is doing everything it can in a responsible fashion to ensure that the despot of Iraq does not strike first, not like the despot did in 1963 when he was a member of the Baath party and attempted to assassinate Kassem, who was the then leader—and dictator nonetheless—of Iraq. Saddam Hussein fired into the dictator, but did not kill him. He recovered, only to be assassinated and his body dragged through the streets at a later date. Saddam Hussein then adopted the unflattering sobriquet of the Butcher of Baghdad.

This is no ordinary person that we are talking about. This is a man who has craved all his life to kill. This is a man who has survived upon the old ethos of kill or be killed. This is a man that anyone in Australia should be supporting. The Australian government has said time and time again it has no argument with the Iraqi people, but it does have an argument with a man like Saddam Hussein, a man who started his life in a field of blood as a man who started the war with Iran, his hated enemy. The Persians, the Aryans, the non-Semitics, the non-Arabs—how he hates those people. This is a man who was responsible during 1980-89 for the slaughter of 375,000 young Iraqis and Iranians. This is a man who, not long after that, released chemical weapons upon his own people, the Kurds, in the northern part of Iraq. This is a man who, because he did not see eye to eye with his own Muslim people in the south—the Marsh Arabs—attempted to slaughter them. He killed them in their thousands. This is a man with a million-strong army who invaded the tiny sheikdom of Kuwait, which barely had a million people.

This is a man who we know to be in possession of all sorts of weapons of mass de-
struction. They include 6,500 chemical bombs, including 550 shells filled with mustard gas; 360 tonnes of bulk chemicals, including 1.5 tonnes of nerve agent—shades of Nazi Germany; 3,000 tonnes of precursor chemicals—that is, chemicals used to make weapons of mass destruction or specific killing agents—300 tonnes of which could only be used for VX nerve gas and over 30,000 tonnes of special munitions for the delivery of chemical and biological agents. They are all unaccounted for. Those are what we want to know about. That is what we want from resolution 1441, which imposes upon Saddam Hussein, the Butcher of Baghdad, the obligation to come clean and say where these weapons of mass destruction are. We want him to conform to the United Nations resolution, but we are not going to be in a position where we have to be the second ones to strike. That is not what a responsible government can do. Many people tell me: ‘Thank god for the strong leadership of John Howard at this stage of the evolutionary and political life of our Australia. Without him we would be insecure, we would be seen as impotent and we would be seen as a soft target.’ The Leader of the Opposition in the Senate, Senator Faulkner, said, ‘You’ve got a choice between conspiracy and telling the truth, and you pick conspiracy every time.’ I have one comment for Senator Faulkner: he has a choice—get behind Australia or get behind Saddam Hussein. That is the simple choice. (Time expired)

Senator MARK BISHOP (Western Australia) (3.26 p.m.)—The commitment by the Howard government to deploy armed forces to the Gulf does raise a number of vital questions of interest to serving personnel, who are tomorrow’s veterans, and today’s veterans, none of which have been answered to date. Those personnel go to the Gulf with no knowledge or certainty of anything as to their conditions of service or their compensation coverage, nor do we have in this country a policy or legislative framework of care and support for veterans which has as much credibility these days as it had in years gone by. In short, the veterans portfolio is becoming a shambles. Let me iterate the reasons. Since 1972 we have had two military compensation schemes for serving personnel, with dual eligibility resulting in confusion, inconsistency and gross unfairness in many cases. A new scheme was recommended in 1999 but, as Senator Hill acknowledged today, there is still no sign of it. We have a Repatriation Commission, established following World War I, which actually repatriates no-one and which has surrendered its independence from government to become a political entity. Its oversight of its act, its exercise of power and its administration of compensation claims and health care have now become a matter of notoriety, not respect. In fact in recent times I have been inundated with complaints, mostly from Queensland, over service to veterans entailing a meanness of spirit on transport costs and the supply of aids and appliances for disabled veterans which once were never in dispute.

We have seen, under this government, a complete watering down of the concept of qualifying service to the extent that the benefits of the Veterans Entitlements Act, which for over 75 years were reserved for those whose lives were at real risk in World War I, World War II, Korea and Vietnam, are now generally available for anybody who serves overseas. Past policy is now apparently defunct. Promises made about the gold card have been dishonoured, with almost 20 per cent of GPs in the scheme not extending their agreement and hundreds of specialists still in the process of withdrawing. The grapevine tells me that several hundred million dollars have been earmarked to provide ‘incentive’ to GPs to accept the gold card. That is an increase in the scheduled fee by another name. The home care scheme has been cut back in almost every area, despite denials, and the budgetary provisions for it in the estimates are both deceitful and dishonest. Veterans and war widows in need are being ignored, with hundreds of millions of dollars being spent on lesser priorities. The health study of personnel deployed to the last Gulf War, for which there are unresolved issues surrounding Gulf War syndrome, is now more than 12 months late.

Millions of dollars are being wasted in the construction of war memorials and in the cutting of ribbons to glorify the current minister and the Prime Minister. Medical re-
search into the health effects of past deployments seems to have been stalled, with no more answers available on the effects of Agent Orange or radiation exposure. The Clarke report on veterans’ entitlements has still not been released two months after its completion. I am told it is the focus of the Howard spin doctors now in control—with budgetary implications of a $700 million deficit, in contradiction of the instruction that it must be budget neutral.

Rumours abound within the veterans community that Justice Clarke has recommended an increase in the T and PI special rate of $60 per week with indexation to MTAW and a benchmark, that BCOF and atomic test servicemen will be given coverage of the VEA under hazardous service, and that rehabilitation will be made compulsory prior to all compensation claims being assessed. We shall see next Tuesday, when the report is to be released—if the rumours are correct that it will be released next Tuesday evening in the House. Of the 109 recommendations it will be interesting to see how many the Prime Minister will reject and how much he will spend to again buy himself out of trouble before the next election, regardless of good policy. As our young men and women are shipped off ready for a war that has not happened yet, they can have no comfort or security about the framework or detail of what their compensation or entitlements are or might be. More to the point, what can the minister tell us of the precautions taken so far in protecting—(Time expired)

Question agreed to.

Iraq

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (3.32 p.m.)—I move: That the Senate take note of the answers given by the Minister for Defence (Senator Hill) to questions without notice asked by Senator Bartlett today relating to military action against Iraq.

I was pleased to note, both in answer to my question and in answer to one from Senator O’Brien, the minister’s willingness to look at getting further guarantees or stronger indications that nuclear weaponry will not be used under any circumstances by the US or the UK in any conflict. The Democrats believe that that is essential. Whilst we do not support a war on Iraq under any circumstances, if it is going to occur it is an absolute necessity that nuclear weaponry be ruled out. Despite the one example that was given by Minister Hill of a comment on the 7.30 Report, which I do not think was particularly unequivocal, there have been many other comments made by equally senior US officials refusing to rule out the use of nuclear weapons. One of those comments was referred to by Senator O’Brien. Similar statements were made by the White House press secretary, as well as Mr Blair and the UK defence secretary. There was a wide range of statements refusing to rule out the use of nuclear weapons, so the Democrats believe it is crucial that the Prime Minister get absolutely ironclad guarantees that that will not occur and indicate that he will withdraw Australian support for any activity if those guarantees cannot be provided.

On the issue of civilian casualties, I think the minister’s answer was far more disappointing—basically completely dismissive of the concerns that have been raised by the Democrats and others—about the almost inevitable certainty of massive civilian casualties if there is an attack on Iraq. There was a large number of civilian casualties last time in 1991, when most of the military action was involved in getting Iraqi troops back out of Kuwait rather than trying to overthrow the regime entirely. This time around, when looking to overthrow an entire regime, there is no doubt that there will be far greater potential for civilian casualties. It is clear that there is a potential for significant breaches of basic fundamental international law and conventions, such as the Geneva Convention.

Senator Hill was very dismissive of the comments I made in my question about widespread bombing, but there have been many reports. I draw just one of those reports to the Senate’s attention and to the attention of Senator Hill and the Prime Minister. The Australian Financial Review just last week, on 28 January, reported that statements were made by Pentagon officials briefing CBS news that the US planned to launch such a massive bombing campaign that ‘there will not be a safe place in Baghdad’. A similar
quote is, ‘The sheer size of this has never been seen before, never been contemplated before.’ The architect of the plan, a military strategist, reportedly said that the goal was to produce a quick surrender by having a simultaneous effect rather like the nuclear weapons at Hiroshima. It would be a planned attack involving up to 800 cruise missiles over two days, backed up by other missiles from fighter aircraft. Targets nominated by the military strategist included Baghdad’s power and water supplies.

I do not know if that report is 100 per cent accurate as to what the US will do, but the very fact that it has been put forward and reported credibly by Pentagon officials—and has not been denied by the US as far as I am aware—is a matter of great concern. Quite clearly, if you are targeting power and water supplies, that will inevitably lead to much greater civilian casualties. If the conflict goes on for any length of time, there are a much greater disease levels, a much greater likelihood of people being unable to receive medical assistance and a much greater likelihood of ongoing casualties—that is, in addition to those who would be killed when the bombs first drop. There will be up to 3,000 bombs and missiles in the first 48 hours according to the New York Times. Those reports cannot be ignored. The Prime Minister should get a guarantee from President Bush when he is talking with him that that type of military assault will not occur. Again, whilst the Democrats completely oppose involvement in this war and the war occurring at all, if our government is going to go down that path the very minimum it should insist on is that the conflict occur in line with basic international law and fundamental human rights principles. (Time expired)

Question agreed to.

PARLIAMENT HOUSE: SECURITY

The PRESIDENT (3.37 p.m.)—I wish to make a statement to the Senate regarding security measures. I do so today because it was rather inopportune do it yesterday. On 11 November 2002, I informed the Senate that the Speaker of the House of Representatives and I had taken certain steps to improve security measures in the parliamentary precincts. Late last year we wrote to party leaders, whips and independent and minor party senators and members outlining additional security measures we intended to introduce early in the 2003 sittings. In addition, the Joint House Committee and the Senate Appropriations and Staffing Committee received detailed briefings.

The changes the Speaker and I have approved include the following. Vehicle barriers will be placed across Parliament House near the forecourt and across the grass ramps that go over the building. Access will no longer be possible across the roof of Parliament House; however, tours of the roof will still be possible from within the building. Boom gates for the ministerial car parks and for the members of parliament and authorised underground car parks have been, or are being, introduced. For the most part, this means that access will be available only to vehicles where the driver is the holder of a parliamentary security pass. The controls on the authorised parking car parks were operational from yesterday, 4 February. The controls on the members of parliament car parks in the Senate and the House of Representatives wings will start from 10 February and those on the ministerial car park from 3 March. I am writing separately to senators about these measures.

From 10 February 2003, all persons, whether senators, members, staff or other building occupants or visitors, will be required to undergo personal and baggage screening when entering Parliament House.

Additional closed circuit television cameras have been installed in the building. The cameras in the corridors will only be activated during sitting hours if an alarm is triggered. After normal sitting hours motion detectors will activate them. Strict protocols have been developed to govern access to film images, and the Speaker and I will monitor these with the assistance of the Joint House Committee.

These measures have been implemented following professional advice and careful consideration. The Speaker and I believe that they are in the best interests of senators and members, staff and media personnel who occupy the building, and all visitors to Parliament House. We aim to ensure, as far as
possible, greater security for people in Parliament House as well as its continued accessibility to the Australian people.

PETITIONS

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

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 pre-emptive 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 Bartlett (from 41 citizens)
by Senator Stott Despoja (from 19 citizens).

Education: Deregulation of University Fees
To the Honourable the President and Members of the Senate assembled in Parliament:
The petition of the undersigned citizens of Australia shows the widespread opposition to the deregulation of university fees within the Australian community.
We, the undersigned, believe that deregulation of university fees would:
Prevent many academically talented students from undertaking university study simply because they come from a disadvantaged or lower to middle socio-economic background. It has been shown that the current HECS system already prevents many of these potential students from taking up a position at university. Therefore, if fees were to increase any further, as they certainly would with deregulation, many more potential students would be put in this unfortunate position. This has been shown in New Zealand where deregulating university fees led to a devastating fee increase of 92% between 1991 and 1999.
Lead to the emergence of elite institutions that are inaccessible to many students. Competition, caused by deregulation, will mean that well-established and well-respected universities, such as the Group of Eight, will charge much higher fees than other universities. Thus, the possibility of attending these institutions will become out of reach for students from lower socio-economic backgrounds.
Lead to an increase in the already massive levels of student debt and student poverty.
Reduce diversity within student populations. Under deregulation prestigious and expensive courses such as dentistry, medicine, law and veterinary science would attract students from a very narrow, wealthy section of society. This would undermine diversity not only at university but also within these professions in the wider community.
Your petitioners therefore ask the Senate to:
Reject any moves towards the deregulation of university fees.
Ensure that there is an immediate injection of public funds to at least bring Australia's university sector in line with average OECD expenditure.
Re-introduce a system of HECS equity scholarships to allow people from disadvantaged backgrounds to enter tertiary education.
Set up an inquiry into the shocking social problem of student poverty.

by Senator Webber (from 10 citizens).

Petitions received.

NOTICES

Presentation

Senator George Campbell to move on the next day of sitting:
That the time for the presentation of the report of the Employment, Workplace Relations and Education References Committee on the 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 be extended to 15 May 2003.

Senator Bolkus to move on the next day of sitting:
That the time for the presentation of the report of the Legal and Constitutional References Committee on progress towards national reconciliation be extended to 17 June 2003.

Senator Carr to move on the next day of sitting:
That the Senate condemns the Government for:
(a) its failure to respect the rights of the people of South Australia in its consultation process over the location of
the planned low-level radioactive waste repository;

(b) its decision to replace effective and meaningful consultation and discussion with a $300 000 propaganda campaign, designed to sway the opinions of South Australians towards locating the repository in that state, in the absence of genuine efforts to provide accurate and exhaustive information on the suitability of the selected site, close to Woomera; and

(c) its lack of a thorough examination of the environmental impact of this plan, in particular the possible dangers caused by the site’s proximity to the Woomera rocket range, and the serious concerns of both the Department of Defence and private contractors on this issue.

Senator Cherry to move on the next day of sitting:

That the Senate—

(a) notes:

(i) that the Government is yet to respond to the unanimous July 2001 report of the Rural and Regional Affairs and Transport References Committee on the national Ovine Johne’s Disease Program,

(ii) that the administration of the program continues to cause severe hardship for sheep producers in New South Wales, and

(iii) that more than 1 000 sheep producers in Forbes, New South Wales, on 3 February 2003 passed a vote of no confidence in the handling of the disease in New South Wales; and

(b) calls on:

(i) the Federal Government to immediately respond to the Senate report, and

(ii) the New South Wales Government to address the legitimate concerns raised in the report about bureaucratic overreaction in the program that has resulted in excessive and unnecessarily harsh social and economic effects on producers and rural communities.

Senator Cherry to move on the next day of sitting:

That the Senate—

(a) notes that the term of Michael Kroger as an Australian Broadcasting Corporation (ABC) director expired on 5 February 2003; and

(b) calls on the Government to ensure that the next person appointed as an ABC director has expertise in broadcasting or communications in line with the spirit of section 12 of the Australian Broadcasting Corporation Act 1983, rather than political connections.

Senator TCHEN (Victoria) (3.40 p.m.)—

I give notice that, 15 sitting days after today, I shall move:

That the Bankruptcy Amendment Regulations 2002 (No.1), as contained in Statutory Rules 2002 No. 255 and made under the Bankruptcy Act 1966, be disallowed.

I seek leave to incorporate in Hansard a short summary of the Regulations and Ordinances Committee’s concerns with the regulations regarding the Bankruptcy Act.

Leave granted.

The statement read as follows

Bankruptcy Amendment Regulations 2002 (No. 1), Statutory Rules 2002 No. 255

The Regulations make a number of amendments concerning the role of the Official Trustee, the registration of trustees and related matters.

Regulation 8.30 deals with the process for interviewing a registered trustee to determine whether that trustee should continue to be registered. Subregulations 8.30(2) and (5) refer to an ‘applicant’ participating in such an interview, while the other subregulations refer to the ‘trustee’. It is not clear who the ‘applicant’ is, or whether this is the correct terminology.

New regulation 16.07B provides that the Official Trustee is entitled to interim fees. The Explanatory Statement, however, explains that “Under the Act, the OT has no right to a fee until the work is completed”. It is not clear whether the Explanatory Statement is referring to an express prohibition in the Act, or to the fact that the Act does not address the payment of interim fees.

Senator Brown to move on the next day of sitting:

That the Senate—

(a) notes, with alarm, the report on the SBS Dateline program that International Organisation for Migration staff stopped providing services to an asylum seeker detention camp on Nauru, leaving
detainees with no running water and only enough food for one meal a day, and needing to boil milk that had passed its use by date; and

(b) calls on the Minister for Immigration and Multicultural and Indigenous Affairs (Mr Ruddock) to immediately close the detention centres on Nauru and Manus Island and bring the remaining asylum seekers to Australia for processing.

Senator Brown to move on the next day of sitting:

That the Senate—

(a) calls on the Prime Minister (Mr Howard) to personally convey to the President of the United States of America (Mr Bush) and the Prime Minister of England (Mr Blair) Australia’s total and unreserved opposition to the threat or use of nuclear weapons in Iraq; and

(b) asks the Prime Minister to make public the leaders’ responses to this message from Australia.

COMMITTEES

Selection of Bills Committee

Report

Senator FERRIS (South Australia) (3.43 p.m.)—I present the first report of 2003 of the Selection of Bills Committee and I move:

That the report be adopted.

I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 1 OF 2003

1. The committee met on Tuesday, 4 February 2003.

2. The committee resolved to recommend—

That—

(a) the provisions of the Superannuation Industry (Supervision) Amendment Bill 2002 and the Superannuation (Financial Assistance Funding) Levy Amendment Bill 2002 be referred immediately to the Select Committee on Superannuation for inquiry and report by 19 March 2003;

(b) the provisions of the Wheat Marketing Amendment Bill 2002 be referred immediately to the Rural and Regional Affairs and Transport Legislation Com-

**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**
- Taxation Laws Amendment Bill (No. 8) 2002
- Workplace Relations Amendment (Prohibition of Compulsory Union Fees) Bill 2002 [No. 2].

**Bills deferred from meeting of 4 February 2003**
- Corporations Legislation Amendment Bill 2002
- Corporations (Fees) Amendment Bill 2002
- Corporations (Review Fees) Bill 2002
- Criminal Code Amendment (Terrorism) Bill 2002
- Designs Bill 2002
- Designs (Consequential Amendments) Bill 2002
- Health Insurance Amendment (Diagnostic Imaging, Radiation Oncology and Other Measures) Bill 2002
- Migration Legislation Amendment (Protected Information) Bill 2002
- New Business Tax System (Consolidation and Other Measures) Bill (No. 2) 2002
- New Business Tax System (Venture Capital Deficit Tax) Bill 2002
- Terrorism Insurance Bill 2002.

(Shanie Ferris)

**Chair**
5 February 2003

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**Appendix 1**

**Proposal to refer a bill to a committee**

**Name of bill(s):**
- Superannuation Industry (Supervision) Amendment Bill 2002
- Superannuation (Financial Assistance Funding) Levy Amendment Bill 2002

**Reasons for referral/principal issues for consideration**
- Compensation against theft and fraud of superannuation (retirement) funds is a critical public policy issue
- The compensation mechanism and level should be closely examined particularly as this legislation in the response to Commercial Nominees theft issue—the first so far.

**Possible submissions or evidence from:**
- ASFA, Consumer Organisations

**Committee to which bill is referred:**
- Senate Select Committee on Superannuation

**Possible hearing date:**
- Possible reporting date(s):
  - (signed) Senator Sue Mackay
  - Whip/Selection of Bills Committee Member

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**Appendix 2**

**Proposal to refer a bill to a committee**

**Name of bill(s):**
- Wheat Marketing Amendment Bill 2002

**Reasons for referral/principal issues for consideration**
- Sections of the Australian grain industry do not support the proposed levy. There is concern about the performance at the Wheat Export Authority—the body to be funded by the levy. There is also concern about the capacity of the WEA to properly review the single desk marketing arrangements and the timing of that review.

**Possible submissions or evidence from:**
- Grain Council of Australia, Australian Wheat Marketing Board, state based rural organisations, the grain trading sector.

**Committee to which bill is referred:**
- Rural and Regional Affairs and Transport Legislation Committee

**Possible hearing date:**
- Possible reporting date(s): 15 May 2003
  - (signed)
  - Senator Sue Mackay
  - Whip/Selection of Bills Committee Member
Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (3.44 p.m.)—I propose to move an amendment to Senator Ferris’s motion that the report be adopted. I agree with everything Senator Ferris has done except for this, so I move the following amendment:

At the end of the motion, add “and, in respect of the Wheat Marketing Amendment Bill 2002, the Rural and Regional Affairs and Transport Legislation Committee report on 20 March 2003”.

The Selection of Bills Committee, which does a fantastic job—and I am privileged to be a member of that committee—seeks to find agreement on which bills are referred to committees and on the dates that the committees report back. Very rarely do we have a disagreement. On this occasion there is a disagreement in relation to timing. The government would like to deal with the Wheat Marketing Amendment Bill 2002 before Easter. I think it is fair to generalise: the Australian Labor Party have a preference for reporting back in the middle of May, which I think is the exact proposal. We think it is in the interests of the industry and the government are firmly committed to dealing with it in a timely manner so that the industry and those involved in wheat marketing, ranging from the growers to those throughout the industry, have some certainty. So we would propose to the Senate that the committee report by no later than 20 March. It is a simple disagreement which ultimately has to be resolved here.

Senator O’BRIEN (Tasmania) (3.45 p.m.)—The opposition is firmly of the view that, whilst reporting as expeditiously as possible is desirable, the history—at least in my experience—of this committee dealing with legislation relating to the wheat industry, and particularly wheat export matters, has required the committee to visit Western Australia. The Western Australian constituents of Senator Ian Campbell are always insistent that, as they appear to be, they are the source of the majority of Australia’s export wheat—

Senator Ian Campbell—It is certainly the best quality.

Senator O’BRIEN—It may even be the best quality, Senator Ian Campbell, but certainly quantity seems to stack up in terms of officially available statistics. They are the source of the majority of wheat exported from this country. The committee has normally given the industry in Western Australia the opportunity to present its views to the committee. That is not to say, of course, that the committee gives disproportionate weight to that evidence but, given the cost of industry representatives travelling to Canberra for a hearing, for example, at least to my recollection we have conducted some hearings on matters relating to wheat and wheat exports in Western Australia.

The timetable proposed by Senator Ian Campbell on behalf of the government would put extreme pressure on the committee in terms of its ability to convene a hearing in Western Australia, given the program of the Senate. The other constituent committee, the references committee, having established programs for non-sitting weeks and senators having already established other commitments—I have been talking to the chair of the committee about availability—could certainly include in the program some of the hearings within the time suggested by Senator Ian Campbell. But it is certainly not clear that we could avail the Western Australian industry of the opportunity to address us at hearings in Western Australia.

To that end, I propose to move a further amendment that the date of 20 March 2003 in Senator Ian Campbell’s amendment be replaced with the date of 15 May 2003. I move:


If it is at all possible for the committee to conclude and report at an earlier time, certainly the opposition would have no difficulty with that proposal. I am reminded of a circumstance in a previous parliament when the responsible minister, through Senator Ian Campbell, told the Senate that it was urgent that we conduct a hearing and report on the regional forest agreement legislation to enable the matter to be dealt with very expeditiously. So the committee cancelled other appointments and expeditiously convened hearings to complete its hearings program on the regional forest agreement legislation.
Having done that and presented its report to the Senate, the bill was dealt with in this chamber some seven months later. With the best will in the world and given the program—

Senator Ian Campbell—I would like to know the reasons for that. It is not a good example.

Senator O’BRIEN—I think it is a good example. The government chose not to put that bill on the agenda at that time, for reasons which were entirely unclear. Whilst the government may desire to have the opportunity to present the legislation, I suggest that, if the legislation remains controversial, as it is now, it is certainly not clear to me that the government would give it priority over other pieces of legislation that are to come before the Senate. (Time expired)

The DEPUTY PRESIDENT—The question is that the amendment moved by Senator O’Brien be agreed to.

Question negatived.

The DEPUTY PRESIDENT—The question is that the amendment moved by Senator Ian Campbell be agreed to.

Question agreed to.

Senator O’Brien—Mr Deputy President, rather than seek a division, I ask that it be recorded that the opposition has been the only voice supporting my amendment and opposing the government’s amendment.

The DEPUTY PRESIDENT—Yes, that will be recorded.

Original question, as amended, agreed to.

LEAVE OF ABSENCE

Senator FERRIS (South Australia) (3.52 p.m.)—I move:

That leave of absence be granted to Senator Johnston for the period 4 February 2003 to 6 February 2003, on account of parliamentary business interstate.

Question agreed to.

Senator MACKAY (Tasmania) (3.52 p.m.)—I move:


Question agreed to.

NOTICES

Postponement

Items of business were postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator Brown for today, relating to the reference of bills to the Economics Legislation Committee, postponed till 6 February 2003.

General business notice of motion no. 1, under committee reports and government responses, standing in the name of the Chair of the Standing Committee of Senators’ Interests (Senator Denman) for 6 February 2003, proposing amendments to the resolutions on senators’ interests, postponed till 6 March 2003.

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 4 March 2003.

General business notice of motion no. 327 standing in the name of Senator Stott Despoja for today, relating to the commercial release of genetically engineered crops, postponed till 6 February 2003.

General business notice of motion no. 330 standing in the name of Senator Forshaw for today, relating to the allocation of questions, postponed till 5 March 2003.

SOUTH AUSTRALIA: NATIONAL RADIOACTIVE WASTE REPOSITORY

Senator ALLISON (Victoria) (3.55 p.m.)—I move:

That there be laid on the table, no later than 4 pm on Thursday, 6 February 2003, the submission or submissions made by the Department of Defence to the Environment Impact Assessment for a National Radioactive Waste Repository in South Australia.

Question agreed to.
SOUTH AUSTRALIA: NATIONAL RADIOACTIVE WASTE REPOSITORY

Senator ALLISON (Victoria) (3.55 p.m.)—I move:
That there be laid on the table, no later than 4 pm on Monday, 3 March 2003, all documents relating to the records and communications between the Department of Defence and the Department of Education, Science and Training concerning the Government’s consideration of a National Radioactive Waste Repository in South Australia.

Question agreed to.

AUSTRALIAN FILM INSTITUTE AWARDS

Senator FORSHAW (New South Wales) (3.55 p.m.)—I move:
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.

Question agreed to.

WATERFALL TRAIN TRAGEDY

Senator FORSHAW (New South Wales) (3.56 p.m.)—I move:
That the Senate—
(a) extends its condolences to the families, relatives and friends of the persons who died in the tragic train disaster near Waterfall, New South Wales, on Friday, 31 January 2003;
(b) expresses its best wishes for a speedy recovery to those injured in the disaster; and
(c) acknowledges the dedication of the emergency services personnel and medical and hospital staff who responded to the tragedy and worked under great difficulty to rescue passengers and provide them with assistance and comfort.

Question agreed to.

PRINCE OF WALES MIDPUL

Senator RIDGEWAY (New South Wales) (3.56 p.m.)—I move:
That the Senate—
(a) notes, with sadness, the passing on 27 December 2002 at the age of 67, of Prince of Wales Midpul an Elder of the Larrakia people of the Darwin region, who was an exceptional dancer, didgeridoo player, songman, and artist;
(b) pays tribute to Midpul as one of the Northern Territory’s most renowned artists, who was best known outside his community for his powerful, minimalist paintings, called ‘Body Marks’, which depicted Larrakia body designs from the ceremonies, dances and songs for which he was one of the principal custodians;
(c) notes that Midpul only began painting in 1995-96, yet his works hang in many of Australia’s foremost public and private collections, including the National Gallery of Australia, the National Gallery of Victoria and the Art Gallery of NSW, and he was the recipient of the Telstra Open Painting Award at the National Aboriginal and Torres Strait Islander Art Awards in 2001; and
(d) remembers Midpul’s long struggle, along with other members of his family, to achieve land rights for the Larrakia people, including the successful land claims for Kulaluk and Kenbi, and thanks his family for their permission to refer to him by name in recognition of his outstanding achievements as an artist and community leader.

Question agreed to.

NAMATJIRA, MR ALBERT

Senator RIDGEWAY (New South Wales) (3.57 p.m.)—I move:
That the Senate—
(a) pays tribute to Mr Albert Namatjira as the first Indigenous professional artist in Australia, who was born one hundred years ago and died in 1959, after achieving national and international acclaim for his exceptional ability as an artist;
(b) acknowledges that 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 the generations of Indigenous artists who have followed in his footsteps;
(c) recognises that:
(i) the legal protection of 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 Namatjira’s copyright to Legend Press in 1983, thereby ending the ability of the descendents of 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 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
(ii) in recognition of the contribution 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.

Question agreed to.

COMMITTEES
Privileges Committee
Report
Senator ROBERT RAY (Victoria) (3.57 p.m.)—I have a statement to make on behalf of the Committee of Privileges. Senators may recall that in June 2002 the Committee of Privileges reported to the Senate on a matter referred on a motion by Senator Harris. In brief, the reference involved establishing whether there was any contempt of the Senate in relation to search warrants executed by the Queensland Police Service in the office of Senator Harris. In its 105th report, the committee concluded that no breaches of the immunities of the Senate, or contingents, were involved in the search and seizure or in the continued possession by the Queensland police of material from the office of Senator Harris. It also concluded that the only step which should be taken at that stage to ensure that any such material protected from seizure by parliamentary privilege was returned to Senator Harris, without further access to the material by the police, was that Senator Harris and his solicitors should take the opportunity offered by the Queensland Police Service to claim privilege in respect of identified material. The committee also commended the Queensland Police Service for the impeccable way it had fulfilled its obligations in respect of parliamentary privilege.

An impasse was subsequently reached between the Queensland Police Service and Senator Harris. On 4 December 2002, Senator Harris gave a notice of motion based on a resolution in the Senate in relation to a similar seizure of materials from the office of former Senator Crane. This notice was postponed to 5 February and, subsequently, 4 March, at my request, to enable the Committee of Privileges to consider whether it should become involved. It decided at its meeting on 12 December 2002, acting under the terms of its original inquiry into the seizure, to put in place procedures based on Senator Harris’s notice of motion to resolve the matter. It therefore appointed, with the approval of the President, Mr Stephen Skehill to determine whether any of the material held by the Queensland Police Service is subject to a claim of parliamentary privilege or is not covered by the warrant executed on 27 November 2001. It further agreed that the matter should proceed only if the Queensland Police Service and Senator Harris abide by Mr Skehill’s determinations. Both
the Commissioner of the Queensland Police Service and Senator Harris gave the requisite assurances. Mr Skehill has commenced his evaluation of the material, and I shall report to the Senate in due course.

Senator HARRIS (Queensland) (3.59 p.m.)—I move:

That the Senate take note of the statement.

I thank Senator Ray for the expeditious way in which the Privileges Committee has dealt with this matter. I have agreed with the request of the Privileges Committee and therefore, having done that, I will withdraw the notice of motion that is due on 4 May.

Question agreed to.

Privileges Committee
Report

Senator ROBERT RAY (Victoria) (4.00 p.m.)—I present the 111th report of the Committee of Privileges relating to persons referred to in the Senate.

Ordered that the report be printed.

Senator ROBERT RAY—I move:

That the report be adopted.

This is the 42nd in a series of reports recommending that a right of reply be accorded to persons who claim to be adversely affected by being referred to, either by name or in such a way as to be readily identifiable, in the Senate. On 12 December 2002 the President of the Senate, Senator the Hon. Paul Calvert, received an email copy of a submission dated 14 November 2002 from Mr Bob Moses, Chairman of the National Stem Cell Centre, seeking redress under the resolution of the Senate of 25 February 1988 relating to the protection of persons referred to in the Senate (privilege resolution No. 5).

The submission referred to remarks made by Senator Boswell during debate in the Senate on 12 November 2002. The President, having accepted Mr Moses’ submission for the purposes of the resolution, referred it to the Committee of Privileges. Unfortunately, the committee received the submission too late to consider and report upon it before the Senate rose. It therefore considered the submission at its earliest opportunity this year—4 February 2003—and now recommends that the response in the terms included in the report I have just tabled be incorporated in Hansard. The committee always reminds the Senate that, in matters of this nature, it does not judge the truth or otherwise of statements made by honourable senators or persons seeking redress. I commend the report to the Senate.

Question agreed to.

The response read as follows—

APPENDIX ONE

RESPONSE BY MR BOB MOSES, ON BEHALF OF BOARD AND MANAGEMENT OF NATIONAL STEM CELL CENTRE, PURSUANT TO RESOLUTION 5(7)(B) OF THE SENATE OF 25 FEBRUARY 1988

In the Senate debate (12 November 2002) on the Research Involving Embryos Bill 2002, Senator Ronald Boswell made a series of allegations concerning the National Stem Cell Centre (NSCC) and research funding in Australia.

I wish to bring to the attention of all Senators that few of these allegations are supported by fact and that the substance of the allegations is at best only tangentially related to the NSCC and its designated staff.

Senator Boswell’s allegations are implicitly an attack on the eminent individuals responsible for administering the NH&MRC, the Australian Research Council, Biotechnology Australia, AusIndustry and the CRC Program. These organisations are among the most important R&D funding bodies in Australia. The government appoints the most highly qualified and respected individuals to panels and committees assessing the thousands of grant applications submitted to them. They operate under well-established procedures, objective assessment criteria and clear ethical guidelines. If Senator Boswell has genuine concerns about these processes, he should take them up with the bodies themselves and the Government.

The NSCC’s CEO-designate, Professor Alan Trounson, is a highly qualified and globally respected scientist with an outstanding research record. It is inconceivable that these government-appointed panels and committees would allocate grants to him or his colleagues on any basis other than scientific merit.

The Senator’s claims are also incorrect with respect to commercial ties. The NSCC is not presently a commercial partner of Bresagen, ESC International or any other private research company. As the centre becomes established, it will be important to nurture relationships with the private sector in order to fully develop the NSCC’s research output and maximise benefits
for Australia. This may or may not include the companies referred to.

As chairman of the board of the NSCC, I believe Senator Boswell’s unsubstantiated remarks demean the body of Australian science and are unrelated to the substantive issues of the Bill under consideration in Parliament.

Bob Moses
Chairman, National Stem Cell Centre

Board Members:
Hon Dr. Barry Jones
Ross McCann
Dr Hugh Niall
Mark Richardson
Brian Watson
Professor Alan Trounson, CEO

Scrutiny of Bills Committee

Report

Senator McGAURAN (Victoria) (4.03 p.m.)—At the request of Senator Mason, I present the first report of 2002 of the Senate Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 1 2003, dated 5 February 2003.

Ordered that the report be printed.

Senator McGAURAN—I seek leave to incorporate the tabling statement in Hansard.

Leave granted.

The statement read as follows—

This week two of my colleagues on the Committee, Senator McLucas, who is the Chair, and Senator Johnston, are representing the Committee and the Senate at the Eighth Australasian and Pacific Conference on Delegated Legislation and Fifth Australasian and Pacific Conference on the Scrutiny of Bills, being held in Hobart from 4-6 February. The joint conference is held every two years and is an opportunity for like minded non-partisan legislative scrutiny committees to discuss matters of common interest. At the conference, Senator McLucas will present a paper on entry and search provisions in Commonwealth legislation, to illustrate the function of the Committee in protecting personal rights. Senator Johnston, on the other hand, will deliver a paper on regulation-making powers, which highlights the Committee’s role in relation to parliamentary propriety. Senator McLucas will also report to the conference on the work of the Committee during the last two years. No doubt the Chair will in due course fully advise the Senate of the main themes which emerged at the conference and of any resulting resolutions.

The Alert Digest and Report which I have just tabled illustrate a number of issues which come within the committee’s terms of reference. One of the more significant of these is the incorporation into legislation of extraneous material as in force from time to time, with the result that Commonwealth laws change without being subject either to parliamentary scrutiny or, in most cases, even to parliamentary knowledge. The particular provision noted in the Alert Digest allows among other things the incorporation of material issued by the United Nations Food and Agriculture Organisation and by the World Health Organisation which, unlike most other bodies whose material may be incorporated, are not subject to Commonwealth legislative control. The Committee accepts that such incorporation may well be appropriate, but it will usually ask the Minister for a full justification, if this is not already in the Explanatory Memorandum. For instance, the Committee may ask about the availability of the incorporated material to those affected by it.

Another important issue noted in the Alert Digest is the amendment of primary legislation by regulation. In the case in point, the regulations may amend the Criminal Code, which at least on its face raises question of whether this is appropriate. Any such regulations are of course subject to disallowance, but that is an all or nothing procedure, unlike most bills which the Senate may amend. Also regulations once made remain in force up until disallowance. The function of the Committee in these cases is to report on whether each such provision is an inappropriate delegation of parliamentary power. In the present case, however, the power to modify by regulation appears to be suitably limited, with the object of ensuring the operation of Commonwealth and State legislation relating to terrorism.

The Alert Digest also notes a provision which is to be inserted into the Migration Act 1958, under which the exercise of a power by the Minister cannot be challenged in the courts. The provision is similar to other privative clauses already in the Act, which make personal rights subject to non-reviewable decisions. In this case the Committee decided to refer to the Senate the question of whether they do this unduly. The Report includes advice about similar exclusions of review of decisions by the Attorney-General in relation to the operations of the International Criminal Court, based largely on Australia’s international obligations. Here again the Committee decided to leave
to the Senate to decide if the exclusions unduly affect personal rights.

The Report includes a reply from the Minister about abrogation of the rules of natural justice, which the Explanatory Memorandum justified on the grounds that it avoided operational difficulties. The rules of natural justice, or procedural fairness, have developed over many years and are a core constituent of personal rights, so the Committee asked for advice about the deficiencies in the existing provisions which would justify such an unusual remedy.

One of the most encouraging matters in the Report is advice from the Minister that, at the suggestion of the Committee, he was prepared to table a supplementary Explanatory Memorandum to provide appropriate information on the background to a bill. This is an indication of the positive relationship between the Committee and the Executive. Ministers know that the Committee has no concerns with the legitimate policy objectives of bills, raising only issues of personal rights and parliamentary propriety.

The above cases illustrate only a minority of the matters included in the Alert Digest and the Report, but they do represent some of the more important and interesting issues raised by the Committee. I commend both documents to the Senate.

Tabling

The ACTING DEPUTY PRESIDENT
(Senator Lightfoot) (4.04 p.m.)—Pursuant to standing order 166, I present documents listed on today’s Order of Business at item 15 which were presented to the Deputy President and a temporary chair of committees since the Senate sat in December 2002. In accordance with the standing orders, the publication of the documents was authorised. In accordance with the usual practice and with the concurrence of the Senate, I ask that the government responses be incorporated in Hansard.

The list read as follows—

GOVERNMENT RESPONSES TO PARLIAMENTARY COMMITTEE REPORTS PRESENTED TO THE DEPUTY PRESIDENT AND A TEMPORARY CHAIR OF COMMITTEES SINCE THE SENATE SAT IN DECEMBER 2002

1. Select Committee on Superannuation and Financial Services—Report entitled A ‘reasonable and secure’ retirement?—The benefit design of Commonwealth public sector and defence force unfunded superannuation funds and schemes (presented on 13 December 2002)

GOVERNMENT DOCUMENTS PRESENTED TO THE DEPUTY PRESIDENT AND TEMPORARY CHAIRS OF COMMITTEES SINCE THE SENATE SAT IN DECEMBER 2002

1. Migration Agents Registration Authority—Annual report 2001-02 (presented on 16 December 2002)
3. Independent review of private health insurance gap cover schemes (presented on 23 December 2002)
REPORTS OF THE AUDITOR-GENERAL PRESENTED TO THE DEPUTY PRESIDENT AND A TEMPORARY CHAIR OF COMMITTEES SINCE THE SENATE SAT IN DECEMBER 2002


DECLARATION PURSUANT TO AN ACT
1. Declaration by the Minister for Agriculture, Fisheries and Forestry (Mr Truss) of Australian Egg Corporation Limited as the industry services body pursuant to subsection 6(3)(a) of the Egg Industry Service Provision Act 2002 (presented to the Deputy President on 13 January 2002)

The government responses read as follows—

Government response to the Senate Select Committee on Superannuation and Financial Services in relation to their report

A ‘Reasonable and Secure’ Retirement?

Recommendations of the Majority Report

Recommendation 1

The Committee recommends that the Government examine the feasibility of adopting an indexation method other than the Consumer Price Index (CPI) for Commonwealth public sector and defence force superannuation schemes, to more adequately reflect the actual increases in the cost of living.

Government response

The use of the Consumer Price Index as an index for the Commonwealth civilian and defence force superannuation schemes, including for the indexation of pensions from those schemes, needs to be considered in the context of the overall benefit design and cost of the schemes. In this regard the Government understands that the use of CPI to update pensions is consistent with arrangements that State and Territory Governments have for indexing superannuation pensions from their main superannuation schemes.

In the CSS and the PSS the cost to the Commonwealth of providing superannuation benefits varies depending on individual member’s circumstances. However, the Commonwealth like other employers has to provide employer contributions no less than the minimum superannuation guarantee rate of 9%. The 1999 PSS and CSS Long Term Cost Report estimated the PSS and CSS notional average employer contribution rates as 14.2% and 21.9% of superannuation salaries respectively. Similarly, the 1999 DFRDB scheme and MSBS Long Term Cost Report estimated the DFRDB scheme and MSBS notional average employer contribution rates as 33.0% and 22.3% of superannuation salaries respectively.

A change to another indexation method would have a considerable financial impact. For example, moving to an Average Weekly Ordinary Times Earning (AWOTE) index for the Commonwealth civilian superannuation schemes, for both pensions and preserved benefits, would increase the notional average employer contribution rates of the PSS and the CSS to 16.5% and 25.6% of superannuation salaries respectively. Also, as indicated by the Department of Finance and Administration’s responses to the Committee, it would increase unfunded liabilities by around $6.9 billion and worsen the Budget fiscal balance by around $600 million per annum.

Again, the impact on the defence force superannuation schemes is similar. The notional average employer contribution rates for the DFRDB scheme and MSBS would increase to 41.4% and 29.3% of superannuation salaries respectively. The increase in unfunded liability would be around $6 billion and worsen the Budget fiscal balance by around $500 million per annum.

The initial underlying cash balance impact, while smaller, would grow over time due to the compounding effect of higher indexation.

A change in the scheme costs and expenses of this magnitude would need to be assessed against other policy priorities, in the context of scarce
budgetary resources and the need to ensure equity across the community.

However, the Government understands that the Commonwealth’s superannuation schemes should make an equitable and appropriate contribution to the retirement living standards of Commonwealth employees and members of the defence force and will continue to monitor the schemes to ensure they meet retirement income objectives.

**Recommendation 2**

The Committee recommends that the Government immediately introduce a bi-annual adjustment of the CPI, which should flow through to Commonwealth public sector and defence force pensions to ameliorate the effects of the current ‘indexation lag’.

**Government response**


The Superannuation Legislation Amendment (Indexation) Act 2001 was passed in September 2001 and changes to the PSS Trust Deed were made in September 2001 to ensure that from January 2002 these pensions, and those paid to former members of the defence force, would be indexed twice yearly. Since January 2002 these pensions are to be adjusted in January and July each year by the upward movement in the CPI for the preceding six month period ending in the preceding September and March quarters respectively. These changes were also made to the Papua New Guinea (Staffing Assistance) (Superannuation) Regulations in respect of former employees of the Papua New Guinea Administration.

This initiative will help reduce the delay between price increases and compensatory adjustments to the superannuation pensions while also increasing each superannuant’s purchasing power.

**Recommendation 3**

The Committee recommends that, for equity reasons, the changes made to Commonwealth public sector schemes proposed in this report also apply to State public sector schemes, where appropriate.

**Government response**

As the individual State Governments are responsible for the superannuation arrangements for their employees it would be a matter for those Governments to consider this issue.

**Recommendation 4**

The Committee recommends that the Productivity Commission, in its review of the Superannuation Industry (Supervision) Act 1993 and related superannuation legislation, should be mindful of the Act’s intention of ensuring that, within a sound prudential framework, superannuation fulfils its role as the preferred savings mechanism by which Australians provide for their retirement.

**Government response**


The Commission took into account the role of superannuation as the preferred savings mechanism by which Australians provide for their retirement and indicated this in several places throughout the Report. In the Overview section of the report (page xvi), the Productivity Commission states:

“While superannuation saving has grown, there has been little change in total household saving. Superannuation appears to have displaced other forms of saving by households and been accompanied by increased household wealth and higher borrowing.”

Furthermore, on page 2 of the Report, under the heading, ‘Legislation under review’, the PC states:

“The major legislation under review is the SIS Act. Its overarching purpose is to contribute to the Government’s retirement incomes policy by providing the regulatory framework for the prudent management of superannuation entities and for their supervision by the Australian Prudential Regulation Authority (APRA), Australian Securities and Investments Commission (ASIC) and the ATO.”

**Recommendations of the Minority Report**

**Recommendation 1**

- That the unfunded employer component of preserved benefits should be credited at the fund’s crediting rate effective from 1 July 2001, but not retrospectively.
- That the Commonwealth should consider means of improving the portability of public sector superannuation schemes over time by fully funding employer contributions as they fall due and allowing full portability of such a component.
Any changes to the indexation of PSS preserved benefits and portability of such benefits would require consideration of the effect on the PSS scheme costs as well as the Budget. For example:

- indexing at the PSS Fund crediting rate would increase the notional average employer contribution rate of the PSS from 14.2% to 15.7% of superannuation salaries. It would also increase PSS unfunded liabilities by around $0.9 billion;
- if all existing preserved members and members who exit the PSS in the future prior to age 55 were able to rollover their PSS preserved employer financed benefits to another fund, the PSS unfunded liabilities would increase by $0.6 billion and the PSS notional average employer contribution rate would increase from 14.2% to 15.1% of superannuation salaries.

Fully funding employer contributions as they fall due would involve ongoing payments in the order of $700m a year.

Changes in the scheme costs and the impact on the Budget would need to be assessed against other policy priorities, in the context of scarce budgetary resources and the need to ensure equity across the community.

The Government is already seeking to address, particularly for new employees, the lack of portability inherent in the current Commonwealth civilian superannuation arrangements. The superannuation Bills rejected by the Senate in August 2001, that proposed closure of the PSS and allowing CSS and PSS members to leave their scheme, would have addressed this issue. The changes proposed by the Bills were designed to provide Commonwealth civilian employees with more flexible superannuation arrangements therefore giving them the opportunity to seek fund earnings based returns and improved portability in relation to their future superannuation contributions. Also under these proposals the Government has proposed to fund future accruals for new employees and those who choose to leave the CSS or the PSS. The Budget impact of this proposal is already factored into the estimates for the Budget forward years.

The proposed new arrangements will not, however, allow former Commonwealth employees with PSS preserved employer benefits to transfer those benefits into another superannuation scheme because this would have a significant impact on scheme and Budget costs.
The Committee acknowledges evidence provided by the oil companies of a low return on assets in the downstream petroleum refining industry, including a Shell report of a drop in net profit after tax from around 1.4 cents per litre (cpl) in 1993 to 0.6 cpl in 1997. The Committee notes that the oil majors appear to have ‘little scope for reducing wholesale margins to such an extent that there would be any significant reduction in petrol prices.’ This acknowledgment of limited scope for reducing wholesale margins undermines the intended purpose of the bill.

The Committee claims that the widespread existence of price support (subsidies sometimes paid to retailers to meet competition in particular locations) indicates that the oil companies control the wholesale price and could be reduced by competition. This argument ignores the fact that retail petrol is sold below cost for limited periods to match competition, to ensure refinery output is sold, or to serve as a loss leader to attract customers to service stations to purchase more profitable, non-fuel items.

Given the mistaken premise of the Bill, it would not achieve its proponent’s stated objective of reducing petrol prices to consumers. For the reasons given in responses to other recommendations, the Bill also is likely to be subject to legal challenge. Further, the Committee also acknowledges that the intent of the Bill would be circumvented by alterations to fuel supply contracts. It would not be logical for the Government to support its adoption.

Recommendation

The scope of the bill could be expanded by changing the bill’s definition of a franchise agreement. The Committee recommends that the bill’s proponent give consideration to this matter, possibly amending the current bill so that it simply adopts the definition of a franchise agreement that is contained in the Petroleum Retail Marketing Franchise Act 1980.

Response

The Government does not support this recommendation. The Government considers that there are significant flaws with the Fair Prices and Better Access for All (Petroleum) Bill 1999 and does not agree with this and the two following recommendations that pre-suppose its adoption. The current draft bill would not cover the full range of retailers its proponent claims to wish to assist. The recommendation would extend the scope of the bill to ensure that the bill affects a wider range of retailers.

Recommendation

The Committee recommends that the bill be amended to require the establishment of a comprehensive fuel sampling and testing regime.

Response

The Government does not support this recommendation. The Committee acknowledges the problem of product liability that could arise if service stations obtain fuel from more than one source as proposed in the bill, and recommended this sampling regime if the bill were adopted. Although this is not a major concern with the bill, such a regime would increase the cost of deliveries. The Government considers that issues of fuel quality are more appropriately addressed through other mechanisms, such as the Fuel Quality Standards Act 2000.

Recommendation

The Committee recommends that the bill be amended to ensure that there is no doubt that the bill will only apply to new franchise agreements.

Response

The Government does not support this recommendation. The Committee acknowledges that this recommendation would remove only some grounds for legal challenge to the bill. It notes that oil companies would still challenge the bill as providing for the acquisition of property, that is the use of franchisors’ capital, on other than ‘just terms’, but discounts this likelihood. The Committee notes that the bill would only apply to future contracts under which the parties would negotiate new terms and fees. The Committee has given insufficient attention to evidence that this process of renegotiation is expected to lead to commercial arrangements which would negate the intention of the bill.

Recommendation

The Committee recommends that the Government commence discussions with a view to making local government authorities more amenable to facilitating the entry of independents into rural areas.

Response

The Government supports this recommendation. The Committee notes that fuel pricing in some country areas can be competitive, usually due to the presence of independent retail chains. Evidence to the Committee noted that local government planning laws sometimes made it difficult for independents to establish operations in country areas. The Government is committed to effective measures to reduce the cost of fuel to country residents. Although the Commonwealth has limited powers in this area, the Minister for Regional
Services, Territories and Local Government has encouraged local governments to utilise the information available through Terminal Gate Pricing arrangements offered by some fuel companies to seek more competitively priced fuel. He has highlighted to Councils that terminal gate pricing brings a level of transparency to the fuel market that has not previously existed. Motorists can now compare the price they pay at the pump with the petrol price at the terminal gate. This information can help motorists — and local Councils — to get to the bottom of the difference between city and country fuel prices, and to make their retailers more accountable or to highlight potentially uncompetitive behaviour by fuel distributors. He also has drawn Councils’ attention to the benefits of encouraging retail competition to reduce the price of fuel by facilitating the establishment of independent fuel sellers.

Recommendation
The Committee recommends that the Government amend the Sites Act [Petroleum Retail Marketing Sites Act 1980] so that no more than ten sites may fall under the control of any individual MSF [multi-site franchise] operator.

Response
The Government does not support this recommendation. The Committee concludes that the Sites Act has failed to ensure that small businesses are preserved, but acknowledges that the Australian Competition and Consumer Commission does not see any greater oil company influence on multi-site franchisees than on individual franchisees. It also acknowledges that there has been no change in competition within the industry since the introduction of multi-site franchising. The Committee chose, however, to recommend that the number of sites operated by any one multi-site franchise be limited to ten because of the presumed potential for diminishing competition.

Recommendation
The Committee recommends that the Government examine the adequacy of provisions relating to ‘related bodies corporate’ with a view to bringing the definitions in the Act [Petroleum Retail Marketing Sites Act 1980] into line with the Australian Accounting Standards.

Response
The Government does not support this recommendation. The purpose of the recommendation is to reduce the degree of vertical integration of commercial decision making between petroleum wholesalers and retailers. The Committee canvassed differing views on the likely impact of vertical integration, but chose to overlook the arguments that such integration can increase efficiency and reduce costs if there is competition between wholesalers and at least potential competition from imports. The Government considers that the current restrictions on oil companies’ operation of retail sites restrict efficiency, and does not support attempts to increase the degree of restriction.

Suggestion:
Although not a formal recommendation, the Committee suggests that service stations could be considered as infrastructure to which third party access principles apply, in a similar fashion to pipelines and electricity networks.

Response
This suggestion misunderstands the intention of Part IIIA of the Trade Practices Act 1974, which is intended to give access to natural monopoly infrastructure. Retail service stations are outside the criteria set by the National Competition Council for consideration of access regimes.

Government Senators’ Dissenting Recommendations

Recommendation
The Government Senators recommend that the bill not be re-introduced into either House of Parliament.

Response
The Government supports this recommendation. For the reasons outlined above, the Government considers that this bill is unnecessary, likely to be ineffective, and any effect would reduce efficiency in the retail petroleum sector and increase fuel prices. If implemented, the bill would lead to altered commercial arrangements between fuel franchisors and franchisees which are likely to lead to higher fuel prices as franchisors reduce the extent of support offered to franchisees.

Recommendation
Government Senators further recommend that the Government re-introduce the Petroleum Retail Legislation Repeal Bill 1998 and adopt the majority recommendations contained in the Report by the Senate Rural and Regional Affairs and Transport Legislation Committee on that bill.

Response
In 1998, the Government sought wide ranging reform of the petroleum industry including repeal of the Petroleum Retail Marketing Sites Act 1980 and the Petroleum Marketing Retail Franchise Act 1980 to be replaced by an enhanced industry Oilcode and open access arrangements. These reforms have been stalled due, in part, to industry disagreement.
The Government still considers that implementation of elements of the package will enhance industry efficiency and contribute to lower petrol prices. Accordingly, discussions continue to be held between the Government and industry regarding the package. The issue has been discussed at a Petroleum Industry Forum convened by the Minister for Industry, Tourism and Resources on 16 April 2002 and further consultation has been undertaken.

**Australian Democrats Supplementary Report**

The Australian Democrats do not present any clear recommendations, but do draw some conclusions to which responses are required.

The Australian Democrats argue that any changes in the industry ‘must look at what is in the interest of the consumers firstly and then secondly what is in the best interest of the business operators in this industry.’

The existing industry structure has produced considerable benefits for Australian consumers. There is a highly competitive fuel market in Australia, with the lowest pre-tax prices among developed countries. Evidence presented to the Committee showed the benefits to industry operators of marketing structures such as multi-site franchising with better training, better career prospects and greater flexibility.

The Australian Democrats consider that the refiner-marketers are taking an increased involvement in the retailing sector and that this is unhealthy. They seek a ‘correct mix of regulation’ of vertical and horizontal integration, open access to terminals and protection of the rights of individual operators. They see this as leading to increased competition and profitability.

There is a contradiction in seeking both increased competition and profitability, as higher levels of competition reduce margins for sellers to the benefit of consumers. The evidence presented to the Committee, as mentioned above, is that Australia has a highly competitive petroleum retailing sector, with low profit margins.

The Australian Democrats also raise concerns about the impact of multi-site franchises on small retailers. They note that small businesses in the retail petroleum industry ‘generally deliver the highest levels of employment and return to small communities.’

The Government does not consider that the structure of the retail petroleum industry should be determined by its level of support for local community economic health. This issue also involves the question of economic efficiency in local economies. Communities obliged to pay higher prices for inefficiently supplied fuel will have less money to spend on other industries which might make better use of available investment funds and provide stronger economic growth and employment.

**Parliamentary Joint Committee on the National Crime Authority**

**Report into the Australian Crime Commission Establishment Bill 2002**

**Response to Recommendations**

**Recommendation 1**

The PJC recommends that the Bill be amended to provide that Austrac be included as a member of the Board.

Not agreed.

AUSTRAC provides specialist financial intelligence that is integral to the fight against crime and money-laundering in particular. It is a valuable organisation that has a key role to play in the broader criminal intelligence framework and it is envisaged that there will be a very close and special working relationship between the ACC and AUSTRAC. However, it is a financial intelligence body, not an investigative body. It provides intelligence in support of law enforcement. The Board is to be focussed on setting national priorities and while such priorities are based on intelligence assessments, those who make such assessments or provide input to such assessments are not necessarily best placed to do this.

**Recommendation 2**

The PJC recommends that the Bill be amended to restore the entitlement for the ACC to develop co-operative relationships with corresponding overseas law enforcement agencies.

Agree.

Section 17, which dealt with the National Crime Authority acting in cooperation with law enforcement agencies and coordinating its activities with foreign law enforcement agencies, will be re-inserted and apply to the ACC.

**Recommendation 3**

The PJC recommends that the Bill be amended to ensure that the relevant state/s are informed of any operation or investigation that is proposed to take place within its boundaries.

Agree.

The Bill will be amended to oblige a Committee to inform all other Board members of its decisions.
Recommendation 4
The PJC recommends that the Bill be amended to explicitly provide that:

- The CEO should be responsible for the overall management of the ACC. The Minister for Justice and Customs of the Commonwealth Parliament should be the Minister, under our system of responsible government, accountable to the Parliament for the work of the ACC.
- The CEO appoint the head of a task force after consultation with and advice from the Board.
- Heads of task forces are responsible to the ACC through the CEO.

Agree.

The Bill will be amended to provide that the CEO:

- is responsible for the administration and management of the ACC;
- must manage, coordinate and control ACC operations/investigations (This will ensure that the head of an ACC operation/investigation is responsible to the Board through the CEO.); and
- must appoint the head of the investigation/operation after having consulted with the Chair of the Board and appropriate Board members. Appropriate Board members may be determined by the Board under directions issued under subsection 46(1).

The Minister for Justice and Customs will be the Commonwealth Minister responsible for the Australian Crime Commission Act (this is by virtue of the combined effect of Administrative Arrangements Order and Acts Interpretation Act 1901).

Recommendation 5
The PJC recommends that the Bill be amended to provide that complaints against all staff of the ACC be investigated by the Commonwealth Ombudsman as a minimum.

Agree in principle.

It is appropriate that the Commonwealth Ombudsman be able to investigate complaints against all staff of the ACC. The Commonwealth Ombudsman currently has the jurisdiction to deal with complaint against the National Crime Authority.

However, no amendment is necessary. The Bill already amends the Ombudsman Act to provide that the Australian Crime Commission is a prescribed authority for the purposes of the Ombudsman Act. This means that the Commonwealth Ombudsman will already be empowered to deal with complaints against the ACC and the ACC is defined in the same way as is it defined in the ACCE Bill, and therefore includes all staff.

Recommendation 6
The PJC recommends that the Government give careful consideration to the terms and conditions of ongoing staff to be employed by the new ACC, particularly in the context of their current conditions of service.

Agree.

In relation to the termination of the CEO, the proposed provision enabling termination for "unsatisfactory conduct" is a "for cause" provision. That is, it does not enable a subjective power to terminate the CEO or to have termination without cause.

General administrative law principles protect against arbitrary acts. This will be clarified in the Explanatory Memorandum to the Bill.

Recommendation 7
The PJC recommends that the Government, once the ACC has been established, gives urgent attention to ensuring that operational, investigative and support staff work under the same integrity and complaints regime.

Agree.

In relation to the termination of the CEO, it is proposed that the Minister must not suspend the CEO unless the Minister has consulted the Board about the proposed suspension.
Recommendation 9
The PJC recommends that the Bill be amended to provide that the ACC is obliged to provide the Parliamentary Committee overseeing its operations with any information sought by the Committee except where that information would identify any particular individual suspected of criminal conduct (unless the matter is already in the public domain) or would, in the opinion of the CEO, risk prejudicing a current inquiry.
Agree in part.
It is proposed to amend the Bill to provide that the PJC-NCA may have access to the same information that the IGC-NCA is able to access. This includes information related to an ACC operation/investigation that the ACC is conducting. Information that would prejudice the safety or reputation of persons or the operations of law enforcement agencies would not be disclosed.
Where the Chair of the Board decides that the material should not be disclosed on these grounds, then the PJC will be able to direct the request to the Minister for determination.

Recommendation 10
The PJC recommends that the Bill be amended to establish the ACC as a legal entity.
Not agreed.
The Office of Parliamentary Counsel's drafting guidelines (OPC Guidelines) provide for a presumption against incorporation of statutory bodies—"a body should not be established as a body corporate unless there are good reasons for doing so. One good reason is to allow the body to hold money on its own account. If the body is to deal with money only in the capacity of agent of the Commonwealth, it should not be given a legal personality distinct from the Commonwealth unless there are other good reasons for this." The ACC has been set up in accordance with the OPC guidelines, and is therefore in accordance with the usual standard for bodies of this type.
The PJC's comparison with the Australian Securities and Investments Commission Act 2001 is misplaced. ASIC falls within the exception in the OPC Guidelines as it has a significant revenue base. There is indeed a significant increase in accountability for financial management when a body is incorporated and becomes subject to the requirements of the Commonwealth Authorities and Companies Act 1997. This includes additional auditing, reporting and disclosure requirements. However, the ACC will not have significant revenues to account for and to impose the additional financial reporting burdens on an organization not intended to be covered by them merely complicates processes that the Government wishes to streamline.
In addition, incorporation of a statutory body is sometimes seen as an indication of independence from the Executive, but the two are not really linked. A body corporate that is largely reliant on the Department of Finance for its funding may not act any more independently than a body that is not incorporated. Issues such as extending the shield of the crown to the ACC and immunities from taxation would also need to be addressed.
Finally, the implication in the PJC's report that a person having a cause of action against the ACC could be legally disadvantaged if the ACC is not incorporated is wrong. As the PJC itself acknowledged the NCA was not incorporated and there is no evidence to suggest that any one has been disadvantaged by that.

Recommendation 11
The PJC recommends that there should be no blanket immunity from suit for the ACC.
Agree.
The Bill will be amended to provide that the protection from liability for damages should only be available to the Board.

Recommendation 12
The PJC recommends that the Bill be amended to provide explicitly that any decision by a committee of the Board to authorise an operation/investigation as a special operation/investigation requires ratification by the full Board.
Agree in principle.
The Bill will be amended to expressly prohibit a committee determining that an intelligence operation/investigation is a special operation/investigation. The effect will be that all such decisions will have to be taken by the full Board. This then removes any requirement for ratification.

Recommendation 13
The PJC recommends that the Bill be amended to provide that no part-time examiners can be engaged on a per-hour or per-diem basis.
Agree.
The Bill will be amended to remove any references to part-time examiners.

Recommendation 14
The PJC recommends that the Bill be amended to explicitly provide that examiners must satisfy themselves in each case that before they exercise special powers under the Act that it is
appropriate and reasonable to do so and that they indicate in writing the grounds for having such an opinion.

Agree.

The Bill will be amended to expressly provide that before an Examiner exercise coercive powers under section 28 (Summons to attend) or section 29 (Notices to produce) the examiner must decide that the exercise of the power is reasonable in all the circumstances. It is also agreed to insert provisions requiring the Examiner to indicate in writing the grounds for making the decision.

Recommendation 15
The Committee recommends that the Bill be amended to provide for a comprehensive public review of the ACC Act to take place after three years have elapsed from the date of Commencement of the ACC Act.

Agree.

The Bill will be amended to provide that there is to be a review of the operation of the ACC as soon as practicable after 1 January 2006.

Additional recommendations by certain members
Additional Recommendations 1 to 3.
1. The Board should be responsible for general references.
2. In circumstances of urgency the Board should be entitled to issue a reference authorising the use of coercive powers but such a reference would lapse after 45 days unless ratified by the Inter-Governmental Committee within that period.
3. In non-urgent circumstances the Inter-Governmental Committee would be required to approve any reference authorising the ACC to use coercive powers.

These recommendations arose out of certain members concerns that the power to authorise the use of coercive powers should not reside with the proposed Board of the ACC but should remain with the Inter Governmental Committee. However, this change was unanimously agreed to by all governments of Australia, Federal, State and Territory and was only taken after serious consideration and debate. It is fundamental to the agreements reached by Leaders at the Summit and by police and justice ministers in August and it is the type of decision that it is appropriate for governments to make. It is not proposed to agree to those recommendations.
Senator Hogg—I assume as Deputy President of the Senate—advising them that the Prime Minister has asked his department to coordinate, within his department and other cabinet officers, a response to the resolution of the Senate carried last year following Senator Faulkner’s motion concerning the findings of A Certain Maritime Incident Select Committee.

By way of introductory comment, the resolution that the Senate carried last year went specifically to the findings of the Select Committee on A Certain Maritime Incident and called on the Commonwealth government to implement immediately the recommendations contained in that report. Without reading the resolution, it made a number of quite important—I do not diminish their significance—observations, as well, but then turned to the serious concern of apparent inconsistencies. I will be quoting from the resolution of the Senate provided to the committee and to the estimates committee by Commonwealth agencies in relation to the people-smuggling disruption program and in relation to suspected illegal entry vessels—SIEVs—including the boat known as SIEVX.

I thank the parliamentary secretary for saying that there is now in process, under the Prime Minister’s guidance, a response to this resolution of the Senate. That is quite important. I remind the Senate that the Select Committee into A Certain Maritime Incident reported in October last year. In tabling that report, I, as the chairman, drew the Senate’s attention to the fact that we were not able to complete the remit that the Senate had handed us, because the Prime Minister had made himself and other ministers unavailable to give evidence to the committee, and the federal cabinet had decided to instruct all public servants on ministerial staff, and ministerial staffers, not to be available to give evidence either. As a consequence, our ability to probe this issue to its logical conclusion was inhibited significantly and the findings we returned were findings on the evidence available to us and not on all of the evidence that could have been available had that embargo not been applied.

I say that by way of introduction. The fact that the Prime Minister is now proceeding to coordinate a response to the Senate resolution is significant. One hopes that, in doing so, some of the evidence that the committee might have sought directly from him, his ministers, ministerial staff, public servants working in ministerial offices, and others, will now be included and the Senate will be able to be informed in full detail, albeit without being able to probe and examine the evidence, of the full views of those persons.

There is another issue that needs to be mentioned here, which is profoundly important and probably overshadows my previous remarks. There have become available to me, in my capacity—although it no longer exists; it is my former capacity—as Chairman of the Senate Select Committee on A Certain Maritime Incident, answers to questions that were sought by honourable senators in those proceedings. This information has just become available. I received in the mail just recently a document dated 4 February, which came to me by virtue of the Senate Committee on Finance and Public Administration. The covering letter says it was an answer to a question posed by Senator Faulkner in supplementary estimates on 20 November:

... to follow up an earlier QON from the Inquiry into a Certain Maritime Incident ...

In other words, this question was asked in the certain maritime incident inquiry and no answer was received. It was asked again by Senator Faulkner in the estimates. On 4 February, some four months after the certain maritime incident inquiry reported, the document sought by Senator Faulkner, as a member of that inquiry, has now been made available. That raises questions about why it has taken so long, but I simply note the time gap at this juncture. The answer was in relation to this question by Senator Faulkner. This document says that he asked:

... 1 outstanding issue from the Select Committee on a Certain Maritime Incident relates to a DFAT cable on SIEVX. Can a copy of the cable be provided to the committee?

The answer is:

... the declassified DFAT cable is attached.

The declassified DFAT cable has now been provided to us. The date on this DFAT cable,
which is quite significant, is 23 October 2001. I refer to that date because the certain maritime incident inquiry occurred over the major part of last year. In other words, this DFAT cable had been circulated in October of the year before, and some six or so months before the certain maritime incident inquiry convened to probe the issues that this cable has as its subject matter.

The next significant thing about this cable that I wish to draw the Senate’s attention to is the distribution list of this cable. This is a DFAT cable, but the distribution list is quite extensive. For action, it went to Dr Calvert at DFAT, to Dr Hawke, the secretary of Defence, to Admiral Barrie, the commander of the defence forces, to Mr Farmer at DIMIA, and to Mr Max Moore-Wilton in the Department of the Prime Minister and Cabinet. It also went to the Prime Minister and all the relevant ministers, including the Minister for Foreign Affairs and the minister for immigration. It also went to the Commissioner of the Australian Federal Police, Mr Mick Keelty. There is quite an extensive distribution list for this cable.

What I think is more important than all of that is what this cable says, because we may now be in a situation in which this cable, which was before all of those officers who appeared before our inquiry before they fronted to give evidence—and they gave evidence to our inquiry after swearing an oath before the inquiry to tell the truth, the whole truth and nothing else but the truth—reveals information which is not entirely consistent with the evidence that was given by some public servants and with the evidence that was adduced by the inquiry. Specifically, the point of concern was: where was SIEVX when it sank? The Prime Minister said that SIEVX was in Indonesian territorial waters. The evidence by some, and I suspect by all—but until I can exhaustively pursue it I cannot make that statement categorically—is that SIEVX is believed to have been sunk in Indonesian territorial waters.

This declassified cable, dated October the year before that evidence was adduced by us, says, in the start of the summary:

THE SIEV—

referring to SIEVX—

IS BELIEVED TO HAVE FOUNDERED IN ROUGH SEAS TO THE SOUTH OF SUNDA ST WITHIN THE INDONESIAN MARITIME SEARCH AND RESCUE AREA OF RESPONSIBILITY.

That is not Indonesian territorial waters. Indonesian territorial waters are close to the borders of Indonesia. The Indonesian maritime search and rescue area of responsibility extends deep into the Timor Sea and abuts Australia. It covers what would, in layman’s terms, be called international waters. A key issue in our inquiry was to try and establish what Australia knew about where SIEVX went down. The consistent refrain to that question was, ‘In Indonesian territorial waters’. We now know that it went down in international waters. This is a significant piece information because it goes to whether Australian search and rescue capability could have intruded into the area concerned to rescue people who were on that ill-fated ship. I remind the Senate that some 353 men, women and children drowned as result of this vessel sinking. Obviously, we are not competent to intrude into Indonesian territorial waters, but, obviously, given the deployment of vessels for border protection purposes, we are competent to rescue people from the ocean and are bound to rescue people from the ocean in international waters under the protocols of the International Convention for the Safety of Life at Sea. (Time expired)

SCIENCE: FUNDING

Return to Order

Senator ELLISON (Western Australia—
Minister for Justice and Customs) (4.17 p.m.)—by leave—I wish to make a short statement in response to a Senate order to produce documents, moved by Senator Brown, about the Chief Scientist. I am advised that, in relation to items (a)(i) and (ii), neither the Chief Scientist nor his office has provided any direct advice to the government regarding funding or allocation of money or benefits to the Rio Tinto Foundation for a Sustainable Minerals Industry, nor with respect to any other Commonwealth funding to Rio Tinto. Attached are letters from the Chief Scientist to me and to the Minister for Industry, Tourism and Resources, the Hon.
Ian Macfarlane, containing advice in relation to HiSmelt, which noted the strategic importance of the project to Australia. The letters explicitly identify the Chief Scientist’s dual interests.

In relation to items (a)(iii) to (vi), I am advised that, other than as a member of the CRC committee of which he is one of 11 current members, neither the Chief Scientist nor his office has provided any advice on the CRCs to the government regarding funding or allocation of money or benefits.

In relation to item (b), neither the CRC for Coal in Sustainable Development, nor the CRC for Clean Power from Lignite applied for funding in the 2002 CRC selection round. The CRC committee recommended total funding over seven years of $21.8 million for the CRC for Greenhouse Gas Technologies and did not recommend funding of the CRC for Renewable Energy. Attached is a copy of the document provided by the CRC committee concerning the applications recommended for funding. Information concerning applications not referred to in the Senate order has been excised as this information is outside the scope of the Senate order.

In relation to item (c), neither the Chief Scientist nor his office has provided any advice to the government on carbon sequestration, clean coal or related energy matters in determining Australia’s national research priorities. The Chief Scientist participated in the national research priorities process as chair of the National Research Priorities Consultative Panel and as a member of the National Research Priorities Expert Advisory Committee. I table the documents in response to the order.

Senator BROWN (Tasmania) (4.20 p.m.—by leave—I move:

That the Senate take note of the statement.

The request for documents which I put before the Senate in December, and which was then put to the minister, is to investigate the dual roles of the Chief Scientist, Dr Batterham, who advises the Prime Minister and the government on matters relating to science. This eminent scientist is also on the Rio Tinto Foundation for a Sustainable Minerals Industry and has a long association with that corporation and with other scientific and business establishments. I am concerned that there is a conflict of interest in the positions held by the Chief Scientist.

It is interesting at the outset that the government is tabling no advice in the first part of the request. All material or advice 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, firstly, the Rio Tinto Foundation for a Sustainable Minerals Industry and, secondly, any other Commonwealth funding to Rio Tinto—has not been forthcoming. The minister says that no advice has been given by the Chief Scientist. I will be looking at the statement the minister has made, with a view to coming back to the Senate to seek reasons as to why that advice has not been forthcoming.

The minister has given a list of documents that have been forthcoming and then indicated that some were not passed on to the Senate because they are outside the terms of reference of the request. And, clearly, some other matters have not been responded to in the way I might have expected. It will take some time for me to analyse the minister’s response and the documents that have been tabled. Until I do that, it is not possible in immediate response to know to what degree this order of the Senate has been complied with and to what degree the order of the Senate has not been complied with. Let me say to the minister and the government, however, that I will be seeking the fullest compliance with that order and the information that was requested. If there has been a default—and, on the face of it, it appears to me that there has been—in the documents that were tabled today, I will come back to the Senate with a further request for the minister to provide that information. After all, it is a very important function of this chamber that information that is in the public interest be brought into the public domain.

I submit again that there is a conflict of interest in the positions held by the Chief Scientist. I do not believe you can be advising the Prime Minister and the government on science and the allocation of funding, of moneys, to science and at the same time be
part of the business and industry suite that is seeking that funding. I did notice that the minister has told the Senate that part of the advice from the Chief Scientist—if I am not wrong—was for $21 million for greenhouse gas amelioration, and I think that is through sequestration. For those senators who may not know what that means, it is a coal industry request to be able to spend money to try to find some way of putting the carbon dioxide and other greenhouse gases that come out of the mining and burning of coal back into the ground. I have very strong legal advice that this is not feasible technology. Even if it is, it is not going to give near the same result that spending that money on research into renewable energies will, because renewable energies do not produce the gasses in the first place and do not require the chancy techno-fix that is expected from coal, that in some way or other you can get rid of the greenhouse gases being produced. Let me remind the Senate that fossil fuel burning is at the heart of this matter, and there are massive penalties—economic, social and environmental—for us if we do not turn around the greenhouse gas phenomenon.

There is competition here between the fossil fuel industries, which have a huge hold over the Prime Minister’s policy direction, and the renewable energies industries, which have cutting edge technology and experimentation in this country and do provide an answer, with potentially enormous economic and employment windfalls to the country, if that is where we put our investment. There is competition between the coal industry, on the one hand, wanting to get its hands on what money is available from government to try to help reduce its massive impact on the environment and, on the other hand, the renewable energies industry, which actually displaces coal altogether and does not produce a global warming impact on the environment—and that is clearly the way we should be going.

I am aware that there are cutting edge technology centres for renewable energy—for solar power, for the development of hydrogen power—in Australia which are being defunded by the government at a time when massive amounts of money are going across the coal industry. It is wrong. It is not in the national interest, it is not in our economic interests, it is not in our employment interests and it is certainly not in our environmental interests. This is one of the big questions of the age. When you have a Chief Scientist who is caught in the middle—on the one hand advising the government and on the other hand employed by the fossil fuel industries—you have a direct conflict of interest. As I said, I will be studying these documents very carefully over the coming break, and I will come back to the Senate with the best advice I can get as to how we further investigate this matter and clear the air on it.

Senator CARR (Victoria) (4.27 p.m.)—I would like to speak on the same matter, Senator Brown’s return to order, the thrust of which is essentially directed at establishing that there is a conflict of interest between Dr Batterham’s roles as Chief Scientist and as Chief Technologist for Rio Tinto. My prima facie response to what the government says is that such a conflict of interest has yet to be demonstrated. There is no demonstrable conflict of interest in the documents that have been presented today. That is not to say that the substantive point that Senator Brown raises about the appearance of a conflict of interest is not a serious or important one. There are matters that we ought to pay more attention to. However, I think that, in terms of the responsibilities of the Chief Scientist, Senator Brown may well be a bit ahead of himself. The evidence that we have seen has not shown that there is an actual conflict of interest in what Dr Batterham has done. There are very few opportunities where Dr Batterham actually gets to distribute moneys on behalf of the government. The research priorities that the government has established are ultimately the responsibility of the government itself—in particular, Dr Nelson, although Mr Peter McGauran appears to have some responsibilities in this regard as well.

There are matters that we ought to pay more attention to. However, I think that, in terms of the responsibilities of the Chief Scientist, Senator Brown may well be a bit ahead of himself. The evidence that we have seen has not shown that there is an actual conflict of interest in what Dr Batterham has done. There are very few opportunities where Dr Batterham actually gets to distribute moneys on behalf of the government. The research priorities that the government has established are ultimately the responsibility of the government itself—in particular, Dr Nelson, although Mr Peter McGauran appears to have some responsibilities in this regard as well.

The evidence that I have seen suggests to me that the priorities that were presented by the Chief Scientist and the Priorities Consultative Panel were in fact very different
from the priorities announced by government. When I read them I had the distinct impression that the priorities announced had been put through a focus group. They had that ring of the PR consultant about them, not necessarily the Chief Scientist’s consultant. But that is by the by; the substantive question remains as to whether or not we should have a full-time chief scientist. The Labor Party has argued that there ought to be a full-time chief scientist. A research paper that we published last year made that very point. We cannot afford the appearance of a conflict of interest. While I have every confidence that Dr Robin Batterham has behaved properly, and all the advice coming to me from the scientific community in the university sector is that Dr Robin Batterham is a man of the highest integrity, it may well be that in the Greens movement there is a different view. I have yet to see the evidence to sustain that view and I look forward to Senator Brown’s comments on that matter. But, on the basis of what I have seen, I think the claim that Dr Robin Batterham has behaved inappropriately or improperly in his function as Chief Scientist is not correct. I think we have a situation where we need further advice before that claim can be sustained. As I say, in my dealings with Dr Batterham he has behaved impeccably in all matters. However, I believe that the government ought to look at the question of making his position a full-time position, and I believe that is a matter that ought to be attended to quickly.

Question agreed to.

TRADE: GENETICALLY MODIFIED FOOD

Return to Order

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.32 p.m.)—by leave—I make this statement on behalf of Senator Hill, representing the Minister for Foreign Affairs, Mr Downer. The order arises from a motion moved by Senator Stott Despoja, as agreed to by the Senate on 12 December 2002, that relates to communications with Food Standards Australia New Zealand regarding genetically modified foods. I wish to inform the Senate that the government is unable to respond to the order at this stage. Documents relating to the order are still being examined and I am advised that the government will respond to the order as soon as possible.

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—The President has received letters from a party leader and an Independent senator seeking variations to the membership of committees.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.33 p.m.)—by leave—I move:

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

Community Affairs Legislation Committee—
Appointed, as a participating member: Senator Nettle

Community Affairs References Committee—
Appointed, as a participating member: Senator Nettle

Economics References Committee—
Appointed: Senator Hogg.
Discharged: Senator Conroy

Environment, Communications, Information Technology and the Arts References Committee—
Appointed, as participating members: Senator Moore and Senator Wong for the committee’s inquiry into Australian telecommunications network

Foreign Affairs, Defence and Trade References Committee—
Appointed, as a participating member: Senator Collins

Legal and Constitutional References Committee—
Appointed: Senator Crossin, as a substitute member to replace Senator Stephens for the committee’s inquiry on progress towards national reconciliation

Public Accounts and Audit—Joint Statutory Committee—
Appointed: Senator Conroy.
Discharged: Senator Hogg.
Question agreed to.
TRADE PRACTICES AMENDMENT (SMALL BUSINESS PROTECTION) BILL 2002 [No. 2]

MIGRATION LEGISLATION AMENDMENT BILL (No. 1) 2002

TAXATION LAWS AMENDMENT BILL (No. 6) 2002

First Reading

Bills received from the House of Representatives.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.34 p.m.)—I indicate to the Senate that those bills which have just been announced are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

Second Reading

Senator ELLISON (Western Australia—Minister for Justice and Customs) (4.34 p.m.)—I table revised explanatory memoranda relating to the Migration Legislation Amendment Bill (No. 1) 2002 and the Taxation Laws Amendment Bill (No. 6) 2002. I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

TRADE PRACTICES AMENDMENT (SMALL BUSINESS PROTECTION) BILL 2002 [No. 2]

This bill proposes amendments to section 87 of the Trade Practices Act 1974 (the Act) to allow the Australian Competition and Consumer Commission, the ACCC, to bring representative actions in respect of contraventions of sections 45D and 45E of the Act.

Members will be well aware of the content and intent of this bill. It is the same bill that was set aside on 19 August 2002 by most Opposition parties.

Section 45D of the Act prohibits secondary boycotts undertaken for the purpose of causing substantial loss or damage. Section 45E prohibits certain contracts, arrangements or understandings with organisations of employees which affect the supply or acquisition of goods or services.

At present, section 87 of the Act allows the ACCC to bring representative actions in respect of contraventions of all of Part IV of the Act, except for sections 45D and 45E. The proposed amendments will not give the ACCC new powers in a new area. Rather, they will make it easier for affected businesses to gain advantage of the secondary boycott provisions of the Act.

This Government recognises that Australia’s 1.2 million small businesses lack the economic power of large corporations to take action when they experience unfair treatment.

This is particularly so in relation to secondary boycotts.

Without these amendments, small business will be effectively denied the full protection offered by the Act and will continue to bear the costs incurred as a result of restrictive trading practices.

Since becoming Minister for Small Business, I have heard from a number of businesses who have been the victim of secondary boycotts.

In particular, one business reported that after negotiating a particular workplace agreement with employees, the relevant union declared the agreements to be unacceptable. The company went on to lose a number of contracts as a direct result of their industrial arrangements.

Other businesses reported one or a number of unfortunate economic circumstances as a result of unlawful union secondary boycotts. These circumstances can include the refusal of employee access to workplaces and lost savings or cumbersome overdrafts required to cover the costs of lost trade.

Worst of all is the news that many businesses are afraid to speak out about the impact of secondary boycotts for fear of further union reprisals.

Since 1996, the Government has implemented reforms to improve protection for small business against restrictive or unconscionable trading practices.

The Workplace Relations and Other Legislation Amendment Act 1996 restored the secondary boycotts provisions to the Act.

The Trade Practices Amendment (Fair Trading) Act 1998 prohibited unconscionable conduct in business to business transactions.

The Trade Practices Amendment Act (No. 1) 2001 enabled the ACCC to take representative
actions for breaches of the restrictive trading provisions of the Act (excepting the secondary boycotts provisions of sections 45D and 45E).

Buoyed by support from the Opposition, the Government attempted to pass these secondary boycott amendments through the Parliament in the Trade Practices Amendment Act (No. 1) 2001.

At that time, the then Shadow Minister for Small Business, the Member for Hunter, stated on 9 November 2000 in the House:

“The ACCC already has the power to take representative actions under Pts IVA and V of the Act and it makes sense to extend that to Pt IV…This is a sensible amendment.”

The Member for Wills went further on 28 November 2000 when he said:

“…this change will help make the Act more consistent and help to protect small business people. Let me also indicate that I think these changes are very modest and that more action is needed in this area generally.”

But when this amendment came before the House, the Opposition dropped its support and forced the Government to sacrifice these amendments for the sake of the remainder of the bill.

Small business is a significant contributor to the economy, accounting for more than 95 per cent of all businesses and employing close to half of the workforce. This contribution is built on the wealth of the owners who often invest their personal savings in their business. Small businesses also operate on tight margins and with limited cash flow. They are less able to afford disruption to their trade and costly legal action.

It is important that the ACCC can seek compensation in cases of unlawful secondary boycotts as it can with other restrictive trading practices. The ACCC undertakes preventative as well as enforcement action. Allowing the ACCC to bring representative action can act as a deterrent to unlawful activity and provide redress for victims.

The proposed amendments are therefore necessary to enable the ACCC to bring representative actions in regard to unlawful secondary boycotts in order to provide adequate protection for Australian small business.

While this legislation is directed at protecting small businesses, it does not limit the ACCC to taking matters only on behalf of small businesses. In the Government’s view, the ACCC is well positioned to make judgements about those cases requiring its intervention to enforce the secondary boycott provisions of the Act.

In reintroducing this bill, the Government is continuing its commitment to help small businesses to grow, to employ and to trade in an environment free from illegal secondary boycott activity.

———

MIGRATION LEGISLATION AMENDMENT BILL (No. 1) 2002

This bill makes a number of amendments to the Migration Act 1958 to:
- clarify certain visa related matters;
- create a deputy principal member position for the Migration Review Tribunal;
- remove ambiguities surrounding certain offence provisions; and
- correct a technical error in the Act.

These amendments will enhance the integrity of the Act and ensure that certain provisions in the Act operate as originally intended.

Schedule 1 to the bill amends the Act to clarify the immigration status of non-citizen children born in Australia. These children are taken to have entered Australia at their birth.

It expressly provides that these non-citizen children are immigration cleared for the purposes of their “birth entry”.

It is important to clarify the immigration status of non-citizen children born in Australia because it has significant implications for a person’s entitlements under the Act.

For example, whether a person is immigration cleared impacts on his or her ability to access bridging visas.

Schedule 1 makes a second amendment relating to non-citizen children born in Australia.

Under the Act, the usual way a visa holder must enter Australia is at a port or on a precleared flight.

If a visa holder does not enter Australia in a way permitted by the Act, his or her visa ceases to be in effect.

This clearly does not take into account non-citizen children who are taken to enter Australia at the time of their birth.

Schedule 1 puts it beyond doubt that any visas taken to have been granted to non-citizen children at birth do not cease to be in effect because of the way in which these children enter Australia.

Schedule 2 to the bill addresses concerns raised by the Federal Court in the case of Tutugri v Minister for Immigration and Multicultural Affairs.

In that case, the Federal Court raised significant doubts about the power of an authorised officer to request and take security for compliance with
conditions to be imposed on a visa that is yet to be granted.
The amendments in Schedule 2 will clearly authorise the taking of security for compliance with conditions to be imposed on a visa before a visa is granted.
Schedule 3 to the bill makes two amendments to the Act relating to special purpose visas. Special purpose visas are granted by operation of law to certain prescribed non-citizens.
The first amendment deals with the cessation of a special purpose visa where the minister has made a declaration that it is undesirable for a person to travel to, enter or remain in Australia.
The amendment will allow the minister to specify a time when such a declaration is to take effect.
The second amendment in Schedule 3 to the bill puts it beyond doubt that the rules of natural justice do not apply to the making of such a declaration by the Minister.
Schedule 4 to the bill creates a deputy principal member position for the Migration Review Tribunal.
This aligns the management structure of the Migration Review Tribunal with the existing structure of the Refugee Review Tribunal.
It will also ensure that the principal member of the Migration Review Tribunal will be able to focus on providing leadership to the tribunal, with day to day management being the responsibility of the deputy principal member.
Schedule 5 to the bill ensures that certain offence provisions in the Act operate as they did prior to the commencement of the Commonwealth Criminal Code.
Schedule 6 to the bill makes several amendments to the Act.
Firstly, the amendments will prevent certain non-citizens from evading the intended operation of section 48 by travelling overseas on a bridging visa.
The amendment gives effect to the intended operation of section 48 by ensuring that if a bar preventing further visa applications is in place it cannot be avoided by travel overseas on a bridging visa.
Secondly, Schedule 6 to the bill amends the Act to clarify that a non-citizen’s bridging visa ceases to be in effect the moment his or her substantive visa is cancelled.
Finally, Schedule 6 to the bill amends the Act to allow a time limit to be imposed on a non-citizen in immigration clearance seeking revocation of the automatic cancellation of his or her student visa.
Schedule 6 also clarifies that a decision not to revoke the automatic cancellation of a non-citizen’s student visa, which is made while the person is in immigration clearance, is not merits reviewable.
In summary, the bill implements measures to ensure that the integrity of the Act is not compromised. It will provide people with greater certainty in their dealings with the department.
I commend the bill to the chamber.

TAXATION LAWS AMENDMENT BILL (No. 6) 2002
This bill amends the Income Tax Assessment Act 1936, the Income Tax Assessment Act 1997 and the A New Tax System (Goods and Services Transition Act) 1999 to give effect to several taxation measures.
First, the interest withholding tax amendments contained in this bill are aimed at enhancing Australia’s development as a centre for financial services in the Asia-Pacific region. These amendments will extend the categories of exemption from interest withholding tax to improve Australia’s capital markets by removing some impediments to Australian businesses raising finance and eliminating certain compliance costs.
Among those who will potentially benefit from the amendments are those who issue debentures which may be taken up by related Australian businesses or offshore businesses acting in their capacity as clearing houses and Australian residents who purchase qualifying discounted securities from non-residents.
Secondly, the bill contains a measure that provides a capital gains tax exemption for Australian residents who receive payments under a German wartime compensation fund known as the German Forced Labour Compensation Programme. The exempt payments are made to Australian residents and their heirs who suffered injustices and loss during the National Socialist period: for example slave or forced labourers, and those who suffered property damage or loss.
This measure satisfies an election commitment made by the Government during the 2001 Federal election campaign.
Thirdly, the bill contains a measure to change the basis for applying the special transitional rules for compulsory third party insurance. At the moment, the transitional rules cease to apply when a policy is paid for on or after 1 July 2003. As a result of
this change, the transitional rules will cease to apply to a compulsory third party insurance policy that commences on or after 1 July 2003. The change has been agreed to because it reduces compliance costs for compulsory third party insurers at the time when the transitional rules are ending and they are implementing a new compliance system.

Lastly, this bill amends the income tax law so that, from 1 January 2003, friendly societies will be allowed a deduction for investment income paid to recipients of income from special purpose investment products, that is, income bonds, scholarship plans and funeral policies. The deduction, which will apply to products issued on or after 1 January 2003, is to prevent double taxation in the situation where the income, following recent business tax reforms, is assessable income of the friendly society.

It will mean that the income is not taxed in the hands of both the friendly society and the investor or beneficiary. The bill also clarifies the taxation treatment of distributions paid from special purpose investment products.

Full details of the measures in this bill are contained in the explanatory memorandum.

I commend this bill.

Debate (on motion by Senator Buckland) adjourned.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT (AUSTRALIANS WORKING TOGETHER AND OTHER 2001 BUDGET MEASURES) BILL 2002

Consideration of House of Representatives Message

Message received from the House of Representatives returning the Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Bill 2002, acquainting the Senate that the House has insisted on disagreeing to amendment Nos 18, 22, 24, 37, 39 and 40, 42 and 43, 47, 49 and 50, 54, 61, 63 to 65 and 74 to 77 made and insisted on by the Senate, and requesting the reconsideration of the bill in respect of the amendments insisted on by the Senate to which the House insists on disagreeing.

Ordered that consideration of the message in Committee of the Whole be made an order of the day for the next day of sitting.

TRANSPORT SAFETY INVESTIGATION BILL 2002

Report of Rural and Regional Affairs and Transport Legislation Committee

Senator McGAURAN (Victoria) (4.37 p.m.)—On behalf of the Chair of the Rural and Regional Affairs and Transport Legislation Committee, Senator Heffernan, I present the report of the committee on the Transport Safety Investigation Bill 2002, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

WORKPLACE RELATIONS AMENDMENT (FAIR DISMISSAL) BILL 2002 [NO. 2]

Second Reading

Debate resumed from 23 October, on motion by Senator Ian Campbell:

That this bill be now read a second time.

(Quorum formed)

Senator SHERRY (Tasmania) (4.40 p.m.)—The bill we are discussing is the Workplace Relations Amendment (Fair Dismissal) Bill 2002 [No. 2]. On Minister Abbott’s own count, this is the seventh time a bill claiming to exempt small business from unfair dismissal laws has been introduced into the Senate. The arguments against the bill have been well ventilated in the parliament and more broadly over the last few years, and Labor believes those arguments still stand. There continue to be sound policy reasons to vote against this bill. If anything, on a closer look at what the bill proposes, the case for opposing this bill becomes stronger.

To recapitulate, the essence of the case against the bill has drawn on the following points. Firstly, the bill is inequitable. It would leave a substantial number of employees without the right to a fair go all round if sacked unfairly. Basically, employees of small businesses have no rights if they are sacked unfairly—regardless of the circumstances.

If this bill is about fairness, it fails miserably. Imagine a firm of solicitors or law-
yers—and that is not hard for the Liberal Party to imagine because so many of them are lawyers—with 19 employees, most of them skilled lawyers, capriciously sacking a 17-year-old receptionist because she came to work late one morning due to her car having a flat tyre. The power imbalance, in terms of money and knowledge, between the employer and the employee in such a situation is, I think, obvious to all—all except, of course, this government. To deny such an employee a remedy is something that Labor will not agree to. The Liberal Party is arguing that, in these circumstances, an employee who is sacked unreasonably has no right of redress, no fundamental right to argue that they should be reinstated. Labor will not agree to that.

We have had this bill before us seven times. The government can bring it up an eighth or a ninth time but we will not agree to that fundamentally unfair approach that the Liberal Party is proposing. But there are other more pressing and complex issues for small business. When all the other pressures facing small business are weighed up, the prospect of a federal unfair dismissal action would have to be some way down the list as an impediment to growth. Compare this to problems like sourcing capital, competitive pressures, a plethora of regulation in other fields like taxation—not particularly with the GST—labelling requirements and workers compensation issues. In my own policy area there are the Liberal government’s proposals to implement so-called choice in terms of superannuation funds—which is the deregulation of superannuation funds. These issues are much more on the minds of small business operators.

When this is done, the notion of affording fair treatment to a business’s staff is relatively simple. Related to the above, a simple removal of the right to take an unfair dismissal action is not a panacea for small business and certainly is not the panacea that the Liberal government holds it out to be. Even if the right to an unfair dismissal case was removed under federal law, an employer would still be liable to unlawful termination actions, actions under antidiscrimination laws and complex and expensive actions that may exist under common law or under state law such as an unfair contracts provision. All that this bill would achieve is greater uncertainty, greater complexity and a greater prospect for more complex litigation.

The Liberal Party loves litigation. It loves lawyers. The Liberal Party is dominated by lawyers. We can see a front bench full of lawyers. These are lawyers who are generating work for lawyers. A consequence of removing an important facet of employment security from a segment of the labour market could be a move of skilled labour away from smaller business towards larger business. This could deprive small businesses of the talents and skills they need. The scope for this bill to free up job creation is still unproven. It is speculative and open to claim and counterclaim. We have not seen hard evidence. We have seen lots of assertion—assertion after assertion. Lawyers are very fond of assertion. They can turn black into white and white into black and the Liberal government is very good at doing that. But it is assertion—it is not hard, proven, tested fact about these continual claims that are made about job creation.

In entertaining this issue, it should not be construed that Labor sees merit in the bill. But, to the extent that the Liberal government claims that unfair dismissal laws inhibit job creation, the case is just not convincing. Indeed, when the Liberal government briefed senior counsel and called on Professor Mark Wooden from the Melbourne Institute to give evidence that unfair dismissal laws killed jobs, he failed to persuade the full court of the Federal Court. I am, of course, referring to the Hamzy case, where the judges—these are impartial, independent persons who were asked to determine the strength of this case about job creation—were unanimous in concluding that:

It seems unfortunate that nobody has investigated whether there is any relationship between unfair dismissal legislation and employment growth. There has been much assertion on this topic during recent years, but apparently no effort to ascertain the factual situation.

Then, later:
... it seems to us the suggestion of a relationship between unfair dismissal laws and employment inhibition is unproven.

After Professor Wooden’s unconvincing appearance in the Federal Court, the government called on one of his colleagues from the Melbourne Institute—no less a person than the Institute’s Assistant Director, Mr. Don Harding—to take a second look at the issue. Mr Harding’s report was based on a telephone survey of small and medium sized business. He prefaces his report with a mention of earlier surveys of business and employers which touch on unfair dismissal laws. Unfortunately for Mr Harding, in earlier surveys unfair dismissal laws barely rated a mention as a deterrent for hiring decisions. However, to Mr Harding’s credit, he does cite the results of earlier studies. For reasons I will give later, Labor finds the results of these studies more reliable than Mr Harding’s survey.

I will inform the Senate of what was found in, firstly, the July 2002 Yellow Pages small/medium business questionnaire and, secondly, the 1995 Australian workplace industrial relations survey. In the Yellow Pages survey, 5.6 per cent of firms mentioned any of the following as a barrier to hiring new staff: employment conditions, unfair dismissal, industrial relations, and safety and health. Remember that unfair dismissal was lumped in with a bundle of other factors, so one could assume that this figure of 5.6 per cent for businesses mentioning these issues as an impediment to job creation is on the high side. This assumption is borne out when one reconciles the Yellow Pages results with the Australian workplace survey. According to the Australian workplace survey, only 1.4 per cent of respondents mentioned unfair dismissal laws as a discrete impediment to hiring new employees. Of course, these are not the sorts of figures that would impress a panel of judges or any other reasonably impartial and free-thinking person—1.4 per cent hardly stands out as a crushing figure.

So Mr Harding takes another tack. Instead of asking employers to freely volunteer what they thought were influences on their hiring decisions, he resorted to push polling—that is where you plant ideas in the minds of the people that you are polling. The Liberal Party is infamous for this. Mr Harding argues that a more reliable result can be obtained by prompt and suggestion, and that is what he does. For example, in the conduct of his telephone survey, when interviewers called businesses seeking a dollar figure from business on the cost in time and money of complying with the law and reducing their potential for exposure to unfair dismissal action, the interviewers were given the following instruction:

Instruction to interviewer: If response is that it is hard to quantify costs, prompt by asking for best estimate. If response is that costs vary from year to year, ask for cost in best year and cost in worst year and take a midpoint. If a range is given, code the midpoint of the range.

After this prompting, it should be pointed out that only about a third of businesses surveyed said that there was an increase in costs associated with an unfair dismissal law. However, buried in the report was the fact that a greater proportion of employers surveyed said that unfair dismissal laws had no effect on the bottom line, despite the prompting.

When one looks at the amounts proffered by the employers after all of this prompting, there appears to be no rhyme or reason in the results. While Mr Harding said that care should be taken in relying on these figures, some of them bounce around so wildly that you have to be sceptical. Take figures given for the cost of unfair dismissal laws on businesses in the finance industry as an average cost per full-time employee, broken up by the size of business—the sizes given are one to five, six to 10, 11 to 20, 21 to 50, 51 to 100 and 100-plus employees. One would expect some fluctuation in the reported costs associated with unfair dismissal on different sized businesses in the finance industry as an average cost per full-time employee, broken up by the size of business—the sizes given are one to five, six to 10, 11 to 20, 21 to 50, 51 to 100 and 100-plus employees. One would expect some fluctuation in the reported costs associated with unfair dismissal on different sized businesses in the finance industry, but one would also expect some discernible pattern—and I certainly cannot find it. The figures are as follows: the average claim cost for one to five employees is $45 per employee. For six to 10 employees, the average cost is $755 per employee. For 11 to 20 employees, the average cost is $348 per employee. For 51 to 100 employees, the av-
average cost is $17 per employee. For more than 100 employees, the average cost is $8 per employee.

Going across industries for businesses with one to five employees the figures jump about from $44 per employee in the wholesale trade to $1,087 in accommodation—that is the hospitality industry. So overall the figure given per employee per year ranges from $30,000 to zero. Despite no apparent science or reason in these reported amounts, Mr Harding still averaged them out to be $296 per employee per year. He then multiplied this figure with the number of small and medium sized businesses in Australia. This then gives an astounding figure of $1.3 billion. This is cited as the alleged direct cost of unfair dismissal laws to small business in Australia. It is just nonsense—absolute wacky nonsense! This was picked up and put as the banner on the minister’s press release about the report. While the minister buys this figure, we on the Labor side of the Senate certainly do not.

On the issue of job creation the Liberal government’s case can be exposed as spurious on other grounds. The reach of the government’s proposed exemption is limited by the spread of federal law. Constitutional constraints on the Commonwealth mean that of the nation’s one million-plus small businesses only one-fifth come under federal law. This means that four-fifths of small business employees have a remedy under state law. It is unconscionable to let this government create an unfortunate minority of workers who would be deprived of recourse or justice if unfairly sacked. This amounts to industrial apartheid. A worker in a small business in a state award firm would have her or his day in court if unfairly sacked, as would an employee in a federal award firm with 21 employees, but the estimated 2,000 applicants for relief from small businesses each year in the federal jurisdiction would be told—if this Liberal government has its way—to go away: ‘You don’t have any opportunity to present a case in front of a tribunal in any way, shape or form. Go away.’ It is an utterly absurd situation.

Moving on, there is another aspect of the debate that is yet to be fully considered. I refer to an issue touched on by Marilyn Pittard from Monash University, who is also a consultant to Clayton Utz. In a paper authorised by Ms Pittard she noted that employers could structure their businesses to take advantage of the exemption proposed in this bill. I am sure she would have to be a lawyer, coming up with these sorts of contrived arrangements. I do not want to give unscrupulous employers ideas, but perhaps this could happen under the Liberal government’s laws if the bill were passed.

Let us take the hypothetical example of company X with 2,000 employees and a turnover of $1 billion. If the bill were made law, from its commencement date company X could start a practice of no longer employing its staff directly but instead employing them in subsidiary companies such as company X1, company X2 and so on. If each of these subsidiary companies has fewer than 20 employees, the large parent company will avoid having to account for unfair dismissals. Obviously this is most unfair, yet it may well be lawful under this bill if it is passed. I want to bring to the Senate’s attention the fact that safeguards against such a scam are available. For example, there is a grouping mechanism incorporated in the New South Wales Employment Protection Act 1982. This mechanism prevents large businesses from exploiting the small business exemption under the New South Wales act, but this Liberal government saw fit to leave them out of its bill. This government, dominated by lawyers, is coming up with all sorts of contrived schemes and arrangements to encourage employers to avoid their legal obligations.

These arguments expose this bill for what it really is: bad policy, bad law, missing the mark and fundamentally unfair. We have a Liberal government proposing to take away from a minority of employees their right to argue a case of unfair dismissal in an industrial commission or court—their fundamental right. I would have thought that it was generally accepted in this country that it is a fundamental right for all citizens and residents to be able to have an opportunity in any sense to argue a position in front of an industrial tribunal or court. There might be all
sorts of other impediments—for example, the cost of a lawyer to represent you if you need one—but it is fundamental in Australian law that every citizen and every resident has that right of access, at least in theory. And here we have the Liberal Party—not much of a liberal party any more, more of a conservative party—intending to take away that fundamental right from a number of citizens of this country.

I want to return to the illustration of how this bill could lead to unfairness by way of the example of the hypothetical 17-year-old receptionist sacked for being late for work one morning. If this 17-year-old’s parents were small business proprietors, one wonders whether they would agree with the Liberal government’s line that she deserves no employment protection. How many senators in this place would like it if their children—for whatever reason—were sacked and had no ability to argue their case in an industrial tribunal? You take away that fundamental right.

Senator McGauran—You didn’t say hypothetical before. It’s certainly hypothetical now.

Senator SHERRY—This is anti-family, Senator McGauran.

Senator McGauran—It’s hypothetical.

Senator SHERRY—It’s not hypothetical. Taking away young people’s rights to appear in an industrial jurisdiction to argue a case is what the Liberal Party is at—taking away the rights, slowly but surely, of Australian workers. But one would expect that the parents of such a worker would want her treated decently, fairly and with dignity. To excise her boss from affording her such respect simply because of the 20-employee criterion in this bill would be seen as an affront to justice. Labor realises that most small businesses will treat their employees fairly. For the vast majority of small business employees there will be no need for an unfair dismissal action.

Labor will oppose this bill and, in the committee stage, move amendments that will afford justice to all employees and at the same time speed up the simplified manner in which an unfair dismissal claim is processed. The Labor approach is balanced, fair and just. It preserves a right for employees who are harshly dealt with but it gives businesses a straightforward, cost-effective and simple manner in which to defend their actions. If the Liberal government, dominated by lawyers, got the lawyers out of it, things would be a lot less costly in this jurisdiction. If the law means that employers must confer on the fairness of their employees’ conditions, is this inherently bad? Such an obligation would have an educative function and would enhance employment relations practices across the board. This is to be commended. Here lies another reason to oppose this bill.

Senator MURRAY (Western Australia) (5.00 p.m.)—I rise to speak on the Workplace Relations Amendment (Fair Dismissal) Bill 2002 [No. 2]. Yet again, this chamber is faced with the absurdly titled fair dismissal legislation. It was originally designed as a double dissolution trigger and that is still its purpose. It would be unfair to disappoint the coalition and so, yet again, the Australian Democrats will remain steadfast in opposing the main tenet underpinning this bill—that it is fair to be unfair and all right to break your promises and agreements.

After gutting this bill and substituting amendments, the Senate passed it on 27 June of last year. These amendments were considered by the House of Representatives on 28 June and the bill was set aside. An attempt was made to reintroduce the bill late last year, but the Senate refused the cut-off exemption. The main provision of this bill is to exempt employers who hire fewer than 20 employees from the unfair dismissal provisions in the Workplace Relations Act 1996, which is one of six unfair dismissal regimes. However, unlike previous attempts, only new employees dismissed from federally regulated small businesses will be prevented from seeking an unfair dismissal remedy. In previous parliaments, the Democrats have opposed this legislation and given the government a consequent double dissolution trigger. A second failure by the Senate to pass this bill has the potential to trigger a double dissolution. The Democrats will not be deterred by a DD possibility from standing by the principles we have stood by each
time that unfair dismissal laws of this kind have been presented to the parliament.

Shamefully, this is the seventh time that the coalition government will attempt to go back on its 1996 federal election campaign promise that all workers would be covered for unfair dismissals. During the 1996 campaign, the Council of Small Business Organisations of Australia asked the coalition, the Democrats and the Labor Party to support an exemption for small business from the federal unfair dismissal laws. All parties—the National Party, the Liberal Party, the Labor Party and the Democrats—refused in 1996 on the basis that it would breach the ‘fair go all around’ approach.

Shamefully, this is also the seventh time the coalition have breached their agreement with the Democrats that all workers would be covered for unfair dismissals in all businesses. That agreement allowed the 1996 Workplace Relations Act to pass through the Senate with Democrat support. Unfair dismissal amendments which were agreed to included, at that time, that hearings be held in the Industrial Relations Commission instead of the Federal Court, making proceedings less formal, expensive and time consuming; that there be disincentives to speculative or unmeritorious unfair dismissal claims; that costs be awarded against an employee found to have made a frivolous or vexatious claim; that employees pay a $50 application fee; that the viability of the employer be taken into account in deciding whether to award damages in lieu of reinstatement and that greater restrictions be placed on probationary, casual and specified term contract employees applying for unfair dismissal relief.

Following these reforms, the number of unfair dismissal cases fell by at least 40 per cent, and this occurred very shortly after the reforms. This large fall was despite Victoria sensibly referring its powers to come almost completely under federal workplace relations law, with a consequent transferral of Victorian state unfair dismissal cases to sole federal jurisdiction. Just five years later, in September 2001, the unfair dismissal laws were again reformed to address remaining abuses of the system. Greater accountability measures on all parties, including lawyers and advisers, were introduced to deter large settlement payments being extracted from employers in false applications. The Senate passed numerous Australian Democrat amendments to improve processes and to reduce both litigation and delays. The reforms included a default three-month qualifying period of employment before unfair dismissal claims could be brought by new employees, and greater rigour in the processing of unfair dismissal claims by the Australian Industrial Relations Commission.

The small business lobby considered the 2001 changes a big win, claiming that they provided the much needed certainty and confidence for employers when deciding to hire new employees. Even Minister Tony Abbott claimed it was a very good day for small business around Australia. He said, ‘It really will take the unfair dismissal monkey off the back of small businesses to a great extent.’ What is more, since the 2001 changes, figures provided by the Department of Employment and Workplace Relations as at September 2002 show a further decline in the annual number of federal unfair dismissal claims, which are down by over 1,000 claims a year or by a further 12 per cent. In my own state of Western Australia, federal unfair dismissal claims made under federal jurisdiction for small business number less than 100. In Queensland it is less than 100, and in a number of states and territories it is well less than 50. What a lot of fuss there is about those numbers. This very significant decrease—at least a halving since 1996—makes it unlikely that there continues to be a swag of unmeritorious and vexatious unfair dismissal claims. Importantly, it has been achieved through addressing small business concerns without impairing the substantive rights of employees.

The same cannot be said of the other five jurisdictions, where the bulk of unfair dismissal applications lie. The great problem with coalition rhetoric on this topic is that, were they ever to get this legislation through, they would experience the fury of small businesses when those businesses discovered that they mostly fall under the looser and less onerous state jurisdictions. While there are a
number of common features of the six systems, a table comparing the features of federal and state termination laws shows that the Commonwealth has the tightest regime. The great difficulty with the dismissal laws in Australia is not only their variance across the six regimes and not only that small businesses have no idea that they mostly fall under state not federal laws, but the confusion that results from a proportion of businesses that are apparently respondent to both federal and state awards and therefore to more than one unfair dismissal regime.

Surveys illustrate that businesses either do not know what unfair dismissal laws they are covered by or have no idea what the provisions of those laws are. Those same surveys usually pretend that they have got informed responses—from businesses who, understandably, are confused about the systems, know little of the law and have no direct experience of their application. Because of my role as spokesperson for workplace relations over the last 6½ years for the Democrats, my office sometimes gets calls on the unfair dismissal issue—often when it is before the Senate, occasionally otherwise. Invariably, during those calls I will first ask: ‘Which law do you fall under?’ ‘I don’t know.’ ‘What are the provisions of the law?’ ‘I don’t know.’ ‘How do you think you are affected? Have you taken advice on this?’ ‘Perhaps.’ ‘No,’ or ‘Maybe.’ It is not a good state of affairs.

A 1999 OECD job study reported that Australia was in the ‘easy to dismiss’ bottom quintile along with the United States, the United Kingdom, Canada and Ireland. Unfair dismissal provisions can actually enhance sound and efficient human resource management as well as the professionalism of a business. Any business, regardless of size, has an interest in knowing these laws and embracing them, since the practice of good workplace relations with your employees produces good outcomes. It makes good business sense to foster a healthy workplace relations system. A system underpinned by autocratic methods does nothing for productivity or a business’s ongoing competitiveness. It is for that reason that right from the start the Democrats supported Labor’s initiation of enterprise bargaining and the coalition’s improvement of it. At enterprise bargaining levels, you get improvements in relationships and better productivity outcomes.

For the record, I will restate the Democrats’ position in consistently opposing this bill. First, we do not agree with the coalition’s repeated and highly exaggerated claim that the unfair dismissal laws remain a serious impediment to the creation of additional jobs. In an address to the Tasmanian Liberals in November of last year, the Prime Minister said:

... we would create tens of thousands of more jobs if the Labor Party and the Democrats and others would allow our changes to the unfair dismissal laws presently hampering small business to pass through the Senate.

Without being rude to the Prime Minister, what bunkum! The proposition being put is that withdrawing the unfair dismissal rights of about 2,500 employees who make claims among the 1.6 million small businesses would create ‘tens of thousands’ of jobs. Where is the credible research and empirical data to justify such an extrapolation? There is none. Instead, spurred on by anecdotal stories and an inappropriate reliance on selected business surveys—many of which are biased—an attempt has been made to prove the radical and tenuous assumption that businesses will not hire because they believe they cannot fire. That is not shown by the growth in employment that the coalition boasts of or by the different rates of employment growth in small business compared with large business. It is much faster in small business. In the case of Queensland, when the then coalition government introduced an exemption for small business it had no effect whatsoever on job creation. We have Senate evidence to that effect from the Queensland government.

The coalition government’s inference that much of the health of the employment relationship revolves around unfair dismissal laws is nothing more than a beat-up. The fact is that when the coalition government beats this issue up, it makes its way into small business surveys of issues that matter. When the coalition switch off the publicity, it falls away. The coalition has never produced material which is readily accessible for small
business that they can easily refer to when looking at this area. It did not rate a mention in the Australia-wide CPA survey of 705 small businesses in February 2002. It was not even included in the top five reasons for not hiring more staff.

To counter the employment argument even further, a recent Federal Court judgment found:

In the absence of any evidence about the matter, it seems to us the suggestion of a relationship between unfair dismissal laws and employment inhibition is unproven.

Not that that will deter the political and ideological propagandists. Secondly, the coalition government’s claim that Australian workers are excessively protected is again untrue. As recently as 2001, using 1999 data the Organisation for Economic Cooperation and Development stated that Australia—along with the United States, the United Kingdom, Canada and Ireland—was in the bottom quintile of comparative OECD employment protection legislation. In other words, dismissal is easier in those countries.

Thirdly, the Democrats only partially accept the claim that unfair dismissal exemptions will reduce small business costs. It is probably true that there is a cost consequence arising from the perception of unfair dismissal practices, and for those directly affected there will be costs. It is more the case that small business is still baffled about unfair dismissals—an aspect that did rate a mention in the CPA survey. It found that, because of complex and ill-defined procedural requirements, there is still a need to simplify compliance processes and for educational initiatives to better inform small business about their real capacity to dismiss employees.

As I have pointed out before, the Democrats are more than happy to continue to look at process issues. We supported some of the Labor amendments last time round in exactly that area. We have always preferred to address specific concerns of business about the procedures, rather than adopt the government’s approach of ‘fixing’ the problem by denying 2.8 million small business employees the right to challenge an unfair dismissal, of which about 2,600 take advantage under the federal laws.

Above all, the confusion experienced by small business emanates from the fact that Australia is burdened with six different industrial relations systems and thus six different unfair dismissal jurisdictions. The Democrats consider it more important that the Commonwealth attempt to procure some commonality across these jurisdictions. It was with some pleasure that the Democrats noted that the government is going to attempt to widen the coverage of their unfair dismissal provisions. We think it is helpful to have commonality in this area.

Unfair dismissal applications are most often pursued under state laws, not federal law, with variation between states and industries. Likewise, not all employing small businesses fall under the federal jurisdiction, with not more than 30 per cent of employing small businesses falling under federal laws—although, as the department will readily attest, the figures are always difficult to get. It is frequently the case that those who complain about unfair dismissal laws are subject to their state jurisdiction.

On the basis of both statistics and individual reporting, it is absolutely clear that federal unfair dismissal laws are not the major issue facing small business that the coalition beat it up to be. For instance, in the five years after the 1996 changes, a paltry 2,715 unfair dismissal applications have been arbitrated under the federal system. The vast majority of these employees were found to be blameless, and less than five per cent—or 132 people in five years—of arbitrated cases resulted in reinstatement. What system is fair when a worker can be sacked without due cause and lose his or her job and prospects for future employment? If the government were serious about improving employment and decluttering the system, it would consider giving the Industrial Relations Commission greater power to use reinstatement as a remedy—or as an improved or increased remedy—for blameless workers.

Once an employee has been unfairly dismissed, an effective defamation has occurred. This actually reduces the worker’s future employability and unduly increases
the person’s reliance on government benefits. The damage to society is clearly manifold. Furthermore, under the federal unfair dismissal laws, most applications are in fact made against large companies rather than small businesses, with 65 per cent or two-thirds of claims being made against big business, not small business. It is ironic that some small business groups and individuals argue for the right to sack workers unjustly while at the same time campaigning against being discriminated against through big business practices, particularly as tenants. I wish the coalition would spend as much time on tenancy law and tenants’ rights as they have on this issue. It is a disgrace. The analogy between the employer-employee and landlord-tenant relationships should not escape those advocates in this area.

To continue to waste parliament’s time on unfair dismissals reveals a government that is determined to get a double dissolution trigger. It also reveals a government that attempts to demonise both the issue and the workers involved. Many, if not most, Australians support the idea that both employers and employees have a right to fairness in relation to dismissal. But a fair go all round is a long way from the two-tiered system that Minister Abbott and his predecessor, Minister Reith, have brought to the Senate. To label the federal unfair dismissal laws that they themselves introduced as ‘ridiculous’ is ridiculous in itself. This government will also deny those small business employees affected legal recourse against an employer who has sacked them harshly, unjustly or unfairly if it gets this bill through. This is a long way from keeping the promise of fair treatment all round.

The Democrats are keen for this government—and the opposition, for that matter—to join us in attending to a broader range of industrial issues, such as protecting employee entitlements, extending family leave provisions, work-family relationships, problems of unemployment, underemployment and welfare dependency, unpaid and excessive overtime and lengthy working hours. These are just some of the issues. Between 1995 and 2001 the proportion of full-time employees who would prefer to work less—not more but less—almost doubled to 36.7 per cent. For the 16 per cent of workers putting in more than 49 hours a week, the percentage shot up from 38.1 per cent to 58.2 per cent. If the government is serious about unemployment and underemployment, this intensification of the working week clearly requires addressing. The excessive hours worked by a section of our working population need addressing because they have serious social and economic costs. They have costs that can be measured publicly through our health, social welfare and workers compensation systems, and privately through the erosion of family life, relationships and households.

I will close by referring to some figures. I find that many of the advocates on the coalition side who are sent out to barrack for their side—and that is their job—unfortunately do not refer to the statistics or the figures. Typically I will say to a member of the coalition, ‘You’re from such a state; how many unfair dismissal applications are there in that state?’ They do not know. If I ask, ‘What is the percentage under state law?’, they do not know. I will help you out, Senator Boswell; I will give you the Queensland figures, as you are about to speak. For the year at September 2002, there were 359 unfair dismissal applications in Queensland under federal law, down from 623 in 1996, and of that 359 about 21 per cent were from small business. My quick maths would say that is less than 80—about 70. So there were 70 unfair dismissal applications in Queensland under federal law which I am going to hear about very passionately from you, I am sure. Australia-wide, the total number in 1996 was 14,499. It is now 7,283, despite the Commonwealth taking on all of Victoria’s state unfair dismissal applications as well. (Time expired)

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (5.20 p.m.)—If Senator Sherry were here, I would say to him that he is going to listen not to a lawyer—he accuses the coalition of being overrun by lawyers—but to a genuine small business person who spent
18 years in a previous life, before coming into the Senate, in small business. So the information I give the Senate is straight from the horse’s mouth, as someone who employed people for 18 years. My wife and I started a small business which grew into something that was not terribly big, but in terms of what I was doing as a manufacturer’s agent we employed nine people.

Let me say this to the people from the Labor Party and to Senator Murray. I am disappointed in Senator Murray today, because I do consider him to be genuinely interested in small business. He has supported me and I have supported him on various occasions, but I think he has got it wrong on this occasion. Let me tell you, Senator Murray, that people do not go out to dismiss people. In fact, people go out to hold the people that they have. I will concede that there are bad bosses and there are bad employees and you will never get the balance right, but a bad boss will not hold a genuine employee—he will go to someone else—and a genuine employee will not work for a bad boss and vice versa. It sorts itself out.

There are other reasons why people dismiss employees. It is not a question of going in there, not liking someone and sacking them. There are occasions in small business when you just have to react to the market. You may have to put someone off when you may not want to. It has happened to me. As a manufacturer’s agent, if I lost an agency I would have to downsize the staff. It was not anything to do with the worker. I would have to go to them and say, ‘Look, I don’t need three storemen-packers. I’m sorry, you’ve done well, but I just can’t afford to pay you.’ Down at the lower end of small business, there is no margin. You are living from hand to mouth. For that reason, you may have to take an employee aside and say, ‘I’m sorry about this. I’ve lost this particular agency, I’ve lost this account. We don’t need three or four storemen now. I’m sorry, but you’ll have to leave.’ Under the present conditions, that is not possible any more.

Senator Crossin—That’s a redundancy, not an unfair dismissal.

Senator BOSWELL—Hear what I am saying, because I do know what I am talking about here, Senator. For various reasons, you can have to downsize your business. Now you cannot do that without taking court orders and things like that. I believe that employees have the right to work for someone and that the employer has the right to employ someone. If you have to rely on an act of parliament to achieve that, you are not going to get cohesion in small business. I had a small business and I was very close to the people I employed. I assisted them in many ways. On occasions, if their children got married I would help them out with paying for the wedding and so forth. We were a very close and a very good little firm and we produced well. If you took away the right for me to say to someone, ‘Look, I just can’t afford to keep you,’ so that he said, ‘Well, I’m going to take this to court and I’m going to fight it,’ and my response was, ‘I will have to get a solicitor,’ and then we went to court and went through the process, my reaction would be: ‘I am not going to employ anyone. I am going to employ the absolute minimum number of people that I can. I will not employ people. I will not put people on. I will put them on in casual positions and I will outsource everything I can, including making various things and photocopying and those sorts of things.’ I would not take the risk of employing anyone who was not completely necessary.

I have not lost my contacts in small business. The National Party is virtually 90 per cent small business owners and farmers. Every meeting that I go to, I get harangued: ‘What are you going to do about the small business laws, the unfair dismissal laws?’ I respond by saying that we have put them up seven times, as far as the under-20s are concerned, and about 22 times in total. They just cannot understand why they do not get passed. These are decent people and they employ people, but there is a war story in many, many people whom you talk to. I know that anecdotes given in the Senate do not have impact, but I want to tell you a story about a very good friend of mine whom I have known since I was selling boat fittings. I started that when I was about 26. We became friends. I was selling boat fittings, and he was behind a counter. A smart young fellow, he developed a business in partnership
and that business worked. It ended up employing 28 people. The partners agreed to split, an amicable arrangement was made and my particular friend walked out with a fair amount of money. He decided to buy a small business, and when the small business adjoining came up for sale he bought that. That happened to be a fruit shop. The story goes that a young lady came in and got a job. About two weeks later she said, ‘I’m pregnant. I can’t lift.’ He said, ‘But this job is lifting. You’ve got to be able to do it. When you applied for this job you knew what the job was.’ The long and the short of it is that he went to court and $15,000 later he said to his wife, ‘It’s not worth it. We don’t need the money. We don’t have to persecute ourselves like this—we just don’t have to do that.’ He shut both businesses down and he walked away.

That is a war story that I happen to know. The interesting thing about this is that we shared a yacht. He was a battler. He came from a family that was Labor Party—he was one of the very few people in the yacht club that did. His father was a fitter and turner, and he was a small business person. He used to stand up for the Labor Party and, as I say, there were not too many Labor Party supporters at the yacht club. But he was a decent guy who went out to try to employ a few people and to run his own business and in the end he just said that it was not worth it. There are thousands of those stories, and we can document them.

Senator Murray says that we should not really worry about this. Because this is mostly state legislation he says, ‘Let us not worry about it because it is not going to affect that many people.’ But, if the principle is wrong federally, then the principle is wrong state-wise. We as a parliament should address the principle, not the numbers. If the principle is wrong, we should vote against it. I cannot understand the Labor Party because they must know—it must be so clear to them—that, if they want to win an election, they have to get the small business community onside. They cannot win an election by thumbing their nose at the small business community; it employs the biggest number of people. It is the biggest community group. It just would not be possible to do that. If they continue to support this legislation—and I know that they will be getting pressure from the unions—they will consign themselves to the opposition benches for the next 20 years.

As I have said, not only is it the employees that you have to win over but an employee has influence on his workers—the storemen and packers, the reps, the typists and so forth. He can use that influence to get people to shift across from the Labor Party and to get them to vote for the coalition. If you antagonise someone, he will do it. And those opposite are antagonising the small business sector. They say that no supporting evidence is available to prove that this law prevents the employment of people. The fact is that a survey released in 2001 showed that 57 per cent of business believe that unfair dismissal laws are an important issue. I am surprised that it is 57 per cent. I move around from party meeting to party meeting—as all of us do here—and I continually hear from farmers and small business people, ‘What are you going to do about this issue?’ When we tell them that we have put it up 22 times, they cannot quite understand it. As part of the survey, many small businesses indicated that they would be more likely to recruit new employees if they were exempted from the current unfair dismissal laws. It is so obvious that, if you are in the employment game, you do not want to go to a solicitor if you want to put people off, and you are going to do everything in your power not to put people on. One million private sector non-agricultural small businesses in Australia, which account for 98 per cent of all businesses, rely on assistance to ensure that the workplace relations system is on their side. People could make the decision that if they believe the boss is a so-and-so they will leave because there are other jobs out there.

Here are a few examples of how current laws work against small business. I will relate the personal experience of a particular friend whom I have known for 30 years, first as a counterjumper who sold boat fittings,
second as a businessperson who employed 28 people and then as a co-yacht owner with me. That person was a staunch Labor supporter. He is now one of the most staunch defenders of the coalition because unfair dismissal cost him $15,000 and his walking out of two businesses. Another example is that of a small Melbourne engineering company which had to terminate two casuals and a permanent employee because of business downturn arising from a strike overseas. The applicant for the unfair dismissal requested a settlement of $5,500. The solicitor’s advice was that defending the claim would cost up to $15,000, so the business handed over $5,500 because it was the least expensive option.

Senator Murray says that the number of challenges to unfair dismissal is falling. One of the reasons the number is going down is that people are throwing their hands up in surrender and saying, ‘It’s five grand or it’s three grand or it’s two grand; let’s get out of it.’ No-one wants to get involved in a court action, and many of them just pay the settlement and get out of it. I am sure most cases never get to court because people just say, ‘That was a bad decision; let’s cut and run and get out of that decision.’ I cannot guess the number, but people I talk to say, ‘We paid the damn thing and walked away. It wasn’t worth fighting for; it was three grand.’

The response to that is that, when those people employ someone else, they are not going to employ young, inexperienced people who have no track record. They are going to make sure someone has just about got an ironclad reference before they put them on; they are not going to do anything in their workshop, factory or office that they can do outside. I say to the Labor Party, who probably believe they are doing the right thing, that this is straight from the horse’s mouth. I was there for 18 years. When I started out, it was my wife and me; I ended up with a business that employed nine people. I was not in any way challenging BHP, but it was a good little business; it provided a good living. I know what people do and I know what actions they take. Things would be no different now as they were then.

As I said when I started this speech, you do not go out to sack people. If anyone is half-good, you encourage them. You try and get them better. It is only the most dismal failures that you have to take action against to protect yourself—people that fight, people that take drugs or something like that. Those are the only people that you have to react to.

I will give another example. To survive a financial downturn, the owner of a leather-goods business employing up to 10 people believed that the only option to remain viable was to downsize by one employee. His lawyer told him that it would cost him around $20,000 to pay off his employee under the unfair dismissal laws. Instead, this business decided to close down. That is 10 people out of work. You can go on and on. A small motor industry in New South Wales faced an unfair dismissal claim from a former employee dismissed for poor work performance. Despite repeated warnings, the company agreed to settle the matter to avoid legal costs, and it cost $9,000.

We have been told there is no hard evidence and that all we ever get in the Senate is anecdotal responses. The Melbourne Institute released, in October 2002, some economic and social research done at the University of Melbourne, which shows that the state and federal unfair dismissal laws cost small and medium business $1.3 billion each year. The research also shows that the dismissal laws have had a significant impact on jobs. These laws have contributed to the loss of about 77,000 jobs from businesses—businesses which used to employ staff and now no longer employ anyone. About 60,000 of these jobs are from small businesses with less than 20,000 employees. That research is from the University of Melbourne. I suppose it would be as creditable as any other research.

I always rise to speak on the Workplace Relations Amendment (Fair Dismissal) Bill 2002 [No. 2] because I feel passionately about it. There are many, many struggling small businesses out there. It is like a slalom course or an obstacle course in small business. It is hard; it is tough. Out of every 100 small businesses that start, in eight years time I think there are six left. The casualties
are immense. You are just throwing more obstacles in the way of small business. Many of these small businesses are like small acorns and can grow up and become big businesses but, if you knock them off at the beginning, then they do not have the opportunity to turn into big businesses. It is a real obstacle. I have tried to tell the Senate in my own way what actually happens out there in the small business world. I spent 18 years in that world. I think that I know what I am talking about. I know this legislation will not pass. If you wanted to do something meaningful for small business, you could, but you are not going to vote for this legislation—you cannot; the unions will not allow you to do it. (Time expired)

Senator BUCKLAND (South Australia) (5.40 p.m.)—One thing that Senator Boswell said that is right—and it is not very often he says anything that I can agree is correct—is that there are many struggling small businesses out there. You are right. The problem is that you are wrong to suggest that they are struggling because of unfair dismissal rules or laws—

Senator Boswell—I did not say that; I said it was just another obstacle.

Senator BUCKLAND—It is not an obstacle of any consequence. Think about their requirements under the GST provisions introduced by this government, and about other government reporting requirements put in place by this government. They are the things that are making small businesses struggle out there, not unfair dismissal laws. Once again, we see the Workplace Relations Amendment (Fair Dismissal) Bill 2002 [No. 2] before this chamber. Its purpose is the same now as it has been in the bill’s other guises, and that is to exempt those small businesses with fewer than 20 employees, which are bound by federal awards, from the dismissal laws of the Workplace Relations Act 1996. In this bill, only new employees dismissed from federally regulated small business will be excluded from taking an unfair dismissal remedy. A new employee will retain the right to contest termination where it appears to have been made on discriminatory grounds, such as age, pregnancy, religious belief or something of that nature.

Like many of my colleagues, I could simply say to you, Mr Acting Deputy President, ‘Refer to certain pages of Hansard and you will be able to see what we are saying yet again,’ but I will not do that, because, when you have a double dissolution trigger before you, I think it is important to address the issue. Labor’s approach to unfair dismissal is guided by three central principles. Firstly, we say that unfair dismissal laws—or, as the government likes to say in their prettied-up term, ‘fair dismissal laws’—are as much educative as regulatory. The development of unfair dismissal laws over two decades has been vital in promoting the concept of a fair go and a mutual obligation of good faith in the Australian workplace.

Secondly, unfair dismissal laws should be workable and accessible for employees and employers. They should be accessible to all employers and all employees equally, not just to some, as this government would prefer. Labor recognises there are still problems of cost and procedure. I can recall on many occasions prior to coming to this place lamenting about the procedural processes and costs of federal unfair dismissal laws. The parliament should be turning its attention to addressing those issues that are, in my view, quite simple to remedy. It should turn its attention to that rather than trying to create an employer-biased and discriminatory process.

The third point in the central principles that Labor hold is that unfair dismissal laws are designed to promote employment security for those who have been unfairly treated. Changes to unfair dismissal laws should not erode employment security by stripping employees of the right to a fair go—a right to challenge—simply because of where they work. But the government’s exclusion of small business employees badly fails the test for a fair go.

What the bill essentially creates is two distinct classes of employees: those with an entitlement to a fair go, and those without. There is no question; it is simply a case of where you work and how many work at the same place. Those who work in factory A with 21 employees retain the right to challenge their employer if they are dismissed unfairly. But in factory B right next door, the
workers have no such rights. These workers share the same bus to work, they go to the same shop to buy their lunch and more than likely they have a beer at the same pub on the way home. Everything, in that case, makes these workers equal. They may even share the same wage rates. But there is an exception: one company is a little bit bigger. It has 21 or 25 or 30 or 100 employees, but its colleagues next door have less than 20. So there is discrimination. This government likes to promote itself as a non-discriminatory government, and I think there may be other opportunities to address many areas to elaborate on that. But in this particular bill the government is exposing itself as one that has a discriminatory streak.

Those who work in the first of the two factories I referred to—the one with more than 20 employees—will experience a greater level of job security. As a matter of public policy, how can the government justify a situation where employees working side by side have differing rights depending on where they are—factory A or factory B? How can they have different rights? They are in the same street, the same suburb; they travel on the same transport, they eat at the same shops and probably share their leisure time in many ways.

There are many flaws in the proposed bill as it is presented to us. Some of those flaws go to the fact that the bill denies the basic rights of all employees to the same protection of the law, irrespective of the size of their employer. It makes you wonder whether the government is thinking it ought to change the workers compensation laws so that if you get hurt in one factory you will not have the same cover as if you work in another factory. This is the sort of thing that this government is doing—dividing the community as much as it can on a principle that it does not need to tamper with, apart from tidying up things such as costs and procedures. But, no, this government goes further.

Another flaw is that we have yet to see any conclusive evidence—despite the ramblings of some in this chamber on the other side—to support the government’s claims that federal unfair dismissal laws have acted as a significant brake on employment growth; no evidence. But then, we do not have very much evidence from the government on the question of Iraq, so why on something such as unfair dismissal laws would they care to produce it?

The existing statutory exclusions from the unfair dismissal regime are already quite significant, and the case for further exemptions specifically directed to small business fails to take these things into account. Another flaw is that the existing federal unfair dismissal laws confer rights on individual employees and less directly on registered industrial organisations. It has to be said that the Labor Party has always recognised the importance of small business to our economy, particularly when we go into the regions and the rural parts of the country.

I see Senator Boswell is not in the chamber, but it might pay him to actually go out into the country and see how small businesses are operating in regional and rural areas. He might find that what he has had to say does not really apply. These people are not struggling because of unfair dismissal laws; they are struggling because the government has regulated in such a way that there is no opportunity for growth. It has cut back in rural and regional areas and become citycentric, particularly—from my point of view—on the east coast. All of what those like Senator Boswell say about the effects on people in country areas or small towns does not really fall on fertile ground.

The reality is that it has been estimated that around 27 per cent of small businesses actually fit into the category which will be affected by this bill. This figure really makes you wonder where the minister thinks he is taking us all. The greater majority of industry—sole traders, partnerships, noncorporate bodies or simply corporate bodies—is covered by state awards, and therein we again have an argument about questions of fairness, or unfairness, and equality.

In the financial year ending in 2001, there were 2,534 claims filed under the federal legislation that this bill is advocating to amend. Under the state system, there were 8,485 claims filed. This bill does not supply an antidote for the majority of businesses. To elaborate on that 27 per cent of small busi-
nesses which would be affected by this bill, in the year 2001-02 there were 6,719 claims filed that were finalised at or prior to conciliation. It would be interesting to get a breakdown of how many of those were finalised and satisfied with the help of unions. In the year 2001-02 there were 6,719 claims filed that were finalised at or prior to conciliation. It would be interesting to get a breakdown of how many of those were finalised and satisfied with the help of unions. I cannot be definite on this, but if we did a bit of an analysis of that I think we would find that the majority were satisfied with the intervention of the union movement. But 1,648 claims were finalised prior to the arbitrated orders, and out of the 8,485 claims filed only 291 went to substantive arbitrations. So I think the minister is selling the public a bit of a pup if he wishes to pursue this legislation.

These figures really exemplify that only a very small percentage indeed ever get through to the stage of having their determination arbitrated or adjudicated by a judge or a commissioner. In the vast majority of cases where the employee has been terminated the issues are resolved in-house—that is, between the employer and the employee—with generally the intervention of their respective representatives. As a non-legal trained advocate, I have always found in settling disputes that dealing with employer associations and the advocates that they had was far easier than going into battle with a trained legal operative, because, like the union officials and the advocates from the union movement, the employer advocates had themselves generally been in the work force, they had an understanding of how industry works and they had the ability to be able to judge the merit of things based on their knowledge of industry. But this government, with its front-bench full of lawyers, has an obligation I guess to ensure that that fraternity has continuing employment, unlike the many in the blue-collar work force who would be under very unfair and unsavoury unfair dismissal laws if this act were to pass.

In the few minutes I have left, I think it is important to take note of a few of the things that have been found by the jobs study undertaken by the OECD. Going back as far as 1994, the OECD’s jobs study reported that, of the 21 countries assessed, the easy to dismiss countries in order were the United States of America, New Zealand, Canada and Australia, while the most difficult to dismiss countries were Portugal, Spain and Italy. The updated information that I have available from 1999, reported in 2001, showed that Australia is still at the bottom of that category of those surveyed. The only countries with less strict employee protection legislation were the United States, the United Kingdom and Canada. On this occasion, we jumped a little bit ahead of Ireland, so Ireland has been relegated to a level somewhat less than where we were.

The reality is that this bill has come back simply to give this very poor government an opportunity to trigger a double dissolution of the parliament. Given the extremely fragile condition that our nation is in today—being led by an inept Prime Minister joined by an inept group of ministers who are more interested in strutting their stuff on the world stage than worrying about the realities and hardships in our own country—we as a parliament have more important things to debate than something such as the unfair dismissal law, or the ‘fair dismissal law’, as the minister likes to call it. We are facing war, and our people are confused by the strange reports they are getting from the government. We are already getting in calls asking, ‘What do we do with our fridge magnet? Where do we put it?’—I guess on the fridge—‘What do we do with the information we’re getting? Where are we actually going?’ We should be directing our attention to these things and not to something as unimportant as what we have before us in this bill. (Time expired)

Senator HARRIS (Queensland) (6.00 p.m.)—I rise to speak on the Workplace Relations Amendment (Fair Dismissal) Bill 2002 [No. 2]. The bill is designed to exempt businesses with fewer than 20 employees from the unfair dismissal provisions of the Workplace Relations Act. Once this protection is removed, employers will be able to dismiss an employee and the employee will have no recourse. An estimated 47 per cent of the private work force in Australia—that is, 3.3 million people—will be affected by this legislation.

This is not the first proposal to remove small business from the federal unfair dismissal jurisdiction. In 1997 the government
promised new regulations to exclude small businesses from unfair dismissal laws. This move was in response to findings of the Small Business Deregulation Task Force, chaired by none other than Mr Charlie Bell, the managing director of McDonalds—hardly a small business by any stretch of the imagination, with more than 30,000 restaurants in 121 countries serving approximately 46 million customers each day.

The government has now had several attempts at getting this legislation through, as well as a failed attempt to change the rules by regulation, which was disallowed. While this legislation may be the government’s No. 1 priority, there are other matters that are of great concern to Australia’s small businesses. The latest small business survey by the Australian Chamber of Commerce and Industry—that is, November 2002—indicates that the top constraints on investment by small business are business taxes and government charges. Interestingly, this concern is mirrored by medium sized businesses. An authoritative survey conducted in May last year by the Small Business Development Corporation of Western Australia assessed the impact of the GST on Western Australian small businesses and examined the steps they have taken to manage the new tax system. The key findings from the survey are as follows:

The estimated additional cost incurred by respondents to prepare their business for the GST was $5,587. A total of 68% of respondents reported that the performance of their business had been made ‘worse’ by the GST (10% reported an improvement), 71% said that their industry’s performance was ‘worse’ (5% said it had improved), and 75% of respondents considered the economy to be ‘worse’ as a result of the GST (6% considered it had improved). Almost two-thirds of those surveyed said the new tax system had a negative impact on their business cash flow. The profit margin of over one-half (58%) of respondents has reportedly been negatively affected by the GST. Compared to that under the system in place before 1 July 2000, the overall record keeping workload has increased for 82% of respondents, while the overall reporting workload has increased for 81% of respondents. The average annual estimated cost associated with ongoing requirements for BAS record keeping and reporting was $3,514. Over one-third of respondents (34%) indicated that they were satisfied with the time they now have to lodge their BAS. This compares to one-quarter (26%) who continue to be dissatisfied. On average, respondents spent 13 hours calculating their tax liability to complete the BAS for the period ending 31 March 2001. Just under one-half (41%) of those surveyed used an accountant or similar adviser to complete the BAS for the period ending 31 March 2001, at an average estimated cost of $300. GST induced price increases were found to have been absorbed by 38% of respondents, with the average estimated amount of the GST induced price increase absorbed by respondents being 19.5%. The cash economy has decreased as a result of the new tax system according to 37% of respondents, while one-quarter (25%) considered that it had increased.

The GST related problems for small business will be exacerbated when the GST increases, as it has done in other countries. In the United Kingdom the initial rate was 10 per cent in 1991, and now it is 17.5 per cent. In New Zealand a GST was introduced in 1986 at 10 per cent, and within five years it had climbed to 12.5 per cent.

The government is launching a two-pronged assault on the labour market and upon small business. The aim is to reduce the rights and entitlements of employees, particularly those who occupy the most vulnerable positions in the labour market, and to strengthen the bargaining position of employers in disputes with unions and their members. In addition, all levels of government are making life difficult for small businesses with taxes, charges and red tape. With GATS—that is, the General Agreement on Trade in Services—small businesses are going to find themselves competing with multinational predators which will receive national treatment, which is the same sort of favourable treatment offered to local businesses. In the building trades, in the financial sector, in health, education, hospitality and many other sectors, small business will be devastated by this great trade robbery. Who is this bill going to affect?

One of the government’s claims is that unfair dismissal laws stop small business jobs growth. According to the minister, if only five per cent of small businesses employed one extra person, an extra 52,000 new jobs would be created. This is the claim, and it
was considered by the Federal Court in the recent case of Hamzy v. Tricon International Restaurants trading as KFC. This case concerned the validity of the regulation exempting some casual employees from the unfair dismissal laws. In the course of the proceedings, the court concluded that no such link between unfair dismissal laws and job creation could be shown to exist.

One Nation do not wish to unnecessarily expose employees to the likelihood of being sacked for no reason. By the same token, we recognise that the legal costs of an unfair dismissal claim could be the death knell for a small business struggling to keep its head above water. Statistics from the Australian Bureau of Statistics show that less than 0.3 per cent of small businesses actually experience federal unfair dismissal claims annually. The ABS defines a small business as being one with fewer than 20 employees in all industries except manufacturing where they have fewer than 100 employees and agriculture where they have an estimated value of agricultural operation of between $22,500 and $400,000 in income. One Nation believe that this broad and general definition of small business is problematic. A more realistic definition of small business would be of those employing fewer than five individuals across all facilities and operations owned by that entity. To this end, One Nation will be moving an amendment to this bill to alter the definition of a small business to one employing fewer than five individuals.

In many respects, this bill is a red herring to deflect criticism from the real concerns of small businesses, such as the GST. The government policy which causes the greatest concern is the GST. This, coupled with insufficient work and insufficient consumer demand, is the real reason for small businesses not hiring more staff. Fair dismissal laws are only part of a very heavy burden that small businesses face. The administrative nightmare of the GST, extended trading hours, predatory pricing, concentration of ownership, strong competition from imports—particularly in our manufacturing and farming sectors—and the pressure to cut costs and get competitive or get out are some of the real issues facing small businesses throughout Australia.

I would like to expand briefly on the issue of predatory pricing. We have seen, not only here in Canberra but also throughout my home state of Queensland, an extension and proliferation of liquor outlets that have been put in place by two of the major grocery retailers—that is, Woolworths and Coles. In a majority of cases, these outlets are associated with their grocery retail outlets and it is not uncommon for small businesses in those areas to find that the prices on their stock are undercut by Woolworths and Coles, sometimes to below the wholesale price at which they purchase. So to small business, predatory pricing by major competitors is by far a greater area of concern than the issue of unfair dismissal.

Another area of concern for small business is the pricing structure of leasing agreements. Again, this is particularly the case in Queensland, where the leasing agreements are tied to the actual turnover of small businesses which are generally in large shopping centres. That becomes a great disincentive to those small businesses and is an impediment on their ability to employ more people. As I said earlier, less than 0.3 per cent of small businesses in Australia are exposed to unfair dismissals. The ABS statistics clearly show that it is not high on the list of priorities for small businesses. One Nation will move an amendment to alter the definition of small business to bring it in line with what we believe is a more accurate measure of small business in Australia. If it is the choice of this chamber not to accept that amendment, that will clearly leave me with no other alternative than to neither support nor oppose this legislation.

**Senator SANTORO (Queensland) (6.14 p.m.)—**In speaking briefly on the Workplace Relations Amendment (Fair Dismissal) Bill 2002 [No. 2] I would like to make some general comments in support of legislation that delivers cost-benefit advantages and freedoms to small business. It is generally true that big business can look after itself. It has the money to make its voice heard. It contributes wealth to the economy that is not only highly visible but also impossible to
ignore. Small business, in contrast, is where most Australians live and work. The government that ignores that central fact of life—and governments formed from time to time by those opposite often do—is a foolish government. It is a government that is not so much interested in national advance as in doing cosy deals with mates. That is one important reason why the Labor Party is in opposition federally and why it will remain there for a long time yet.

The principal aim of sensible government policy in the area of workplace relations is to generate stable and growing employment. The coalition parties and this coalition government do not believe in regulating private enterprise—or, indeed, anything else—beyond what is absolutely necessary. That is something else that fundamentally separates us from the Labor Party opposite. Labor is the party of regulation. Labor is the party that says to private individuals and private businesses, 'We know best.' Labor is the party that seeks to put in place in this country a system of guided democracy—guided, of course, by itself, because it alone has drunk from the well of knowledge. All of the facts, as opposed to the fictions—and we have heard some fictions in here this afternoon—show that overregulation does not work; that those who most loudly proclaim that they know best do not; and that the best guide for democracy is what the people choose freely and of their own volition. All of the battalions of pliant Fabian and proto-Marxist thinkers that the ALP can deploy to argue its case will not ever win that argument.

On our side of politics, we trust people. We know very well, for example, that small businesses do not hire people just to fire them. They cannot afford to and, more importantly, they do not want to. It is not in the interests of small business to recruit and train up employees and then dismiss them in a capricious way. They have invested in their employees. An employee’s training and consequent value to the enterprise is in fact the best guarantee of continued employment. It is because of this that exempting small business, the real growth engine of the national economy—and, spectacularly, the engine at the point of economic growth—from onerous unfair dismissal laws is sensible government policy. That this exemption is a driver of jobs growth is widely recognised in the community and among those who study the economy, workplace regulation and small business. It is an issue of ideology apparent only to the Labor Party and the unreconstructed portion of the union movement—the inhabitants of the industrial Jurassic Park, in other words.

A Centre for Independent Studies report, Poor laws (1): unfair dismissal laws and long-term unemployment, makes the point very well. It says:

The Workplace Relations Amendment (Fair Dismissal) Bill 2002 ... is intended to exclude small businesses from the unfair dismissal laws and thereby to encourage job creation. Such an exemption is sensible because the unfair dismissal laws have a particularly adverse effect on small businesses without enough resources to cope with unfair dismissal allegations. Survey results indicate that small business employment would have been higher had it not been for the unfair dismissal laws.

In my view, the more relaxed approach to employee management created by the government has paid dividends and should be expected to pay dividends at a rate that incorporates employment growth at the very heart of the process. In September last year, the Minister for Employment and Workplace Relations noted that full-time employment in August rose by 87,700 in seasonally adjusted terms to a near record of 6.722 million and that total employment reached a record of 9.378 million. Those figures represent an advance for employment and genuine benefits for Australia. There is just no other way of looking at it.

At the same time, it is legitimate to examine the arguments of those who regard the matter of whether the small business exemption does in fact lead to employment growth—those of the Labor Party, on the one hand, and, within this chamber, the views that Senator Murray put in his dissenting report to the Senate Employment, Workplace Relations and Education Legislation Committee report on this bill and also an hour or so ago in this debate. In his dissenting report, Senator Murray said:
... the assertion of the employment-creation effects of removing unfair dismissal access in small businesses remains unproven. ... Until the evidence exists, the argument that employment will be created by removal of rights from a class of employees based on business size is moot, to put it mildly.

In Senator Murray’s view, the argument is moot. With respect to the senator and others in this chamber, I would suggest that the evidence is there for those who actually want to discover it. When I heard Senator Murray make his contribution—and I thought that it was a thoughtful contribution—I sought to address the concerns that he expressed mainly in his speech. Senator Harris also has expressed similar concerns very strongly. I asked for some advice in relation to what the surveys and the statistics in fact show.

I want to take up some of the time of the Senate just to go through some of the statistics that are available for all senators in this place and other members elsewhere. The statistics from the 1995 Australian workplace industrial relations survey have been used recently—or were used by the ACTU—to show that less than one per cent of small businesses gave unfair dismissal laws as a reason for not hiring staff. But this evidence was not in fact supported by the attitudinal data that was provided by the survey evidence that came into the hands of the ACTU. A 1998 survey of the members of the Australian Chamber of Manufacturers, jointly conducted by the ACM and Deakin University, surveyed 2,000 firms with less than 300 staff. It noted that unfair dismissal legislation and associated implications for small business were highlighted as employment deterrents. In 2001 Sweeney Research, on behalf of the Victorian Trades Hall Council amongst others, conducted a survey of 400 small businesses. It found that 39 per cent of respondents said that unfair dismissal laws affected their businesses. In November 2001, ACCI released the results of a survey of affiliates, to which some 2,500 firms responded. The survey found that unfair dismissal laws were ranked as the fifth most important problem facing them.

In March 2002, CPA Australia released its survey results for 600 small businesses and 105 certified practising accountants. When asked to nominate for themselves the main impediment to hiring staff, five per cent of small businesses and 16 per cent of CPAs nominated unfair dismissal laws as a primary issue. Also, 30 per cent of small business respondents and 44 per cent of CPAs cited a desire to avoid unfair dismissal laws as a reason for employing casuals. The research also found that perceptions about unfair dismissal laws were as much of a barrier to employment as the laws themselves.

In August 2002 the Centre for Independent Studies issued a short study entitled Poor laws (1): unfair dismissal laws and long-term unemployment. This report re-examines international and Australian research on job creation and employment protection and concludes that a possible explanation for Australia’s relatively high unemployment problem is overregulation of the labour market. The Department of Employment and Workplace Relations has recently received the results of a survey designed by Mr Don Harding of the Melbourne Institute and undertaken by Yellow Pages. The survey examined employer attitudes towards unfair dismissal laws. This is the most recent statistical evidence available to help address the concerns expressed by senators who have spoken before me. The survey involved 1,802 telephone interviews with small and medium enterprises employing fewer than 200 employees. The results disclose that the cost estimate to small to medium enterprises of complying with unfair dismissal laws of $1.3 billion per year is more likely to result in lower employment and higher unemployment than in lower wages.

In this context I ask senators to note the comments that were just made by Senator Harris. He referred to the GST as a reason for low employment creation in the Australian economy and as an impediment to job growth. I suggest to Senator Harris that we have figures that show, to the contrary of what he stated in this place a few minutes ago, that during the implementation of the GST Australia experienced record employment growth despite what I, and most people who are reasonable, acknowledge was a disruptive environment created by the introduction of a new broadly based tax. I dare add,
given the elimination of many other taxes and the simplification of the tax system, it is a fair tax and a fair tax system. I suggest to Senator Harris that he have a close look at the statistical evidence available in terms of job creation under the introductory phase of the GST regime, because those statistics tell a different story to the one he just put forward to us.

Under that same survey, which was designed by the Melbourne Institute and undertaken by the Yellow Pages, other interesting results became obvious. Of small to medium-sized employers that do not have employees but previously did, 11.1 per cent were influenced by the unfair dismissal laws in deciding to reduce the number of workers they employed. This translates to the loss of 77,482 jobs, in 35,000 of which unfair dismissal laws played a major role—I stress ‘played a major role’. The survey also found that many employers were confused by or unaware of jurisdictional issues associated with the operation of unfair dismissal laws. That was a concern that was raised by Senator Murray, and I dare say that that concern is legitimate. A range of unfair dismissal law regimes exist across the Commonwealth. State regimes do interface with federal laws. As Senator Murray quite rightly pointed out, there is a lot of confusion in the marketplace. The arguments building up towards the establishment of a national industrial relations system are becoming louder because of those differences. It is a debate that we should have in a moderate but nevertheless definite way. It is a debate in which I look forward to participating in the future. That particular survey also found that two-thirds of employers were unaware of changes to federal unfair dismissal laws made in August 2001. That represents a continuing challenge for this government and for this parliament to communicate those changes to federal unfair dismissal laws that had far wider application, there were no recorded instances put forward to me. As I have said previously in this chamber, I constantly challenged the union movement and my colleagues who sat opposite me at that time to provide me with one instance of inequitable dismissals that had taken place as a result of the laws which I introduced on behalf of the then coalition government, not to mention the record job creation that took place in the private sector—

Senator Hutchins—They probably didn’t bother.

Senator SANTORO—I think you are right that they did not bother, but not for the reason that you are implying.

Senator Hutchins—Because there was no justice for them, was there?

Senator SANTORO—There was justice. The unfair dismissal laws that were in existence in Queensland basically stood the test of time while they were in existence. There was record employment growth and, again, not one incident that people were able to point out that was an inequitable outcome of the laws that I had overseen. Your colleagues in that state were critical of me at every possible opportunity.
Senator Carr—They did have good cause.

Senator SANTORO—Again, I accept that you are making a contribution to this debate from the same warped point of view that they had.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Are you saying that I have a warped point of view, Senator Santoro?

Senator SANTORO—Not at all. I was directing my comments through you, Mr Acting Deputy President, to members opposite who were seeking to provoke me. I was simply trying to say that there was no lack—

Senator Carr—He’s a sensitive petal, isn’t he?

Senator SANTORO—No, not at all. I am simply trying to inform you as to my state of mind here. I did not take anything from them and I do not intend to take anything from you good people opposite either.

In particular, I suggest that the assertion by Mark Latham in his 1998 book *Civilising Global Capital* that, with the abolition of unfair dismissal laws, business managers in Australia are no longer required to take responsibility for the mistakes they might make in the selection of staff is a very partial interpretation of the facts. It might help the member for Werriwa in another place and the Labor Party, in whose future not only as an author he is apparently vitally interested, to consider the benefits of sensible policy formulation. In fact, as anyone who has ever had anything to do with actually running a business will know, it is absolute nonsense to suggest that a cavalier approach to recruiting staff is any sort of business plan. Business managers are responsible for the costs of running a business. Those costs include training recruits, which is a far from insubstantial debit to the books, and for that matter, even without all the rigmarole of an unfair dismissal claim, dispensing with the services of an employee is also an expensive proposition. Except in a very few instances, I think that a manager who consistently chose the wrong staff would pretty soon get a ‘please explain’ from the boss. I made the point before and I will restate it now: no business—small business or big business—recruits staff so it can sack them.

We are fortunate to live in a country where, unless you believe in the old Labor myths, there is a remarkable level of equality and, on a global comparison, astonishing equity. It is in everyone’s interest to keep it that way, and I respectfully suggest to honourable members opposite that that might be the most useful lesson to come out of a debate on the bill before us today.

Senator HUTCHINS (New South Wales) (6.31 p.m.)—When listening to Senator Santoro, you might think that if we were to allow passage of the Workplace Relations Amendment (Fair Dismissal) Bill 2002 [No. 2] then a number of great events might occur—the drought might stop or the Murray might overcome its problem with salination! You would think that if we do not pass this legislation the Sisters of Mercy are going to be in a lot of trouble.

Senator Santoro—Hang on, you weren’t listening to my speech.

Senator HUTCHINS—I know you have been here for only a short time, but you have got to understand that this legislation has been revisited on a number of occasions. Senator Sherry said this afternoon that this is the seventh occasion the legislation has been here, and it can come here an eighth and a ninth time. We, as a matter of principle, oppose exempting people because of the size of the company that they work for. It would be immoral and un-Christian to do such a thing.

I want to speak this evening on the contrast between our position as the Labor Party and what I see as the coalition’s position in terms of the people that they represent. Throughout the Australian community there is certainly an observation that people in the workplace are being screwed. That is certainly a position that people think they are in. Yet they see in the friends of the coalition that corporate greed is allowed to go unchecked. Only at the end, sometimes, is corporate greed brought to book because of public pressure and pressure from within the Senate and the House of Representatives. This evening, I want to give some examples of where employees have been unfairly dis-
missed and have been reinstated or have had a settlement put before them. I would also like to contrast a number of these employees, whom I will name shortly, with the dishonest and incompetent conduct of some of the corporate players in the Australian community—namely, big backers of the Liberal Party of Australia, the HIH directors.

When this bill came before the Senate last time, I highlighted to the Senate a number of individual stories in relation to men and women who had been unfairly dismissed. I spoke last time about Mrs Jeanette Wynbergen. She is a lady who works for Babyco in the Bankstown area of Sydney. Mrs Wynbergen is a member of the shop assistants union. She had an arrangement with her employer that she would be able to have time off and be able to work rosters that would allow her to go and see her daughters Stacey and Tiffany play netball on Saturdays. Her employer tried to change that arrangement. When Mrs Wynbergen refused to give up the time she spent with her daughters on the weekend, she was sacked. She was fortunate enough, however, to be able to have recourse to the New South Wales unfair dismissal laws and was eventually given her job back. As has been highlighted by Senator Sherry, one of the difficulties with the legislation that is being brought before us as well is that there are a number of unfair dismissal regimes throughout the country.

I refer now to Ms Sunita Kore. It was widely reported last week that a woman who was sacked just days after being admitted to hospital for severe morning sickness won an unfair dismissal case against her employer. The woman, Sunita Kore, was a purchasing officer with Ipex ITG. She took about two weeks off work when she was suffering from a rare form of morning sickness which causes severe vomiting and nausea and often results in body weight loss of more than five per cent. Her time off included four days in hospital. Despite informing her supervisor of her illness, the company wrote to Ms Kore while she was in hospital, saying 'We have no choice but to conclude that you have abandoned your employment,' and giving her only five days, which included a long weekend, to substantiate her absence. The company did not return calls made by her husband before the deadline. A week later, Ms Kore wrote to her supervisor to explain her absence and express her desire to return to work but was informed that her employment had been terminated. Ms Kore pursued a claim against the company for unfair dismissal in the Australian Industrial Relations Commission, and Commissioner John Tolley found that the dismissal had been harsh and unfair and ordered Ipex to reinstate Ms Kore.

Similarly, in a case before the New South Wales Industrial Relations Commission in 2000 Mr Sakchai Limsiripothong successfully claimed that he was unfairly dismissed by his employer, Four Sons Pty Ltd, who operate the Doyles restaurants in Sydney. You may be able to tell me otherwise, Mr Acting Deputy President Lightfoot, but I understand they are supporters of the coalition. In 1999, Mr Limsiripothong was dismissed by his employer. Although the employer claimed in the commission that the termination was due to a seasonal downturn in business, the commission found that no such seasonal downturn had occurred. Instead, it found that Mr Limsiripothong had been subjected to serious victimisation at the hands of his employer.

Shortly before the termination, he had raised complaints with the restaurant’s management about the alleged sexual harassment of a female waitress by a male chef. The allegations included unsolicited and unwanted embracing and kissing in the workplace, and harassing telephone calls at the home of the female employee. When Mr Limsiripothong complained to the restaurant manager, Mr Doyle, he was told: ‘If you want someone to be your girlfriend, you have to do this sort of thing. This happens all the time.’ He laughed at Mr Limsiripothong’s protestations at this response and informed him that nothing could be done. Less than a week later, when the applicant worked his next rostered shift, his employment was terminated with no proper reasons given.

I refer to the case of Mr Christopher James. Mr James worked as a customer service representative at an Internet cafe operated by Global Gossip Australia Pty Ltd in Darlington, Sydney. There were no com-
plaints at all by his employer about his workplace performance. However, in May 1999 an incident occurred where a regular customer accessed child pornography at the store. Mr James did the right thing and immediately called the police, bypassing senior management. The customer was arrested and escorted from the store. Soon after the incident, the company produced a policy to deal with any such future incidents. The policy required employees to contact management in the first instance should such an incident occur and contained the warning, ‘Under no circumstances should you take matters into your own hands and contact authorities.’ Mr James made it clear to his employers that he would not abide by the policy as he felt he had a moral and legal duty to contact the police. The commission found that, although Mr James had no such legal duty to report matters directly to police, he nonetheless opposed the policy due to his strong beliefs and concerns about the reprehensibility of paedophilia.

Following Mr James’s complaints, his shifts at Global Gossip were reduced substantially. He was rostered onto shifts which he had informed his employer he could not work due to his other work commitments. Like many casual employees, Mr James juggled his time between two casual jobs. As such, Mr James resigned from his position at Global Gossip. The commission found that his resignation amounted to constructive dismissal due to his employer cutting his hours. It was found that the dismissal was unfair and harsh as it related directly to his reasonable concerns surrounding the child pornography policy.

There are four instances where decent men and women in this country have had some redress to situations they have found themselves in as a result of being unfairly or unjustly dealt with by their small business employer. What morality allows us to give an exemption in those four instances? You would know, Mr Acting Deputy President, that it was only last year that the coalition was so embarrassed and humiliated that it had to have a royal commission into the operations of HIH Insurance. These people made a significant contribution to the Liberal Party of Australia. The Australian community is very angry about how the government is pursuing these nitpicking little policies that are going to take away rights and privileges that belong to the ‘little’ people. The only time the government acts against the corporate greed and excess that is oozing out there is when there is public and political pressure on it to do so.

Plenty has been said about the HIH collapse and there has been a royal commission into it. There have been any number of actions highlighted by the royal commission and a lot of people have been hurt. It seems to me that not many of them will be rescued, whatever the royal commission’s findings. I want to let you know, Mr Acting Deputy President, why the people in the community are opposed to the coalition’s intentions towards this unfair dismissal legislation. When you look at the contributions to the Liberal Party of Australia from HIH over the last five or six years—I will just read them out—you see a total of $696,000: $100,000 in 1999, $100,000 in 1998, $78,500 to the New South Wales branch in 1996, and $275,000 to the federal Liberal Party in 1996 through one of the Liberal Party fronts, the Free Enterprise Foundation. I stand to be corrected on that. That is not a bad little amount to get as a result of your corporate greed and access. As I said, you had to have a royal commission into this operation because you were forced to by the public and by the political operations at the time. While you try to deny Mrs Wynbergen justice, I want to tell you what your mates have been getting up to—and this has come out of the royal commission.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Are you referring to my mates?

Senator HUTCHINS—No, I meant collectively. I am not sure that they are your mates, Mr Acting Deputy President, and I withdraw that. I want to explain to you, Mr Acting Deputy President, what the Liberal Party mates have been getting up to. This has come out of the royal commission. Mr Ray Williams spent $32 million of the company money in the HIH executive office in the 12 months prior to the company’s collapse in
March 2001. He had his executive bathroom fitted with gold taps, marble and a spa. In the final year of the company’s life, Mr Williams spent $2.4 million on lavish corporate entertainment, $86,000 on gold Swiss watches and $4.6 million on executive bonuses—this is in a company that is going to the wall. In one three-week period, he spent $9,000, including $2,000 in restaurant tips. I wonder if he went to Doyle’s. He paid massive bonuses to his favourite, a bloke called Mr Stuart Korchinski, a young accountant who often went jogging with the boss. Korchinski received a bonus of $158,000 and a $17,000 trip to Canada when his father died. He was paid $20,000 to have an air conditioning system installed at his house. When Mr Korchinski left HIH at the end of 2000, he received a payout of $910,000, was sold his Saab company car for $1,000 and had a $250,000 housing loan written off.

Then we get to Mr Williams’s secretary. Now can you understand why Mrs Wynbergen and people like her are angry with the Liberal Party because of this excess—the money that they dribbled into your coffers? Mr Williams’s personal secretary, Mrs or Ms Young, received a base salary of $105,000. The company paid $63,000 to fly her from her Gold Coast home to Sydney each week and put her up at the Intercontinental, which is not a bad hotel. Her corporate Amex card bill for 2000 totalled $123,000, including invoices totalling $19,000 from Bangkok’s superluxury hotel, The Peninsula—and Senator Ferguson might be able to tell us about how good it is later—and $4,000 worth of Thai silk.

These are their mates, Mr Acting Deputy President. This is why the Australian community is angry with them, because there is one rule that they want to apply to small business people in the community but not to their mates. And why not? Because it has $696,000 attached to it. But let me tell you about one of the most reprehensible things Mr Williams did. In March 1998, he gave himself a 17.3 per cent pay rise to $1 million a year, but not one staff member received a wage increase. These people, it appears from the royal commission evidence coming through, knew the company was going to the wall, and yet they were all putting their snouts into the collective corporate trough.

As I said when I started, the people of Australia are very angry with the coalition’s pursuit of this bill, trying to deny rights to the men and women who work in small businesses. It seems that, when there is corporate excess or corporate greed, the coalition is dragged to the bank to make some sort of restitution. I do not believe that this legislation should be changed. I think that men and women who work for a small business have as much right as somebody who works for a large business to be fairly and justly dealt with if their employment has been put on the line. As a former union official—I am proud that I am a former union official—I have represented many people in unfair dismissal cases before the commission. I have also told many people that they had no case that I could take to the commission, as my colleagues would have also done, because they had broken the commandments and done the wrong thing. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

NOTICES
Presentation

Senator FERGUSON (South Australia) (6.49 p.m.)—by leave—I give notice also at the request of Senators Murray, O’Brien and Sandy Macdonald that, on the next day of sitting, I shall move:

That the Senate—

(a) notes the continuing abuse of human rights, violence, political unrest and deteriorating economic situation in Zimbabwe;

(b) notes the intention of the Australian Cricket Board (ACB) and the International Cricket Council (ICC) to proceed with its scheduled World Cup match in Bulawayo, Zimbabwe, on 24 February 2003, despite the heightened political and security situation and warnings of protests and other political activity; and

(c) urges the ACB and ICC not to play scheduled World Cup matches in Zimbabwe.
I ask that the Senate take note of the document because there has been some media speculation about the benefits that may be available to surviving partners and children of serving ADF personnel. No amount of money can compensate for the loss of a husband and father, but the government completely rejects the Labor scare campaign that provisions for war widows are inadequate at this time. I think it is most out of character for Senator Bishop to play politics with this issue—it is not his usual modus operandi—and I am disappointed by the media speculation about it. I think it is particularly opportunistic to score political points at a time when the men and women of the Australian Defence Force are predeploying on operations in defence of our national interest.

The 1996 Black Hawk disaster revealed the gross inadequacies in the former Labor government’s compensation arrangements for veterans and war widows. The coalition government quickly introduced interim legislation for a package that provides a war widow’s pension for life that is non-means-tested, tax free and indexed twice a year regardless of a widow’s marital status and income status; free health care for life through a gold card providing free, comprehensive health care for a war widow and for any dependent children; an orphan’s pension; education assistance for dependent children plus a lump sum of $57,000 per child; and access to a capped lump sum payment for the widow. As well as repatriation benefits, the widow of any ADF member killed in the line of duty has access to military compensation and superannuation. This includes a lump sum, tax-free death benefit, superannuation entitlement and a pension. The total value of these lifelong comprehensive benefits surpasses, in most cases, the large one-off payments issued by courts to civilian claimants.

The civilian government is committed to providing lifelong care for our defence families with health care for life and financial assistance for life.

The government is also looking, and is always looking, to improve arrangements for compensation and it will continue to progress legislation for a new military compensation scheme. However, it is irresponsible for Labor to raise false expectations by inferring that the new legislation will provide windfall additional benefits. The federal government strongly believes that any new scheme needs to support the defence and ex-service community and has been liaising with all the stakeholders to do that. Not surprisingly, such a complex piece of legislation requires a large amount of cooperation between all the stakeholders. Labor has already admitted that it has no alternative but to oppose the legislation if it does not agree with it, yet it expects the federal government to introduce legislation that does not yet have the agreement of everybody in the military and ex-service community. Mr Acting Deputy President Lightfoot, our government—and you especially; I know we have your support—is committed to our military and veteran communities. I want them to be reassured of that, especially as we predeploy personnel to the Middle East and apply the necessary pressure on Saddam Hussein to rid himself of weapons of mass destruction.

This Dairy Adjustment Authority report was in fact released late last year. It was presented to the Minister for Agriculture, Fisheries and Forestry, Mr Truss, on 22 November last year and tabled in the other place on 12 December, the very last day of sitting. The minister did a pretty good job of burying the report, because it did not appear in the media until 9 January this year. The Australian newspaper reported the contents of the report at a very good time to give the electorate bad news—that is, at a time when many Australians are at the beach or in the backyard and have little interest in anything other than the weather and Australia’s progress in the cricket. This report deals with a range of matters relating to the post dairy
deregulation adjustment process. The minister tried to bury the report because it fore- shadows an extension of the life of the dairy levy.

The levy was introduced on 8 July 2000 and was scheduled to end in 2008. We now have the prospect of the levy staying in place until 2010. The spin the minister’s office put out is that any decision on the extension of the levy is a matter for the Dairy Adjustment Authority. Perhaps it has been a while since the minister browsed the legislation for which he is responsible, but the only role that the Dairy Adjustment Authority has is one of recommendation. In other words, the buck stops with the minister. If a decision is made to extend the life of the levy, it will be a decision for the government—not a decision for officers of the Dairy Adjustment Authority. This is just one matter that I plan to pursue next week in the estimates hearings. I am happy to express my appreciation for the officers of the Dairy Adjustment Authority having agreed to make themselves available. I am particularly interested in whether any changes have been made in the method of estimating the life of the levy since the minister announced the first levy end date. These are matters that I look forward to pursuing with Senator Ian Macdonald and the Dairy Adjustment Authority officers at estimates next week. I am pleased to place on the record my appreciation for their proposed attendance.

This report advises that the Dairy Regional Assistance Program, a key component of the levy funded adjustment package, is all but complete. As I recall it, applications for funding from the final tranche closed on 9 December last year, but the report does not say where that money has gone. Some senators may be surprised to learn that much of the DRAP funding has been allocated to electorates held by the Minister for Agriculture, Fisheries and Forestry, Mr Warren Truss, and the Minister for Trade and the Deputy Leader of the National Party, Mr Mark Vaile. According to an independent analysis of the distribution of the DRAP funds, the electorate of Wide Bay has been the biggest single recipient with $6,226,591—more than any other electorate in the country. That is Mr Truss’s electorate. Not only has Mr Truss’s electorate received more money than any other but it has been awarded more direct DRAP projects. Mr Vaile’s electorate of Lyne is the second highest recipient of DRAP funding at $5,977,409. According to the analysis, these two electorates have received almost 20 per cent of the total DRAP funding—that is, $12,204,000 from a total allocation Australia-wide of $62,971,387.

The proper administration of public funding is a key responsibility of the executive. As I have just stated, I have serious concerns about the allocation of funding under programs subject to report by the Dairy Adjustment Authority. Earlier this afternoon my concern about expenditure under these programs was amplified by an observation from Senator Boswell that Mr Truss has a propensity to—and I quote him—’bend the rules’ on spending programs. In that instance Senator Boswell was talking about drought, but why should the Senate think that the flexible application of rules by Mr Truss stops there? There is no doubt about Senator Boswell’s commitment to rural Australia. I have spent a considerable period of time in Queensland in recent months and I have no doubt that Senator Boswell earns his pay. He must be close to pulling his hair out at the quality of Mr Truss’s performance and the fact that he needs to spend so much time in here on his feet defending the indefensible. The remarkable admission today by the Leader of the National Party in the Senate casts doubt on the integrity of the Howard government’s drought assistance program and every other spending program administered by Mr Truss. It is a matter of great concern that a senior member of the government can defend inconsistency in program administration with the explanation that the minister likes to ‘bend the rules’. The dairy adjustment levy is expected to raise $1.78 billion—not a small amount of money by any means. (Time expired)

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Bolkus)—Order! It being 7.01 p.m., I propose the question:

That the Senate do now adjourn.
Irraq: John Pilger

Senator HUTCHINS (New South Wales) (7.01 p.m.)—At this crucial time in our nation’s history when our parliament is in the throes of debate concerning what we should do in relation to the looming war against Iraq, it is important for all of us to make decisions in a well-informed and rational manner. Regardless of what position one reaches on this important issue—and we are all too well aware of the current divisions of opinion in this parliament—it is my firm view that any position should and must be well considered, reliably informed and backed up by strong evidence.

Regardless of what your position on this issue is, one thing that should concern us all is the reappearance in public debate of the views of Australia’s most embarrassing literary export: far Left journalist John Pilger. I am greatly concerned that, once again, just at the moment when Australia faces big decisions concerning its place in the world, Mr Pilger has suddenly decided to call Australia home. My concern is that, with this man weighing into the public debate in Australia—a country he has not called home for 30-odd years—it will, if anything, degenerate the so far well-informed debate into nothing more than an overly emotional, banner waving, slogan slogging and conspiracy theory charged shouting match. I am particularly concerned that Mr Pilger is one of the keynote speakers at an upcoming rally in Sydney against the war in Iraq. Not that long ago Mr Pilger said:

There is no war of terrorism; it is the great game speeded up. The difference is the rampant nature of the superpower, ensuring infinite dangers for us all.

Hence, he is attacking America. He also said:

The current American elite is the Third Reich of our times.

Did the Third Reich ever wage a campaign to topple a regime in Afghanistan that refused to accord women basic rights and oppressed an entire nation? And another quote from him:

Far from being the terrorists of the world, the Islamic peoples have been its victims—that is, the victims of American fundamentalism, whose power, in all its forms, military, strategic and economic, is the greatest source of terrorism on earth.

When it was put to Mr Pilger in an interview that Osama bin Laden had publicly said that the Bali bombings were a result of Australia’s role in East Timor, Pilger simply replied, ‘We can’t believe all these things we’re being told.’ In the 1991 Gulf War, he opposed the US led and UN endorsed attacks on Iraq following Saddam Hussein’s hostile invasion and refusal to withdraw from independent Kuwait. He said of Saddam Hussein:

If he gets too cocky and intrudes elsewhere in the empire for whatever reason, he will be judged Unacceptable Aggressor and expelled forcibly.

In relation to his views on the First World War, he claims in his book A Secret Country that the AIF during World War I was a ‘vassal’s army’ and that the ‘scandalous truth’ of the Gallipoli campaign was that ‘victims were exploited as shock troops in an engagement of no military or strategic worth’. Both these comments seriously demean that role played by Australian troops during that conflict and the immense role it plays within the Australian psyche. He also claims in A Secret Country that World War I was caused by ‘a family squabble between Kaiser Wilhelm II and his cousin George Saxe-Coburg’. Suffice to say, the causes of the First World War are sadly not that simplistic, with entire volumes of books written on what remains a hotly debated subject. But in Pilger’s world view, tragic events that result in loss of human life can always be blamed on such simplistic causes.

On the Vietnam War, Pilger remains an advocate and apologist for the once Soviet backed North Vietnamese government, which did of course eventually become the government of the whole of Vietnam. Yet when Saigon fell in 1975 before the military might of the Soviet backed North Vietnamese army, and the so-called liberation took place, Pilger did not dwell in Saigon to witness the liberation. Rather, he was lifted out of Saigon by a US helicopter and departed Vietnam on a US command ship to the safety of US bases in the Philippines.

On the Whitlam dismissal, Pilger’s much repeated views on the disgraceful dismissal of the Whitlam government in November
1975 demonstrate perhaps the epitome of his conspiracy theory ramblings. Despite Whitlam’s own denials, and the well-established facts that the reasons for the dismissal related more to factors like the constitutionally and ethically questionable actions of Sir John Kerr, Pilger maintains that the CIA was behind the dismissal. In 1984 when Mr Whitlam was asked by a journalist whether he thought the CIA had got to Kerr prior to the dismissal, Mr Whitlam responded, ‘No I don’t; I never have.’ In spite of this, Pilger continues to claim that the CIA was behind the Whitlam dismissal. Pilger has no evidence for his claims. He has said that the alleged sources for his CIA conspiracy theory ‘cannot be named’.

In 1991, a Pilger documentary on Cambodia called ‘Cambodia: The Betrayal’ was screened on UK television. In the documentary, Pilger accused two British men of being members of the SAS who trained Khmer Rouge guerrillas to plant mines that maimed and killed Cambodian civilians. Pilger and UK Central Television were sued by the two men. The case was settled during the third day of the High Court action, as the claims made in the documentary were plainly false and could not be backed up by any evidence. The documentary failed at any point to discuss the role that the Vietnamese communists played in bringing the Khmer Rouge to power. Pilger also claimed, in relation to the successful Cambodian peace plan, that the United Nations ‘had built a Trojan Horse for the return of Asia’s Hitler’.

He condemned NATO action in Kosovo, implying that the West should have negotiated a settlement with Milosevic. This is in spite of the fact that the UN had made several agreements with Milosevic, all of which had been broken and followed up with more shocking human rights abuses. The most famous example of the futility of the West’s appeasement approach is the Srebrenica massacre in July 1995. The UN had declared Srebrenica a safe area, but hundreds of men, women and children were massacred, buried alive, mutilated and tortured.

Then we get to Mr Pilger’s known anti-Semitism. He wrote an article for the New Statesman magazine called ‘A Kosher Conspiracy’, in which he claimed that Israel had an unhealthy influence on media coverage of Middle Eastern affairs. The cover of the magazine depicted a Star of David stabbing a Union Jack. The New Statesman was forced to issue an apology to Britain’s Jewish community.

In an interview relating to claims in his book A Secret Country that Australia was run by an ‘order of mates’, including Bob Hawke, Rupert Murdoch and Alan Bond, Pilger answered that he was suggesting that Australia ‘out-cronyfied’ the Philippines of the 1980s. The book says:

The World Bank, the IMF and other international institutions are invested with the privileges of conquest on behalf of the new papacy in Washington.

That sounds more like Pauline Hanson than John Pilger, but in fact it is John Pilger. So famous have Pilger’s inaccuracies, common mistakes and self-plagiarising become that they have become known as ‘pilgerisations’, and I want to share one or two with you tonight. In his book A Secret Country, Pilger wrongly claimed that the support for the Liberal Party in elections between 1949 and 1966 was never more than 34 per cent of the primary vote and that support for the coalition was never more than 42 per cent. In fact, during this period the Liberal Party only once polled less than 34 per cent of the primary vote, with the coalition never receiving a combined vote of less than 42 per cent— that was a shame. Also in his book A Secret Country, he wrongly claimed that Keating’s floating of the dollar in 1983 resulted in an immediate devaluation of the Australian dollar. He also claimed that, at the same time, Keating immediately and suddenly lifted banking controls. That is wrong again, as the deregulation of the Australian banking system took place over three years. The people who are behind the rally on 16 February in Sydney are no doubt well intentioned and well meaning, but I do not think it brings any good or decency to them to have someone like John Pilger on the platform as the main speaker.

Iraq

Senator KIRK (South Australia) (7.11 p.m.)—I rise this evening to make some re-
marks on the subject matter of the motion moved by Senator Faulkner and passed by the Senate earlier today censuring the government for its decision to deploy Australian troops to the Middle East in anticipation of a war in Iraq. As many contributors have said today in the chamber, our troops were sent by this government in the absence of any United Nations authorisation. They were sent into the path of danger, with no real mission, and with an Australian public divided and confused about why they are being sent there.

The government still has not explained to the Australian people or to our defence personnel just why it is that our troops have been sent to the Middle East and what commitments the Prime Minister has made on our behalf to US President George Bush. Although the troops were sent some weeks ago to the Middle East, it is only now, in the last couple of days, that this parliament has been able to discuss the deployment and its ramifications for the Australian people and for our nation. Our troops leave at a time of great uncertainty over the future of Iraq and the future of the international system of justice and security. In the last few days, the Prime Minister has played the peacemaker, alleging that he has plans to go to Washington on a peace tour. But the Australian people know that the Prime Minister has already made commitments to George Bush in relation to our involvement in a US led unilateral strike on Iraq. What we still do not know is the nature of the deal that has been struck between Australia and the United States, because the Prime Minister will not reveal this to the Australian people.

As the Leader of the Opposition, Mr Crean, said in the other place yesterday, the Prime Minister’s failure to tell Australians what commitments he has made to George Bush represents a breach of the trust that exists between a nation and its leader. This is a strong reason for the Senate to censure the government on this issue. While we wait to be told what the Prime Minister has committed this country to, we are sending 2,000 troops to the Gulf. This is a huge commitment for a nation of our size. It is the biggest deployment of combat troops overseas since the Vietnam War.

Unlike the government, Labor’s position has been clear and up-front with the Australian people on this issue. We have emphasised since April last year that there must be authorisation by the United Nations before any military strike on Iraq. This is a policy position consistent with international law and reflects the long-term position of ALP foreign policy. Labor believes that Australian troops should not have been sent to the Middle East before the UN processes were concluded. The weapons inspectors have not completed their assignment and will not provide their final report until 14 February.

Labor supports the role of the United Nations Security Council in this matter and supports its authority to address the issue of Iraq’s disarmament in accordance with international law. When Labor representatives spoke last year of the need for Security Council involvement, the government accused us of appeasement, and even went so far as to say that we were ‘talking like Saddam Hussein’. Now that there appears to be growing support for a second Security Council resolution in relation to Iraq, the Prime Minister has suddenly taken to posing as a man of the United Nations and a man of peace.

The Prime Minister told the House of Representatives yesterday that the reason he would like to see another United Nations Security Council resolution is not because of any international law requirement, but rather because of the influence it could hold. This shows, to my mind, that this government has no concern with international law or its obligations under it. This is a dangerous position indeed. The Australian people, however, know that it is only through a multilateral partnership, and a system of international law and justice, that the international community can prevent wars and conflict.

The Australian Labor Party has always been supportive of the need for a strong United Nations, ever since the then Labor Foreign Minister, Doc Evatt, played a leading role in its establishment. In a time of international uncertainty, terrorism and threats of war it is now, more than ever, in Austra-
lia’s best interests to work through the difficulties we find throughout the world by way of the processes of the established international system. There remains still the possibility that the United States, Australia and Britain will act in defiance of the UN charter. This parliament must denounce such a possible action, in defence of international law.

This is not to say that our international system is perfect; in reality it is far from ideal. Too few countries are willing to sacrifice their state sovereignty for the mechanism of the United Nations to work. The Security Council and its veto system were designed in a different age of security threats. However, the lesson of history is that it is much wiser to reform the United Nations rather than simply ignore it.

With Newspoll this week showing that up to 76 per cent of Australians oppose unilateral action in Iraq, it is our obligation to hold the government to account for its deployment of troops to the Middle East. When the Prime Minister visits George Bush in Washington he must tell him what the Australian people think about his plans for a unilateral strike on Iraq: quite simply, they do not want it. Australians want to see Iraq disarmed, but they want it done under the mandate of the United Nations and with the authority of international law. We have an international system for resolving conflicts, and those who flirt with the thought of discarding it endanger peace and global certainty.

The Labor Party maintains that the United States and Australia must make a case for war and must get the approval of the Security Council. The early deployment of troops is a hasty decision by a government that appears to have abandoned hope of a peaceful solution to the situation in Iraq. The Australian people have spoken and we can only hope that the Prime Minister will listen. The Prime Minister must understand what the Australian people worked out long ago—that is, that the weapons inspectors must not be denied the opportunity to complete their work and present their report to the United Nations Security Council.

The Middle East must not be threatened with further destabilisation simply to satisfy an impatient and confrontational United States President. The Prime Minister’s visit to Washington must be more than merely a journey to obtain further instructions. He must do more than just go there and seek instructions in this mad game of an unsanctioned war which, it appears, the United States and now Australia are on the verge of entering. It is time for the Prime Minister to ensure that Australia is on the side of peace—on the side of negotiation in this international conflict—and that it embraces the ideals of global cooperation. The government must dismiss any suggestion that this country be committed to an illegal strike on Iraq.

The actions of the government over this matter will have consequences that go well beyond the Iraqi conflict. The Prime Minister’s commitments to George Bush, his disregard for the views of the Australian people and this parliament, and his lack of regard for the established system of international law will linger in the minds of Australians long after the war has concluded. The Australian people will not forget the Prime Minister’s decision to send our best antiterrorism troops to the other side of the world, without the authorisation of the United Nations, nor the consent of their elected representatives in this parliament.

There is no question that the Iraqi regime is dangerous. It has committed numerous and disastrous human rights abuses, and it should not be allowed to hold weapons of mass destruction. However, we must disarm Iraq within the framework of the international system and with respect for the rule of law, not through impatience and by blindly following our American allies. If we do not show a commitment to the processes of international law, then it is nothing short of hypocritical to punish Iraq for not complying with it. Without an ongoing commitment to international law and the United Nations, much more than the future of Iraq is in doubt in this conflict. I commend honourable senators who supported the opposition’s motion.
Food Irradiation

Iraq

Senator CHERRY (Queensland) (7.21 p.m.)—Today in the Queensland Supreme Court, the Queensland government served a notice on a protester involved with a new food irradiation plant at Narangba. This particular notice and this action arose out of a protest which has been associated with that site for some six months or more. It is an extraordinary reaction to see the Queensland government seeking to close down a protest on what is obviously a very controversial issue, and it is very sad day, I think, when the Queensland government engages in a common law action to close down a voice of protest in the state of Queensland. The action, however, is consistent with the view of the food irradiation industry. For example, SureBeam CEO, Michael Daysh, wrote in the Courier-Mail on 23 January 2003 that, ‘food irradiation is safe and should be promoted’. Yet only in December, the European Parliament voted for a ban on any further approvals for food irradiation. The report of that parliament’s public health and environment committee warns:

Yet concerns remain over the fact that irradiation depletes some important nutrients in foods, and over the radiolytic products produced in irradiated foods, some of which are known to have carcinogenic and mutagenic effects.

That was one of their key issues. The report continued:

For example, preliminary findings in a recent study, carried out by the International Project in the Field of Food Irradiation at Karlsruhe in Germany, suggest that some radiolytic products formed in irradiated fatty foods, called cyclobutanones, could cause DNA damage.

The committee report went on:

These uncertainties cast doubt on assurances that eating irradiated foods is completely safe. Research into the long-term health effects of eating a diet largely comprised of irradiated foods still needs to be conducted and scientifically reviewed before any more foods are added to the Community list.

In the same month that the European Parliament made this finding, the Australia New Zealand Food Authority approved SureBeam’s application to allow the irradiation of tropical fruits, including mangoes, custard apples and lychees. The authority noted, ‘irradiation potentially causes both macro and micronutrient changes in foods, depending on the irradiation dose’, but it went on to say that, as mangoes and tropical fruits were only a small part of our diets, irradiation of fruit was found not to have a significant nutritional effect on the diet of Australians. This is a very strange approach. If we did eat more mangoes, would the damage done to food by irradiation necessitate a rejection? At what point do we reach the point of too much irradiated food? Will we end up down the US path, where most foods, even meat and fish, can be irradiated?

The European Parliament has called for a precautionary approach to approvals while more research is done. Food Standards Australia New Zealand, while recognising scientific concerns similar to those of the Europeans, have decided that a little bit of irradiated food will not kill us, and let us worry about the amount at some later point. Is that good enough? The Democrats say that a more rigorous risk assessment approach is needed. Food irradiation is a very controversial process. Indeed, it was banned in Australia until three years ago, when the World Health Organisation, setting aside 52 credible international scientific reports showing adverse effects, reversed its policy on food irradiation.

Irradiation of food is the exposing of food produce to nuclear ionising energy—in Steritech’s Narangba plant using radioactive cobalt-60 rods and in SureBeam’s plant in North Queensland using X-ray technology. In the United States, the permissible radiation dose is about 200 million times greater than the dose for a chest X-ray. The Washington based Centre for Food Safety warns that, if radiation is powerful enough to break apart living organisms like bacteria and insects, it must also be powerful enough to fundamentally alter the food itself.

Studies show that irradiation may destroy up to 90 per cent of the vitamins—particularly vitamins A, C, E and the B complex—and essential fatty acids in food, resulting, in the view of 25 senior medical researchers in a 2001 international health sciences journal, in ‘empty calorie food’. It can lead to the
formation of cancer-causing chemical compounds and other toxic chemicals. Tests have shown myriad health problems in laboratory animals, including chromosomal damage, immune and reproductive problems, kidney damage, tumours, internal bleeding, low birth weight and nutritional muscular dystrophy.

Then there is the economic damage. Mr Daysh from SureBeam argues that irradiation will allow Australia to export mangoes and other tropical fruits, because irradiation increases their shelf life. But, if our competitors—the Philippines, Ecuador, Peru et cetera—also start irradiating their fruit then, under the World Trade Organisation agreements, they can import such products into Australia, undermining our domestic producers in the Australian market. Last year, I helped North Queensland banana growers to fight off an import approval for Filipino bananas. The key to the rejection was moko—a fungal disease prevalent in the Philippines. But if irradiation kills moko there is then no good quarantine reason to keep Filipino bananas out of Australia, potentially destroying a major North Queensland industry.

The Democrats do not think that our governments, state and federal, have conducted the necessary health, environmental and economic risk assessments of whether or not irradiation is in our interests. It may be that food irradiation proves to be safe—as two-thirds of the studies reviewed by the World Health Organisation suggest and as food regulators in the US and Canada agree—or it may be that, with a third of studies showing adverse affects, the risk remains too high, as the European Parliament, in calling for more research, has said. In the view of the Democrats, you do not take risks with the food supply. If the science is uncertain, ‘no risk to food safety’ should be the only risk acceptable to our governments.

Earlier today I was hoping to speak about the possibility of a war with Iraq and place some matters on the record. I will proceed to make a few of those comments now, until my time expires, at which point I will ask for more time. My principal concern with the government’s position on a war with Iraq is that I do not believe the mission has been clearly articulated. The Powell doctrine of American involvement, which was very popular during the nineties in the United States, said that you did not engage in military action until you knew what your objective was and you knew what your exit strategy was, and you always used overwhelming force. What is the objective for which you would go to Iraq? Is it to eliminate weapons of mass destruction, which may or may not be found, or is it regime change? This is a very important question because, if the objective is regime change, as President George Bush implies, I do not think we are looking at a short, sharp action, as we had in Afghanistan or as the Americans have achieved in other places. I think a regime change in Iraq will involve door to door fighting through the streets of Baghdad, because if there is one thing you can say about a dictator like Saddam Hussein it is that he will not mind how many civilians he uses as a human shield to prevent his regime being toppled. I am concerned about the large number of civilian casualties that this would involve, and I am also concerned about the ongoing damage that could cause to security and stability around the world.

It has also been pointed out by speakers today that the government has not just failed to make out a case about what the objectives of an action in Iraq would be but also failed to make out a case that such an action would be in Australia’s long-term interests. I want to go very briefly to a couple of points about the economics of an attack on Iraq. It might sound almost mercenary and grubby to be talking about economics in a debate like this but, with the world’s stock markets being very skittish and our own retail sales in December showing our economy to be very skittish and with worries about unemployment and debt levels in our own country, it is worth asking what effects an attack on Iraq will have on our economy down the track.

I would like to draw the attention of the Senate to a report by the London based Institute of Directors, which was reported by the Courier-Mail on 28 January 2002. The institute put out a warning that the economic consequences of prolonged military action in Iraq would be quite stark for the world econ-
Economy across a number of areas. A long, drawn out war could send oil prices soaring to $80 a barrel, up from around $30 a barrel now. It could cause the US Stock Exchange to fall by another 30 per cent and the US GDP to shrink by some two per cent. ‘There are tremendous military, political and economic uncertainties facing the US and the world economy,’ the author of the report said.

Imagine what the flow-on effects of a trebling of the world oil price or a collapse in the US Stock Exchange would mean to Australia. We have already seen over the course of the last year what impact a fall in the US Stock Exchange has had on superannuation returns in our own country. Imagine what the flow-on effects in Australia would be. Our own economists are also giving warnings about what a prolonged military conflict—and HSBC has put the probability of a prolonged military conflict at about 40 per cent—would mean for the Australian economy.

The DEPUTY PRESIDENT—Senator John Cherry, your time has expired.

Senator CHERRY—I had an agreement with the Government Whip that I would be granted, by leave, an extension of another 10 minutes tonight because I was unable to speak during the debate earlier today. I have only about five minutes to go.

The DEPUTY PRESIDENT—I understand that agreement is not an extension of time; it is filling a place that would normally be occupied by the government in the debate. Is that correct?

Senator CHERRY—that is correct.

The DEPUTY PRESIDENT—Is leave granted?

Leave granted.

Senator Boswell—As long as he doesn’t claim the banana thing.

Senator CHERRY—Senator Boswell, I am happy to share my banana glory around, and I would like you to join me in my quest to prevent irradiated mangoes coming into our country. I want to point out that the ANZ Chief Economist, Saul Eslake, has also warned that the impact of much higher world oil prices from a prolonged conflict could have a very significant effect on the Australian economy. He said:

Higher oil prices reduce discretionary incomes of households, acting to dampen consumer spending and erode profit margins of companies, reducing their ability to employ and invest.

And he noted that the uncertainty about the Iraq conflict is already damaging the US economy. I noticed in the update of the Commonwealth Bank’s economic analysis from this morning that the gold price is already being affected by the prospect of a conflict. All these are only the second order effects of a prolonged conflict, but we need to be aware of them. We have already seen our wheat sales to Iraq reduced. We have already seen concerns raised about whether our exports to the Middle East, which have been booming in recent years, will continue. It is worth noting that the Middle East is one of the fastest growing export markets for Australian motor vehicles. What will happen if Australia becomes a pariah nation in that region because of our support of a prolonged conflict in Iraq? Will we continue to see that growth in our motor vehicle exports to Saudi Arabia, Qatar, Kuwait and Bahrain? Will we see those countries starting to source their wheat and other food exports from other countries? I think we will start to see those sorts of effects coming through. Whether it be the higher oil price or the more skittish stock market and the reduction in our superannuation savings as a result, I think the long-term economic impact on Australia of a prolonged conflict will be quite substantial. I do not believe the government has made a sufficient case for why significant losses to our economy are in the national interest.

In summary, I reiterate what I said at the beginning of my contribution: we as a nation have not yet been told by our government why we need to go into a conflict in Iraq and what the objective is. We have not been told whether to expect a long- or short-term conflict; certainly the Australian people have not been told what the consequences of a long-term conflict will be. All these things worry me because I think the Australian people are being kept in the dark by this government. Whether it be 53 minutes of prime ministerial verbiage yesterday or the various re-
statements of assertions by the American government in the belief that if you state it often enough it will be fact, we simply have not seen the statement of the objective, the statement of the exit strategy or the clear assurance that our country needs that we are not in for a prolonged engagement—statements which are really needed in this debate.

Senate adjourned at 7.35 p.m.

DOCUMENTS

Tabling

The following government documents were tabled:

Advisory Panel on the marketing of infant formula in Australia—Reports—Corrigenda—
2000-01.
Department of Employment and Workplace Relations—Report for 2001-02—Corrigendum.
Native Title Act—Native title representative bodies—Reports for 2001-02—
Goldfields Land and Sea Council.
Queensland South Representative Body Aboriginal Corporation.
Productivity Commission—Reports—
2001-02.

Tabling

The following documents were tabled by the Clerk:

Aboriginal and Torres Strait Islander Commission Act—
Aboriginal and Torres Strait Islander Commission (Conflict of Interests) Amendment Directions 2003 (No. 1).
Aboriginal and Torres Strait Islander Commission (Conflict of Interests) Directions 2002.
Torres Strait Regional Authority (Conflict of Interests) Directions 2003.
Australian Communications Authority Act—Radiocommunications (Charges) Amendment Determination 2002 (No. 1).
Australian Meat and Live-stock Industry Act—
Broadcasting Services Act—
Broadcasting Services (Events) Notice No. 1 of 1994 (Amendment No. 4 of 2002).
Civil Aviation Act—Civil Aviation Regulations—
Airworthiness Directives—Part—
Civil Aviation Amendment Order (No. 1) 2003.
Exemption No.—
CASA EX01/2003 and CASA EX02/2003.
Instrument No.—
CASA 773/02.
CASA 02/03 and CASA 10/03.
Class Ruling—
Currency Act—Currency (Royal Australian Mint) Determination 2002 (No. 6).
Customs Act—
CEO Directions Nos 3 and 4 of 2002.
Defence Act—
Determination under section—
2003/1.
Regulations—Statutory Rules 2002 No. 311.
Environment Protection and Biodiversity Conservation Act—
Declaration of Stricter Domestic Measures under section 303CB, dated 10 December 2002.
Family Law Act—
Farm Household Support Act—Farm Help Re-establishment Grant Scheme Amendment 2003 (No. 1).
Fisheries Management Act—
Goods and Services Taxation Ruling—
Addendum—
GSTR 2001/3.
GSTR 2002/6.
Great Barrier Reef Marine Park Act—

Health Insurance Act—Determination—
HIA/s3GC(3)/No. 2 of 2002.

Higher Education Funding Act—
Determination under section—
15—Determination No.—
Guidelines on Definition of Supervision for Work Experience in Industry.


Migration Act—
Statement for period 1 July to 31 December 2002 under section—
33.
48B [6].
345 [6].
351 [106].
417 [98].

Motor Vehicle Standards Act—
Motor Vehicle Standards (Approval to Place Used Import Plates) Determination 2002 (No. 2).

National Health Act—
Health Benefits Reinsurance (Records of Organisations) Amendment Determination 2003 (No. 1).
Regulations—Statutory Rules 2002 No. 344.


Navigation Act and Protection of the Sea (Prevention of Pollution from Ships) Act—

Ozone Protection Act—Notice of Grant of—
Exemptions under section 40, dated 10 and 23 December 2002.


Primary Industries and Energy Research and Development Act—Regulations—
Statutory Rules 2002 No. 309.

Primary Industries (Excise) Levies Act—


Product Ruling—
PR 2003/2.


Remuneration Tribunal Act—Determination—

Renewable Energy (Electricity) Act—


Safety, Rehabilitation and Compensation Act—Notice of Declaration—Notice No. 5 of 2002.


Sydney Airport Curfew Act—Dispensations granted under section 20—Dispensation No. 1/03 [2 dispensations].

Sydney Airport Demand Management Act—Instrument No. MTR 1/2003—Direction to Slot Manager.


Taxation Ruling—Addendum—

TR 1999/10.

TR 2000/18.


Telecommunications Act—

Telecommunications Cabling Provider Amendment Rules 2002 (No. 1).


Therapeutic Goods Act—


Therapeutic Goods (Emergency) Exemption 2002 (No. 1).

Therapeutic Goods (Emergency) Exemption 2002 (No. 2).

Therapeutic Goods (Emergency) Exemption 2002 (No. 3).

Therapeutic Goods (Emergency) Exemption 2002 (No. 4).


Veterans’ Entitlements Act—


Wine Equalisation Tax Rulings WETR 2002/1 and WETR 2002/2.


**PROCLAMATIONS**

Proclamations by His Excellency the Governor-General were tabled, notifying that he had proclaimed the following provisions of Acts to come into operation on the dates specified:


Workplace Relations Amendment (Registration and Accountability of Organisations) Act 2002—Schedule 1—12 May 2003 (Gazette No. GN 49, 11 December 2002).

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Superannuation: Commercial Nominees of Australia Ltd
(Question No. 405)

Senator Sherry asked the Minister for Revenue and Assistant Treasurer, upon notice, on 27 June 2002:

(1) (a) How many applications for assistance under section 229 of the Superannuation Industry Supervision Act 1993 (the SIS Act) have been received by the Assistant Treasurer or her predecessor in relation to Commercial Nominees of Australia Limited (CNAL); and (b) when were these applications made.

(2) When did the Assistant Treasurer make a formal request (or requests) for advice from the Australian Prudential Regulation Authority (APRA), under section 230A of the SIS Act, in relation to these applications.

(3) How many funds did this request (or these requests) apply to.

(4) In this request (or these requests), did the Minister specify, under section 230A(1), any particular matters that APRA was (or is) to provide advice about or a particular time by which APRA was (or is) to provide the advice.

(5) When did APRA provide advice to the Assistant Treasurer pursuant to this request (or these requests).

(6) What was APRA’s advice under section 231(2) pursuant to this request (or these requests).

(7) In relation to the 181 funds for which the Assistant Treasurer has made a section 231 determination, as announced on 14 June 2002: (a) what is the total eligible loss; (b) what is the average eligible loss; and (c) does this eligible loss include rectification and/or administration costs charged by Oak Breeze as replacement trustee.

(8) In relation to the 181 funds for which the Assistant Treasurer has made a section 231 determination, as announced on 14 June 2002, what is the total assistance that will be paid under section 231.

(9) In the period from 14 June 2002 to the provision of answers to these questions, will the Assistant Treasurer make any further determinations under section 231; if so: (a) to how many funds do these determinations relate; (b) what is the total eligible loss; (c) what is the average eligible loss; (d) does this eligible loss include rectification and/or administration costs charged by the replacement trustee Oak Breeze; and (e) what is the total assistance that will be paid under section 231.

(10) (a) How many applications for assistance in relation to CNAL has the Assistant Treasurer received without making determinations under section 231; (b) when does the Minister expect to make determinations under section 231 in relation to these funds; and (c) what is the estimated total eligible loss for these funds.

(11) Has the Assistant Treasurer determined not to provide assistance under section 231 to any funds for which CNAL was trustee.

(12) Of the funds for which CNAL was trustee but the replacement trustee is yet to make an application, how many additional applications does the Assistant Treasurer expect to receive, and, of these, what does she expect the total eligible loss will be.

(13) What is the total amount of assistance under Part 23 that the Assistant Treasurer expects will be paid.

(14) (a) On how many occasions does the Assistant Treasurer expect to impose a levy under the Superannuation (Financial Assistance Funding) Levy Act 1993; (b) what will be the total amount of each of these levies; (c) what will be the applicable rate or rates for this levy or levies under section 8 of this Act; and (d) will this rate be different for different classes of fund.

(15) When does the Assistant Treasurer intend to impose this levy or levies.

(16) What steps did APRA take to ensure that rectification costs and administration fees charged by Oak Breeze, the replacement trustee of the 475 small funds for which CNAL was trustee, were kept to a minimum; in particular, what commitments in relation to costs did APRA seek from Oak Breeze before it was appointed as the replacement trustee.
(17) Does APRA believe Oak Breeze is satisfying its disclosure obligations under the SIS Act and/or the Corporations Act to members of the small funds; in particular: (a) what are (or were) the start and finish dates for Oak Breeze’s most recent reporting period and has Oak Breeze provided (or does it intend to provide) statements and annual reports to fund members within 6 months of the conclusion of that period; (b) did Oak Breeze provide details of how fees would be charged to fund members upon its appointment as trustee; (c) has Oak Breeze established a complaints procedure; (d) has Oak Breeze provided relevant and timely information to fund members when they have requested it to do so; and (e) if APRA is not satisfied that Oak Breeze has met its obligations, what enforcement action has it taken in relation to any or all of these issues.

(18) With reference to the answer to a question placed on notice during additional estimates, in which APRA said that it chose PricewaterhouseCoopers (PWC) (the parent of Oak Breeze) as the replacement trustee of the three larger CNAL funds after seeking expressions of interest from PWC as well as KPMG, Ferrier Hodgson and Sims Lockwood: (a) were expressions of interest sought from these same parties before APRA appointed Oak Breeze as replacement trustee of the small funds; and (b) did any of these parties, other than PWC, express an interest in the appointment; if so, were their costs, or likely costs, any different to those of Oak Breeze.

(19) What opportunity, if any, was there for other parties to express an interest in being appointed as replacement trustee of the small funds.

(20) Given that, in the answer referred to above, APRA said that it adhered to its policy for the appointment of replacement trustees in appointing Oak Breeze: (a) in light of the significant fees charged by Oak Breeze and the difficulties it initially experienced in its administration functions, has APRA seen fit to revise its policy for the appointment of replacement trustees; and (b) has APRA, for example, considered the possibility of establishing a pool of appropriately resourced entities that would be ready to be appointed as replacement trustees, at minimal cost, in future cases.

(21) In its report into CNAL the Select Committee on Superannuation and Financial Services, noted with concern that neither APRA nor the Australian Securities and Investments Commission (ASIC) had regulatory control over the so-called Enhanced Cash Management Trust (ECMT), the vehicle responsible for the losses incurred by CNAL funds and neither APRA nor ASIC were able to quantify the number of investment vehicles, like ECMT, that fall outside the current regulatory framework. In response to a question on this matter that was placed on notice during additional estimates, APRA stated that it does regulate these trusts and has no records as to either their number or prevalence: (a) does APRA believe it is a cause for concern that investment vehicles, like ECMT, that receive superannuation monies, are not regulated by either itself or by ASIC; (b) does APRA agree that it is important for a prudential regulator to understand the extent of problems or loopholes in the regulator regime in order that it might recommend legislative changes to address any such deficiencies; and (c) should APRA therefore be concerned that APRA does not know how many investment vehicles like ECMT fall outside its regulatory jurisdiction.

(22) (a) In light of the example of the TED Engineering superannuation fund raised during budget estimates, what regulatory sanctions are at APRA’s disposal for dealing with non-arms length transactions and other breaches of trust that occurred before the commencement of the SIS Act; (b) if another case were to emerge in which a fund had suffered a loss as a result of a non-arms’ length transaction or other breach of trust that occurred before the commencement of the SIS Act, how would APRA respond; and (c) how would this response differ if the trustee had breached the relevant provisions of the SIS Act following its commencement in 1994.

(23) If APRA were presented with similar circumstances, and found it was unable to take effective remedial action under commonwealth legislation, would it take action against the trustee in the appropriate common law jurisdiction.

(24) (a) What proportion of regulated superannuation funds does APRA believe are in breach of the equal representation rules contained in the SIS Act; and (b) what strategies does APRA have in place to ensure that the equal representation rules are adhered to.

(25) With reference to the draft report of 4 March 2002 of the Superannuation Working Group, which noted concerns about the grandfathering provisions that allow the in-house investment cap of 5 per cent (in section 82 and 83 of the SIS Act) to be exceeded: (a) can APRA provide an average proportion for in-house assets in superannuation funds; (b) can APRA provide any details of recent enforcement actions in respect of breaches of the in-house assets rule; (c) what is the maximum pro-
portions of in-house assets that funds have held while still complying with the SIS Act; (d) does APRA believe that the grandfathering provisions in sections 71A to 71E need reform; and (e) does APRA believe that the 5 per cent cap in sections 82 and 83 is too high.

(26) Given that the working group does not deal with investments in derivatives by superannuation funds in its draft report: (a) should this be interpreted as a sign that APRA is unconcerned about derivatives trading by super funds; (b) what proportion of superannuation funds are involved in derivatives trading; (c) what is the average derivative charge ratio, that funds are required to calculate and report to members if it exceeds 5 per cent, for superannuation funds; and (d) can APRA provide details of any recent problems it has encountered, and any enforcement action it has undertaken, in respect of derivatives.

Senator Coonan—The answer to the honourable senator’s question is as follows:

Table 1: Applications for financial assistance under Part 23 of the SIS Act received on behalf of funds affected by the failure of CNAL.

<table>
<thead>
<tr>
<th>Date of application</th>
<th>Number of applications</th>
<th>Application</th>
</tr>
</thead>
<tbody>
<tr>
<td>7/02/02</td>
<td>181</td>
<td>Oak Breeze applications for Small APRA Funds (SAFs) with losses in ECMT</td>
</tr>
<tr>
<td>7/02/02</td>
<td>179</td>
<td>Oak Breeze applications for SAFs with losses in GBA and EIT</td>
</tr>
<tr>
<td>6/05/02 (revised on 8/05/02)</td>
<td>1</td>
<td>Oak Breeze for Wealthy &amp; Wise Master Plan</td>
</tr>
<tr>
<td>6/05/02 (revised on 8/05/02)</td>
<td>1</td>
<td>Oak Breeze for AWERF</td>
</tr>
<tr>
<td>6/02/02</td>
<td>2</td>
<td>Oak Breeze for SAFs with losses in ECMT</td>
</tr>
<tr>
<td>27/05/02</td>
<td>1</td>
<td>Oak Breeze for SAF with losses in ECMT</td>
</tr>
<tr>
<td>7/06/02</td>
<td>13</td>
<td>ASN for SAFs with losses in ECMT</td>
</tr>
<tr>
<td>30/02</td>
<td>88</td>
<td>Oak Breeze for SAFs with losses in Confidens</td>
</tr>
<tr>
<td>15/11/02</td>
<td>1</td>
<td>ACT Super for Network</td>
</tr>
<tr>
<td>25/11/02</td>
<td>1</td>
<td>ACT Super for Midas</td>
</tr>
</tbody>
</table>

Total at 12/08/02 468

(1) See Table 1.
(2) See Table 1.
(3) See Table 1.
(4) Yes. Requests have been be tabled before Parliament for all determinations made to date.
(5) See Table 1.
(6) For those applications where determinations have been made, APRA’s advice was that the losses suffered were the result of fraudulent conduct or theft and caused substantial diminution in the funds leading to difficulties in the payment of benefits.

(7) (a) $11.6 million (b) approximately $64,000 (c) Yes.
(8) $10,442,320.
(9) (a) see table 1 (b) $27,780,149 (c) $73,883 per superannuation fund (d) yes (e) cannot be determined at this time.
(10) (a) See Table 1 (b) a decision on these applications will be made once all administrative issues and a review of the available evidence is finalised (c) Cannot be determined until all investigations are completed.

(11) No.

(12) Cannot be determined at this stage.

(13) Cannot be determined at this stage.

(14) These issues are still being considered.

(15) See answer to question 14.

(16) The fee charge out basis of all of the firms that lodged expressions of interest was on an “hourly charge out” rate. Due to the uncertainty of the amount of work required to be undertaken, this was the only basis that those firms would tender. Hourly charge out rates for rectification and reconstruction work are the commercial norm when the scope of the work is unknown.

(17) APRA can only address prudential reporting requirements set out in those sections of the SIS Act for which it has responsibility. Oak Breeze has been provided with a number of extensions of time within which to lodge annual APRA Returns.

(a) Reporting dates were from Oak Breeze’s appointment, and as at 27 June 2002 Oak Breeze’s most recent reporting period was the period to 30 June 2001. Member reporting requirements, are included in those parts of the SIS Act which are not APRA’s responsibility.

(b) Oak Breeze did not globally advise members of the basis of how fees would be charged on taking up their appointment. The newsletter dated 2 July 2001 from Oak Breeze to fund members addressed the issue of fees. In addition, Oak Breeze has advised APRA that individual fund members were advised the basis of fees being charged when they enquired.

(c) Yes.

(d) Since May 2002, Oak Breeze has had in place a toll free telephone service for member enquiries. Queries to this service are responded to within 24-48 hours. The service was set up at the request of APRA after a number of complaints were received from fund members.

(e) APRA is satisfied that Oak Breeze met those obligations it was able to meet given the state of the accounting and administration records of the superannuation funds inherited by Oak Breeze when they were appointed acting trustee. APRA has taken no formal action against Oak Breeze.

(18) In respect of the three larger funds Oak Breeze was appointed as Acting Trustee to AWERF only. ACT Super Management (KPMG) was appointed Acting Trustee of Network and Midas.

(a) APRA used the same expressions of interest in February 2001 when replacing CNAL as trustee of the small funds that it had used in December 2000 when it had replaced CNAL as trustee of the three larger funds.

(b) All of the four parties expressed an interest in the appointment and all quoted costs for work done on an hourly basis and rates similar to those quoted by Oak Breeze.

(19) APRA requested expressions of interest only from the four firms identified in Question 18.

(20) (a) APRA has examined its appointment policy (ie calling for multiple expressions of interest from interested parties with appropriate qualifications to fit the proposed role) and found that it is still sound. For future replacement trustees APRA would require a complaints handling mechanism to be put into place.

(b) APRA has considered the possibility of establishing a pool of entities that could be called upon to act as acting trustees. However, while this issue has been reviewed by APRA, it has to date not been practical as the skills required of an acting trustee need to reflect the particular circumstances.

(21) (a) While APRA is concerned about the use of these vehicles it was the fraudulent conduct of particular directors of CNA that caused the loss and not the structure or the legislation. The responsibility for investment of superannuation funds rests with the trustee. Excluding superannuation funds from accessing these vehicles would penalise those responsible trustees that use such vehicles prudently to enhance the return to those funds of which they are trustees. APRA
is required to regulate by balancing the objectives of financial safety and efficiency, competition, contestability and competitive neutrality. APRA is concerned where investment vehicles are used for fraudulent purposes causing loss to superannuants.

(b) and (c) APRA has commented comprehensively to the various reviews of the prudential regime for superannuation conducted in the past year. APRA has tightened its on-site supervision of “downstream” investments especially in cases where the superannuation trustee has links to the downstream investment. See response to (21) (a) above.

(22) (a) and (b) The regulatory sanctions that are legally available to APRA to deal with non-arms length transactions and other breaches of trust that occurred before the commencement of the SIS Act are very limited and contingent upon the facts of the particular case. The power under section 298 to commence proceedings on behalf of a person who has suffered loss or damage is the only power that might be available, and it may only be legally available in certain circumstances. Factors which will help to determine whether that power can be used will include whether an investigation has been made into the fund under section 263; the legal grounds for carrying out that investigation; whether a particular trustee who might be sued has been trustee of the fund since it became a regulated superannuation fund; and the particular facts of the individual case. APRA would need to examine in some detail the circumstances of any individual case before determining whether it is legally possible to take action under section 298. A test case is likely to be required before it is legally clear whether APRA has the power to take action under section 298 in relation to acts that occurred before the commencement of the SIS legislation.

(c) If the trustee has breached relevant provisions of the SIS Act following its commencement in 1994 and after the time at which the fund became a regulated superannuation fund, and APRA has conducted an investigation into the fund under section 263 of the SIS Act, then it is probable that in most cases APRA would have the capacity under section 298 to commence proceedings on behalf of members of the fund who have suffered loss. However, APRA’s capacity to do so in any given case will depend upon the particular facts of the case, and APRA’s assessment of the public interest in taking action under section 298.

(23) The only power APRA has to take action to recover member’s losses in circumstances similar to those in the TED Engineering superannuation fund case is that set out in section 298 of SIS to commence proceedings on behalf of a person who has suffered loss or damage. If section 298 does not enable APRA to take action in the circumstances of a particular case, it is almost certainly beyond APRA’s power to do so on any other legal basis.

(24) (a) Arrangements for the appointment of employee representatives are reviewed as part of APRA’s on-site reviews of superannuation funds and rectification is required/monitored where breaches arise. In addition APRA is working with industry bodies to address concerns and develop best practice guidelines.

(b) The operation of trustee boards is a standing item for review by APRA staff engaged in an on-site review.

(25) (a) For funds indicating in-house assets on the 2000/2001 annual return APRA estimates the average proportion was 3.4 per cent.

(b) In 2001-02, APRA obtained civil penalty orders against the trustees of the Wes Lofts Superannuation Fund for breaches of the in-house assets test and attempts at avoidance of that test.

(c) The maximum proportion of in-house assets that funds hold while still complying with the SIS Act is currently 5 per cent in respect of accumulation funds and, for defined benefit funds with a surplus, as per division 3A of Part 8 of SIS Act. Investments in a related party of a superannuation fund that were permitted under the legislation prior to the introduction of SLAA 4 of 1999 have been grandfathered, that is they are not treated as in-house investments. Certain additions to such investments made up to 30 June 2009 are also permitted without being treated as in-house assets.

(d) This is a policy matter on which it is more appropriate for the Government to comment.

(e) The purpose of the in-house asset test is to ensure that, if an employer fails, staff members do not lose their superannuation as well as their jobs. APRA has seen no evidence to date that a 5 per cent exposure to an employer sponsor has placed superannuation fund members in jeopardy. However, this must be subject to on-going review in the light of market volatility.
(26) (a) No. APRA is currently reviewing its investment requirements, including the use of derivatives and the risk control framework, and this was noted in the SWG report.

(b) Approximately 50 per cent of funds that are not Small APRA Funds invest in derivatives. Funds investing in derivatives do so either directly, via a Pooled Superannuation Trust (PST) or unit trust, or via a mandate set out in an agreement with an investment manager who is subject to a RMS requirement.

(c) Funds are required to calculate their derivative charge ratio and where this exceeds 5 per cent must report this to members and to APRA. APRA is unable to calculate the average derivative charge ratio as only ratios in excess of 5 per cent are required to be reported.

(d) APRA found a trustee whose risk management system was not sufficiently robust to control adequately its dealing in derivatives. At APRA's direction this trustee undertook an orderly run down of positions and no longer is permitted to deal in derivatives.

**Transport: Civil Aviation Safety Authority**

(Question No. 515)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 August 2002:

(1) Did the Civil Aviation Safety Authority (CASA) 2001-2002 to 2003-2004 Corporate Plan commit the Authority to implementing a performance management system and undertaking a CASA-wide survey; if so: (a) when did the CASA Board endorse the plan; (b) when was it provided to the Minister; and (c) when did the Minister endorse the plan.

(2) (a) Has the design work for the development of the performance management system and the CASA-wide survey commenced; (b) was the work the subject of a tender process; (c) what was the cost of the development of the management system and the survey; and (d) who was the successful tenderer.

(3) (a) When did that work commence, in line with the terms of the Corporate Plan and the Board decision; and (b) if the work has not been completed, when will it be completed.

(4) If work on the management system and the survey has been completed: (a) when was that work completed; (b) when was it considered by CASA management; and (c) when was it considered by the Board.

(5) If the design and implementation of the management system and survey has not been carried out in accordance with the Board-endorsed Corporate Plan: (a) why has the work not been carried out; (b) who made the decision not to proceed with the development of the management plan and survey; and (c) when was the Board advised of the decision not to proceed with the work.

(6) Did the Board endorse the decision not to proceed with the management system and survey; if so: (a) when did the Board take that decision; and (b) what was the basis for the Board’s decision not to proceed with the work.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator's question:

The Civil Aviation Safety Authority (CASA) has provided the following advice:

(1) The 2001/2002 – 2003/2004 Corporate Plan, Critical Success Factor (CSF) 7, contained an initiative described as ‘Implement a Performance Management System, including undertaking a CASA wide Staff Survey’, with a target completion date (this is not a binding commitment) of the end of the 2002/03 financial year. (a) The Corporate Plan was endorsed by the Board on 7 June 2001; and (b) provided to the Minister on 28 June 2001; and (c) the Civil Aviation Act 1988 does not require the Minister to endorse the Plan, however the Minister did agree to the Plan being tabled on 29 August 2002.

(2) Yes; (a) The initiative contains two tasks – the design and implementation of the Performance Management System (since renamed to the Performance Communication System) and the conduct of a Staff Survey; (b) both projects were the subject of a tender process; (c) the Staff Survey cost $85,000 and the Performance Communication Scheme cost $273,000; (d) the successful tenderer for the Performance Communication Scheme was Interaction Consulting Group. The successful tenderer for the Staff Survey was the Empower Group.
(3) (a) Planning work for the Performance Communication Scheme started in the second quarter of 2001 and planning work for the Staff Survey commenced in the fourth quarter of 2001; (b) the conduct of the Staff Survey was completed in October 2002. The Performance Communication Scheme was introduced across CASA in October and November 2002,

(4) (a) The conduct of the Staff Survey was complete in October 2002 and the introduction of the Performance Communication Scheme was complete by November 2002.

(b) The CASA Executive considered the outcomes of the Staff Survey at the Executive meeting of 2 December 2002.

The CASA Executive considered the guidelines for the introduction of the Performance Management Scheme for CASA staff in the Executive Meeting of 26 November 2001.

(c) The CASA Board considered the outcomes of the Staff Survey at the meeting of 12 December 2002 and were advised through the September 2002 Corporate Performance Report that roll-out of the Performance Communication Scheme had commenced with training sessions being provided to all staff.

(5) (a) The development of the Performance Communication Scheme was completed as part of the new Certified Agreement negotiations. In-principle agreement on the new Certified Agreement was reached in May 2002. The implementation of the Performance Communication Scheme was completed by November 2002. As detailed in the responses for questions 516 and 517, the conduct of the Staff Survey was completed in October 2002;

(b) there was no decision taken by the Authority not to proceed with the Performance Communication Scheme or the Staff Survey during the 2001/2002 – 2003/2004 Corporate Planning Period. The final timing of the implementation of the Performance Communication Scheme was dependent on the timing of finalising negotiation of the Certified Agreement. Due to the protracted negotiations for the development of the new CASA Certified Agreement, CASA Management agreed that it would be inappropriate to conduct the Staff Survey until the Certified Agreement processes had been completed; and

(c) the CASA Board is advised by CASA Management of progress against Corporate Plan priorities and initiatives in a quarterly performance report.

The Board were advised by CASA Management through the quarterly report provided for the period January to March 2002, that the Survey would be completed within the financial year. CASA Management further advised the Board through the June 2002 quarterly/2001-2002 yearly report that the most appropriate time to complete the Staff Survey would be during the first quarter of the 2002-2003 financial year.

(6) (a) The CASA Board did not formally endorse the decision not to proceed with the Survey, or the implementation of the Performance Communication Scheme during the 2001/2002 – 2003/2004 Corporate Planning Period; (b) not applicable.

**Transport: Civil Aviation Safety Authority**

(Question No. 516)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 August 2002:

(1) Did the Civil Aviation Safety Authority (CASA) 2000-01 to 2002-03 Corporate Plan commit CASA to undertaking a workplace culture survey by March 2001.

(2) (a) When was the Corporate Plan endorsed by the CASA Board; (b) when was the plan provided to the Minister; and (c) when was the plan endorsed by the Minister.

(3) (a) Who undertook the design work for the survey; (b) was the work the subject of a tender process; (c) what was the cost of the design of the survey; and (d) who was the successful tenderer.

(4) (a) When did that work commence, in line with the terms of the Corporate Plan and the Board decision; and (b) when was the design of the survey completed.

(a) When was the survey scheduled to commence and when did it actually commence; (b) was the actual survey the subject of a tender process; (c) what was the cost of the survey; and (d) who was the successful tenderer.
(6) (a) When was the survey completed; (b) when was it considered by CASA management; and (c) when was it considered by the Board.

(7) If the design and implementation of the survey was not carried out in accordance with the Board-endorsed Corporate Plan: (a) why was the work not carried out; (b) who made the decision not to proceed with the survey; and (c) when was the Board advised of the decision not to proceed with the survey.

(8) Did the Board endorse the decision not to proceed with survey; if so: (a) when did the Board take that decision; and (b) what was the basis for the Board’s decision not to proceed with the work.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) has provided the following advice.

(1) The 2000/01-2002/03 Civil Aviation Safety Authority (CASA) Corporate Plan contained a priority described as ‘Undertake a Workplace Culture Survey’, with a target completion date (this is not a binding commitment) of March 2001.

(2) (a) The 2000/01-2002/03 Corporate Plan was endorsed by the CASA Board on 27 July 2000; (b) the Plan was provided to the Minister on 29 August 2000; and (c) the Civil Aviation Act 1988 does not require the Minister to endorse the Plan, however the Minister agreed to the Plan being tabled on 31 October 2000.

(3) (a) The design work for the Staff Survey was undertaken by CASA staff together with the successful tenderer; (b) yes; (c) $85,000; and (d) Empower Group.

(4) (a) June 2002; and (b) September 2002.

(5) (a) The target completion date was March 2001. The Staff Survey was not completed during this period. The conduct of the Staff Survey was completed in October 2002; (b) the conduct of the Survey was the subject of the same tender process as referenced in answer 3 (c & d) above.

(6) (a) The conduct of the Staff Survey was completed in October 2002; (b) The CASA Executive considered the outcomes of the staff survey at the Executive meeting of 2 December 2002 (c) The CASA Board considered the outcomes of the Staff Survey at the meeting of 12 December 2002.

(7) (a) As reported in the 2000-01 CASA Annual Report “The proposed benchmarks were not established in 2000-01. It was decided that the timing was not appropriate for the conduct of the Survey on which the benchmarks would have been based, having regard to the workplace changes still in progress and the demands of other priorities.”

(b) CASA Management; and (c) the CASA Board is advised by CASA Management of progress against Corporate Plan priorities and initiatives in a quarterly performance report.

CASA Management advised the Board through the quarterly performance report for the January to March 2001 period that due to competing priorities, the project to undertake a workplace culture survey had been delayed.

CASA Management advised the Board through the June 2001 quarterly/2000-01 yearly report that while preliminary work had been undertaken to identify the objectives for conducting a survey, due to competing priorities the project had been delayed to the first half of 2002.

(8) (a & b) The CASA Board did not formally endorse the decision not to proceed with the Survey. As discussed in the response to question 7(c), the CASA Board is advised by CASA Management of progress against Corporate Plan priorities and initiatives in a quarterly performance report.

Transport: Civil Aviation Safety Authority

(Question No. 517)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 6 August 2002:

(1) Did the Civil Aviation Safety Authority (CASA) 1999 Corporate Plan commit CASA to the design and implementation of a staff attitude and work culture survey; if so: (a) when did the CASA Board endorse that commitment; (b) when was the Corporate Plan provided to the Minister; and (c) when did the Minister endorse the plan.

(2) (a) Who undertook the design work for the survey; (b) was the work the subject of a tender process; (c) what was the cost of the design of the survey; and (d) who was the successful tenderer.
(3) (a) When did that work commence, in line with the terms of the Corporate Plan and the Board decision; and (b) when was the design of the survey completed.

(4) (a) When was the survey scheduled to commence and when did it actually commence; (b) was the actual survey the subject of a tender process; (c) what was the cost of the survey; and (d) who was the successful tenderer.

(5) (a) When was the survey completed; (b) when was it considered by the CASA management; and (c) when was it considered by the Board.

(6) If the design and implementation of the above survey was not carried out in accordance with the Board-endorsed Corporate Plan: (a) why was the work not carried out; (b) who made the decision not to proceed with the survey; and (c) when was the Board advised of the decision not to proceed with the survey.

(7) Did the Board endorse the decision not to proceed with the survey; if so: when did the Board take that decision; and (b) what was the basis for the Board's decision not to proceed with the work.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) has provided the following advice.

(1) The 1999/00-2001/02 Corporate Plan contained a list of ‘Critical Success Factors’ which included ‘Priorities’, considered to be tasks planned to be commenced in year 1 of the three year plan, and ‘Initiatives’ which were tasks planned to be carried out within the three year cycle of the Plan. The 1999 Corporate Plan at Critical Success Factor 6.5 contained an Initiative described as ‘Design and Implement a Staff Attitude and Work Culture Survey’. The Staff Survey was not completed within the three year cycle of the 1999 Corporate Plan but was completed in October 2002. (a) The Civil Aviation Safety Authority Board endorsed the 1999 Corporate Plan on 11 November 1999; (b) the proposed 1999 Corporate Plan was provided to the Minister on 23 November 1999; and (c) the Civil Aviation Act 1988 does not require the Minister to endorse the Plan, however the Minister agreed to the Plan being tabled in December 1999.

(2) (a) The design work for the Staff Survey was undertaken by CASA staff together with the successful tenderer; (b) yes; (c) $85,000; and (d) The Empower Group.

(3) (a) Design work was commenced by CASA staff, in the fourth quarter 2001, within the three-year cycle of the 1999 Corporate Plan; and (b) the design of the survey and instrument was completed in September 2002. The conduct of the Staff Survey was completed in October 2002.

(4) (a) The 1999 Corporate Plan did not specify a date for the conduct of the Survey although it was expected that it would be carried out during the three-year cycle of the Corporate Plan. The conduct of the Staff Survey commenced and was completed in October 2002; (b) the conduct of the Survey was the subject of the same tender process as referenced in answer 2 (c & d) above.

(5) (a) The conduct of the Staff Survey was completed in October 2002; (b&c) see Question 516 (6).

(6) (a) The 1999 Corporate Plan did not specify a date for the conduct of the Survey although it was planned to be carried out within the three-year cycle of the Corporate Plan. While the design and implementation of the Survey commenced in 2001, it was not completed during the 1999/00-2001/02 three-year cycle. The Staff Survey was completed in October 2002.

(b) there was no decision taken by the Authority not to proceed with the Staff Survey. Due to the protracted negotiations for the development of the new CASA Certified Agreement, CASA Management agreed that it would be inappropriate to conduct the Staff Survey until the Certified Agreement processes had been completed;

(c) the CASA Board is advised by CASA Management of progress against Corporate Plan priorities and initiatives in a quarterly performance report.

The Board was advised by CASA Management through the quarterly report for the January to March 2002 period that the Survey would be completed within the financial year. The Board was subsequently advised by CASA Management in the June 2002 quarterly/2001-02 yearly report, that Management had agreed to defer the conduct of the Survey until after the completion of the new Certified Agreement.

(7) (a & b) The CASA Board did not formally endorse the decision not to proceed with the survey. As detailed in the response to 6 (c), due to the protracted negotiations for the development of the new
CASA Certified Agreement, CASA Management agreed that it would be inappropriate to conduct the Staff Survey until the Certified Agreement processes had been completed.

**Transport: Bass Strait Passenger Vehicle Equalisation Scheme**

(Question No. 626)

Senator Allison asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 9 September 2002:

1. What is the definition of vehicles that qualify for subsidy under the Bass Strait Passenger Vehicles Equalisation Scheme.
2. Has the Commonwealth been a party to the development of the definition of ‘vehicle’ or ‘accompanying vehicle’ by the Spirit of Tasmania.
3. What is the standard off-peak subsidy per standard motor car that is transported across Bass Strait.
4. What is the standard off-peak subsidy per standard motor cycle that is transported across Bass Strait.
5. What is the standard off-peak subsidy per standard push bike that is transported across Bass Strait whilst parked on the vehicle deck.
6. Are motor cycles required to be dismantled in any way, parked in a carton or carried on a baggage trolley, to qualify for the subsidy.
7. Is a push bike defined as a vehicle under Australian Road laws.
8. How many push bikes can be transported across Bass Strait in the space taken up by one car on the vehicle deck.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

1. The following are definitions of vehicles that qualify for subsidy under the Bass Strait Passenger Vehicle Equalisation Scheme:

   - a passenger vehicle “means a motor vehicle or bicycle designed for the carriage of passengers”, including motor car, van, utility, four-wheel-drive, station wagon, motorhome, minibus, coach, bus and motorcycle,
   - a motorcycle “means a motor vehicle which has less than 4 wheels and is steered by means of handle bars”,
   - a caravan “means a vehicle designed and constructed primarily to provide sleeping accommodation”,
   - a bicycle “means a pedal driven vehicle”, and
   - a motorhome “means a road vehicle designed and constructed primarily to provide sleeping accommodation for the number of occupants the vehicle is designed to carry. The term motorhome will be used to also refer to a campervan”.

2. The Commonwealth has developed the definition of ‘vehicle’ or ‘accompanying vehicle’ within the Ministerial Directions for the Bass Strait Passenger Vehicle Equalisation Scheme, The Spirit of Tasmania (operated by TT-Line) and all other operators apply these definitions. The definitions are outlined in (1) above.

3. Up to $150 one way
4. Up to $75 one way
5. $21 one way
6. No
7. Yes
8. TT-Line do not have bike racks. They estimate that approximately 5 bikes could be transported per car space. Currently bicycles are secured to suitable, available structures throughout the vehicle deck.
Indonesia: Mining
(Question No. 706)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:

When the Australian Ambassador to Indonesia, Mr Richard Smith, visited the Mt Muro mining lease area in Indonesia in May 2001, then held by Australian company, Aurora Gold:

(1) Did Mr Smith meet with any local community representatives other than Indonesian Government officials; if so, who; if not, why not.

(2) Was Mr Smith aware before his visit of the controversy throughout the 1990s amongst the local community over the impact of the Mt Muro mining operations on local villages, communal lands and water supply.

(3) Was Mr Smith aware of allegations by local villagers of human rights abuses by Indonesian security forces dating back as far as the early 1990s; if not, why not; if so, did Mr Smith consider there was a reasonable possibility that the result of urging Indonesian security forces to remove ‘illegal’ miners may result in deaths or injuries.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) Yes. Mr Smith met with several of the local community’s elected representatives, including representatives of the kabupaten (district) government and parliament.

(2) Yes.

(3) Yes. Mr Smith requested that provincial government and other relevant Indonesian officials uphold Indonesian law, including laws relating to the illegal occupation of mining leases and theft, and to resolve any disputes at the mine in a peaceful manner, in accordance with Indonesian law.

Indonesia: Mining
(Question No. 707)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:

With reference to the death of two people considered ‘illegal miners’ at the Mt Muro Mine in Kalimantan, Indonesia, in May 2001:

(1) Was the written briefing on the incident provided by the President of Aurora Gold to the Australian Ambassador to Indonesia, Mr Richard Smith, on 5 March 2002, the result of a request from the ambassador; if so, when was the briefing requested.

(2) When was the ambassador first aware of the report on the two killings at the mine site in the Jakarta Post of 12 June 2001.

(3) Does the ambassador accept in retrospect that urging the Indonesian security forces to deal with the small scale miners within the Aurora Gold lease area was inappropriate; if not, why not.

(4) Does the ambassador consider that the failure of Aurora Gold to notify him of the incident soon after it occurred as unacceptable.

(5) Has the Indonesian police force provided details to the ambassador of the incident subsequent to his request on 27 February 2002; if so, what was the explanation of Indonesian police for the deaths.

(6) Has the ambassador met with Indonesian government officials urging investigations and prosecutions of those involved in the deaths and injuries; if not, why not.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) No, the briefing was requested on 20 February 2002 by an Embassy official.

(2) 12 June 2001.

(3) No. Mr Smith requested Indonesian provincial government and other relevant authorities to resolve any disputes at the mine in a peaceful manner, in accordance with Indonesian law.
Indonesia: Mining

(Question No. 708)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:

With reference to the shooting injury on 27 August 2001 to a teenage boy considered an ‘illegal miner’ at the Mt Muro Mine in Kalimantan, Indonesia, in May 2001:

(1) When did the Australian Ambassador to Indonesia, Mr Richard Smith, first become aware of media reports about this incident

(2) Why did the ambassador not make any requests of Aurora Gold between August 2001 and February 2002 for details of what had occurred.

(3) Why did the ambassador not make any requests of Indonesian Government officials between August 2001 and February 2002 for details of what had occurred.

(4) Will the Minister table a copy of the written briefing, dated 5 March 2002, provided by Aurora Gold to the ambassador.

(5) Did representatives of Aurora Gold meet with the ambassador to discuss its written briefing of 5 March 2002; if so, what concerns, if any, did the ambassador convey to the Aurora Gold representatives.

(6) What explanation did representatives of Aurora Gold provide for the failure to notify the ambassador of the deaths and injuries that occurred at the mine site subsequent to Indonesian security forces moving to remove small-scale miners from the Aurora Gold lease area.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) Mr Smith was aware of media reports about the incident soon after 27 August 2001.

(2) The incident reportedly involved Indonesian nationals and members of Indonesian security forces and, as such, was a matter for the Indonesian Government.

(3) The incident reportedly involved Indonesian nationals and members of Indonesian security forces and, as such, was a matter for the Indonesian Government.

(4) No.

(5) No.

(6) Representatives of Aurora Gold provided no explanation nor was an explanation requested.

Indonesia: Mining

(Question No. 709)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:

(1) Has Austrade or any section of the department provided assistance to Aurora Gold, directly or indirectly, with the Mt Muro mine in Indonesia; if so, what assistance, beyond the meetings detailed in answer to question on notice no. 123 (Senate Hansard, 15 May 2002, p. 1650), has been provided since 1 January 1998.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) No. No meetings were detailed in answer to question on notice no. 123 (Senate Hansard, 15 May 2002, p. 1650). However, the meetings detailed in answer to question on notice no. 122 (Senate Hansard, 15 May 2002, p. 1650) represent the totality of Austrade’s assistance to Aurora Gold. That involvement commenced with the first of the quarterly meetings referred to in that answer, namely on 10 August 2000.
Indonesia: Mining
(Question No. 710)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:

With reference to the Mt Muro Mine in Kalimantan, Indonesia:
(1) When Aurora Gold representatives met with the then Ambassador to Indonesia in November 1999, what were the concerns they raised about ‘illegal’ mining.
(2) What assistance did they request from the ambassador or other embassy officials.
(3) What actions did the ambassador or other embassy officials agree to undertake to assist Aurora Gold with its concerns.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:
(1) Aurora Gold representatives expressed concern at the negative impacts of continuing illegal mining on the viability of their legal mining operation.
(2) Aurora Gold representatives requested that the then Ambassador raise the issue with the Minister for Energy and Mineral Resources.
(3) The then Ambassador agreed to raise the matter with the Minister for Mines and Energy. He did so on 17 November 1999.

Indonesia: Mining
(Question No. 711)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:

With reference to the meeting between representatives of Aurora Gold and representatives of the Indonesian Government on 2 March 2002:
(1) How many embassy officials attended the meeting.
(2) Why did they decide to attend.
(3) In the course of the meeting, did they make any representations; if so, what were the views they expressed.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:
(1) There was no meeting between representatives of Aurora Gold and representatives of the Indonesian Government on 2 March 2002.
(2) See answer to Question 711(1).
(3) See answer to Question 711(1).

Indonesia: Mining
(Question No. 712)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:

With reference to the shooting of ‘illegal’ miners at the Mt Muro Mine in Kalimantan, Indonesia, following representations made by the Australian Ambassador to Indonesia, Mr Richard Smith, to Indonesian government officials, including security forces:
(1) Is it the view of the department that it would make similar representations in similar circumstances on behalf of Australian companies to government officials and security forces in the future.
(2) Is there anything departmental officers would do differently if requested by Australian companies to make similar representations in the future.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:
(1) Yes.
Indonesia: Mining
(Question No. 713)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:

With reference to the shooting of an ‘illegal’ miner at the Mt Muro Mine in Kalimantan, Indonesia, on 19 January 2002:

(1) When did the Australian Ambassador to Indonesia, Mr Richard Smith, first become aware of the shooting incident.
(2) What action did he take subsequent to being informed of the incident.
(3) Did the ambassador request a briefing from Aurora Gold representatives subsequent to this incident.
(4) What explanation did Aurora Gold representatives give for the failure to inform the ambassador promptly of the incident.
(5) At the meeting on 30 January 2002, did representatives of Aurora Gold request ongoing assistance from the ambassador in making representations to Indonesian government officials about small-scale miners within the Aurora Gold lease area; if so, what undertakings, if any, did the ambassador give.
(6) Did Aurora Gold provide the ambassador with a written briefing at the meeting of 30 January 2002; if so, can a copy be provided.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) Mr Smith became aware of the incident on, or soon after, 25 January 2002.
(2) In the context of the regular quarterly meeting on 30 January 2002, representatives from Aurora Gold briefed the Ambassador on the incident.
(3) See answer to Question 713(2).
(4) Representatives of Aurora Gold provided no explanation nor was an explanation requested.
(5) Yes. Company representatives asked that Mr Smith and Embassy officials continue to encourage the Government of Indonesia to find effective, lawful and peaceful means of protecting legitimate mining interests in Indonesia.
(6) No.

Indonesia: Mining
(Question No. 714)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:

With reference to the quarterly meetings between the Australian Ambassador to Indonesia, Mr Richard Smith, and representatives of Australian-owned mining operations in Indonesia:

(1) When did these meetings first commence.
(2) What is the purpose of these meetings.
(3) Are these meetings convened by the ambassador or by embassy officials.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) 10 August 2000.
(2) The purpose of these meetings was to discuss issues of concern to the Australian mining industry in Indonesia.
(3) The meetings were convened by the then Department of Industry, Science and Resources representative at the Embassy, in cooperation with Australian company representatives.
Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:

With reference to the quarterly meetings between the Australian Ambassador to Indonesia, Mr Richard Smith, and representatives of Australian owned mining operations in Indonesia held in each of the following years: (a) 1999; (b) 2000; (c) 2001; and (d) 2002:

(1) When were the meetings held.
(2) What issues were raised with the ambassador at each of the meetings.
(3) (a) Which companies attended each of these meetings; and (b) who represented the individual companies.
(4) What actions did the ambassador agree to undertake, if any, from each of these meetings.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) These meetings were held on:
   (a) None.
   (b) 10 August 2000.
   (d) 30 January 2002 and 22 July 2002.

(2) Company representatives raised a number of issues relating to the operation of mine sites in Indonesia, including illegal mining activities, taxation, mining regulation under regional autonomy, and concerns relating to the Forestry Law 41 of 1999.

(3) 10 August 2000: Aurora Gold (John Vernon, President Director, and Joe Ariti, Chief Operating Officer), BHP Indonesia (Ken Farrell, President Director), Normandy Asia (Bill Howell, Managing Director), Newcrest Indonesia (Tim Richards), Rio Tinto Indonesia (Noke Kiroyan, President Director)
   8 February 2001: Arutmin Indonesia (Ken Farrell, President Director), Aurora Gold (Joe Ariti, President Director, Kim Bischoff, Regional Manager – Geology Environment, Allan Payne, Operations Manager), BHP Indonesia (Andrew Wilson, President Director), Newcrest Mining Limited (Dave Pearson, Regional Exploration Manager), Normandy Asia (Bill Howell, Managing Director), Nusa Halmahera Minerals (John Blake, General Manager), Rio Tinto Indonesia (Noke Kiroyan, President Director, and Dean Dvorak), Koba Tin (Peter Jackson, President Director), WMC Services (Rob Bills)
   10 May 2001: Arutmin Indonesia (Frans Affendy, General Manager), Aurora Gold (Joe Ariti, President-Director, and Dean Stewart, Deputy Operations Director), BHP Indonesia (Andrew Wilson, President-Director), Koba Tin (Peter Jackson, President Director), Murawai Coal (Mike Frederich, Director), Newcrest Indonesia (Tim Richards, President-Director, and Dan Wood, Executive General Manager-Exploration), Normandy Asia (Bill Howell, Managing Director), Nusa Halmahera Minerals (John Blake, General Manager), Rio Tinto Indonesia (Noke Kiroyan, President-Director)
   27 September 2001: BHP Indonesia (Andrew Wilson, President-Director), Newcrest Indonesia (Tim Richards, President-Director, and Dan Wood, Executive General Manager-Exploration), Koba Tin (Peter Jackson, President Director), Normandy Asia (Bill Howell, Managing Director), Placerdome (Shane Volk, Finance Director), Rio Tinto Indonesia (Noke Kiroyan, President-Director).
   30 January 2002: Aurora Gold (Joe Ariti, President-Director, and Kim Bishop), BHP Indonesia (Andrew Wilson, President-Director), Newcrest Indonesia (Tim Richards, President-Director), Kaltim Prima Coal (Noke Kiroyan, President), Normandy Asia (Bill Howell, Managing Director), Placerdome (Shane Volk, Finance Director).
   22 July 2002: Aurora Gold (Stuart Rimmer), Newcrest Indonesia (Tim Richards, President-Director), Horas Nauli (Bill Howell, Managing Director), Placerdome (Shane Volk, Finance Director), Rio Tinto Indonesia (Lex Graefe, President Director).
(4) Mr Smith agreed to make representations, where appropriate, to the Indonesian Government on behalf of Australian companies on a range of issues of concern.

**Indonesia: Mining**

**(Question No. 716)**

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:

(1) With reference to the concerns of Australian-based and/or -owned mining companies with the ban on open-cut mining in protected forests in Indonesia: Have Australian mining companies made representations to the Australian Ambassador to Indonesia, Mr Richard Smith, about their concerns on the restrictions on mining in protected areas; if so: (a) which companies made representations; (b) when were these representations made; (c) what did the companies request from the ambassador or embassy officials; and (d) what action was taken on these requests.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) Yes.
   (a) BHP Billiton Indonesia, Newcrest Indonesia, Nusa Halmahera Minerals, Placerdome, and Rio Tinto Indonesia.
   (b) Australian companies have raised their concerns about this matter at a number of meetings.
   (c) Companies asked that representations be made to the Indonesian Government highlighting the contradiction between mining companies’ rights under their existing contracts of work and provisions contained in Forestry Law 41 of 1999, the impact of the Forestry Law on the mining industry, and the need for revision of the Forestry Law.
   (d) Representations were made to Indonesian Ministers, Parliamentarians, and officials (see answer to Question 717).

**Indonesia: Mining**

**(Question No. 717)**

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:

(1) With reference to the concerns of Australian-based and/or -owned mining companies with the ban on open-cut mining in protected forests in Indonesia: Has the Australian Ambassador to Indonesia, Mr Richard Smith, or have embassy officials, made representations to Indonesian government officials supporting changes to the law in order to allow mining to proceed in protected forests; if so: (a) when did these meetings occur; (b) who were the meetings with; (c) did the ambassador and/or embassy officials accompany mining industry representatives to these meetings; and (d) why are these representations not considered to infringe on the sovereign right of Indonesia to decide on the conditions under which mining can and cannot occur.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) Yes.
   (a), (b) and (c)  
   3 April 2000  
   The then Ambassador raised the matter with senior Indonesian Ministers during a roundtable meeting on the mining sector. The Ministers included Kwik Kian Gie, Coordinating Minister for Economic Affairs; Bambang Yudhoyono, Minister for Mines and Energy; and Sonny Keraf, State Minister for Environment. No company representatives were present.
   7 July 2000  
   Embassy officials raised the matter with senior officials from the Department of Mines and Energy. No company representatives were present.
   19 September 2001
Mr Smith raised the matter with Dr Purnomo Yusgiantoro, Minister for Energy and Mineral Resources. No company representatives were present.
23 January 2002
Mr Smith raised the matter with Dr Purnomo Yusgiantoro, Minister for Energy and Mineral Resources. No company representatives were present.
20 June 2002.
Embassy officials and representatives of Australian mining companies raised the matter with senior officials from the Department of Forestry.
12 July 2002
Embassy officials and representatives of Australian mining companies raised the matter with members of Indonesia’s Parliamentary Commission III (Agriculture, Forestry, Fisheries and Marine Affairs).
22 July 2002
Mr Smith raised the matter with Dr Boediono, Minister for Finance. No company representatives were present.
6 September 2002
An Embassy official raised the matter with the Chairman of Indonesia’s Parliamentary Commission VIII (Mining and Environment). No company representatives were present.
10 September 2002
An Embassy official raised the matter with the Chairman and representatives of Indonesia’s Parliamentary Commission III (Agriculture, Forestry, Fisheries and Marine Affairs). No company representatives were present.
(d) The Embassy’s representations were focused on highlighting the contradiction existing between Australian mining companies’ rights under their contracts of work and provisions contained in Forestry Law 41 of 1999, both of which had been ratified by Indonesia’s Parliament, and the uncertainty surrounding the conservation value of some areas that had been designated as “protected forest”.

Foreign Affairs: Indonesia
(Question No. 719)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:
(1) Has the Australian Ambassador to Indonesia, Mr Richard Smith, invited Australian journalists for meals, and paid for such meals, in 2002; if so: (a) which journalists were invited and which accepted; (b) what has the total cost been in 2002, to date; and (c) what is the purpose of these meals.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:
(1) The Ambassador has hosted three functions for Australian journalists [Don Greenlees (twice) and Rowan Callick] in 2002, costing $174.39. The Ambassador met with the journalists to discuss developments in Indonesia and Australia-Indonesia relations. The Ambassador also frequently invites representatives of the Australian media working in Indonesia and the Indonesian media to Embassy functions.

Romania: Mining
(Question No. 720)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:
(1) Did Austrade officials or other departmental officials provide any direct or indirect assistance to Esmeralda Exploration, or its agents, when it was negotiating with Romanian authorities about buying into the Baia Mare mine; if so: (a) when did Esmeralda or its agents first contact Austrade officials or other departmental officials; (b) what assistance did Esmeralda or its agents request; (c) what assistance was provided; (d) what was the reason assistance was provided to Esmeralda or its
agents; and (e) did Austrade officials or other departmental officials consider Esmeralda to be a reputable company.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) Yes.

(a) The company first contacted Austrade in November 1994.

(b) (i) The company sought assistance in a visa matter for the then managing director of Geomin, one of the five parties involved in the Aurul SA joint venture.

(ii) Subsequently the company sought Austrade assistance to arrange appointments for its representatives to meet with Romanian government officials and other decision makers involved in the Aurul SA joint venture proposal.

(c) Austrade assisted the company to resolve the managing director’s visa issue. Austrade organised a number of appointments for the company to meet with the persons requested.

(d) The assistance was provided because it is Austrade’s charter to assist and facilitate Australian companies to succeed in export and international business.

(e) There was no evidence to suggest that Esmeralda Exploration was anything but a reputable company.

Indonesia: Mining
(Question No. 721)

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 30 September 2002:

With reference to any visits by the Australian Ambassador to Indonesia and/or embassy officials, since 1 January 1999, to the following mine sites:

(a) the PT Freeport Indonesia (Rio Tinto), mine site in Irian Jaya;

(b) the PT Indo Muro Kencana (Aurora Gold), mine site in Central Kalimantan (other than the visit on 25 May 2001);

(c) the PT Kendilo Coal Indonesia (BHP Billiton) mine site in East Kalimantan;

(d) the PT Arutmin Indonesia-Senakin (BHP Billiton) mine site in South Kalimantan; and

(e) the PT Kaltim Prima Coal (Rio Tinto), mine site in East Kalimantan:

(1) When did the ambassador or embassy officials visit the mine site.

(2) What was the purpose of each visit.

(3) What issues were raised with the ambassador or embassy officials by mining company representatives.

(4) Did the ambassador or embassy officials meet with local non-government organisations concerning the impacts of the mines on landowners, downstream villagers and/or the operation of security forces; if so, who.

(5) Were security issues raised with the ambassador or embassy officials; if so, what were the specific concerns raised.

(6) Were concerns about provisions of Indonesian legislation raised with the ambassador or embassy officials; if so, what were the specific concerns raised.

(7) What was the cost of each trip.

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(a) the PT Freeport Indonesia (Rio Tinto) mine site in Irian Jaya

(1) (i) 4-5 May 2001, (ii) 19-21 June 2001, (iii) 5-7 December 2001, and (iv) 4-6 September 2002

(2) The Ambassador and/or Embassy staff visited the mine site to acquire a better understanding of the company’s mining operations, to meet Australians living and working in the province, and to assess security conditions for Australian nationals at the mine site.
Company representatives raised concerns about the security environment in the area surrounding the mine.

No.

Company representatives raised concerns about the security environment in the area surrounding the mine.

No.

(3) The May 2001 visit to the Freeport minesite was part of a week long visit to Irian Jaya province which cost $2116.

(ii) The June 2001 visit to the Freeport minesite was part of a week long visit to Irian Jaya province which cost $2442.

(iii) $3156.

(iv) $2566.

(b) the PT Indo Muro Kencana (Aurora Gold), mine site in Central Kalimantan (other than the visit on 25 May 2001)


(2) Embassy staff visited the mine site to acquire a better understanding of the company’s mining operations, and to meet Australians living and working in the province.

(3) Company representatives registered their concerns about illegal mining activities at the mine site.

No.

Yes. Company representatives registered their concerns about the security of company staff from incursions by illegal miners.

No.

$851.

(c) the PT Kendilo Coal Indonesia (BHP Billiton) mine site in East Kalimantan

(1) 24 May 2001

(2) The Ambassador and Embassy staff visited the mine site to acquire a better understanding of the company’s mining operations and to meet Australians living and working in the province.

(3) Company representatives outlined their plans for the environmental rehabilitation of the mine site after the closure of the mine.

No.

No.

No.

The visit to the PT Kendilo Coal Indonesia mine site was part of a week long visit to Kalimantan, including visits to PT Arutmin Indonesia-Senakin and PT Kaltim Prima Coal, by the Ambassador and Embassy officials which cost $5326.

(d) the PT Arutmin Indonesia-Senakin (BHP Billiton) mine site in South Kalimantan

(1) (i) 6 March 2000 and (ii) 24 May 2001

(2) The Ambassador and/or Embassy staff visited the mine site to acquire a better understanding of the company’s mining operations and to meet Australians living and working in the province.

(3) Company representatives registered their concerns about illegal mining activities at the mine site.

No.

Yes. Company representatives registered their concerns about the security of company staff from incursions by illegal miners.

No.

$599.
(ii) The May 2002 visit to the PT Arutmin Indonesia-Senakin mine site was part of a week long visit to Kalimantan, including visits to PT Kaltim Prima Coal and PT Kendilo Coal Indonesia, by the Ambassador and Embassy officials which cost $5326.

(e) the PT Kaltim Prima Coal (Rio Tinto), mine site in East Kalimantan.

(1) 22 May 2001
(2) The Ambassador and Embassy staff visited the mine site to acquire a better understanding of the company’s mining operations and to meet Australians living and working in the province.
(3) Company representatives registered their concerns about increasing strike activity on the mine site, and the process by which PT Kaltim Prima Coal was to divest its majority share to the Indonesian Government.
(4) No.
(5) Yes. Company representatives registered their concerns about recent instances of violent behaviour by striking workers at the mine site.
(6) No.
(7) The visit to the PT Kaltim Prima Coal mine site was part of a week long visit to Kalimantan, including visits to PT Arutmin Indonesia-Senakin and PT Kendilo Coal Indonesia, by the Ambassador and Embassy officials which cost $5326.

**Fisheries: Illegal Operators**

(Question No. 750)

Senator O’Brien asked the Minister for Fisheries, Forestry and Conservation, upon notice, on 4 October 2002:


(2) In relation to each of these vessels: (a) on what date was it apprehended; (b) when was its illegal activity first detected or reported; (c) where was it captured; (d) which departments and/or agencies coordinated and conducted the operation; (e) where was the vessel registered and under which flag did it sail; (f) how many crew were on board; (g) what Australian port was the vessel brought to; (h) what criminal charges, if any, were laid against the crew, master, operator and/or owner of the vessel, and in what jurisdiction were these charges brought; (h) what was the outcome of these legal proceedings; (i) what civil action, if any, was taken against the crew, master, owner and/or operator of the vessel, and in what jurisdiction was this action taken; (j) what was the outcome of these legal proceedings; and (k) has the vessel, crew, master, operator and/or owner ever been the subject of a report, charge or conviction in relation to illegal fishing or other prohibited activity in Australian waters; if so, when did this report, charge or conviction occur and what action or outcome resulted.

(3) What are the names of the 27 vessels from which ‘catch and/or gear’ has been confiscated since the beginning of 2002.

(4) In relation to each of these vessels: (a) on what date was the catch and/or gear confiscated; (b) what was the type and value of the confiscated catch; (c) where was the vessel registered and under which flag did it sail; (g) how many crew were on board; (h) was the vessel brought to an Australian port; if so, which port; (i) what criminal charges, if any, were laid against the crew, master, operator and/or owner of the vessel, and in what jurisdiction were these charges brought; (j) what was the outcome of these legal proceedings; (k) what civil action, if any, was taken against the crew, master, owner and/or operator of the vessel, and in what jurisdiction was this action taken; and (l) what was the outcome of these legal proceedings.

(5) When was the Australia-Indonesia Ministerial Forum formed.

(6) On how many occasions has the matter of illegal fishing in Australian waters been discussed by the forum.
(7) On how many occasions has the Minister directly discussed with his Indonesian counterpart the matter of illegal fishing in Australian waters by vessels registered in Indonesia, crewed by Indonesians or using Indonesian ports as a base for illegal fishing operations in Australian waters.

Senator Ian Macdonald—The answer to the honourable senator’s question is as follows:

(1) See the table in response to question 2.

(2) The majority of answers to the senator’s questions are contained in the table below.

(a) See table below.

(b) This information is not available. Apprehended boats are not always detected or reported before the surface platform intercepts them.

(c) See table below.

(d) Coastwatch co-ordinates all response actions under the civil surveillance umbrella on behalf of its client agencies. The Australia Fisheries Management Authority (AFMA) is one of those client agencies. The Royal Australian Navy (Fremantle Class Patrol Boats) and the Australian Customs Service, National Marine Unit (Bay Class Patrol Boats) provide surface platforms.

(e) All except two vessels apprehended this year have been Indonesian vessels. The remaining two vessels (Lena and Volga) were Russian-flagged.

(f) See table below.

(g) See table below.

(h) Although the matters dealt with by AFMA are Commonwealth offences, they are dealt with under the jurisdiction of state or territory courts. In all cases listed in the table below, prosecutions occurred in the state or territory where the vessel was detained. Owners are generally not charged. Charges are usually laid against the vessel master, however on some occasions charges have been laid against crew members where it can be shown that they have actively taken part in decision-making.

(h) [sic]The available information is listed in the table below. Penalties in the first instance usually constitute fines and good behaviour bonds, with recidivists usually receiving further fines or jail terms.

(i) None.

(j) Not applicable.

(k) The available information is listed in the table below.
<table>
<thead>
<tr>
<th>Vessel Name</th>
<th>Date of Apprehension</th>
<th>Port of Detention</th>
<th>Apprehending Platform</th>
<th>Crew</th>
<th>Charges</th>
<th>Outcome</th>
<th>Recidivists</th>
<th>Outcome (if previously detected)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Resma Indah</td>
<td>11/01/2002</td>
<td>TI</td>
<td>HMAS TOWNSVILLE</td>
<td>4</td>
<td>FMA, ss100(1); 101(1)</td>
<td>Penalty imposed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Rahmat Mulia</td>
<td>11/01/2002</td>
<td>TI</td>
<td>HMAS TOWNSVILLE</td>
<td>5</td>
<td>FMA, ss100(1); 101(1)</td>
<td>Penalty imposed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Nurfaela</td>
<td>11/01/2002</td>
<td>TI</td>
<td>HMAS TOWNSVILLE</td>
<td>8</td>
<td>FMA, ss100(1); 101(1)</td>
<td>Penalty imposed</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sumber Laut</td>
<td>11/01/2002</td>
<td>TI</td>
<td>HMAS TOWNSVILLE</td>
<td>6</td>
<td>FMA, ss100(1); 101(1)</td>
<td>Penalty imposed</td>
<td></td>
<td></td>
</tr>
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<td>Nur Sani 02</td>
<td>13/01/2002</td>
<td>TI</td>
<td>ACV Dame Roma Mitchell</td>
<td>5</td>
<td>FMA, ss100(1); 101(1)</td>
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<tr>
<td>Indonesia Indah</td>
<td>14/01/2002</td>
<td>TI</td>
<td>HMAS TOWNSVILLE</td>
<td>6</td>
<td>FMA, ss100(1); 101(1)</td>
<td>Penalty imposed</td>
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<td></td>
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<td>Abang Sayang</td>
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<td>FMA, ss100(1); 101(1)</td>
<td>Penalty imposed</td>
<td></td>
<td></td>
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<td>Eko Jaya</td>
<td>14/01/2002</td>
<td>TI</td>
<td>HMAS TOWNSVILLE</td>
<td>7</td>
<td>FMA, ss100(1); 101(1)</td>
<td>Penalty imposed</td>
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<td></td>
</tr>
<tr>
<td>Helmi Murni</td>
<td>19/01/2002</td>
<td>Dar</td>
<td>HMAS GAWLER</td>
<td>4</td>
<td>FMA, ss100(1); 101(1)</td>
<td>Penalty imposed</td>
<td>Master &amp; 1 crew member</td>
<td></td>
</tr>
<tr>
<td>Masliwati</td>
<td>29/01/2002</td>
<td>TI</td>
<td>HMAS WHYALLA</td>
<td>4</td>
<td>FMA, ss100(1); 101(1)</td>
<td>Penalty imposed</td>
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<td>07/02/2002</td>
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<td>HMAS CANBERRA</td>
<td>39</td>
<td>FMA, ss100A; 101A; 100(1)</td>
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<tr>
<td>Volga</td>
<td>07/02/2002</td>
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<td>HMAS CANBERRA</td>
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<tr>
<td>Jasa Bahari 4</td>
<td>01/03/2002</td>
<td>Dar</td>
<td>HMAS BUNBURY</td>
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<td>FMA, ss100(1)</td>
<td>Penalty imposed</td>
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<td>01/03/2002</td>
<td>Dar</td>
<td>HMAS BUNBURY</td>
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<td>FMA, ss100(1); 101A</td>
<td>Penalty imposed</td>
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<td>26/03/2002</td>
<td>Dar</td>
<td>HMAS BUNBURY</td>
<td>5</td>
<td>FMA, ss100(1); 101(1)</td>
<td>Penalty imposed</td>
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<td></td>
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<td>Helmi Murni</td>
<td>30/03/2002</td>
<td>Dar</td>
<td>HMAS CESSNOCK</td>
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<td>01/04/2002</td>
<td>Dar</td>
<td>HMAS CESSNOCK</td>
<td>5</td>
<td>FMA, ss100(1); 101(1)</td>
<td>Penalty imposed</td>
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<td>02/04/2002</td>
<td>Dar</td>
<td>HMAS CESSNOCK</td>
<td>11</td>
<td>FMA, ss100(1)</td>
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<td>Dar</td>
<td>HMAS BENDIGO</td>
<td>10</td>
<td>FMA, ss100(1)</td>
<td>Penalty imposed</td>
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<td>04/04/2002</td>
<td>Dar</td>
<td>HMAS BENDIGO</td>
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<td>FMA, ss100(1); 101(1)</td>
<td>Penalty imposed</td>
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<td>Dar</td>
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<td>Penalty imposed</td>
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<td>Vessel Name</td>
<td>Date of Apprehension</td>
<td>Port of Detention</td>
<td>Crew</td>
<td>Apprehending Platform</td>
<td>Charges</td>
<td>Outcome</td>
<td>Recidivists</td>
<td>Outcome (if previously detected)</td>
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<td>Sinar Baru</td>
<td>05/04/2002</td>
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<td>6</td>
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<td>HMAS GEELONG</td>
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<td>2 crew members</td>
<td>Penalty imposed</td>
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<td>Dar</td>
<td>6</td>
<td>HMAS GEELONG</td>
<td>FMA, ss100(1); 101(1); 108</td>
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<td>3 crew members</td>
<td>Penalty imposed</td>
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<td>06/04/2002</td>
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<td>7</td>
<td>HMAS DUBBO</td>
<td>FMA, ss100(1); 101(1)</td>
<td>Penalty imposed</td>
<td>Master and 6 crew members</td>
<td>Penalty imposed</td>
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<tr>
<td>Barito</td>
<td>10/04/2002</td>
<td>Dar</td>
<td>5</td>
<td>HMAS WARRNAMBOOL</td>
<td>FMA, ss101(1)</td>
<td>Penalty imposed</td>
<td>Master and 1 crew members</td>
<td>Penalty imposed</td>
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<tr>
<td>Putra Kembar</td>
<td>12/04/2002</td>
<td>Dar</td>
<td>5</td>
<td>HMAS WHYALLA</td>
<td>FMA, ss100(1); 101(1)</td>
<td>Penalty imposed</td>
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<td>Penalty imposed</td>
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<td>ACV Dame Roma Mitchell</td>
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<td>Vessel Name</td>
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<td>Apprehension Position</td>
<td>Crew</td>
<td>Port of Detention</td>
<td>Apprehending Platform</td>
<td>Charges</td>
<td>Outcome</td>
<td>Recidivists</td>
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<td>Penalty imposed</td>
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<td>Marlen Duta</td>
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<td>0956S 12932E</td>
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<td>FMA, ss100(1); 101(1)</td>
<td>Penalty imposed</td>
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</table>

Dar = Darwin  
ACV – Australian Customs Vessel  
TI = Thursday Island  
FMA – Fisheries Management Act 1991  
Br = Broome  
TSFA – Torres Strait Fisheries Act 1984  
Fr = Fremantle
(3) See the table below in response to question 4.

(4) The majority of answers to the senator’s questions are contained in the table below.

(a) See table below.

(b) See table below.

(c) This information is not available, however catches range in value depending on the fish species, its size and how it is stored. Shark fin is the main target and usually, very little flesh is retained.

(d) This information is not available. Apprehended boats are not always detected or reported before the surface platform intercepts them.

(e) See table below.

(f) Coastwatch co-ordinates all response actions under the civil surveillance umbrella on behalf of its client agencies. The Australia Fisheries Management Authority (AFMA) is one of those client agencies. The Royal Australian Navy (Fremantle Class Patrol Boats) and the Australian Customs Service, National Marine Unit (Bay Class Patrol Boats) provide surface platforms.

(g) See table below.

(h) No. Seizures of catch and gear are generally only undertaken where operational requirements prevent apprehension and escorting to port. When a seizure is undertaken, a notice is given to the master of the boat advising him/her what is seized. This notice also advises how a claim can be made against a seizure.

(i) None in 2002, as seizures of catch and gear are generally only undertaken where operational requirements prevent apprehension, escorting to port and prosecution. However where, at the time of boarding, fishers are known to have committed previous offences, they are generally apprehended and brought to port to face charges. This has not been the case with the 27 vessels in question in 2002.

(j) Not applicable.

(k) None.

(l) Not applicable.

<table>
<thead>
<tr>
<th>Boat Name</th>
<th>Date of Seizure</th>
<th>Where intercepted</th>
<th>Crew</th>
<th>Gear/ Catch*</th>
<th>Apprehending Platform</th>
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<td>Risna</td>
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<td>Antir</td>
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Where intercepted

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<td>C &amp; G</td>
<td>HMAS FREMANTLE</td>
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</table>

* C = Catch  G = Gear


6. Fisheries and marine cooperation was progressed outside the AIMF until the establishment of the Marine Affairs and Fisheries Working Group in 2001. At the first meeting of the Working Group in April 2002, Australia and Indonesia agreed that cooperation to combat illegal, unreported and unregulated (IUU) fishing was a priority.

In any case, IUU fishing has been discussed on many occasions at both the ministerial and officials’ level between Australia and Indonesia, including on six occasions in 2002 alone.

7. I met with the Indonesian Minister for Marine Affairs and Fisheries, His Excellency Dr Rokhmin Dahuri, on 1 February 2002. With his agreement and subject to practical considerations, I intend to meet with Dr Rokhmin Dahuri again within the next six months.

### Australian Greenhouse Office: Functions

(Question No. 776)

Senator Faulkner asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 14 October 2002:

1. Has the Deputy Prime Minister written to the Prime Minister concerning the future of the Australian Greenhouse Office; if so, what was the date of that letter.

2. Did the Deputy Prime Minister’s letter propose that the functions of the Australian Greenhouse Office be split.

3. (a) What functions of the Australian Greenhouse Office did the Deputy Prime Minister propose to be transferred to the Department of the Prime Minister and Cabinet; (b) what functions did the Deputy Prime Minister propose to be transferred to the Department of Industry, Science and Resources; and (c) what functions did the Deputy Prime Minister propose be left within the jurisdiction of Environment Australia.

4. If the Deputy Prime Minister did not propose that the Australian Greenhouse Office be split, what did he propose concerning its future.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

1. No. I did provide to the Prime Minister a copy of a letter I wrote on 26 August 2002 to the Hon Dr David Kemp MP, Minister for the Environment and Heritage, concerning the future of the Australian Greenhouse Office:

2. (3) & (4) My views as advised to Dr Kemp are internal to the Government.

### Agriculture Advancing Australia: Farm Innovation Program

(Question No. 888)

Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 11 November 2002:

1. What response has the Minister made to the review of the AAA-Farm Innovation Program completed in November 2001.

2. What programs have been developed in recognition of the review’s finding that there is a need for continuing innovation support for industries targeted by the AAA-Farm Innovation Program.
Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) Appropriate changes to program administration & reporting structures were made in accordance with the recommendations of the interim review. Changes to the programs guidelines were made in accordance with recommendations of the review in November 2001 and were implemented in Rounds 3 and 4.

(2) The Review of the AAA - Farm Innovation Program is being considered in the context of the larger evaluation process for the AAA package as a whole. As the AAA package remains current until June 2004, the development of the new policy direction will take place during the 2003 calendar year in consultation with portfolio stakeholders and will be considered in 2004-05 budget. In response to the needs highlighted in the report, AFFA has introduced programs such as the Food Innovation Grants Program part of the National Food Industry Strategy and the New Industries Development Program that is part of Backing Australia’s Ability.

Superannuation: Australian Public Service
(Question No. 895)

Senator Sherry asked the Minister for Finance and Administration, upon notice, on 11 November 2002:

With reference to the Commonwealth Superannuation Scheme and the Public Service Superannuation Scheme:

(1) What was the average increase in superannuation salaries reported to ComSuper for each of the past 5 years for: (a) employees on Australian workplace agreements (AWAs); and (b) non-AWA employees.

(2) (a) What were the ten highest increases in superannuation salary employees over each of the past 5 years; and (b) for each of those increases, did it relate to a promotion or the signing an AWA.

(3) What is the average superannuation salary for: (a) those on AWAs and those not on AWAs.

(4) (a) Is it possible to use an AWA to increase an employee’s salary for superannuation purposes, even though the actual salary may be less than that amount; and (b) if so, how many employees are in this position.

Senator Minchin—The answer to the honourable senator’s question is as follows:

(1) ComSuper maintains details of salary for superannuation purposes for members of the Commonwealth Superannuation Scheme (CSS) and the Public Service Superannuation Scheme (PSS). ComSuper does not maintain details of whether or not individual employees are covered by an Australian workplace agreement. The average increase in superannuation salaries, overall, for each of the past five years was

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</tr>
</thead>
<tbody>
<tr>
<td>Average</td>
<td>4.9%</td>
<td>6.26%</td>
<td>5.30%</td>
<td>6.77%</td>
<td>6.66%</td>
</tr>
</tbody>
</table>

(2) (a) The ten highest increases in annual superannuation salary over the past five years, expressed in percentage terms, were as follows:

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<tr>
<th></th>
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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>236%</td>
<td>271%</td>
<td>225%</td>
<td>193%</td>
<td>206%</td>
</tr>
<tr>
<td></td>
<td>187%</td>
<td>203%</td>
<td>206%</td>
<td>185%</td>
<td>194%</td>
</tr>
<tr>
<td></td>
<td>187%</td>
<td>191%</td>
<td>181%</td>
<td>172%</td>
<td>187%</td>
</tr>
<tr>
<td></td>
<td>187%</td>
<td>183%</td>
<td>177%</td>
<td>170%</td>
<td>174%</td>
</tr>
<tr>
<td></td>
<td>182%</td>
<td>182%</td>
<td>169%</td>
<td>168%</td>
<td>174%</td>
</tr>
<tr>
<td></td>
<td>182%</td>
<td>177%</td>
<td>166%</td>
<td>165%</td>
<td>171%</td>
</tr>
<tr>
<td></td>
<td>182%</td>
<td>176%</td>
<td>164%</td>
<td>162%</td>
<td>166%</td>
</tr>
<tr>
<td></td>
<td>169%</td>
<td>174%</td>
<td>159%</td>
<td>156%</td>
<td>160%</td>
</tr>
<tr>
<td></td>
<td>163%</td>
<td>174%</td>
<td>158%</td>
<td>155%</td>
<td>159%</td>
</tr>
<tr>
<td></td>
<td>162%</td>
<td>163%</td>
<td>155%</td>
<td>154%</td>
<td>159%</td>
</tr>
</tbody>
</table>

(2) (b) ComSuper does not maintain records on the reason for the above increases in superannuation salary.

(3) Data not maintained by ComSuper
(4) (a) The CSS and PSS salary regulations allow employers to set the salary for superannuation purposes of their employees and this may vary from the member’s actual salary.

(b) As ComSuper does not maintain details of a member’s actual salary it cannot determine in how many instances there are variations between this amount and the member’s salary for superannuation purposes.

Minister for Agriculture, Fisheries and Forestry: Visit to Sweden and Denmark
(Question No. 913)

Senator O’Brien asked the Minister for Finance and Administration, upon notice, on 13 November 2002:

With reference to the visit by the Minister for Agriculture, Fisheries and Forestry to Sweden and Denmark in June 2002:

(1) What travel costs and other associated expenses, if any, were met by the department in respect of the Minister and his staff.

(2) What were these costs per expenditure item for: (a) the Minister; and (b) the Minister’s staff.

(3) What other costs, if any, were met by the department in relation to the trip.

Senator Minchin—The answer to the honourable senator’s question is as follows:

(1) $113,386.80 as at 13 November 2002

(2) (a) Minister for Agriculture, Fisheries and Forestry:

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fares</td>
<td>$53,110.88</td>
</tr>
<tr>
<td>Travelling Allowance</td>
<td>$33.60</td>
</tr>
<tr>
<td>Passport Photographs</td>
<td>$40.00</td>
</tr>
<tr>
<td>Insurance</td>
<td>$137.64</td>
</tr>
<tr>
<td>Accommodation &amp; Meals</td>
<td>$1,740.13</td>
</tr>
<tr>
<td>Ground Transport</td>
<td>$2,213.59</td>
</tr>
</tbody>
</table>

(b) Minister’s Staff:

<table>
<thead>
<tr>
<th>Item</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fares</td>
<td>$26,825.30</td>
</tr>
<tr>
<td>Travelling Allowance</td>
<td>$468.47</td>
</tr>
<tr>
<td>Accommodation &amp; Meals</td>
<td>$1,449.36</td>
</tr>
<tr>
<td>Passport Costs</td>
<td>$136.00</td>
</tr>
</tbody>
</table>

(3) As part of this trip the Minister also visited Indonesia and Italy and the costs were $27,231.83. These costs are included in the answer to Question 1.

The Department is seeking cost recovery of SPA flight costs to Denpasar from Australia for two Department of Agriculture, Fisheries and Forestry officers who accompanied Minister Truss. The amount being recovered is $12,656.00.

Minister for Agriculture, Fisheries and Forestry: Visit to Japan, Korea and the Philippines
(Question No. 915)

Senator O’Brien asked the Minister for Finance and Administration, upon notice, on 13 November 2002:

With reference to the visit by the Minister for Agriculture, Fisheries and Forestry to Japan, Korea and the Philippines in January and February 2002:

(1) What travel costs and other associated expenses, if any, were met by the department in respect of the Minister and his staff.

(2) What were these costs per expenditure item for: (a) the Minister; and (b) the Minister’s staff.

(3) What other costs, if any, were met by the department in relation to the trip.

Senator Minchin—The answer to the honourable senator’s question is as follows:

(1) $41,892.38 as at 13 November 2002

(2) (a) Minister for Agriculture, Fisheries and Forestry:
Fares $15,628.91
Travelling Allowance $26.43
Insurance $144.30
Accommodation & Meals $9,797.31
Ground Transport $3,788.20
Police Escort Costs* $1,144.64
( * these costs will be recovered from the Department of Agriculture, Fisheries and Forestry)
(b) Minister’s Staff:
Fares $7,256.04
Accommodation & Meals $3,644.74
Communication Costs $461.81
(3) As at 13 November 2002 no other costs have been met by the Department of Finance and Administration.

Forestry: Employment
(Question No. 958)

Senator O’Brien asked the Minister for Fisheries, Forestry and Conservation, upon notice, on 22 November 2002:

(1) What was the number of full-time jobs sustained within the non-plantation forestry industry in Australia for each of the past 6 financial years.

(2) What was the number of full-time jobs sustained within the plantation forestry industry within Australia for each of the past 6 financial years.

(3) What was the number of full-time jobs sustained within the manufactured wood and forestry products industry for each of the past 6 financial years.

(4) What was the number of full-time jobs sustained within the non-manufactured wood and forestry products industry for each of the past 6 financial years.

(5) What is the projected number of full-time jobs to be sustained within the non-plantation forestry industry in Australia for each of the next 6 financial years.

(6) What is the projected number of full-time jobs to be sustained within the plantation forestry industry in Australia for each of the next 6 financial years.

(7) What is the projected number of full-time jobs to be sustained within the manufactured wood and forestry products industry for each of the next 6 financial years.

(8) What is the projected number of full-time jobs to be sustained within the non-manufactured wood and forestry products industry for each of the next 6 financial years.

Senator Ian Macdonald—The answer to the honourable senator’s question is as follows:

(1) Neither the Australian Bureau of Statistics (ABS) nor the Australian Bureau of Agricultural and Resource Economics (ABARE) currently compile employment statistics separately for plantation and non-plantation sectors of the forest and wood products industry.

(2) See above.

(3) Following are ABS full time employment figures for the manufactured wood and forest products industry (i.e. sawmilling and timber dressing, other wood manufacturing and paper and paper products) for each of the 6 financial years to 2000/01:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>65,800</td>
<td>61,700</td>
<td>62,600</td>
<td>60,700</td>
<td>63,600</td>
<td>65,000</td>
</tr>
</tbody>
</table>

(4) Following are ABS full time employment figures for non-manufactured wood and forestry products industry (i.e. forestry and logging) over each of the 6 financial years to 2000/01:

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>11,400</td>
<td>10,900</td>
<td>14,000</td>
<td>14,100</td>
<td>8,800</td>
<td>13,400</td>
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</table>
Veterans: Repatriation Private Patient Scheme  
(Question No. 968)  

Senator Mark Bishop asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 27 November 2002:  

(1) In each of the past 12 months how many payments have been made to specialist doctors for treatment provided under the Repatriation Private Patient Scheme (RPPS) to: (a) Gold Card holders; and (b) White Card holders.  

(2) Can the following information be provided: (a) the total monthly figure for services to Gold Card and White Card holders divided according to the specialty of the doctors; and (b) the number of doctors in each specialty who received payments.  

(3) For each of those doctors who have received payments under the RPPS in the past 12 months, how many payments were received each month.  

(4) For each of the past 12 months: (a) how many doctors in each specialty and how many specialists in total have received payment for services provided under the RPPS; and (b) how many payments have been received in total by specialty.  

Senator Hill—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:  

(1) (a) and (b) The Department of Veterans’ Affairs is unable to provide the number of actual payments made as the Department collects service item data, not payment data. Information supplied is based on services data for all medical specialist’s specialty services excluding diagnostic, pathology and anaesthetic services. The number of services to Gold and White Cardholders for the period July 2001 to June 2002 is:  

- Gold Card holders received 2,429,903 services; and  
- White Card holders received 79,279 services.  

(2) (a) and (b) The number of services and the number of specialists in each specialty who received payments, excluding diagnostic, pathology and anaesthetic services, are listed in the table below.  

<table>
<thead>
<tr>
<th>Month</th>
<th>Specialty</th>
<th>No. of Providers</th>
<th>Gold Card No. of services</th>
<th>White Card No. of services</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jul-01</td>
<td>Obstetrics &amp; Gynaecologist</td>
<td>330</td>
<td>1,287</td>
<td>5</td>
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<tr>
<td></td>
<td>Psychiatrist</td>
<td>561</td>
<td>9,041</td>
<td>1,360</td>
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<td></td>
<td>Dermatologist</td>
<td>266</td>
<td>15,497</td>
<td>1,220</td>
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<tr>
<td></td>
<td>Consultant &amp; Specialist Physician</td>
<td>2,796</td>
<td>131,398</td>
<td>2,614</td>
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<td>Other Medicine</td>
<td>106</td>
<td>1,265</td>
<td>12</td>
</tr>
<tr>
<td></td>
<td>Surgeon</td>
<td>2,899</td>
<td>81,075</td>
<td>2,452</td>
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<tr>
<td>Aug-01</td>
<td>Obstetrics &amp; Gynaecologist</td>
<td>341</td>
<td>1,376</td>
<td>13</td>
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<tr>
<td></td>
<td>Psychiatrist</td>
<td>556</td>
<td>9,052</td>
<td>1,437</td>
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<td>Dermatologist</td>
<td>260</td>
<td>16,249</td>
<td>1,414</td>
</tr>
<tr>
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<td>Consultant &amp; Specialist Physician</td>
<td>2,792</td>
<td>129,278</td>
<td>2,600</td>
</tr>
<tr>
<td></td>
<td>Other Medicine</td>
<td>91</td>
<td>989</td>
<td>23</td>
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<tr>
<td></td>
<td>Surgeon</td>
<td>2,855</td>
<td>82,050</td>
<td>2,385</td>
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<tr>
<td>Sep-01</td>
<td>Obstetrics &amp; Gynaecologist</td>
<td>299</td>
<td>1,156</td>
<td>10</td>
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<tr>
<td></td>
<td>Psychiatrist</td>
<td>549</td>
<td>8,158</td>
<td>1,291</td>
</tr>
<tr>
<td></td>
<td>Dermatologist</td>
<td>266</td>
<td>12,794</td>
<td>976</td>
</tr>
<tr>
<td></td>
<td>Consultant &amp; Specialist Physician</td>
<td>2,673</td>
<td>107,036</td>
<td>2,096</td>
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<td>Other Medicine</td>
<td>95</td>
<td>1,230</td>
<td>18</td>
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<td></td>
<td>Surgeon</td>
<td>2,727</td>
<td>68,487</td>
<td>1,913</td>
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<td>Oct-01</td>
<td>Obstetrics &amp; Gynaecologist</td>
<td>323</td>
<td>1,295</td>
<td>5</td>
</tr>
<tr>
<td>Month</td>
<td>Specialty</td>
<td>No. of Providers</td>
<td>Gold Card No. of services</td>
<td>White Card No. of services</td>
</tr>
<tr>
<td>-------</td>
<td>---------------------------</td>
<td>------------------</td>
<td>--------------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td></td>
<td>Psychiatrist</td>
<td>552</td>
<td>7,902</td>
<td>1,346</td>
</tr>
<tr>
<td></td>
<td>Dermatologist</td>
<td>258</td>
<td>13,066</td>
<td>1,176</td>
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<td>104,814</td>
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<td>78</td>
<td>940</td>
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<td>Surgeon</td>
<td>2,802</td>
<td>71,257</td>
<td>2,087</td>
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<td></td>
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<td>539</td>
<td>8,465</td>
<td>1,352</td>
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<td>Dermatologist</td>
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<td>13,284</td>
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<td>101,370</td>
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<td>1,200</td>
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<td>Surgeon</td>
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<td>70,610</td>
<td>2,013</td>
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<td>530</td>
<td>7,420</td>
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<td>14,641</td>
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<td>92,074</td>
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<td>Other Medicine</td>
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<td>1,289</td>
<td>9</td>
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<td></td>
<td>Surgeon</td>
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<td>67,633</td>
<td>1,965</td>
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<td>Jan-02</td>
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<td>1,313</td>
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<td>Dermatologist</td>
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<td>843</td>
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<td>97,001</td>
<td>2,091</td>
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<td>Other Medicine</td>
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<td>1,123</td>
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<td>Surgeon</td>
<td>2,772</td>
<td>63,583</td>
<td>1,765</td>
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<td>Feb-02</td>
<td>Obstetrics &amp; Gynaecologist</td>
<td>285</td>
<td>978</td>
<td>5</td>
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<td></td>
<td>Psychiatrist</td>
<td>499</td>
<td>6,806</td>
<td>977</td>
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<td></td>
<td>Dermatologist</td>
<td>240</td>
<td>11,942</td>
<td>996</td>
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<td>88,961</td>
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<td>Other Medicine</td>
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<td>1,035</td>
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<td></td>
<td>Surgeon</td>
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<td>58,623</td>
<td>1,721</td>
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<tr>
<td>Mar-02</td>
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<td>546</td>
<td>8,011</td>
<td>1,218</td>
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<td>Dermatologist</td>
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<td>13,874</td>
<td>1,157</td>
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<td>96,074</td>
<td>1,729</td>
</tr>
<tr>
<td></td>
<td>Other Medicine</td>
<td>75</td>
<td>1,092</td>
<td>22</td>
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<tr>
<td></td>
<td>Surgeon</td>
<td>2,782</td>
<td>71,840</td>
<td>2,092</td>
</tr>
<tr>
<td>Apr-02</td>
<td>Obstetrics &amp; Gynaecologist</td>
<td>311</td>
<td>1,336</td>
<td>7</td>
</tr>
<tr>
<td></td>
<td>Psychiatrist</td>
<td>580</td>
<td>8,315</td>
<td>1,365</td>
</tr>
<tr>
<td></td>
<td>Dermatologist</td>
<td>259</td>
<td>15,343</td>
<td>1,132</td>
</tr>
<tr>
<td></td>
<td>Consultant &amp; Specialist Physician</td>
<td>2,791</td>
<td>110,705</td>
<td>2,292</td>
</tr>
<tr>
<td></td>
<td>Other Medicine</td>
<td>92</td>
<td>1,315</td>
<td>16</td>
</tr>
<tr>
<td></td>
<td>Surgeon</td>
<td>2,827</td>
<td>76,417</td>
<td>2,095</td>
</tr>
<tr>
<td>May-02</td>
<td>Obstetrics &amp; Gynaecologist</td>
<td>344</td>
<td>1,433</td>
<td>7</td>
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<tr>
<td></td>
<td>Psychiatrist</td>
<td>558</td>
<td>8,218</td>
<td>1,298</td>
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<tr>
<td></td>
<td>Dermatologist</td>
<td>268</td>
<td>15,506</td>
<td>1,215</td>
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<tr>
<td></td>
<td>Consultant &amp; Specialist Physician</td>
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<td>124,227</td>
<td>2,534</td>
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<tr>
<td></td>
<td>Other Medicine</td>
<td>101</td>
<td>1,192</td>
<td>27</td>
</tr>
<tr>
<td></td>
<td>Surgeon</td>
<td>2,903</td>
<td>78,785</td>
<td>2,400</td>
</tr>
<tr>
<td>Jun-02</td>
<td>Obstetrics &amp; Gynaecologist</td>
<td>293</td>
<td>1,016</td>
<td>6</td>
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<tr>
<td></td>
<td>Psychiatrist</td>
<td>546</td>
<td>6,983</td>
<td>1,023</td>
</tr>
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<td></td>
<td>Dermatologist</td>
<td>258</td>
<td>12,296</td>
<td>1,081</td>
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<tr>
<td></td>
<td>Consultant &amp; Specialist Physician</td>
<td>2,728</td>
<td>98,592</td>
<td>1,859</td>
</tr>
<tr>
<td></td>
<td>Other Medicine</td>
<td>88</td>
<td>1,507</td>
<td>30</td>
</tr>
<tr>
<td></td>
<td>Surgeon</td>
<td>2,751</td>
<td>68,765</td>
<td>1,907</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Total number of services</td>
</tr>
</tbody>
</table>

(3) The Department of Veterans’ Affairs is unable to provide payment information on a monthly basis.
(4) (a) The number of specialists in each specialty who received payments in 2001-2002 financial year, excluding diagnostic, pathology and anaesthetic services, is listed below.

<table>
<thead>
<tr>
<th>Specialty</th>
<th>No. of Specialists who received payments</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultant &amp; Specialist Physician</td>
<td>3675</td>
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<tr>
<td>Surgeon</td>
<td>3551</td>
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<tr>
<td>Psychiatrist</td>
<td>927</td>
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<tr>
<td>Obstetrics &amp; Gynaecologist</td>
<td>704</td>
</tr>
<tr>
<td>Dermatologist</td>
<td>296</td>
</tr>
<tr>
<td>Other Medicine</td>
<td>157</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>9310</strong></td>
</tr>
</tbody>
</table>

**Note:** Data was sourced from the period July 2001 to June 2002 as this is the most recent data that is reasonably complete and accurate for data-matching purposes.

(b) The Department of Veterans’ Affairs does not collect payment information.

**Environment: Seismic Surveys**

(Question No. 971)

Senator Brown asked the Minister representing the Minister for the Environment and Heritage, upon notice, on 27 November 2002:

In relation to the stranding of nine sperm whales near Waterhouse Point, in Tasmania:

(1) Who is undertaking seismic surveys in the Otway Basin off western Victoria and South Australia.

(2) Did the company or companies involved submit an environmental impact statement (EIS) in order to carry out this work.

(3) Did the company or companies have to submit any other environmental studies to comply with Commonwealth legislation in order to carry out this seismic survey; if so (a) what legislation was applicable; and (b) can copies of those studies be provided.

(4) Was Environment Australia (EA) notified that this survey work was to be carried out.

(5) Did EA insist on any EIS.

(6) Was EA or the Minister aware that the seismic survey would use signals up to 240dB.

(7) Is the Minister aware of the preliminary injunction issued in a San Francisco court against the United States Navy over the deployment of low frequency active sonar.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

(1) Four companies have submitted referrals under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act) to undertake seismic surveys in the Otway basin in 2002/2003: Santos Limited, Woodside Energy Limited, Essential Petroleum Resources Ltd and Otway Resources Pty Ltd.

(2) It was determined that all referred proposals did not require approval under the EPBC Act provided the proposals were undertaken in a specified manner.

(3) (a) In order to carry out seismic survey work, approval is required under the Petroleum (Submerged Lands) Act 1967 (PSL Act) administered by the Minister for Industry, Tourism and Resources. In order to gain approval, the proponent must have an approved Environment Plan in place to mitigate against potential environmental impacts of the proposed action.

(b) The Minister for the Environment and Heritage does not administer the PSL Act, and cannot therefore provide copies of the Environment Plans.

(4) Yes. See (1) above.

(5) No. See (2) above.

(6) Yes. The Minister is aware that the seismic sound source can be 240 dB at 1 metre from the source.

(7) Yes.
## Science: Australian Institute of Marine Science and Australian Nuclear Science and Technology Organisation Contracts

**Question No. 1016**

Senator Lundy asked the Minister representing the Minister for Education, Science and Training, upon notice, on 11 December 2002:

1. Can the following information in the form of a spreadsheet be provided, in both hard copy and electronically, for each contract entered into by the Australian Institute of Marine Science and the Australian Nuclear Science and Technology Organisation, which has not been fully performed or was entered into during the 2001-02 financial year, and that is wholly, or in part, information and communications technology-related with a consideration of $20,000 or more: (a) a unique identifier for the contract, for example contract number; (b) the contractor name and Australian Business Number or Australian Company Number; (c) the domicile of the parent company; (d) the subject matter of the contract, including whether the contract is substantially for hardware, software, services or a mixture, with estimated percentages; (e) the starting date of the contract; (f) the term of the contract, expressed as an ending date; (f) the amount of the consideration in Australian dollars; and (h) whether or not there is an industry development requirement and, if so, details of the industry development requirement (in scope and out of scope).

2. With reference to any contracts that meet the above criteria, can a full list of sub-contracts valued at over $5,000 be provided, including: (a) a unique identifier for the contract, for example contract number; (b) the contractor name and Australian Business Number or Australian Company Number; (c) the domicile of the parent company; (d) the subject matter of the contract, including whether the contract is substantially for hardware, software, services or a mixture, with estimated percentages; (e) the starting date of the contract; (f) the term of the contract, expressed as an ending date; (f) the amount of the consideration in Australian dollars; and (g) the amount applicable to the current budget year in Australian dollars; and (h) whether or not there is an industry development requirement and, if so, details of the industry development requirement (in scope and out of scope).

Senator Alston—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

**Australian Institute of Marine Science (AIMS) and the Australian Nuclear Science and Technology Organisation (ANSTO), data on Information and Communications Technology contracts.**

Attached is a spreadsheet providing the requested information for each information and communications technology contract (with a value of ≥ $20,000) entered into by AIMS and ANSTO which have not been fully performed or which were entered into during the 2001-02 financial year.

We have limited our reporting to procurement activities for goods and services, non-procurement contracts, eg funding contracts have not been included.
<table>
<thead>
<tr>
<th>Group</th>
<th>Contract Number</th>
<th>Contractor</th>
<th>Contractor ABN</th>
<th>Domicile (Country) of the Parent Company</th>
<th>Subject Matter of Contract (including whether it is for software, hardware or a mixture of both)</th>
<th>Estimated Subject matter Percentage (%: 20% Software, 80% Hardware)</th>
<th>Start Date</th>
<th>End Date</th>
<th>Estimated Contract Value</th>
<th>Amount Paid 2001-2002 Financial Year</th>
<th>Was there any Industry development requirement?</th>
<th>Details of Industry Development requirement</th>
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</thead>
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<td>Library tapes 3-Apr-2002 3-Apr-2002</td>
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<td>Contractor</td>
<td>Contractor ABN</td>
<td>Domicile (Country) of the Parent Company</td>
<td>Subject Matter of Contract (including whether it is for software, hardware or a mixture of both)</td>
<td>Estimated Subject matter Percentage (e.g. 20% Software 80% Hardware)</td>
<td>Start Date</td>
<td>End Date</td>
<td>Contract Value</td>
<td>Amount Paid 2001-2002 Financial Year</td>
<td>Was there any Industry development requirement?</td>
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<td>Intel D845WNL ATX P4 with powered speakers - TOWER CASES</td>
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<td>30-Jun-2002</td>
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<td>20001146345</td>
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<td>Subject Matter of Contract (including whether it is for software, hardware or a mixture of both)</td>
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<td>Start Date</td>
<td>End Date</td>
<td>Contract Value</td>
<td>Amount Paid 2001-2002 Financial Year</td>
<td>Was there any Industry development requirement</td>
<td>Details of Industry Development requirement</td>
</tr>
<tr>
<td>--------</td>
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<td>1-Jul-2001</td>
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<td>Group</td>
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<td>Contractor ABN</td>
<td>Contracting (Country) of the Parent Company</td>
<td>Subject Matter of Contract (including whether it is for software, hardware or a mixture of both)</td>
<td>Estimated Subject Matter Percentage (e.g. 20% Software 80% Hardware)</td>
<td>Start Date</td>
<td>End Date</td>
<td>Contract Value</td>
<td>Amount Paid 2001-2002 Financial Year</td>
<td>Was there any Industry Development Requirement</td>
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<td>17-Apr-2002</td>
<td>1-May-2002</td>
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<td>Start Date</td>
<td>End Date</td>
<td>Contract Value</td>
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<td>Was there any Industry development requirement</td>
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<td>ANSTO</td>
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<td>TELSTRA</td>
<td>Australia</td>
<td>Phone services &amp; Hardware</td>
<td>5 % Hardware 95 % Software</td>
<td>1-Jul-2001</td>
<td>30-Jun-2002</td>
<td>1,135,200.00</td>
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<td>ANSTO</td>
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<td>30-Jun-2002</td>
<td>113,607.00</td>
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Senator Lundy asked the Minister representing the Minister for Education, Science and Training, upon notice, on 11 December 2002:

(1) Can the following information in the form of a spreadsheet be provided, in both hard copy and electronically, for each contract entered into by the Enterprise and Career Education Foundation which has not been fully performed or was entered into during the 2001-02 financial year, and that is wholly, or in part, information and communications technology-related with a consideration of $20,000 or more: (a) a unique identifier for the contract, for example contract number; (b) the contractor name and Australian Business Number or Australian Company Number; (c) the domicile of the parent company; (d) the subject matter of the contract, including whether the contract is substantially for hardware, software, services or a mixture, with estimated percentages; (e) the starting date of the contract; (f) the term of the contract, expressed as an ending date; (g) the amount of the consideration in Australian dollars; and (h) whether or not there is an industry development requirement and, if so, details of the industry development requirement (in scope and out of scope).

(2) With reference to any contracts that meet the above criteria, can a full list of sub-contracts valued at over $5,000 be provided, including: (a) a unique identifier for the contract, for example contract number; (b) the contractor name and Australian Business Number or Australian Company Number; (c) the domicile of the parent company; (d) the subject matter of the contract, including whether the contract is substantially for hardware, software, services or a mixture, with estimated percentages; (e) the starting date of the contract; (f) the term of the contract, expressed as an ending date; (g) the amount of the consideration in Australian dollars; and (h) whether or not there is an industry development requirement and, if so, details of the industry development requirement (in scope and out of scope).

Senator Alston—The Minister for Education, Science and Training has provided the following answer to the honourable senator’s question:

Enterprise and Career Education Foundation (ECEF) data on Information and Communications Technology contracts.

Attached is a spreadsheet providing the requested information for each information and communications technology contract (with a value of ≥ $20,000) entered into by ECEF which has not been fully performed or which was entered into during the 2001-02 financial year.

We have limited our reporting to procurement activities for goods and services, non-procurement contracts eg funding contracts have not been included.
<table>
<thead>
<tr>
<th>Group</th>
<th>Contract Number (Invoices)</th>
<th>Contractor</th>
<th>Contractor ABN</th>
<th>Domicile (Country) of the Parent Company</th>
<th>Subject Matter of Contract (including whether it is for software, hardware or a mixture of both)</th>
<th>Estimated Subject matter Percentage (e.g. 20% Software, 80% Hardware)</th>
<th>Start Date</th>
<th>End Date</th>
<th>Contract Value</th>
<th>Amount Paid 2001-2002 Financial Year</th>
<th>Was there any Industry development requirement</th>
<th>Details of Industry Development requirement</th>
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</thead>
<tbody>
<tr>
<td>ECEF</td>
<td>DENTIE01</td>
<td>Professional Advantage</td>
<td>39051792593</td>
<td>Aust</td>
<td>Support Network + LAN Infrastructure</td>
<td>Support 100%</td>
<td>1-Jul-2001</td>
<td>30-Jun-2002</td>
<td>Based on ECEF’s requirement. Charged on hourly basis</td>
<td>$273,346</td>
<td>N/A</td>
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<tr>
<td>ECEF</td>
<td>Letter of Engagement</td>
<td>Gadfly Media</td>
<td>86066598427</td>
<td>Aust</td>
<td>Web Construction</td>
<td>Web Construction 100%</td>
<td>1-Aug-2001</td>
<td>31-Jan-2002</td>
<td>Charged on hourly basis</td>
<td>$156,580</td>
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<tr>
<td>ECEF</td>
<td>Letter of Engagement</td>
<td>Gadfly Online Communications Pty Ltd</td>
<td>19098098616</td>
<td>Aust</td>
<td>Web Development</td>
<td>Web Development 100%</td>
<td>1-Feb-2002</td>
<td>30-Jun-2002</td>
<td>As per contractual agreement. Hourly charged based on different level of resources</td>
<td>$209,183</td>
<td>N/A</td>
<td>N/A</td>
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<td>ECEF</td>
<td>220020290, 220240330, 220152000, 220052910, 220020290</td>
<td>Gartner</td>
<td>68003788601</td>
<td>Aust</td>
<td>Document Management, CRM strategy, Service Provider selection, Lotus Notes R5 Migration advice, Strategic and general technology advice.</td>
<td>Advice 100%</td>
<td>1-Jul-2001</td>
<td>31-May-2002</td>
<td>Based on ECEF’s requirement. Charged on hourly basis</td>
<td>$142,712</td>
<td>N/A</td>
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<td>ECEF</td>
<td>CT265</td>
<td>Cis-Tech</td>
<td>66067957328</td>
<td>Aust</td>
<td>Workshop, Design &amp; Prototype Development for HR Application</td>
<td>Workshop 10%, Design &amp; Prototype 90%</td>
<td>1-Jan-2002</td>
<td>31-May-2002</td>
<td>Based on ECEF’s requirement. Charged on hourly basis</td>
<td>$25,200</td>
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<tr>
<td>ECEF</td>
<td>AUSTR7235/12</td>
<td>Smart Bridge</td>
<td>74092784426</td>
<td>Aust</td>
<td>Set up ARROW (Accounting software) Crystal Reporting and System support.</td>
<td>Set up ARROW 30%, Crystal Reporting 40% and System support 30%</td>
<td>1-Sep-2001</td>
<td>30-Jun-2002</td>
<td>Based on ECEF’s requirement. Charged on hourly basis</td>
<td>$29,150</td>
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<td>ECEF</td>
<td>CO 444</td>
<td>Plan Power Consulting</td>
<td>60921095998</td>
<td>Aust</td>
<td>Provided staff to assist in project management of IT System Development and Training</td>
<td>Project management 70%, Training 30%</td>
<td>1-Oct-2001</td>
<td>31-May-2002</td>
<td>Based on ECEF’s requirement. Charged on hourly basis</td>
<td>$244,934</td>
<td>N/A</td>
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<td>Group</td>
<td>Contract Number (Invoices)</td>
<td>Contractor</td>
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<td>ECEF</td>
<td>Client Agreement PF 002</td>
<td>Affinity IT Recruitment P/L</td>
<td>85089923188 Aust</td>
<td>Provided IT support staff for various Project development</td>
<td>IT support 100%</td>
<td>1-Jul-2001</td>
<td>30-Nov-2001</td>
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<td>$176,742</td>
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<td>ECEF</td>
<td>Agency Agreement</td>
<td>IT &amp; T Careers P/L</td>
<td>43084044773 Aust</td>
<td>Provided IT staff for the development of Web, Notes Development-Grants management, CRM, Travel, Contacts, Reports.</td>
<td>Web 5%, Notes Development-Grants management 60%, CRM 10%, Travel 5%, Contacts 10%, Reports 10%</td>
<td>1-Nov-2001</td>
<td>30-Jun-2002</td>
<td></td>
<td>$176,742</td>
<td>N/A</td>
<td>N/A</td>
<td>Based on ECEF’s requirement. Charged on hourly basis</td>
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Science: Dutson Downs Waste Disposal Facility
(Question No. 1022)

Senator Allison asked the Minister representing the Minister for Science, upon notice, on 11 December 2002:

(1) Is the Minister aware that Gippsland Water proposed to dump low-level solidified radioactive waste at a site at Dutson Downs near Sale, Victoria.

(2) What are the processes and requirements of the Federal Government in relation to such a proposal.

(3) Has Gippsland Water or the Victorian Government contacted the Minister with regard to the proposal.

(4) Is it the intention of the Government to require such low-level radioactive waste to be stored in a facility that is at least as stringent as the Federal Government’s proposed National Waste Repository; if not, why not.

Senator Alston—The Minister for Science has provided the following answer to the honourable senator’s question:

(1) I am aware of a proposal to dispose of oil scale at the Dutson Downs Waste Disposal Facility near Sale in Victoria. Oil scale is a naturally occurring by-product of the petroleum industry which contains extremely low levels of radioactive material such as Radium 226. The radiation dose to the public from the disposal of this material has been calculated at less than 0.01 milliSieverts per annum. This represents an extremely low level of radiation dose which is less than 1% of Australian and internationally accepted limits for such exposure.

(2) The Dutson Downs Waste Management Facility is owned and controlled by the Victorian Government and, as such, all current and proposed activities on site are the responsibility of the State Government.

(3) No.

(4) See response to question 2.

Trade: Motor Vehicle Imports
(Question No. 1028)

Senator Harris asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 12 December 2002:

(1) What is the department’s approved method of determining the date of manufacture of used vehicles prior to their being imported.

(2) What is the department’s approved method of determining the date of manufacture of new vehicles prior to their being imported.

(3) What is the department’s approved method of determining the date of manufacture of new vehicles prior to their being sold, whether or not they have been imported.

(4) Does the department have a policy and/or guidelines in place for checking the date of manufacture on import approvals prior to their being issued; if so, can copies of these policies or guidelines for each of the years 1997 to 2002 be provided; if not, why not.

(5) Will the Minister explain why the department will not honour import approvals that have been issued which allow a vehicle to be imported if its date of manufacture is outside the range of the Compliance Plate Approval holder’s approval.

(6) What compensation will the department provide to importers affected by the failure to honour these import approvals.

(7) Why will the department not issue advice to the industry outlining the departments policy on how the department treats import approvals that have been issued showing incorrect year of manufacture details.

(8) What is the department doing to rectify the incorrect details shown on the import approvals issued.

(9) What legal liability does a person have who relies on the information contained in an import approval if the department has used incorrect information.
Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

1. The original build date for Japanese imported used vehicles relies on the use of reference tables issued by the Japan Motor Vehicle Industry Association. In the case of other vehicles either the date in the decode of the Vehicle Identification Number (VIN) or, where this is not available, the Australian representative of the original vehicle manufacturer is requested to provide the necessary information.

2. & 3 As defined in the Australian Design Rules, the term “date of manufacture” means the date the vehicle is available in Australia in a condition which will enable a “Compliance Plate” to be lawfully affixed to the vehicle. Therefore, a new vehicle does not have a date of manufacture prior to its importation into Australia.

4. The Department does not have formal guidelines in place for checking the date of manufacture on import approvals. The Department relies heavily on an applicant providing correct information in an import application.

5. Import approvals for vehicles that are to be certified under “low volume” arrangements are not normally issued unless supported by a Letter of Agreement from the holder of an appropriate Compliance Plate Approval. The approval to import a vehicle is a separate issue from an approval to place a compliance plate and supply the vehicle to the market. Where a vehicle has been imported and there is not an approved compliance plate approval holder, the vehicle cannot be supplied to the market.

6. The Department is unaware of any instances where a vehicle has been refused importation where a valid import approval has been issued.

7. & 8 The Department does not see the physical vehicle prior to import and therefore relies heavily on the information that is included in the application form being correct. It is the applicant’s obligation to provide correct information. Where a genuine error has been made – for example, a transcription error – the Department’s policy is to issue a revised import approval giving the correct information.

9. It would depend on the circumstance. The person should seek independent legal advice.

Senator Chris Evans asked the Minister for Defence, upon notice, on 13 December 2002:

With reference to Determination under section 58H of the Defence Act 1903-Defence Force Remuneration Tribunal-Determination No. 14 of 2001, Review of the Submarine Service Allowance, Seagoing Allowance and Hard Lying Allowance:

1. With reference to page 6 of the Defence Force Remuneration Tribunal report 2001-02, which states that “the Australian Defence Force (ADF) submitted that there has been a significant increase in minimum-manned ships which has had an adverse impact on responsibilities of those going to sea”: (a) what is a ‘minimum-manned ship’; (b) how many ships have been minimum-manned during the past 6 years; and (c) which ships have been minimum-manned over this period.

2. (a) Is the increase in minimum-manned ships considered to be a problem; (b) what are some of the consequences of an increase in the number of minimum-manned ships; (c) what action is being taken to address the increase in numbers of minimum-manned ships; and (d) what is being done to evaluate the success of those measures; if nothing is being done, why not.

3. Given that the report also states that the increase in minimum-manned ships has ‘had an adverse impact on responsibilities of those going to sea’: (a) what does this statement mean; and (b) what are some examples of the ‘adverse impact’ that has occurred.

4. Can a copy of the ADF submission to this review be provided.

5. Can a copy of the Commonwealth submission to this review be provided.

Senator Hill—The answer to the honourable senator’s question is as follows:

1. (a) Minimum-manning is a Navy term that describes the reduction in size of ships’ crews due to increased use of technology and automation. Minimum-manning does not mean the ‘under-staffing’ of ships.
(b) and (c) Not applicable.

(2) (a) Minimum manning is not a problem, but a correct use of technology.
(b) Personnel who crew minimum-manned ships are:
- increasingly multi skilled;
- have broader tasking responsibilities;
- work longer hours; and
- assume higher levels of responsibility.

It is on these grounds that the case, for increased remuneration while serving at sea, was based.
(c) and (d) Not applicable.

(3) (a) The ‘adverse impact on responsibilities of those serving at sea’ means that prior to the Defence Force Remuneration Tribunal (DFRT) case, people were becoming increasingly reluctant to return to sea under conditions that were perceived to be inadequately renumerated.
(b) Since the DFRT case there has been a significant increase in the number of personnel requesting sea service. There was also a noticeable reduction in separation rates since the DFRT case.

(4) and (5) Yes. A copy has been forwarded separately to your office.

Transport: Civil Aviation Safety Authority
(Question No. 1054)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services upon notice, on 20 December 2002:

With reference to the answer to question on notice no. 845 (Senate Hansard, 2 December 2002, p. 6979) and the completion on 17 December 2002 of the coronial inquiry in Western Australia into the circumstances surrounding the crash of a police aircraft:

(1) Has the Minister received any complaints regarding the operation of the Western Australian Police Air Support Unit; if so: (a) when was each complaint received; (b) what action did the Minister take following each complaint; and (c) when did the Minister take that action.

(2) If the Minister referred the above complaints to the Civil Aviation Safety Authority (CASA): (a) when was each complaint referred to CASA; (b) how was each complaint referred to CASA; and (c) to whom in CASA was each complaint referred.

(3) Did CASA undertake an investigation following the referral of each of the above complaints from the Minister; if so: (a) when did each investigation commence; (b) who undertook each investigation; (c) when was each investigation completed; and (d) who was provided with a copy of the report of the findings of the above investigations.

(4) Did any of the above reports recommend any changes to the operation of the unit; if so, in each case: (a) what were the changes recommended; (b) when were those recommendations communicated to the unit; (c) did the unit implement all of the recommendations; and (d) when were these changes implemented by the unit.

(5) If the unit did not implement all the above recommendations, why not, and, in each case, what follow-up action was taken by CASA in response to this failure to implement the recommendations.

(6) If the Minister, or his office, was provided with a copy of the report of the above investigations: (a) when was each report provided to the Minister or his office; and (b) what action did he or his office take following receipt of the above reports.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1-6) A review of the Department of Transport and Regional Services’ records show the Minister has not received any complaints regarding the operation of the Western Australian Police Air Support Unit.
Veterans’ Affairs: Unknown Turkish Soldier
(Question No. 1056)

Senator Allison asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 7 January 2003:

(1) Has a decision been made with regard to the burial of the recently-discovered head of an unknown Turkish soldier.

(2) Did the Government seek advice from Turkey about the options of return and burial in Australia; if so, what was that advice.

Senator Hill—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) Yes. The Turkish Ambassador to Australia, Mr Okandan, wrote to me on 2 January 2003 requesting Australian Government assistance with the repatriation of the remains of this Turkish soldier. After careful consideration, his Government had decided that the proper action was to inter the remains in a Turkish war cemetery on the Gallipoli Peninsula.

As Gallipoli is also of great significance to the people of Australia, I feel that this decision by the Turkish Government reflects both understanding and sensitivity in a difficult situation.

(2) No. As this is an extremely sensitive and delicate matter, the Australian Government held discussions with the Turkish Government on many occasions. However, the responsibility for determining the final resting place of a soldier belongs to the nation for whom the soldier fought. We did not raise the option of burial in Australia with the Turkish Government, as during discussions, we were made aware that it was not an option that the Australian Government could pursue.

Industry: Comalco
(Question No. 1077)

Senator Brown asked the Minister representing the Minister for Education, Science and Training, upon notice, on 8 January 2002:

With reference to the Government’s $137 million loan to Rio Tinto subsidiary Comalco in October 2001: (a) when will the loan be repaid; (b) what is the interest rate and what are the other terms and conditions of the loan; (c) for what purposes will the loan be, or has the loan been, spent; (d) what is the mineral industry research to be undertaken using the $35 million component which has gone to the Rio Tinto Foundation; and (e) how does this relate to Comalco’s Gladstone refinery.

Senator Minchin—The Minister for Industry, Tourism and Resources, on behalf of the Minister for Education, Science and Training, has provided the following answer to the honourable senator’s question:

(a) 1 July 2024

(b) The loan is interest free. The other terms and conditions of the loan are commercial in confidence and confidentiality provisions apply to the agreement.

(c) $102 million of the loan will be used for the development of a multi-user energy facility to support the Comalco Alumina Refinery at Gladstone. The remaining $35 million is for sustainable research and development activities conducted by the Rio Tinto Foundation for a Sustainable Minerals Industry aimed at improving sustainable development outcomes of the mining industry.

(d) The Rio Tinto Foundation for a Sustainable Minerals Industry will initially focus on three important greenhouse and energy efficiency projects including the “burying” of CO2 and increasing energy efficiencies in the aluminium, bauxite and iron ore industries. Specifically:

• Enhanced bio-fixation of carbon dioxide;
• Increased energy efficiency in mining and processing; and
• Development of advanced aluminium smelting cells.

(e) See (c) above.