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Tuesday, 28 October 2003

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

**TELSTRA (TRANSITION TO FULL PRIVATE OWNERSHIP) BILL 2003**

**Second Reading**

Debate resumed from 27 October, on motion by Senator Troeth:

That this bill be now read a second time.

Senator MARSHALL (Victoria) (9.31 a.m.)—As I was saying last night on the Telstra (Transition to Full Private Ownership) Bill 2003, Australians also know that a privatised Telstra would put enormous and irresistible pressure on the government to introduce timed local calls. Australians have seen and have been victims of a Telstra allowed to run ragged under the guise of the Howard government. Australians know that the performance of Telstra would continue to get worse and that charges would continue to skyrocket if and when it were fully able to act as a shareholder and market-driven money-making machine alone. Ordinary Australian taxpayers deserve the right to have democratic control over and ownership of Telstra. Australians know that the performance of Telstra would continue to get worse and that charges would continue to skyrocket if and when it were fully able to act as a shareholder and market-driven money-making machine alone. Ordinary Australian taxpayers deserve the right to have democratic control over and ownership of Telstra. Australians have a right to demand that Telstra operates and acts in their interest—the national interest.

Under the bill now before the Senate, ministerial power of direction over Telstra will be removed once the Commonwealth's equity falls below 50 per cent. This removes a key power for the federal government to ensure that Telstra acts in the national interest. It is important to note that, while the ministerial power of direction has never been used, the threat of its use—along with the minister's power, under majority public ownership, to appoint Telstra board members—ensures that the democratically elected federal government of the day holds a relatively strong degree of control over Telstra. These are also important powers for the government to hold and to use if Telstra acts in an inappropriate manner and refuses to remedy such action.

Telstra’s reporting obligations will cease once the Commonwealth’s equity falls below 15 per cent. This means that Telstra will no longer have to provide the Commonwealth with financial statements or notifications of significant events and will also be no longer bound by the Commonwealth requirements associated with corporate plans. Under the bill, Telstra will cease to be subject to the Freedom of Information Act once the Commonwealth no longer has majority ownership of Telstra. Likewise, Telstra will no longer be required to provide their employees with Commonwealth employee standards of long service leave, maternity leave and occupational health and safety.

A privatised Telstra would no longer have to keep ministers informed on issues pertaining to the operation of the company. The government will lose all reporting control over Telstra. In the minister’s second reading speech on this bill, he repeated the government’s claim that it will not sell Telstra until it is:

... fully satisfied that arrangements are in place to deliver adequate ... services to all Australians, including maintaining the improvements to existing services.

Australians know that this is a furphy, having witnessed the government’s recent Estens inquiry. This inquiry, the Regional Telecommunications Inquiry, was launched in August last year under the chairmanship of Mr Dick Estens, a member of The Nationals and a mate of the Deputy Prime Minister. It certainly came as no surprise to me or, I would suggest, to anyone who takes an interest in these matters that the committee came up
with exactly the report the government wanted—and then, the very next day, this bill was introduced into the parliament. Apparently, according to Estens, the government telecommunications services in rural and regional Australia are more than up to scratch. They are in good enough nick to satisfy all government concerns regarding the effects of full privatisation of Telstra on rural and regional communities. This view is a joke, and the government knows it.

Hundreds of regional Australians wrote to the Estens committee complaining of poor regional telecommunications services. They outlined many instances of poor mobile phone coverage, faulty telephone lines, poor broadband coverage, inadequate dial-up Internet data speeds and constant Internet line drop-outs. The rosy picture of regional telecommunications services painted by the Estens inquiry was a sham, and it was in complete contradiction to the hundreds of submissions provided to the inquiry. Everyone knows that telecommunications services in the bush are not up to scratch; they are totally inadequate. There is widespread acceptance that, under a fully privatised Telstra, service levels in rural and regional Australia will certainly not improve in any way under Telstra’s full privatisation—not now and not into the future.

The bill provides for the Minister for Communications, Information Technology and the Arts or the Australian Communications Authority to make licence conditions requiring Telstra to maintain a local presence in regional, rural or remote parts of Australia. It also requires regular reviews of regional telecommunications every five years by an expert committee appointed by the minister. These provisions cannot be taken seriously. They are hopeless and nothing more than laughable. The future-proofing arrangements for regional telecommunications services in this bill offer no guarantee of reasonable future levels of service for regional Australians. A huge privately owned Telstra would dictate to the government what the licence conditions should be.

As for the provisions in the bill establishing an independent expert committee appointed by the minister, the last one of those was the Estens committee. Australians simply do not accept this government’s notion of an independent committee, given its poor track record in this regard. There would be no guarantee of equitable service levels in rural and regional Australia if Telstra were fully privatised. Labor believes a privately owned Telstra would be a giant private monopoly too powerful for any government to effectively regulate. It would focus on the more lucrative markets in the bigger cities and neglect the interests of lower income and regional Australians. To be quite blunt, Telstra would leave town faster than the banks.

There would also be no impetus or pressure on Telstra to invest in new technologies and their roll-out. Telstra’s investment in new technologies has been totally inadequate under the control of the Howard government. Australia’s broadband take-up rate is languishing because of Telstra’s indifference and inadequate competition in this area of the sector. Over the past two years, Australia has fallen from 13th to 19th in the OECD table of broadband access: 1.9 per cent of Australian households had broadband at the end of 2002 compared with 11.7 per cent in Canada, 8.5 per cent in Belgium and 6.96 per cent in the USA. Whereas Australians have generally been at the forefront of adopting new technology, in broadband we are falling further and further behind. We cannot allow this situation to continue. The international competitiveness of our businesses is at risk.
As the telecommunications industry moves from a voice framework to a data framework, it is imperative that Telstra remains in public hands to ensure that all Australians have sound, practical and equitable access to future services such as broadband. Majority public ownership of Telstra will ensure that Telstra acts in the national interest as new services such as broadband are rolled out. It is essential that Telstra acts in the Australian national interest and focuses its activities in Australia and on its Australian customers.

Telstra’s overseas losses—in the vicinity of $2 billion—have been extremely worrying. It is an unacceptable situation that Telstra is allowed to flounder billions of dollars on overseas markets while it makes cuts to its network investments and core staffing levels in Australia. This situation is indicative of the misplaced priorities of Telstra under the Howard government, and it gives little heart to those concerned about where Telstra might concentrate its activities if and when it were to be fully privatised.

The bill before us today allows the timing of the sale to remain open and for flexibility in the sale process. As I understand it, the Minister for Finance and Administration will be able to make a determination setting out the rules governing a Telstra sale scheme. This decision opens up a wide range of possibilities, including a chance that the government may use this device to play the market to maximise its returns. This is somewhat concerning. The provision of the bill empowering the government to create and sell ‘sale scheme hybrid securities’ is complex, and the amount of equity to be sold in this fashion is not outlined in the legislation. Financial representatives have confirmed that issuing hybrids may have the effect of increasing the government’s debt position, which is in total contradiction with the government’s claims that the sale will reduce government debt.

The government must not gamble away one of our most important and valuable assets. That in itself is an important fact to remember. Telstra is a public asset and one that provides the Commonwealth with annual share dividends. In 2002-03 alone, the Commonwealth derived around $1.7 billion in share dividends from Telstra. Over the past 10 years the Commonwealth has reaped over $16 billion in Telstra dividends. Once Telstra is sold, the Commonwealth will receive one more lump sum. Once in receipt of that, we lose any future dividend payable to Telstra shareholders. Labor has consistently argued that the Telstra sale will have negative longer-term consequences for Commonwealth finances. The reduction in public debt interest will not offset the loss of dividends from Telstra into the medium term.

Essentially, Telstra remains a public utility with pervasive monopoly characteristics. On simple economic grounds, there is no justification for its privatisation. A majority publicly owned Telstra is the only effective means of guaranteeing universal telecommunications access for all Australians. Majority ownership is the only guarantee of ensuring adequate telecommunications access into the future for all Australians, especially those in regional Australia. This bill must be rejected by the Senate, and Telstra must remain in public hands.

Under a Labor government, Telstra will be required to intensify its focus on its core responsibilities to the Australian community and reduce its emphasis on foreign ventures and media investments. Telstra will be asked to intensify its focus on the provision of affordable and accessible broadband services available for all Australians. The competition regime will be strengthened by requiring much stricter internal separation of Telstra’s...
wholesale and retail activities. The minister for communications will be removed from the process of ACCC scrutiny and regulation of accounting separation within Telstra to ensure that the process is genuinely independent and rigorous. Consumers will be given stronger protection from sharp practices by telecommunications companies, and the price control regime will be made fairer. Consumers will be given stronger protection from sharp practices by telecommunications companies, and the price control regime will be made fairer.

Labor want to see Telstra act as a builder, not a speculator. We want Telstra to be a carrier, not a broadcaster. This is in the national interest; it is in the interest of consumers, businesses, workers and shareholders. We want to ensure that consumers receive the highest quality services, widest choice and cheapest and fairest prices possible. We want to ensure that consumers in regional and rural Australia have full access to communications services. We want to maximise employment in the communications and information technology sectors. We want to ensure that businesses have access to globally competitive and innovative communications services. We want to maximise competition, investment and innovation in Australia’s communications networks. Australia needs a telecommunications sector characterised by universal access, vigorous competition, rapid innovation and high-quality services delivered at the lowest possible prices.

Governments should act where it is necessary to maximise benefits to consumers and to the community. Governments can do this in many ways. This is one of the issues that the government argues—that it can effect maximum benefits by regulation. We say that the nature of the telecommunications market, the virtual monopoly that Telstra has in many areas, and Telstra’s size and dominance of that market render regulation an ineffective means of maximising those benefits. As I said, governments can seek to maximise benefits to the community and to consumers in particular in a number of ways: by regulation but also by maintaining certain services in public hands. Public ownership in areas of strategic economic importance or pressing social benefit is fundamental to good government.

There has been a debate over the years in this country about the role of government and especially the utility of public ownership. It is unfortunate that much of this debate has been ideologically driven by those Liberal Party, they will experience the wrath of rural and regional voters come the next election. (Time expired)
with a slavish adherence to economic theory rather than a clear-eyed analysis of the practical benefits to those people who elect us and a sense of purpose and focus on the national interest. One question I think many Australians would like to ask is: where is the concept of nation building under this government? Where is the concept of the national interest? Where is the vision of nation building? We know that apparently the national interest under the Howard government requires long-term detention of asylum seekers and putting children behind razor wire.

But when it comes to Telstra the government tell the Australian people that it is in their interests to sell off this public company. They make this argument on the basis of fatuous assertions and hollow assurances regarding regional Australia and the level of service to rural and regional Australians, and on an economic argument that simply does not add up. I say Australians know that this is wrong. I ask government senators this: how many of you have been lobbied by constituents demanding a sale—that is, apart from Telstra itself?

Senator Ian Macdonald—I am up there all the time; I have never been lobbied.

Senator WONG—The senator says that he has been out there all the time and that he never gets lobbied. I can tell you—I am a metropolitan based senator—

Senator Ian Macdonald—Yes, I know!

Senator WONG—You should be ashamed of yourselves. You claim to represent rural and regional Australia, and you are absolutely ignoring your constituents. I am a metropolitan based senator. As you know, the Labor Party—

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Wong, you should address your comments to the chair and ignore the interjections.

Senator WONG—through you, Mr Acting Deputy President—does not hold any seats in regional South Australia, so I have been surprised by the number of constituents who have contacted my office complaining about the levels of service offered by Telstra in rural and regional South Australia. Most of them would most certainly not be Labor voters, but they know when the wool is being pulled over their eyes. They know that the level of services that they are currently provided with is not adequate and they simply do not believe that privatising Telstra is going to do anything to improve the services that they and their families utilise. That is the truth of the matter.

Out there in the community there is strong opposition to any further sale of Telstra. Most Australians know that the government’s assurances about improvements to services simply do not hold water. Australians are a practical people; they can often tell when they have been told a furphy. They know that the government’s arguments do not hold water, and they know that services are more likely to deteriorate rather than improve if Telstra is sold. More importantly, many of them know from their own experiences that the services in regional Australia are not up to scratch, so they do not believe the hollow rhetoric, particularly from The Nationals, that services will improve if Telstra is sold. But we ought not focus in this debate on only the level of services and the consequences for these services if Telstra is sold. Although these are important and central arguments, there are other issues also at stake here.

Absent from this debate and from the rhetoric of the government is a clearly articulated view of why it is in the national interest to sell off Telstra. Perhaps the concept of nation building is anathema to the Howard government’s agenda. Perhaps they see us all as simply economic units participating in a market economy, with government regulat-
ing only in the most extreme cases. Of course, with social policy it is quite different; the government are quite happy to be interventionist there and impose their conservative agenda across a range of policy areas. But when it comes to economic policy it is different. The national interest is simply a shadow of an idea, and the overriding notion is that government intervention, whether by regulation or ownership, is not really a good thing. It is something to be wary of. And we see that in so many areas. We see that in the area of corporate law reform, where the government are wary of regulating the corporate sector, reining in corporate excess, trying to go for voluntary self-regulation, not empowering shareholders and such.

Senator McGauran—It’s called the difference between free enterprise and socialism.

Senator Wong—Senator Ian Macdonald interjects and suggests that this is the difference between free enterprise and socialism. You really ought to get into the modern age.

Senator Ian Macdonald—I didn’t say it. I wish I had, but it was Senator McGauran.

Senator Wong—It was Senator McGauran? I apologise, Senator Macdonald. You really ought to get into the modern age. Nobody on this side of politics is arguing that governments should own everything. It is not that simplistic. We have been clear that there are times when regulation rather than ownership is appropriate, but Telstra is one of the key institutions that ought to remain in government hands. I will return to that in a moment.

There is such a thing as nation building. It is the idea that governments can and should act to create opportunities, to take a strategic role in the economy, with an eye on the nation’s future. We often talk of nation building in terms of infrastructure—
mental to our participation in the knowledge economy. It is fundamental not only to our future as a nation but also to the future opportunities of Australians and their families.

Australia is a vast land. It is a land of enormous distances, where the potential of its people in today’s world can only flourish to the full if we are connected to each other and to the world. This is true in so many areas and at so many levels. Telecommunications is a major cost and a challenge for businesses. More importantly, it is a precondition for many emerging industries that rely on fast information and communication. It is important for the education of our children, who need to access information more and more rapidly from an ever increasing range of sources. It is important for Australian families because it enables them to access information on health and many other issues.

At the simplest level, telecommunications is about keeping people in touch. By the phone or by the Internet, telecommunications is the basis of much of our connection to one another. Access to reasonable telecommunications services is fundamental to the ability of Australians to effectively and fully participate in our community. These compelling issues appear to have passed the government by. The government has pressed ahead with its agenda to sell off Telstra, with scant regard for the national interest and for the interest particularly of Australians in rural and regional Australia. So where is the National Party in this debate? As I said earlier in response to an interjection, I do not think a National Party senator has spoken yet. I might be corrected on that.

Senator McGauran—You’re right.

Senator WONG—We await these great defenders of rural and regional Australia, who said that no privatisation of Telstra would occur unless services in the bush were up to scratch. Where are these rural champions? I can tell you where they are not—they are not out there listening to their constituencies. They are falling over themselves in fawning obsequiousness to the Liberal Party’s agenda and ignoring the wishes of their electorates. They are too scared to oppose the Liberals. They are a junior coalition partner that has been reduced to a sycophantic lot. They are far more interested, apparently, in holding on to government than in looking after the interests of the voters who put them here.

I want to turn now to some of the government’s supposed arguments in favour of selling Telstra. The first one is that services in the bush are up to scratch. Many honourable senators might recall that before the last election there was quite some discussion about the potential privatisation of Telstra. On 5 November 2001, the Prime Minister stated:

… we believe that people in the bush are entitled to the sort of services from Telstra as their city counterparts.

More recently, in July 2003 there was an article in the Land by the National Party leader, Deputy Prime Minister John Anderson, which commenced with:

Rural and regional Australia has enjoyed significant, even remarkable improvements in telecommunications services since the coalition government was elected in 1996. The article went on to explain why it is in the interests of rural and regional Australia to sell Telstra. The evidence on this simply does not add up. National Party and Liberal Party members and senators can make the assertion as many times as they like that services in the bush are good enough, but people in rural and regional Australia know that it is not the case. You only have to look at the evidence that was presented to the Senate inquiry into this legislation to find a plethora of complaints across the board—from various organisations, farmers’ federations and
country women’s associations—about the standard of services they receive in telecommunications, most of which is outside the metropolitan area, and expressing disbelief or doubt that privatising Telstra would improve any of the services available to them and to their families.

The government’s second argument, which was articulated also in the Senate committee report, is that regulation, not ownership, is the answer. At a theoretical level there are times when it is better for governments to intervene in an economic sector by regulation rather than by ownership. That is self-evident, and that is a bipartisan view. I do not remember Labor seeking to nationalise the steel industry or to nationalise financial institutions. There are occasions where governments should prefer regulation as the most effective means of achieving beneficial outcomes to public ownership in sectors where, firstly, there is no good reason for governments to be in the business of that sector and, secondly, there is reasonable competition within that sector so that consumers do have the benefit of competition and no one company has a virtual monopoly. That is simply not the case in the telecommunications market in Australia. The vast majority of telecommunications services available to Australians and utilised by Australians are still delivered by Telstra. It is even greater outside the metropolitan areas of our country. In rural and regional Australia, it is Telstra. Telstra’s network essentially has a monopoly across most of Australia.

The competition in telecommunications services in this country is only in those sectors where carriers can make reasonable profits: there are high levels of carriage, high turnover and many clients and the infrastructure needs can be funded from the profit made from consumers. That is not the case for many areas of Australia. It is difficult to see a privatised Telstra, with its No. 1 priority being its loyalty to shareholders and not to Australian consumers, putting money into what it would regard as low-profit areas in rural and regional Australia, where infrastructure requirements are expensive and Telstra simply cannot justify spending that money on a budget bottom line basis. It is ludicrous to suggest that a company the size of Telstra, with its extraordinary market dominance, can be effectively regulated by government so as to ensure that services to rural and regional Australia, and across Australia, can be improved and enhanced. A privatised Telstra would be nothing more than a giant private monopoly. As I said earlier, it would effectively be too powerful for any government to properly regulate. It would seek to dictate policy and regulatory issues and its primary loyalty would be to its shareholders, not to Australian consumers. A privatised Telstra is likely to focus on the most lucrative markets in Australia. This will be to the detriment of many Australians living outside the major population centres.

There are some interesting comments in the Senate committee report on this matter from Telstra itself which give an indication to Australians of what we are likely to see from a privatised Telstra. Telstra’s submission gave an indication of what the government could expect from it were it to be privately owned. Telstra stated it should not be subject to Telstra specific regulations, despite the fact that it holds a monopoly position over Australia’s fixed line network. Telstra said:

In this competitive environment it is not only appropriate but also a necessity that Telstra be subject only to industry-based regulation rather than face additional controls and obligations based on ownership.

This statement demonstrates that a fully privatised Telstra would seek to minimise its regulatory obligations. Current Telstra specific regulations, of the sort that Telstra is
saying ought not apply if it were privatised, include price controls, untimed local calls, the universal service obligation and free directory assistance. Those are the sorts of things that a privatised Telstra would not be able to deliver.

In the short time remaining I want to refer to the application of the funds for the sale of Telstra if it were to proceed. The government has said that its intention is to retire debt. I note, however, that there has been some commentary in the media, some speculation, that it may be possible to sell the last tranche of Telstra if the funds are spent on the environment. That has been tried before. We all know that the first tranche of Telstra was supposed to be spent on the environment. The report card on funding outcomes and what those funds achieved is poor. The government assured us that the establishment of the National Heritage Trust, funded by the part sale of Telstra, would solve the nation’s pressing salinity and water quality problems. I make two points about that: the NHT has been drastically underspent over the period of its funding commitment; and the government’s own state of the environment report has shown that we are going backwards on almost all the critical indicators such as salinity, land clearing and water quality. To those people who say we should sell Telstra and fix up the Murray, I say it has been tried before and the policy outcomes have not been good. (Time expired)

Senator BOSWELL (Queensland—Leader of The Nationals in the Senate) (10.04 a.m.)—We are debating today the Telstra (Transition to Full Private Ownership) Bill 2003. The Senate debated a number of bills on T1 and T2 and they passed the parliament one way or another. We are now debating the final sale of Telstra. I am as well aware as anyone that, if you take a poll on the final sale of Telstra, you see that it is not popular. People have a natural reluctance to see some of the government owned instrumentalities being sold off. That is a natural thing. But if you then add the question, as I have when I have been out in rural Australia: ‘If there were some money going into infrastructure, would it change your mind?’ the overall answer is, ‘Yes, if we could get roads, rail, dams and a few other things, we would be interested.’ There is always an overrider to the question. I want to point out today that it was the Labor Party that introduced competition earlier in its reign. In 1996 there were three licensed telephone companies in Australia; now there are 89 licensed telephone companies supplying services out there, 40 per cent of which operate in regional Australia, and there are 963 service providers registered with the telecommunications office. That has had huge results. The cost of telephone calls has fallen: local, long-distance, international and mobile phone costs were reduced by 25 per cent between 1996 and 2001. Prices have fallen outside the metropolitan areas by 22.4 per cent.

The Labor Party, after introducing competition and allowing 963 registered service operators into the market, now does not want Telstra to be able to compete against those 963 operators. As someone who has been in business, I know that, if you restrict and anchor Telstra into a semi-government, semi-privatised organisation, it will not be able to compete. The natural result will be that Telstra will be whittled away. Its shares will be devalued, as they are now—its shares should be a lot higher. People will not invest in Telstra; they will write it down as an investment. It will not be allowed to compete unless it is fully privatised.

You wanted to introduce competition, and we certainly agreed with that, and you should have seen what was inevitable down the track. If you introduce competition into a telecommunications service, inevitably you have to allow the main telecommunications
company, which is Telstra, to be able to compete. That is something that the opposition have never ever been able to recognise. That is something that they just have to understand. You are the ones who introduced the legislation to present competition to Australia. In doing so, with our full support, the cost of telephone calls has fallen by around 25 per cent. That is a very positive innovation for Australia.

A lot of people are saying that we are going to lose jobs if Telstra is deregulated. There is no doubt that jobs will go from Telstra, and they have—many jobs have gone from Telstra—but I want to say that most of the jobs that have gone from Telstra have been picked up by other competitors out there busy chipping away at Telstra's stranglehold on the communications market. They are employing many more people than Telstra originally had. So the number of jobs in the telecommunications sector has not gone down. The number of jobs might have gone down in Telstra but the number of jobs has gone up overall. Why has the cost of telephone calls gone down by 25 per cent? It is because there has been competition out there. The only reasons that people change from Telstra to another company are that the prices are cheaper or the service is better. So, yes, jobs will be lost in Telstra. But those jobs are more than made up by other communications experts out there offering different services at different prices. We have a lot of competition out there, prices have fallen and telephone communications are cheaper.

Many people think that having a government owned telecommunications service is a guarantee that services will be well prepared and well put up and that they will be given in a timely manner. I ask you to cast your mind back, Mr Acting Deputy President Lightfoot, because you are a man from rural Australia and you would well remember, as I can remember, the party lines of not so long ago. We would have half-a-dozen people on a party line and there would be various codes—one would be two short and a long, and so forth. The service was a piece of fencing wire strung around a number of trees until it got to your property. If there was ever a storm or a high wind, you had to go out and fix up the telephone line.

We have come a long way since then. Everyone in Australia now has very good telecommunications, and it was not because Telstra was government owned. That did not improve untimed local calls in rural Australia, where even to ring not just your neighbour but sometimes your own son who lived in a house on the same property 200 yards from the main house was a long-distance call. If you rang up your neighbour it was a long-distance call. If you rang up your town, if it was not the particular town that you were tied to, it was a long-distance call. The Internet was a thing that you dreamt about. Mobile phones were something that people desperately wanted out there but never thought they would ever see. The most remote areas of Australia, even towns with 300 people, which are very small indeed, now have mobile phones. But that was not because the government owned Telstra; those improvements in telecommunications came about because of a sympathetic coalition government that supported rural and regional Australia. I remember The Nationals and Liberal party rooms, where the commitment was made to have the latest innovations in telecommunications to allow rural Australia to compete. Who would have dreamt three or four years ago in places like Aramac and Charleville and even smaller towns, tiny little villages with 200 and 300 people, that they would have mobile phones? That was a billion dollars that this government committed to improving telecommunications in rural Australia.
It had nothing to do with government ownership. It had everything to do with a sympathetic Liberal and National party government that realised that rural Australia needed to have the same telecommunications as the rest of Australia if it were to be able to compete in international markets. It is one of the highest achievements of this government. Of course, as more telecommunications go out into rural and regional Australia, the more people are worried. They say: ‘You’ve got us up to speed now. We recognise that. You’ve done a great job for us. We’ve got telecommunications that, in some cases, have actually leapfrogged suburban Australia.’ But they are worried and concerned about this burst that has come through in the last three or four years.

It was implemented by Senator Alston, who has done an absolutely remarkable job on this. He has put those telecommunications out in rural and regional Australia. It will be to his everlasting credit when he leaves this place. He has left a monument that will be out there, working and providing telecommunications and prosperity. Without communications you do not have prosperity. If you cannot find out what is on the market, you cannot contact your broker and you cannot contact the cotton exchanges around the world to know what the price is at the flick of a switch on your Internet, then you cannot compete. You do not have the knowledge. Without knowledge you cannot compete, and without communications you do not have knowledge. So Senator Alston can retire today—or in the next month or so, when he will retire—with that marked up for him: a very positive goal that he has reached on behalf of the government.

But let me say again that those achievements were not made because communications were in the hands of the government. People out there quite rightly put this question to me: ‘We’ve got this now. How are you going to guarantee that we’re going to be kept up to speed with telecommunications as they move forward in the future?’ The simple answer is that you keep voting Liberal and National. As long as the coalition is in there, they will be looking after your interests. You will get the latest telecommunications infrastructure that comes out. Senator Eggleston has just presented a report to the parliament. I only had a quick look at it because it came down fairly recently. The report has made certain recommendations, and I hope that some of those are taken up. One of them was that there should be a review every three years. The legislation provides for a review of telecommunications every five years. But under this legislation there will be reviews, and those reviews will report back to the government. If there are innovations in technology, then the government will act and provide those innovations.

This bill is important. It is important to those who want to see Telstra survive, because Telstra cannot survive the way it is. It will be chipped away, eroded and eaten away. That great telecommunications company that is an icon in Australia will not survive alongside the other 89 licensed telephone companies. It has to be deregulated to survive. If you did not want it to survive, you should not have taken the first step and introduced competition. You should have said, ‘Let’s put up with a totally inefficient telecommunications company.’ You know—everyone knows, and no-one knows better than those who represent rural Australia—that there are a lot of people out in rural Australia. They were part of the communities and they took an active part in the communities. But services were never as good as they are now. The reason Telstra has to provide a service out there—and a competitive service—is that, if it does not, someone else will, and Telstra will lose a customer or many customers. There is nothing like com-
petition to provide extra services and lower prices. So—if you are really open about it—if you do not support the sale of Telstra, you are supporting its demise.

Senator Brown, you know that. One thing about you is that you go out for the absolute left-wing vote. To get that absolute left-wing vote you will go to the extremes of populist politics. Unlike One Nation, who did not have any intelligence, you are an intelligent person. I condemn you for that, because you know that what you are doing is wrong—unlike One Nation, who did something and did not know it was wrong. You know as well as I do that, by taking what I would call an extreme position—as you always do in politics—you are becoming the One Nation of the Labor Party. As long as you are out there eroding that 10 per cent of the vote that you are going for with your antics, you will be putting Labor in a position where they will never get into power. You are working away and taking away the vote to the left. You have reduced their vote to about 38 per cent—a position they cannot win from. So you are ensuring, from your left-wing position, that the right will always get into power. But you will always get your seat, because you know how to manipulate a vote. But what you are doing—and I should be cheering you rather than condemning you—

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Boswell, I feel a little uncomfortable with you saying, ‘You know’ and ‘Your left-wing vote’. It is as though you are referring to me.

Senator BOSWELL—No-one would ever misunderstand that, Mr Acting Deputy President, or think that you would be supporting a left-wing vote.

The ACTING DEPUTY PRESIDENT—You have taken my point, I think, Senator Boswell.

Senator BOSWELL—I have, Mr Acting Deputy President, and I will address Senator Brown through you. I was making the point that Senator Brown knows, and so does everyone else, if they are honest, that Telstra cannot compete against 89 competitors if it is half government owned—and has to respond to every government action—and half privately owned. That is reflected in the greatest test of all: the share price. The people have written Telstra down. Telstra shares should really be around $7 or something like that, but people will not invest.

We have put in guarantees that there will be reviews, service obligations and all sorts of structures that will future-proof Telstra. We can do it through legislation, through a licensing condition or, as we have done in the past, by putting over a billion dollars worth of government money into telecommunications infrastructure. The people out there will be protected. The people out there will know that the community service obligations will always be upheld, as long as they have a government that considers them and looks after their interests.

The next thing on the block is broadband. The Estens inquiry has said that we have to make the broadband price compatible overall, so we are putting another $140 million into broadband so that rural and regional Australia can access broadband at the same cost as suburban Australia. That is another indication that this government is not prepared to let rural and regional Australia fall behind, as it fell behind under 13 years of Labor government. That has nothing whatsoever to do with who owns Telstra. Telstra must be privatised because it cannot survive against 89 competitors. (Time expired)

Senator BROWN (Tasmania) (10.24 a.m.)—Fellow senators, I have never been condemned for being intelligent before—for many other things, but not for that. I accept...
that backhander as being of a kind we could have more of as we go down the line. I appreciate Senator Boswell’s arguments, but I do not go along with them. We both come from the bush and we both grew up in the party-line days where, as Senator Boswell said, you would go out and fix up the line then listen for two short, three long and two short rings to know whether it was your code or someone else’s code. But we are not talking about that now; we are talking about the age of broadband. I am glad Senator Boswell ended with that, because there is a striking difference right now between what is becoming available at the big end of town and what is available in the bush. Senator Boswell has said $140 million is going to help ensure that the bush gets broadband. I can tell him it is going to cost a lot more than that to ensure that the bush—

Senator Boswell—We’ll put it in if they do. Every time they need it, we put it in.

Senator BROWN—Senator Boswell says, ‘Every time they need it, we put it in,’ but I am onto the argument that, if Telstra becomes privatised, the cost on the public purse for maintaining the shortcomings of a privatised Telstra will be the same. It simply will not. The privatised Telstra will withdraw from the unprofitable services and regions and it will concentrate, as many previous speakers have said, on the profitable, concentrated big-business centres of Australia. There is no other country in the world with Australia’s concentration of both business and population in cities. It will not be just a temptation, it will be absolute logic that, with the privatisation of Telstra, any private corporation worth its salt will say, ‘Well, we heard Senator Boswell saying that the government will pay for it, whatever it takes, to keep the bush up with the latest technology—up to scratch, up to par with the city—so let them pay for it.’ We will not only see the bush coming second there—and that includes rural, regional and indeed suburban Australia—but we will have a private enterprise system which is able to leverage against the government of the day so that unprofitable services are paid for by the taxpayers and profitable services are looked after by Telstra shareholders, who are largely the already rich in this country.

After the debacle of the sale of the last tranche of Telstra, in which many mums and dads in Australia had their fingers burnt because the promise of the quick profit which seemed to be exemplified by the first sale did not carry through, there is not going to be a big list of ordinary and poorer Australians signing up for the third tranche unless there are absolute guarantees that it is going to be profitable. The only way you can give those absolute guarantees is for the government to lower the sale price. I note that Kenneth Davidson, writing in the Age on 30 June, came right in on that point:

Based on the present market price, this sale would generate about $29 billion.

Investors in the sale of the first tranche of Telstra in 1997—mainly local and overseas institutions—made a fortune of $3 billion on day one. Investors in the second tranche—87 per cent taken up by “mums and dads”—have made a capital loss of $6 billion.

This has important ramifications for the sale of the rest of Telstra. Investors have to be enticed into any new issue of shares by the belief that their investment will yield an immediate premium of 5-10 per cent. Because of the experience with T2, investors are likely to want a discount of at least 10 per cent—which means the Government’s proceeds would only be around $26 billion rather than $29 billion, which is their present worth.

This is not the end of the cost. The Government is projecting the cost of the sale in commissions and fees at up to 2 per cent of proceeds, or around $500 million, which accrues to the professional rent seekers who manage privatisation.
Mr Davidson goes on to account for the use and abuse of public moneys in the previous sale of Telstra shares onto the market, ending with the statement ‘$20,000 for private and excessive use of limousines, and $12,000 on personal expenditure and sightseeing’. These costs are of course only part of the losses to the public purse that will occur if the second half of Telstra is sold. I recommend the whole of Mr Davidson’s article in the Age on 30 June to people who want to get a bit of an understanding of the potential financial loss or the lack of rosiness of the financial prospect of selling Telstra. He goes on to say:

For those who can’t see beyond the finances, the question is: can the Government find a more profitable use for the capital freed up by the sale? It couldn’t for the first $30 billion. In place of the $9 billion in dividends forgone, it has saved about $5 billion in interest expense.

To me, that means a $4 billion loss or misuse of money. He continues:

Already the Government has sold $7 billion more of assets than it has repaid in debt, because most of the debt has a coupon rate of interest of 7-8 per cent compared with the current rate of interest of 5 per cent. This means the Government has to pay a 25 per cent premium to buy back the debt.

The 50.1 per cent Government share of Telstra with a market value of $29 billion could only buy back $20 billion of debt after paying the middlemen and the bond holders.

Do you think that is a good bargain? I think that is a rotten bargain. Remember that those bond holders and middlemen are not in Charleville; they are not in Oodnadatta; they are not in Geraldton; they are not in Devonport; they are not in Warrnambool—they are down in central Sydney and Melbourne, where their pockets will be lined at the expense of taxpayers in those rural and regional areas. The sale is a looming loss of billions of dollars to Australian taxpayers, but it is the loss of services that is critical to the constituents whom we talk to, which previous speakers alluded to—as I have no doubt those speakers following me, including Senator Nettle, will point out. The feeling out there in the streets of Australia, including in the big cities, is that people are against the sale of Telstra. It is quite astonishing that at the recent national forum of the National Party—the defenders of the bush and the ordinary person—they overwhelmingly voted down a move from Queensland to oppose the sale of Telstra. They did that because the National Party are so closely linked in with the Liberal Party, which is linked in with those middlemen in the big cities. This is a move by really big money in Australia to capture what they see as a lucrative telecommunications operator, with all the possible costs being borne by the taxpayers, in the way that Senator Boswell has just outlined.

Senator Boswell mentioned broadband and I will be questioning very carefully the Minister for Communications, Information Technology and the Arts on broadband in the committee stage on this bill. Is there any real prospect of the bush getting the same broadband services as the city? Not with the sale of Telstra. It may need an injection of funds from the government, but an option such as that will be (a) more expensive and (b) less likely to be carried out. After broadband, what new form of telecommunications in general will be required to keep people wired to the rest of the world, because that is where it is at these days? There are massive new innovations coming down the line. If Telstra is privatised, there are two ways that people in the bush will be able to access those services. One is for Telstra to pay for them—enormously disproportionate sums because of the tyranny of distance—and the second is for the taxpayers to pay for them. In a socially just country, this will inevitably mean that the taxpayers will make up some of the disadvantage that people have, whether in
communications or in other services. But we will see taxpayers forking out a hell of a lot more if Telstra is privatised and if the government no longer has a direct say through the board of Telstra on what the bush does or does not get or what suburban Australia does or does not get.

I want to look at the politics of this matter. There is no doubt that the sale of the second half of Telstra has been brought onto the agenda because there is an election coming up within the next 12 months. The government knows it will not sell Telstra in the meantime, whether or not this bill goes through. Expecting that the Senate will do its duty and block the sale of Telstra in the national interest, the government wants this matter added to the potential triggers that there are for a double dissolution. I personally think it is a loser for the government, and the government is making a big mistake in insisting that this be part of the trigger mechanism.

However, I think the government is going cold on the idea of a double dissolution. This presents the potential for getting the full sale of Telstra through in a delayed ordinary election later next year by putting pressure on the crossbenchers, in particular the Independents, who ensured the superannuation package went through yesterday without protection for dependent couples. Something of an auction of pressure is going to happen here, as senators who feel that they are in danger of losing their seats at the next election are put upon by the government. What I say to the Independents and indeed to the Democrats—I believe the Democrats will stand firm on Telstra but not so the Independents—is that there is an obligation on you to be consistent to past form and to stand very strongly for the interests of the regions you represent now, regardless of whatever passing sweetener the government might hand out. This brings me to the Natural Heritage Trust fund, which represents the failed use of more than $1 billion by the Howard government after 1996. The Greens opposed that at the time. There was enormous pressure put on us to say that we would agree to the sale of Telstra if—

Senator Mackay—It was put up by the Wilderness Society!

Senator BROWN—The Greens opposed that at the time. It was not put up by the Wilderness Society, Senator, and you should not misrepresent any non-government organisation in the community in this place. It does not do you well. The Labor Party ought not to get into the business of misrepresenting community groups, whoever they are.

Senator Mark Bishop—Who should they misrepresent?

Senator BROWN—In my books, no-one. It is as simple as that. I want to get back to the issue of the Natural Heritage Trust fund. It has involved a massive use of money by a government which believes you can buy environmental excellence. But you cannot. If you are going to look after the environment then you have to have laws which protect the environment. This government has been manifestly unable to achieve that and is not interested in that. Let me make it clear that the government will not be able to go to the next election with a similar scheme, because it has cried ‘excellence in environmentalism’. It is spending more money than any other government has spent before.

Senator Eggleston—Dead right!

Senator BROWN—I am sure Senator Eggleston will agree with that sentence, but the point is that the government has manifestly failed to deliver. The problem has been that all the environmental indices—and I am sure Senator Eggleston will agree with this, because it is the truth—have gotten worse. We are seeing the loss of biodiversity, our flora and fauna, in this country at a greater
rate than before in history. It is the same with forests. Under the express signature of the Prime Minister, it is the same with the deterioration in the quality of so much Australian soil that it is now being put out of food production. It is the same with land clearing, which is still outrageous—in the realm of half a million hectares per annum. As Peter Garrett has pointed out, for every tree that has been saved under the Natural Heritage Trust fund, hundreds, if not thousands, have been cut down under this government’s policy. In many ways, it has been an absolute waste of the money that came from the sale of Telstra by a government which was simply green washing and window-dressing. The public will not fall for that again.

Senator Mackay interjecting—

Senator BROWN—Senator Mackay from Tasmania interjects again to have a go at the Wilderness Society.

The ACTING DEPUTY PRESIDENT (Senator Bolkus)—Order! Senator Brown, I would ask you not to take interjections.

Senator BROWN—You are very wise, Mr Acting Deputy President.

The ACTING DEPUTY PRESIDENT—I hope you are as well.

Senator BROWN—Yes, I accept your wisdom. The Labor Party in Tasmania is a chainsaw-driven party which is now wrecking Tasmania’s forests at the greatest rate in history and with them the wildlife. They are using 1080 and massive fire burns and driving many rare and endangered species to extinction. I say thank God for the Wilderness Society and the fight it is putting up to prevent the loss and destruction of World Heritage forest which is occurring under Labor Party direction in Tasmania.

The subject of today’s debate is the sale of Telstra. It is about how people are going to communicate with each other in their neighbourhoods, within their states, across the nation and with the rest of the world. That is what is on offer here. The blandishments of the government do not wash. The responsibility of the National Party to defend the right to communication where it is most threatened—in the bush—has been sold out. It has been left to the Labor Party, the Greens and the Democrats to defend that rural interest. That is what this debate is about. I add to that the urban interest. Whether it be in Hobart, Launceston, Wentworthville, Bacchus Marsh or Fremantle, the interests of the big end of town in the big cities will predominate more and more if this is simply left to commercial interest. Are we going to take on an American system of communications, where the poor are more disadvantaged and the rich are more advantaged all the time with technological innovation, or are we going to have a nationally guaranteed system which ensures that as technology evolves everybody in Australia will get the advantage of that? There is no way you can guarantee that except by having a nationally owned communications supremo. That is what we have. There is 0.1 per cent of the shareholding guaranteeing that. If this sale goes through, we will lose that guarantee. That is why the Greens oppose this bill.

Senator LUNDY (Australian Capital Territory) (10.44 a.m.)—I rise today to restate Labor’s vehement opposition to the full privatisation of Telstra. If passed, the Telstra (Transition to Full Private Ownership) Bill 2003 will enable the full sale of Telstra by repealing the provisions of the Telstra Corporation Act 1991 which require the Commonwealth to retain 50.1 per cent of equity in Telstra. The big question is: why is this the case; why is it so important to keep Telstra in public hands? There are several reasons for doing so. One of the most important is the power vested in the government of the day to keep what is a burgeoning monster in the
corporate market, a continuing dominant carrier, from getting out of control. There are a number of key mechanisms that come with 50.1 per cent ownership that relate to the ability of a future government to ensure that the public policy priority of affordable, quality, future-proofed telecommunications services for this country are achievable.

At the moment, with the current privatisation debate and under a slack and lazy government, the Howard government, none of these objectives are being achieved. This policy—what should be the public policy priority—of quality services for all Australians is not even getting a look in, despite the ridiculous rhetoric we hear from the other side of the chamber and, indeed, through the policy of the Howard government. We now know, as a result of the inquiry into this bill and from what we heard from witnesses around the country, including key witnesses such as those from the ACCC, that competition is going to get worse. We also know that services are deteriorating. This seems quite astounding in the context of what we hear from the government, which has spent a lot of money and time over the last five years arguing very specifically that services are somehow up to scratch and are being invested in.

As demonstrated in this inquiry, the facts are that under the current regulatory framework, firstly, competition is getting worse—that means there is less pressure on Telstra to perform in the market—and, secondly, services are deteriorating. There is a series of statistics, which I will come to later, which show that quality is getting worse and services for many Australians are going backwards. As new services come on line and broadband becomes available, they are unable to receive it as a direct result of Telstra’s poor decision making, lack of planning for the future and underinvestment in infrastructure.

I would like to go to the issue of competition and quote evidence from the National Competition Council. I asked Mr Feil:

For the record has the Commonwealth met its national competition obligations with respect to the Telstra (Transition to Full Private Ownership) Bill 2003?

Mr Feil replied:

I do not believe the Australian government has obligations in respect of that particular bill. The obligation was in terms of an agreement that it would consider the appropriate structural reform of public monopolies prior to privatisation.

Mr Feil also said:

... that the NCP obligation did include consideration of a full range of options, including structural separation, but that the reviews to date did not.

First and foremost, the government has failed completely to adhere to its own competition policy and, whatever happens next, we know that the government has fundamentally failed to fulfil its obligation. In the context of the ACCC Report on Emerging Market Structures in the Communications Sector, which advocates looking at the structural issues relating to Telstra’s domination of both the copper and the hybrid fibre coaxial cable network that it owns, these issues are fundamental to future competitive pressures, but so far this government has taken the approach of burying its head in the sand; it just does not want to go there. I will return to those issues later. Labor’s opposition to this is backed up by some weighty economic arguments. I quote from the Labor minority report into the privatisation of Telstra:

Labor is not convinced that selling Telstra will benefit the Commonwealth financially. Labor has consistently argued that selling Telstra will have negative consequences for Commonwealth finances. Specifically the reduction in public debt interest will not offset the loss of dividends from Telstra into the medium term. When asked whether it was conceivable that the Commonwealth could end up worse off financially follow-
ing any further sale of Telstra, Professor Robert Walker from the School of Accounting at the University of New South Wales responded, ‘Yes, absolutely’. Labor’s shadow Finance Minister Bob McMullan stated that on August 2003 projections that selling Telstra would, at the very least, blow a $1.7 billion hole in the budget. The Government has failed to respond to Labor’s analysis that the Telstra sale would have a negative impact on the Budget in the medium to long term. Telstra delivered around $1.7 billion in 2002-03 to the Commonwealth in dividends.

This is 101 in economics, yet the government not only refuses to acknowledge these facts but also fails to address them in any of its arguments for the full sale of Telstra. The other issue that is worth focusing on, in Labor’s understanding of the importance of affordable, quality, accessible future-proofed telecommunications services as the primary public policy goal, is the fact that retention of 50.1 per cent of Telstra in public hands is going to increase dramatically the opportunity to achieve those public policy goals. We are very clear in our opposition but we are also supported by 137 of the 168 submissions to this inquiry. Only six submissions supported the further privatisation, including the government, Telstra and two investment banks, which stand to receive something like $330 million to $600 million if they are given some responsibility to organise the sale. This level of opposition further substantiates our argument. Many of the submissions focused on the issue of the quality and standard of services. It is not surprising that the government’s primary strategy has been to say, ‘We are going to improve services and we are going to say that they are up to scratch in the bush.’ It has been saying that for six years. For six years we have heard that rhetoric. And what is happening out there? I know what is happening in my office in box. It fills up with complaints on a daily basis about the failings of Telstra. We know through the inquiry into the Australian telecommunications network, that Telstra have underinvested in their network, resulting in poor technology decisions and causing this country to go backwards as far as the services that will matter in the future are concerned.

Senator Eggleston knows full well the sort of evidence we have heard about the lack of broadband, the blockages and bottlenecks in the physical infrastructure that Telstra is currently installing and what they are doing to the opportunities in regional and rural Australia. But the blockages are also happening in metropolitan Australia. For all of the appropriate focus on regional and rural Australia, there are pockets in outer metropolitan areas here in Canberra, Western Sydney, south-west Brisbane and west of Melbourne—fast-growing areas—where Telstra are still installing technology that blocks broadband services. Why is this so? Because there is no pressure on Telstra to do anything else.

I do not think that it is any accident that the government, in response to the Besley inquiry, declared 19.2 kilobits as being the new minimum service. Thanks very much! That might have been useful in 1954, but it is 2003 now and 19.2 kilobits is not worth anything if you are using the World Wide Web or email services with attachments. What is going on with this government? The Howard government has deliberately conspired and worked with Telstra to set a regulatory framework that allows Telstra to continue to prosper and not just maintain their presence and dominance of some markets but in some cases actually increase their dominance. I believe there is a very plausible reason for this, and that is that the only thing the Howard government cares about is flogging Telstra off. It is prepared to compromise those higher public policy goals of quality, affordable, accessible and future-proofed services
for this ridiculously short-term goal of privatising Telstra. It can all be explained if you look at it like that. The government’s motivation is taking care of Telstra, in many respects, and taking care of Telstra means going a bit soft on competition policy—just doing enough to make it look like the government cares, paying just enough lip service to keep the other carriers off its back or perhaps to keep them divided.

When it comes to lip service and programs to fund connectivity in Australia, the money is spent in such a disparate and ad hoc way that it makes no difference to the structure of the market. We know how much money is being spent through Networking the Nation and other programs, and we know that about another $180 million has been promised, but it is promised in such a way that it does not make a difference to the way the market is structured. Telstra still earn 90 per cent of the revenue in some of the markets and they still dominate. They are growing in some areas and they continue to suppress the development of the newer markets, like broadband, and infiltrate those markets across Australia. This conflict of interest that is driven by this government’s agenda to privatise has set Australia back so far. Not only did the government not understand the quite critical and central importance of the role of the Internet and broadband services some years ago when we had an opportunity to put some strong policies in place but also it has become more and more compromised as it has realised the boat has been missed. One of the single biggest indicators of that boat being missed is Australia’s dramatic slide on the OECD scale of broadband penetration around the world.

We have gone from being one of the best nations in telecommunications services and infrastructure—and I have to say that was born out of a fully public Telstra through that time—to now being seen as one of the nations falling behind. While Telstra fiddle around and try to keep their share price up, who is losing? I will tell you who is losing: Australians are losing. Individual Australian citizens are losing, small businesses in regional Australia are losing and people trying to do business in high-rise buildings in the CBDs of major cities are losing, because they cannot get broadband. Telstra, through collaboration and cooperation with the government in their privatisation agenda, have sacrificed Australia’s leading place in the world and the government has sacrificed a vast array of economic and social opportunities throughout Australia as a result of that conflict and that neglect of telecommunications policy.

If this legislation is passed, Telstra will be able to do anything they like. I was absolutely astounded to hear Senator Boswell stand up in the chamber—it took 19½ minutes to get there—and say the reason we have to privatise Telstra is that that is the only way they will be able to compete with the 89 other carriers. What a joke! I think it is embarrassing that the party that stakes its claim on representing rural and regional Australia can come in here with such absurd frippery—clearly swallowing the Telstra line completely—and argue the case that Telstra need to be freer from regulation and freer from government control to be able to do what they need to do to deliver better services. That is Senator Boswell’s logic, when every scrap of evidence before this chamber, before the Australian telecommunications network inquiry and in the ACCC’s report on emerging market structures says the opposite is true and that more regulation is needed. The best way of getting any sort of outcome that consumers want is for tighter controls on the conduct of Telstra in the marketplace.

I mentioned earlier competition policy, but it is going to require a lot more than that to achieve that appropriate goal of afford-
able, accessible, quality telecommunications services that are future proofed. I am talking about broadband, and we should be thinking about universal broadband and making plans for that in public policy right now. For that to be achieved a combination of things will be required. It will require using every bit of power that the government has through that 50.1 per cent ownership and it will require stronger regulation to protect the interests of consumers and make sure that standards and service guarantees are met. It will take stronger competition policy. It will also need taking a good hard look at the structural issues in the telecommunications industry.

At this point it is worth while pointing out that the ACCC’s emerging markets report identified Telstra’s ownership of both the copper network and the hybrid fibre coaxial cable network as being a key suppressor of competition in Australia. We can hold up the British situation to show why that is so. In the UK the key factor that led to the halving of the ADSL price, which saw broadband penetration go through the J-curve, was that the cable companies put pressure on the ADSL provider and the competition between the two providers of broadband forced the prices down. In Australia that competitive pressure does not exist because Telstra own both, and that is a problem. It is a factor that needs to be addressed through the consideration of public policy. It is my hope that the broadband competition inquiry which the Senate Environment, Communications, Information Technology and the Arts References Committee is now going to have will be able to assist in the closer scrutiny of those structural issues.

I get back to the point about Telstra’s decision making in their investment. Very clearly they hang on to their dominance in whatever market they have. We know they ‘game’ the regulatory system, because we have done enough analysis to see how Telstra appeal and stretch out those processes to frustrate everybody. What happens to competitors? What happens to Telstra as a result of that process? Many of the competitors just fall over in the end. What happens to customers? What happens to Telstra employees? Employees find themselves trying to maintain a network that is so degraded that their job becomes almost impossible. They know the sorts of staffing levels that are required to keep the infrastructure at least operating, and they are not allowed to maintain those levels because Telstra management are pulling people out of maintenance, outsourcing those jobs and restricting the number of people so the maintenance does not get done. The other effect of these pressures is that consumers are offered less service with a lower quality.

Finally, I turn to the issue of the infrastructure itself—one of the key issues that we heard about right around this inquiry. I was going to say ‘right around the country’, but I acknowledge Senator Mackay’s earlier comments that we did not go right around the country because the government did not want us to go right around the country. The Howard government had an interest in not allowing this inquiry to have a full and thorough investigation, so it has only been through the good work of the references committee that we have these insights into the state of the network and, indeed, the infrastructure investment—or lack of infrastructure investment—on behalf of Telstra.

I highlight one of the features of this that I think is quite deplorable. We asked a question in the Australian telecommunications network inquiry about the continuing use of a specific type of pair gain called a RIM. In short, these RIMs block ADSL and if Telstra cannot provide it no other competitor can either—there is no reseller—because the infrastructure cannot support it. Telstra said:
The short answer to your question about the RIMs is that we are actually no longer deploying RIMs. We have stopped that.

Yet just last Friday the committee received a letter from Telstra with the shameful admission that this is not true. This letter said:

When we appeared to give evidence to the Australian Telecommunications Network (ATN) Inquiry in Melbourne on 7 August 2003, we indicated that Telstra was no longer deploying RIM devices ... It has now come to our attention that in fact there are still a very small number of RIM devices being deployed in our network.

That is inferior cost-cutting technology that is blocking broadband in Australia now. If this government want us to think that they are future proofing the network, they should read the Hansard—because Telstra were shown to have misled the Senate committee on this occasion, and they continue to do it to argue for privatisation. (Time expired)

Senator NETTLE (New South Wales) (11.04 a.m.)—The Telstra (Transition to Full Private Ownership) Bill 2003 is not aimed at delivering the best telecommunications services for all Australians. It is not about a rational realisation of public assets. It is not about fairness, responsibility or progress. It is a bill that is being driven by a naked pursuit of the dogma of economic rationalism, a desire for small government and the abolition of government debt. It is based on a fundamentalist faith in the capacity of the private motive to deliver an appropriate distribution of essential services. This is a dogma that has led to some of the most tragic wastes of public money and thefts of community assets seen anywhere in the OECD. I am talking about the sale of CSL Ltd, the loss of the Commonwealth Bank and the sale of GIO as just some of the most stupid privatisations undertaken in Australia—of course, not forgetting the forerunners to this bill, T1 and T2.

In all the talk of services to the bush, future proofing, debt reduction and structural separation, there is a need to step back, question the motivation and philosophy behind the government’s intentions and reflect on some of this government’s and previous governments’ earlier mistakes. The sale of the Commonwealth Bank for many Australians was one of the most painful examples of how the privatisation of a publicly owned service leads to a loss of service, a loss of access and an increase in fees and charges. Like the sale of Telstra, the impact was and still is felt in rural and regional Australia where hundreds of branches closed, in many cases leaving communities without the option of face-to-face banking and without access to a local bank manager who had local knowledge and understanding. Crucially, the loss of the local bank has blighted the growth—and in some cases the survival—of small regional and rural towns, leaving whole communities facing decline and extinction. These are the impacts which Australians remember. They do not appear in the annual reports for shareholders and they do not appear on balance sheets, but they are the effects that real people feel. They are the lessons that the government should have learnt from.

The loss of amenity should be bad enough to dissuade the government from these foolish sell-offs, but sadly the grip of the privatisation dogma is too strong. If an appeal to the social conscience of the privatisers does not work, let us then look at a hard-headed analysis of the financial implications. Let us start by looking back at some of the earlier sales; the first sale of Telstra shares—T1. After undertaking a close analysis of all the privatisations undertaken in the past 15 years, Bob Walker and Betty Con Walker in their book Privatisation: Sell off or sell out? The Australian experience give the wooden spoon for Australia’s worst privatisation to
the sale of the first tranche of Telstra. Why? In their words:

... because of the loss of value to the public sector, and the extraordinary strategy of selling off Australia’s key communications carrier at a time when the rest of the world seems to be saying that we are all poised on the verge of an ‘information revolution’ which is likely to have a greater impact on society and world economies than the nineteenth century’s Industrial Revolution.

This loss of value to the public sector was massive. The Senate may remember that the shares for the first sale were put on the market at $3.40 per instalment receipt on 17 November 1997. By October 1998 the price had reached $5.87; by June 1999 it had reached $8.66, thereby placing the value of the third of Telstra that had been sold at around $37 billion. That is $23 billion more than the government had flogged it for less than two years earlier. This represents one of the greatest transfers of public wealth into private hands in Australia’s history. The T2 float was not so woefully underpriced—much to the annoyance of John Howard’s beloved mum and dad investors—but it is still hard to see what the long-term benefits of that sale will be.

Now the government wants to throw good money after bad and actually give up on one of the most profitable businesses in Australia. Telstra delivers billions in dividends each year. It is a cash cow that rewards its owners—51 per cent of which are the public and the public purse—with handsome profits, whilst allowing us, the majority owners, to act to ensure that service levels are maintained irrespective of profitability. But the government wants to remove the public from this equation. Again, we must wonder why.

The Treasurer tells us that it is about retiring government debt. Indeed, were this sale to go through, the $30-plus billion in receipts would wipe out government debt altogether. But we must not be misled into believing that this is something to celebrate. Anyone with even a cursory understanding of economics would know that government borrowing is far from the sin that Mr Costello would have us believe it is. A recent study by Allen Consulting in New South Wales comparing different financing models for government infrastructure investment found that government borrowing was by far the most efficient and cost-effective way of financing such projects. In fact, the bond market that government borrowing creates plays a vital role in the securities market and the impact of withdrawing government bonds is not a universally popular move with investors and portfolio managers. An article in the Australian Financial Review of 28 February stated:

... most financial market participants support the maintenance of the government bond market.

The article goes on to quote Reserve Bank board member and ANU academic Warwick McKibben criticising the government strategy. Faced with such harsh realities, we anticipate a resort to bribery to facilitate this sale. We were told last time that along with retiring government debt there would be an environmental bonus from realising these assets. But again these promises turned out to be hollow. My colleague Senator Brown has spoken about the manifest failure of the Natural Heritage Trust. The revamped Natural Heritage Trust was an implicit acknowledgement that the NHT was failing. These trade-offs do not work. The Greens will not be bribed into supporting the next sale by a government that has shown time and again that it is incapable of honouring commitments to the environment. The Greens will not be drawn into a disingenuous choice between investments in environmental programs and retention of public ownership of essential services. Privatisation of such a crown jewel of a public asset simply does not make sense financially or socially for the broader public.
does not make sense for those who lose out on the service end of a privatised Telstra.

There are two main categories of losers under this government’s proposed sale—Telstra customers in rural and regional Australia and Telstra employees. Even the government recommendations from the Senate committee recognise that customers in the bush are vulnerable. The recommendation that service reviews happen every three years indicates an anxiety about the future of these services under a fully privatised Telstra. They are right to be anxious. The people of rural and regional Australia already suffer from previous sales and corporatisation of Telstra. The committee has heard the horror stories: the days for faults to be addressed, the families with sick children and frail grandparents without telephone access or mobile coverage, businesses stunted through poor or non-existent Internet connections and mobile access. The government members of the committee talk about the capacity of government to regulate and address these problems even if Telstra is privatised, but it is hard to imagine a huge private monopoly like Telstra being quite so easy to push around. Even now, with just as much regulation and a majority public ownership, it is clear that the struggle to get these systemic problems addressed continues.

The employees of Telstra are also rightly concerned. The Greens’ member for Cunningham, Michael Organ, heard on the picket line about the eight sacked maintenance workers in Wollongong who were laid off despite continuing faults in the area, despite their remaining colleagues being asked to work regular overtime and despite the publicity campaign proclaiming ‘local people, local knowledge, local solutions’. The same is true all over Australia: staff are being retrenched, corners are being cut and investment is being stalled in order to fatten the goose before the proposed sale. There has been a $1.5 billion reduction in investment over the past three years and staff numbers have been cut from 50,000 to 37,000. Why should we believe that a private Telstra board and shareholders will not want to continue this process to guarantee the same profit margins and healthy dividends?

This bill must not be passed. Telstra must stay in public hands in the interests of all Australians. Indeed, the Greens would like to be debating a bill that sought to reclaim the 49 per cent private ownership of this world-leading telco, thereby increasing our ability to reap the rewards as the information age continues to take off. Public ownership of national telecommunications carriers is not unusual. Germany, Japan, France, Austria, Belgium, Finland, Norway, Holland and Korea, to name a few, all have significant shares in their national telecommunications carriers. To argue that the sale of Telstra is somehow inevitable progress is absurd.

Telstra has a unique and vital role to play in the future of our country. The delivery of reliable, high-quality communication services is essential for a large country like ours. Even if we ignore—as government members seem willing to do—the massive financial losses a sale would deliver and even if we ignore the illogical reasoning behind the debt reduction strategy, we must not ignore the cries from the bush that a majority publicly owned Telstra is not providing them with an equitable service compared with city customers. We must not further privatise Telstra and disregard the concerns of the voices coming from the bush. We need a strong public telecommunications service. Anything less is a compromise that we cannot afford. The Greens will be opposing this bill.

Senator STEPHENS (New South Wales) (11.17 a.m.)—I too rise to contribute to the debate on the Telstra (Transition to Full Private Ownership) Bill 2003, which is of
course anathema to both the Labor Party and the Australian people. We have heard emphasised throughout the debate, particularly in this morning’s contributions by Senator Brown and Senator Nettle, the issues as they relate to Telstra’s shareholders. Senator Lundy addressed quite coherently the financial impact of the sale on both the government and other shareholders, and the fact that that financial benefit is not assured. As a regionally based senator, in my remarks today I would like to address the impact on rural and regional communities, as well as bring the debate back to just what an essential service really is and why telecommunications services are today most essential to all of us.

Telecommunications services are essential for all Australians, whether they live in an inner city apartment or a country town, on an isolated property or in the middle of a suburban development. We have heard lots of stories this morning about the many people, even in metropolitan Sydney and Melbourne, who have not been able to gain access to the more sophisticated telecommunications services around broadband that are so important and the basis of communication technology today. Telecommunications services are essential for businesses and essential for schools and tertiary institutions. The Internet was developed basically for the military and for tertiary institutions and has expanded from there. These services are also essential to organisations that care for those in our communities who are excluded from mainstream services and access to the information that is so important to functioning in our society—because our economy and society revolve around our ability to communicate.

Labor believe that everyone should have access to efficient and affordable telecommunications services. That is why we believe in the public ownership of Telstra and that is why this government’s intention to sell off their remaining 51 per cent share of Telstra is so wrong. They want to sell off people’s entitlements, to make a quick buck. It is just a short-term gain for long-term pain, and it is for this reason that the legislation must be rejected. I heard government senators arguing last night and this morning that this sale was good public policy. It is not good public policy to sell off basic infrastructure to a company that continues to fall short of its universal service obligations, touted as the very safeguard to public services. The government have tried to reassure people by saying that this sale has been future proofed. What does this mean? Does it mean that it is in the national interest to sell off the public assets of essential services to the private sector, thus ensuring that the government cannot regulate for equitable services in the future? I do not think so.

Senator Ian Campbell—You sold all the airports!

Senator STEPHENS—Does it mean cashing in a company that occupies two-thirds of the telecommunications industry in this country and accounts for 95 per cent of industry profits? I do not think so.

Senator Ian Campbell—You just sold CSL!

The ACTING DEPUTY PRESIDENT (Senator Bolkus)—Order! Senator Campbell.

Senator STEPHENS—There is no true competition among the 89 telecommunications companies in Australia.

Senator Ian Campbell—Is there a standing order against hypocrisy?

The ACTING DEPUTY PRESIDENT—There is a standing order against interjections, Senator Campbell, and I ask you to desist.

Senator STEPHENS—There is no doubt whatsoever that a privatised Telstra would be
too powerful for the government to regulate—certainly too powerful for this government and too powerful for the next Labor government. And how would any company with so much power and market share operate in the market? They would of course operate to maximise the return for their shareholders, not in the interests of ordinary Australians.

In theory any future government can repeal any ordinary piece of legislation, but how does legislation that fundamentally changes essential infrastructure get repealed? The government pretends that its legislation has safeguards, but everyone knows the reality is that it provides no real protection for future service safeguards. Somewhere down the line some Liberal government will succumb to the pressure applied by this massive private company, and those safeguards will surely disappear—that is, if they work at all. This new piece of legislation will be dispensed with, just as the Telstra Corporation Act 1991 will be if the government gets its way. This is another piece of legislation that leaves the regulation of the industry much to the discretion of the minister.

The government, and presumably the new minister, believes that Telstra is up to scratch, when all the evidence points to this assessment being clearly incorrect. How could a government that is so deluded about the current state of Telstra be trusted to manage it? A privatised Telstra would see its first responsibility being to increase profits for its shareholders, not to provide services on an equitable basis for all Australians. To satisfy shareholders, it would focus on the more lucrative markets and would neglect those markets where the returns are less financially attractive. Which markets will be less attractive? They are the low-volume users—low-income households and regional Australians. As Senator Nettle so rightly said this morning, we have all see this happen with the banks, with big profits mattering more than service provision. What a lack of vision. What a failure of leadership it would be to privatise Telstra in the full knowledge of what this will mean for so many Australians.

How do our parliamentary representatives of rural New South Wales—with the exception of Alby Schultz in Hume and Kay Hull in the Riverina—square off with their electorates, having voted for this bill in the House? I refer to Sussan Ley in Farrer, Joanna Gash in Gilmore, Gary Nairn in Eden-Monaro and John Cobb in Parkes. It is a disgrace. It is another example of saying one thing in their electorates and another thing in the House. Surely every one of these members can take a steady look at how the banks are putting profit before service and then apply this to the prospective sale of Telstra. All around the country we have seen what has happened with the banks. We watched the calamity of the electricity industry in Victoria, which was privatised by that privatisation zealot Jeff Kennett. We have seen advocates of the privatisation of water. Imagine the costs to the consumer of that.

Senator Ian Campbell interjecting—

The ACTING DEPUTY PRESIDENT—Senator Campbell, this is your last warning.

Senator STEPHENS—We cannot allow the same thing to happen with Telstra. Governments have as a priority the effective and efficient delivery of services, and they work hard to get value for public money. They have shared priorities of protecting the level and the value of services. They have the responsibility of protecting and maintaining essential infrastructure. They have community service obligations to citizens as shareholders in what is essentially a public owned corporation. Commercial considerations are of course important, but there are other important things that elected governments have a responsibility to consider. On 14 August
this year, the Liberal member for Moncrieff made exactly this point. He said:
The government, as the majority shareholder, challenges the board to take these types of things—
that is, the non-commercial decisions—into account in terms of the future plans and future projections of Telstra.
He went on to say:
... those that are private shareholders want Telstra to make commercial decisions: decisions that are good for shareholders.
That is exactly my point: Labor are opposed to the full privatisation because we want Telstra to fulfil its obligations to wider Australia. We want its purely commercial decisions to be tempered to servicing less profitable aspects of the industry. We want Telstra to provide good broadband access to rural communities and to maintain the phone lines of pensioners.

What fully privatised company would carry out the necessary infrastructure improvements for so little return on capital outlay? How can the government possibly argue that the recently announced $181 million of rural capital upgrade in response to the Estens report will go anywhere near meeting the infrastructure upgrade requirements? In a written submission to the inquiry regarding the effectiveness of the proposed government regulation of the industry, Telstra stated that the special price and service standard obligations would make Telstra less competitive and, over time, would lead to a spiralling down of service, competitive pressure and technological innovation to the long-term disadvantage of customers.

The capital investment in network infrastructure is in the national interest. Already there has been a $1.5 billion reduction in investment in the past three years and, as we have heard several times from several speakers, staff numbers have been slashed from 50,000 to 37,000 under this government. What can we expect if Telstra is completely privatised? Services to rural Australians and those living in the developing suburbs of our cities are being eroded. Where there was once steady progress there is now a decline in services.

Despite the rhetoric of the former Minister for Communications, Information Technology and the Arts, Senator Alston, Telstra continues to struggle to maintain services and infrastructure. The ACA advised in its recent report that complaints against Telstra continue to climb. Waiting periods for maintenance are growing, and that is for those lucky enough to have a line that can be fixed. It is worse for those waiting to have a line installed. Old copper line exchanges are still operating, struggling under the demand for data lines, extended rural subdivisions, new apartment blocks and overstretched maintenance crews. So where is the profit motive? It is certainly not in supplying services to low-level users.

Australia is in the unique position of having a large land mass and small population mainly located around the coastal regions. It is hard to accept that a private company would sustain necessary growth and maintenance in rural and remote areas. Even in the new suburbs of our cities the infrastructure is inadequate, as it appears to have been set up as cheaply as possible. In these suburbs there are not enough phone lines for the number of houses and home units being built. Alternatives to broadband are not being made available. Cable is not being laid and satellite technology, which is well out of the reach of most people’s budgets anyway, is not subsidised in these areas. What chance do people in these areas have to attract business, when essential communications are not available as easily and as cheaply as in the city centres? Why should people be deprived of access to good telecommunication services,
and all the commercial, educational and social benefits that go with them, simply because of where they live?

This brings me to an important point: the development of rural and regional Australia. We all agree, both government and opposition, that we need to make rural towns and communities sustainable. A crucial aspect of this is bringing businesses and jobs to the regions. Lindsay Tanner, the shadow minister for telecommunications, has made an important point about the economic future of regional Australia. He said:

If communications access is equal in quality and extent in a location outside the major cities when compared with access within the major cities, the huge differential in land and rental prices will mean that many parts of regional Australia will have a tremendous economic advantage. They will be very attractive for many kinds of small and medium sized businesses, which could locate themselves in those areas. But the crucial thing is communications access.

Those of us concerned about population pressures in our major cities, the Sydney basin in particular, are particularly interested in making regional areas attractive for business investment. Why would anyone want to move to the regions—or, more to the point, establish a business in a regional area—if they would not have access to telecommunications infrastructure that has become an integral part of business?

Let me move now to another concern: the job losses that are inevitable by the enactment of this legislation. As services are declining, Telstra is paradoxically putting off more and more workers who maintain the service. Maintenance staff—or ‘fix and fit’ staff, as they are referred to—are being retrenched under what has been described as ‘a highly dubious assessment process’ where some of the more experienced and perhaps more opinionated and knowledgeable staff are dispensed with in favour of the more compliant. The remaining staff are being asked to work up to 60 hours of overtime a month, leave is regularly cancelled and there is not enough staff to service the backlog of work. At the moment Telstra has over 100,000 faults waiting for maintenance.

Labor are not only committed to blocking the sale of Telstra; we are committed to seeing Telstra services progress. We know that the government do not understand how people are suffering. We have been told that the government would only sell Telstra if they could be satisfied that arrangements were in place to deliver adequate services to Australia. The problem is that they are claiming that things are already up to scratch. This must be a warning to us all. What we need is a government and Telstra that are willing to admit what is really happening: to forget the spin and be honest with the Australian people.

Earlier this month the member for Melbourne pointed out the misleading figures provided by the Australian Communications Authority. Under the government dictated network reliability framework, Telstra must supply figures showing the number of faults in each geographic area. They have averaged out the figures to come up with a 99.6 per cent non-fault phone line figure, a misleading and inaccurate method of calculation. In fact, it turns out the figure is more like 90 per cent. This means up to 720,000 Australian phone services fail each year. Our question is: how are they going to be trusted to regulate the industry when they have already started to fudge the figures? It was reported last week that complaints about Telstra services rose 2.9 per cent to 28,750 in the year to 30 June 2003. At the same time the total number of complaints fell and there were twice as many complaints against Telstra as there were regarding the service of Optus, the second-largest telecommunications company.
Like most senators in this chamber, my office has been inundated with emails, telephone calls and letters from ordinary men and women who are concerned about the government’s intention to sell its remaining stake in Telstra. As one constituent, Mr Ray Sillett, wrote recently to remind me:

The nation’s communications network is arguably one of the most important resources a developed community has. Without this resource our modern society would fail to function.

Like many others, Mr Sillett argues strongly for structural separation to deal with the current situation with Telstra. Yet this government has no plans to guarantee the quality and standard of the nation’s communications backbone. What is needed is a way in which the network, associated switching and relay equipment should remain in public ownership.

Ms Patricia Kuhn shared her experience with Telstra in a recent email to me. She has taken her family’s experience to the Telecommunications Ombudsman following misleading advertising about broadband access. Ms Kuhn does not live in rural or remote Australia, she does not even live in a regional centre: she lives in Adelaide, in a suburb that Telstra has advised is too far from its local exchange—6.5 kilometres—to ever have broadband. Mr Bob Davis of Yamba on the North Coast of New South Wales has advised of his similar experience: an unjustifiable discrimination by Telstra against rural users through the imposition of a region 2 service fee of $20 per month, on the presumption that it costs extra to provide this service throughout regional areas. This is an imposition on regional ISPs and is of course a strategy by Telstra to provide a disincentive for consumers to use other than BigPond as their ISP. Mr Morgans, from the South Coast village of Candelo, has been advised in a letter from Telstra that it cannot upgrade pair gains on request because it would be anti-competitive behaviour:

... if Telstra were seen to be favouring its own retail arm ahead of its wholesale customers by upgrading Mr Morgans’ telephone service but not being prepared to do this for a customer of another service provider.

So this is a commercial decision for Telstra—and public policy, nation building, equity of service provision and the lack of competitors in providing network infrastructure have absolutely nothing to do with it.

We have just completed the Medicare inquiry and heard significant evidence of the importance of sound telecommunications infrastructure to rural health services. There are many concerns that Telstra’s customer service guarantee framework remains incomplete. There is one group of Australians for whom the services are still not widely available, and of course I am referring to Indigenous communities. I know Senator Crossin addresses those issues in her contribution to the debate. This is not good policy. This sale is something Labor cannot contemplate and will not support. It should not occur, in the best interests of all Australians. It is going to divide Australia into those who will have continuing access to new telecommunications technologies and those who will not and it cannot be justified on any grounds.

Senator MURRAY (Western Australia) (11.37 a.m.)—The sale of Telstra has been Liberal Party policy for the last three elections and is before us in the form of the Telstra (Transition to Full Private Ownership) Bill 2003. It will probably be an issue at the next federal election too, either in a general sense of a normal half Senate election or in a specific sense as a double dissolution bill. It will be interesting to see if The Nationals in particular are prepared to risk those eight critical coalition seats on a double dissolution Telstra election. Everyone would do well to remember that, unless the coalition
get a six to seven seat majority in the House of Representatives, they will not have the numbers at a joint sitting either.

The Liberals argue that, having been elected three times with the sale of Telstra as their policy, subject to some self-imposed conditions, they have a mandate to sell it and that the Senate should just get out of their way. The fact is that a majority of the Senate agreed to a partial sale of Telstra and a majority of the Senate oppose the full sale of Telstra. The majority has popular support. If the government really imagine they have popular support for the sale of Telstra, let them put it to a popular vote in a plebiscite to see if they can get 50 per cent plus one; the Senate would then be under great moral pressure to give in. Democratically speaking, this is a minority government. For a popular mandate, it needs to have majority support. The coalition secured 43 per cent of the vote in 2001 and was decisively opposed by the majority of Australians—all 57 per cent of them. The Senate is much more representative than the House. After the 2001 election, 95 per cent of Australians were represented by their party of choice in the Senate. In the House of Representatives, over 18 per cent of Australians were not represented by their party of choice.

Back to the numbers—for as long as The Nationals were opposed to the sale of Telstra it was pointless even thinking about the need to face up to a potential sale. Now they are for it. By right, I always have a conscience vote in my party. So will I use it to support this bill? No, I will not, on two grounds. Firstly, I signed a pledge to my party at the last election not to sell Telstra in this term of government. The only way I could vote for a sale now would be if the bill could become law only after the next election. If Labor were returned, they could then stop it becoming law. Secondly, this bill does not have my support, because it is fatally flawed. The next logical question is: if the flaws were fixed, would I consider the sale of Telstra? As a finance man, I agree with the respective portfolio holders for the Democrats and Labor, Senator Cherry and Mr Tanner, and a number of expert commentators. They are right when they say that Telstra is worth much more to the Commonwealth as an asset in hand. Any reduction in net debt interest payments after sale will be less than the loss of Telstra’s significant and positive cash, tax and dividend flows. Furthermore, for a sale to be revenue neutral, additional taxes would have to be raised from elsewhere to cover the considerable current revenue shortfall resulting from the sale.

So on what basis do you sell a cash cow, a strong long-term asset of this kind? It is only when other needs are of such a high priority that you must. In July 2002 Senator Brown said that a massive injection of funds into the environment might tempt him to vote to sell Telstra. As we know, since then the Trots in his party have stamped on his fingers. Senator Lees was asked for her opinion on his remarks. She said that, if a sale could deliver environmental benefits of real significance, Australians might want to consider that in the future. The Democrats party faction opposed to Senator Lees and her supporters thought they saw their chance to attack her and the majority of Democrat parliamentarians. The potential sale of Telstra was not the cause of the party bloodletting that followed; it was the excuse. The foolish result was that Senator Lees was driven out of the Democrats and the damage to the party was fearful.

After the government’s announcement at the end of June that they would again try to sell Telstra, I informed the party room that I would continue to oppose any further sale of Telstra for as long as the government wished to use the proceeds to pay off Commonwealth debt but that I would be prepared to be more open-minded if a substantial amount
of the proceeds were to be used for environmental purposes. Section 11.3 of the Democrats' constitution confirms my right to vote on conscience and requires me to advise the party of a decision—in this case it is a possible decision only—to vote on conscience and my reasons therefore. I did that early in July.

Any economist will tell you that land and labour are two factors of production. They will tell you that continual targeted investment in these factors is essential to long-term sustainable productivity and growth. A nationalist will tell you that land and labour, our country and our people, are the essential determinants of the nation state. Investment that starts with a preschool child takes a couple of decades to get a full social and economic return. Investment in turning around land degradation and material environmental damage similarly take a couple of decades to get a full social and economic return. A failure to invest condemns generations to come. That of course is what the economic rationalists are guilty of: a failure to invest adequately in our land and labour, a failure that we will be paying for over generations. So if you are as desperate as I am to invest huge sums to stop and then reverse the disaster that is salinity and to restore the health of our water and land systems, you look for the money where you can get it.

Nearly all the influential writers for Mr Murdoch and Mr Packer appear to be on the lower taxes train. The major parties focus on tax cuts, not public investment in critical capital works or in costly land programs. With more tax or more debt ruled out, the only way to get serious money for our land is to look to asset sales. Only Telstra offers enough money for such critical national priorities. However, it is academic because the government insists a Telstra sale is to reduce our already low national debt, and I will vote against that proposal. As a country we are undergeared. In September, Treasurer Costello said that net debt was only 3.9 per cent of GDP. There is simply no credible financial case for selling Telstra to pay off a minor national debt.

My colleague Senator Cherry’s comprehensive minority report into the Telstra (Transition to Full Private Ownership) Bill 2003 covers many issues in detail. I think that some matters to be considered in any sale include the public utility argument, state owned industries, economic nationalism, regulatory aspects, structure, asset value and alternative uses for funds. First, I turn to the public utility argument. There is a view that certain utilities should be public rather than private—that essential services such as water, sewerage, power, telecommunications and communications are better provided by governments than by the private sector because government delivers more comprehensive services at a lower cost and delivers them with the public interest, not private profit, in mind. That view has validity, but it seems truer for some sectors or utilities than for others and still has to be argued on a case-by-case basis. It may have been true when Telstra was 100 per cent a public utility; it is much less true for a half-privatised, market-competitive Telstra.

Enforceable customer service obligations have also emerged in law as a device to ensure public interest activity by relevant private sector corporations. I do not buy the argument that rural and regional Australia will suffer worse Telstra service after a sale than before, provided strong CSOs are built in prior to the sale. I also do not accept that governments automatically manage to the highest standards. With its dominant shareholding, you would expect this government to push through company constitutional and board policy changes to ensure that Telstra leads the field in corporate governance. However, Telstra is far from the market leader in corporate governance. It is not sur-
prising really: this government are good at lawyering but have little experience in business, and in accountability they are proven laggards.

Second, it is still a belief of many in Australia that the state should own key industries. I do not hold that view. I do believe that the state should be actively and extensively involved in the provision of certain public goods, but these do not have to be the exclusive preserve of the state. There are still those who think that all education and health facilities, for instance, should be government owned and funded. I think the idea that universal free health care or universal free education is possible is a fantasy.

There are those who think that banks, airlines, railways, airports, ports and other key industries and facilities should be government owned in the public interest. That view has had some validity in the past, particularly when the infrastructure was being developed, but in the modern market economy it now has to be argued on a case-by-case basis rather than be considered a general principle. Economically, that view is attractive when the facility is an effective geographic monopoly, like a port, and price gouging is a danger. Strategically, a port or defence facility seems to me much safer in government hands, on the precautionary principle. Even if I were to agree with the state owned industries argument, I could not see where the money could ever be responsibly found to buy back the already privatised half of Telstra—never mind Qantas, the Commonwealth Bank, the Commonwealth Serum Laboratory and the long list of assets sold by the previous government.

Third in my list is economic nationalism, or keeping assets in Australian hands. Some economic nationalism can be satisfied whether entities are government owned or not. Prohibitions on foreign ownership of strategic industries can be written into law, and devices such as ‘golden shares’ can give governments key controlling interests in set circumstances. In any sale of Telstra, Australia’s strategic interests would need to be considered. One thing that really annoys voters is when assets are sold too cheaply, so the sale price is important. Most sales under Labor were far too cheap, as was the first tranche of Telstra that was sold. The Democrats were mocked for telling the coalition that they were selling too cheaply. We had done our sums and we were proven right. Even so, memories fade, and seldom are these past privatisations raised by the public anymore. Once corporations like Qantas and the Commonwealth Bank are sold, the level of public anger or concern seems to rapidly dissipate, and the privatisation is accepted. However, if the privatised Qantas or the Commonwealth Bank were to end up in foreign hands the outcry would be huge. The political reality is that, in any sale of Telstra, Australian control would need to be written in to satisfy the dictates of economic nationalism.

Fourth is regulation. A further sale of Telstra would need to consider much stronger safeguards, particularly in the Trade Practices Act. On 13 August 2003 I made an adjournment speech on the need for trade practices reform. In that speech I said:

There are great dangers in contemplating media ownership reform, the sale of Telstra or an end to the four pillars banking policy without a divestiture power as a necessary safeguard. We know from experience that market forces will not guarantee competition in highly concentrated industry sectors. Regulatory powers are necessary safeguards for efficient, effective and diverse competition. Current divestiture provisions in the Trade Practices Act are very limited and should be expanded. We must look to the success of divestiture laws in other dynamic and productive markets such as the United States. Without them, changing current policy in key market areas such
as telecommunications, media and banking raises immense difficulties.

The fifth area I raise is structure. The structure argument is difficult. The necessity and practicality of vertical or horizontal separation is an issue, and that is picked up in the latest Senate report on this bill. Certainly, divestiture provisions in the Trade Practices Act would give the ACCC power to order divestiture post sale if it thought it necessary. Commonsense tells you that it would be better to get that advice pre sale if you could. The ACCC believes that Telstra should divest certain businesses. Perhaps it would go further if it had the powers that I would seek to give it. However, it will be hard to try to force splitting on a government that wishes to sell the corporation intact, and there are strong arguments both for and against the splitting proposals that have been put to the committee.

Last and most important of the issues is the value of Telstra to the Commonwealth. As I have said, I would never personally vote to sell a strongly performing asset that has a strong cash flow, a high dividend yield, great prospects, good taxation returns and a high asset value, unless the alternative use of the funds justified it and made it essential. That means I rule out further Commonwealth debt repayments as a reason to sell Telstra. Commonwealth debt repayments are not a priority: national debt has market related positives, and the Commonwealth is effectively undergeared anyway. Addressing debt from a different direction by funding a significant portion of presently unfunded Commonwealth superannuation obligations from the sale of Telstra is more attractive, but it is not a compelling argument.

Clearly, in a general sense, the government needs to spend much more on both current and capital needs. That means revenue raising, debt raising, the sale of assets or any combination of these. Reports indicate the sale of the rest of Telstra could deliver anything up to $30 billion. Our land is in large-scale crisis. As a Western Australian, I am particularly conscious of that. Among others, the National Farmers Federation and the Australian Conservation Foundation have spelt out just how much money they think is needed, and it is a huge sum. It runs into the multibillions. It is in the national interest, if Telstra were to be sold, for the proceeds to be used for the long-term good of Australia and its peoples and not just to knock off an ideological need to pay off debt.

It would be compelling to me if a very large proportion of those proceeds were to be invested in our land, especially in water and salinity—in a long-term commitment to reverse bad environmental outcomes that threaten much of Australia and need urgent attention. The cost of land degradation is so great that only debt or an asset sale can provide the billions needed. It is not that I do not think there are other urgent national needs, but I do highlight those. There is the possibility that some of Telstra's money could be used, for instance, in areas such as increased investment in rail—another infrastructural area badly in need of investment. In conclusion, every Democrat senator will increasingly face the question of whether they oppose the sale of Telstra in any circumstances. I have outlined here when I would be prepared to consider it but, with respect to this bill and this proposition, I will be opposing it.

Senator McGAURAN (Victoria) (11.55 a.m.)—I too rise to speak on the Telstra (Transition to Full Private Ownership) Bill 2003, which seeks to amend the Telstra Corporation Act 1991 by repealing the provisions that require the Commonwealth to retain 50.1 per cent of its equity in Telstra Corporation Ltd. In essence, this is a bill enabling the government to fully privatise Telstra. Before I go on to the main substance of
my speech, I would like to take up the final points of Senator Murray. He mounted a good case, as the Rhodes scholar always does. He does not believe that paying off debt—which is one of the primary initiatives this government seeks in its final privatisation of Telstra—is a worthy exercise for the government to undertake, at least in this tranche of Telstra.

Senator Murray put the argument very well. He has the luxury of putting the argument because this government came into power with a $96 billion debt left behind by the previous government. We have worked since 1996, with great discipline and economic vision, to reduce that debt to the low 30s. It may even have dipped under the 30s—it depends on the current interest rates at the time. We have achieved that reduction in debt predominantly by the sale of Telstra but also by disciplined budgets. Senator Murray is quite right: this government is undergared because we have worked to be undergared. We can have the luxury of saying, ‘Where should the final tranche of Telstra be placed—in greater infrastructure expenditure or reduced debt?’ We have that debate in our own government, in our own ranks. The National Party believe a great deal more should be spent on infrastructure and that some, of course, should still go to debt. We are happy to have that debate, but we have the luxury of that debate, Senator Murray. Are you saying that the first tranche should not have gone to the reduction of debt—that this government, when it first came in, should never have started the hard slog to reduce its debt? Yes, we are undergared, as I say. Maybe we should have the debate on the fringes in regard to the sale of Telstra but not dismiss completely the argument that the government should get about and reduce its debts, for all the benefits that brings.

Did Senator Murray happen to say that the reduction of government debt has a downward influence on interest rates? That is an economic fact that not even the great Rhodes scholar could deny, nor do I think he would. I think he was just indulging himself in this government’s hard work—in the fact that we have got the debt down so low. He is sitting there pondering, like the great Rhodes scholar he is, what we are going to do with the last $30 billion. But you never acknowledge the benefits of debt reduction in itself, Senator Murray. A government cannot carry heavy debt. It cannot carry endless deficit budgets. I know you are only pretending not to listen, Senator Murray.

Senator Murray—I just wish the National Party would replace you with somebody smarter.

Senator McGauran—I am certainly no Rhodes scholar, Senator Murray, but I know what the people want and I have a bit more political wit than you have, as you scurry out of the chamber.

The Acting Deputy President (Senator Marshall)—Order! Senator McGauran, please address your remarks through the chair.

Senator McGauran—Having been baited by Senator Murray, after complimenting him on his intelligence as a Rhodes scholar, I would say through you—

The Acting Deputy President—Senator McGauran, please return to the debate and address your remarks through the chair.

Senator McGauran—I will, Mr Acting Deputy President. I know the National Party have been under great attack in this chamber for our position on this legislation. But I will tell you something about the National Party that Senator Murray and others on the other side fail to recognise: we know where we stand. We have always known where we
stand. We have had a firm policy on this issue and we have stuck to it. It is not a matter of ownership, whether it be government or private; it is whether the services can be delivered to the rural and regional sector. But Senator Murray has no idea where he stands. He does not know whether he is in Senator Lees’s camp, whether he is in the Democrat camp or whether he is in his own camp. The National Party know exactly where they sit with the government and where they sit with the Telstra debate. The National Party have said right from their grassroots and as parliamentarians that they will not accept any sale of Telstra until the services within the rural and regional areas are to a standard—

Senator Jacinta Collins interjecting—

Senator McGauran—They have greatly improved, Senator Collins, and, out of respect for the chair, I will not be baited by any more interjections. The bill, as I say, simply provides for the timing of the sale to remain open. But the changes in Telstra’s ownership status will not affect the legislative guarantees that this government has put in place. Consumer regulatory safeguards, such as the universal service obligation, the customer service guarantee, price controls, the network reliability framework and the Telecommunications Industry Ombudsman will be maintained into the future. Nothing changes. In the House of Representatives, the Minister for Education, Science and Training, in his second reading speech, said:

The bill will also provide additional safeguards for customers in regional Australia.

The first is the ability of the Minister for Communications, Information Technology and the Arts to impose a licence condition requiring Telstra to prepare and implement local presence plans, outlining proposed activities in regional Australia.

In essence, that means that the very successful Country Wide network that Telstra established several years ago will remain. That was a condition of the National Party’s acceptance of this legislation.

Honourable senators interjecting—

The Acting Deputy President (Senator Marshall)—Order! I ask senators on both sides of the house to cease interjecting.

Senator McGauran—I notice that we were far more courteous to those on the other side when they presented their case not to sell Telstra than they are being to me. Perhaps that is because my argument is having an effect upon them and theirs was so dull.

The Acting Deputy President—The previous occupant of the chair, Senator Bolkus, also warned interjectors. I ask all senators to hear Senator McGauran in silence.

Senator McGauran—I was presenting the case for the government and, in particular, the National Party, who have been under strong attack in this parliament for their stance on this legislation. We have heard the most rehearsed arguments because we have debated this issue on many occasions in the past—so many that I have forgotten how often we have debated the sale of Telstra. The arguments put by the opposition show a yearning for a return to 100 per cent government ownership of Telstra. Can you believe that they seek to return to the old socialist days, the old Telecom days? They have very selective memories of what sort of business Telecom was when it was 100 per cent government owned. In fact, it was a dinosaur. It was riddled with unionists and union power at the time—perhaps that is what they miss the most. No-one should forget that the old Telecom would make a wharfie blush. That is how many rorts went on inside the old Telecom and how inefficient it was. If you thought you could get your phone connected or your phone repaired under 100 per cent government ownership in the Telecom
days, you were deluded. There was no imperative upon the workmen—or the management for that matter, which was way too top-heavy—to connect or repair your phone within six months, within any time.

Now we have in place legislation where a phone must be connected or repaired within a given time. To long for the old days of Telecom is to be deluded or utterly misled. I think the Labor government in their 13 years realise that. Who was it that in fact corporatised Telecom to become Telstra in the first place, which placed the organisation out of government hands there and then when they first corporatised it under a Hawke government? They realised that the world of telecommunications was changing ever so rapidly and that they had to meet those changes; they had to bring competition into the field. So the first step they had to take was to corporatisate old Telecom into Telstra. Today we see the results of that.

Who can forget that one of the first competitive players in the market was Optus—a fine organisation. It was foreign at the time and it was new to the Australian psyche but, in fact, now we have 89 licensed operators in the marketplace. That is a huge leap in a decade. If you introduce competition, you introduce price falls, and that is exactly what has happened. The consumer has benefited by price falls as a result of competition introduced by the Labor government. The cost of local calls has fallen by more than 10 per cent and the cost of mobile phone calls by more than 12 per cent. The cost of long-distance calls, international calls and fixed calls to mobile phones has also fallen. Consumers have benefited year by year as the market has opened up and competition has been introduced.

When they were in government, even the Labor Party knew that that was in the national interest. We all know that when they were in government they had plans to sell Telstra; they just never got around to it because they were too busy selling so many other assets, as has been mentioned in this chamber many times. I have the whole list of those assets here: the Commonwealth Bank, the airlines, the Snowy Mountains Engineering Corporation, the Moomba to Sydney pipeline, Aerospace Technologies of Australia Ltd and the Commonwealth uranium stockpile. The Labor Party were very busy with their privatisation program. They are just sorry they left Telstra until last, because in 1996 we came into government. That is not all. They sold the Defence Force home loan franchise, the Commonwealth housing loan assistance schemes, the Commonwealth Accommodation and Catering Services, the Commonwealth Serum Laboratories and so the list goes on. The Labor Party were great privatisers, so how can they come in here and feign some ideological objection to this government selling Telstra? They have no ideological objection; it is just that they are in opposition and they seek to be frustrating. They seek to hold the Senate up, just as they have on every other piece of legislation that has come into the Senate. The objection is nothing but political opportunism.

In contrast, the government have been honest from day one with our privatisation program, including the first tranche and the second tranche of Telstra. In fact, we have even gone to two elections on this. In 1998, when it was an election issue run by Mr Beazley which could have ejected the government—

**Senator Crossin**—But 51 per cent of Australians voted for Labor.

**Senator McGauran**—What are you doing on that side of the house, Senator Crossin? That is one of the most foolish arguments I have ever heard. I think we ran that argument once or twice. It sounds good
in opposition but honestly, in all reality, it is a spoilsport’s call. It is the cry of the desperate. But I am distracted again; I have much more to say and I fear I will not get to it all. My main points are that the sales of Telstra have been in the national interest and that the National Party have been proud to attach themselves to every single sale: the first tranche, which brought in a $1.5 billion social bonus, and the second tranche, which also brought in over $1 billion in social bonus. Where does the other side think money comes from, other than higher taxes, privatisation and large debt?

Senator Boswell—Put it on the Bankcard!

Senator McGauran—They just want to put everything on the Bankcard. Through the sale of the first and second tranches of Telstra, we were able to produce social bonuses which predominantly went into the rural and regional areas. The Natural Heritage Trust received over $1 billion. It was the most visionary environmental expenditure—I think it even took the breath out of Senator Brown—that any government since Federation had ever committed itself to. In the second tranche, we had the Regional Telecommunications Infrastructure Fund. Perhaps the next speaker could enlighten us, but I believe that if Labor get into government they will abolish that infrastructure fund, which directly sends over $250 million into rural and regional areas to better people’s lives. Everyone from the rural and regional areas—Senator Boswell, me, the National Party House of Representatives members—can see the real changes on the ground. They can see that money being delivered and the changes made on the ground, not the esoteric speeches that the other side come in here with, plucking out one or two examples, if they are even true examples, of a complaint here or a complaint there. We can see the changes in the small towns with the infrastructure expenditure that this government has delivered.

Further to this, the coalition, as I said before, introduced legislation to guarantee services in the rural and regional areas such as the universal service obligation and the customer service guarantee. It is absurd to assert that the National Party or the government have sold out the bush or to say that we cannot enforce these guarantees. We do enforce them now and we will enforce them in the future. In fact, we have beefed the guarantees up. From the time they were first introduced, we have brought in legislation that has beefed up the customer service guarantee and modernised and lifted the standards of the universal service obligation. There was the Besley inquiry, which was another initiative by this government, into service levels in rural and regional areas, followed by the Estens inquiry, which was again to monitor the levels of service within rural and regional areas. These were far more impartial than the Senate committee minority report which has so often been quoted by the other side. The Besley report and the Estens inquiry were real, decent, incisive studies into the services of rural and regional areas. Yes, they found some gaps within services, and the government have acted upon those gaps. Now we have reached the stage where we are even going to write into this legislation monitoring and inquiries every five years for the rural and regional areas to make sure they stay at this standard. This legislation has written in five-year reviews.

Overarching all of this, you have the Telecommunications Industry Ombudsman and the Australian Communications Authority, so there should be no concern at all from the other side or from the rural and regional areas. Their services and their standards are constantly being monitored, and all those reports come back to the government and to the parliament. The ombudsman reports to
this parliament, the Australian Communications Authority reports to this parliament, the Besley inquiry reported to this parliament and the Estens inquiry reported to this parliament. We are hiding nothing; we are acting on everything, and we have the finances to deliver.

It is also worth mentioning that the National Party, as I said before, is and has been aware of concerns within rural and regional areas about the full sale of Telstra. People in rural and regional areas are very pragmatic. It is not that they argue who owns Telstra—they are not into ideological foolishness like those on the other side. They just want their services delivered, whoever owns them, and we are assuring that those services will be delivered. This legislation simply enables Telstra to be sold at some time in the future and in the national interest.

Senator McLucas (Queensland) (12.15 p.m.)—The Telstra (Transition to Full Private Ownership) Bill 2003 is unusual in that it is accurately named. It empowers the government to sell the remaining government shareholding in Telstra. It also contains a number of other provisions which will have a detrimental effect, in our view, on regional services. Labor has been resolute for all of these years in its opposition to the privatisation of Telstra. The government has wanted continually to sell Telstra. As we heard from the National Party, it has submitted to pressure from the Liberal Party and is cutting loose its supporters who have made their views so plain to the Senate inquiry into the provisions of the bill.

Senator Boswell interjecting—

Senator McLucas—My father is very proud of me. Like Senator Boswell, National Party members stand in this place voting for the privatisation of Telstra. The only party which has consistently opposed the sale of Telstra is Labor.

Senator Bartlett—Hey, fair go!

Senator McLucas—There was an equivocation, I remember, Senator Bartlett, and we should go back in time and be very clear about when that equivocation occurred. The message from the people of North Queensland is consistent and clear: telecommunications services are essential services. Telstra’s network is a key component of national infrastructure. All citizens need telecommunications services, especially telephony, in order to equitably participate in the life of our community. The telephone is simply an essential part of our day-to-day life. It is critical for the conduct of business, for staying in touch with family and friends, for the arrangement of leisure activity and for public safety, particularly in times of emergency or national crisis. In this situation, Telstra is still largely a public utility and remains predominately a monopoly because it controls a core monopoly asset—that is, the fixed line network. It is clear that, if this legislation is to pass the Senate, senators will effectively be consigning rural and regional Australians to becoming second-class citizens when it comes to the provision of Telstra’s services. I say that based on Telstra’s own evidence given to the Senate inquiry where Telstra’s own executives have clearly exposed that, as a private monopoly, Telstra would attempt to dictate policy on regulatory issues.

On 2 October 2003, Telstra refused to rule out lobbying for an end to the price control regime following any privatisation. Executives also failed to give the inquiry any ongoing commitment to the current price control arrangements which exist under part 9 of the act. Mr Warren Entsch, the member for Leichhardt, has been—for him—uncharacteristically silent on this issue in the House. However, in a letter to the editor on 26 September 2003 he offered his constituents guarantees, saying:
A price-cap applies to local, long distance and fixed-to-mobile calls, requiring Telstra to reduce these prices on average by at least 4.5% annually in real terms.

Then, less than a week after this written undertaking, Telstra cut him loose by failing to give the inquiry any ongoing commitment to the current price control arrangements. The message loud and clear from Telstra at the Senate inquiry was that a privatised Telstra would push hard for the current price control arrangements to be axed when they come up for review in 2005. At the same public hearing, Telstra executives also refused to rule out providing political donations to political parties. You do not need a crystal ball to imagine the lobbying efforts on pricing that will be applied if this bill is allowed to pass.

Let us not forget also this government’s track record on retaining price controls following privatisations. The current situation with respect to airports is a sad and sorry indictment of the government’s ability to maintain effective price control mechanisms on airports following their privatisation in 2002. The community knows this instinctively. A member of the public, Mr Greg Pittman, appeared before the inquiry at its Nambour hearing. He had this to say:

If an entity like the government own more than half of the enterprise, they have a well-founded interest in seeing that it is regulated properly. To say to us that you will then be able to regulate it and future proof it by giving guarantees just does not make sense. The government regulates the insurance business—and look at HIH. They regulate the companies—and look at One.Tel. They tried to regulate the Internet—it is a bloody dog’s breakfast. You cannot regulate it. The legislation that is proposed is going to remove the provision which enables the minister to give certain directions to Telstra in the public interest.

You are going to have a review every five years to see how the communications corporation is measuring up and you try to tell us that this will future proof it. That is hogwash, just rubbish. It is really an insult for people like John Anderson and Ron Boswell to be running around the country saying that the service will be maintained, when it is clear to everybody that it cannot be and will not be.

Mr Pittman is in touch with the community; the National Party clearly is not. A fully privatised Telstra will be a huge private monopoly, too powerful for any government to effectively regulate, especially in large rural seats such as Dawson, Kennedy, Leichhardt and Herbert. The government members in these seats have betrayed their constituents. In his speech in the House of Representatives, Mr Peter Lindsay, the member for Herbert, said:

The electorate wants to see the full privatisation of Telstra.

That is extraordinary. This statement flies in the face of a survey announced last week which said that over 80 per cent of residents in Herbert oppose the sale. So Mr Lindsay has it wrong and will no doubt pay the political price for his actions in good time.

The Nationals member for Dawson, Mrs De-Anne Kelly, is also on shaky policy and political grounds. She voted for the sale despite conducting an even more extensive survey in 69,000 households in her own electorate of Dawson. In her speech in the House, she said that the results indicated ‘81 per cent of people did not support the sale’. Did she reflect these views on the floor of the House? She did not. She stands condemned for her betrayal of people who live in towns who depend on the maintenance of telecommunications services. Towns like Ayr, Home Hill, Sarina, Mackay, Proserpine and Bowen deserve better representation. As Queensland’s Minister for Primary Industries and Rural Communities, Mr Henry Palaszczuk, said in a letter to the editor to the Mackay Daily Mercury earlier this month: Mrs Kelly is not the people of Dawson’s representative in Canberra, she is Canberra’s represen-
tative in Dawson. She has been rewarded for that, unfortunately it’s the men, women and children of Dawson who will miss out.

At least the member for Kennedy, Mr Katter, has consistently stood by his voters. But even he is not above a bit of petty politicking. Last week saw perhaps one of the most unlikely assemblages of Australian political history. The Democrats’ Senator John Cherry and One Nation’s Senator Len Harris joined Mr Katter in an antiprivatisation roadshow on Telstra in North Queensland. A few weeks previously I had been contacted by a Labor state member of parliament, Mrs Christine Scott, who had been invited to attend the press conference at the beginning of the roadshow but was prevented from doing so by pre-existing commitments. She wrote to Mr Katter, after contacting me, suggesting that the invitation to this roadshow be extended to me and that I would participate if I could. Despite several phone calls from my office to Mr Katter’s to solicit details, the invitation was not forthcoming. Admittedly, my presence would have made this roadshow an even more unlikely political assemblage. However, given that we in the Labor Party have been consistent in our opposition to this bill and to the T1 and T2 sell-offs, presenting the broadest possible united political front would have helped to strengthen the faith of electors in the political process. The people of Far North Queensland know what is coming. They know that a giant privatised Telstra will focus on the most lucrative markets in the major cities, following the dollars as shareholders dictate, at the expense of small markets—like ours in North Queensland—and lower income earners. It will strip country Australians of equal access to services, which they seek commensurate with their city cousins.

Under the Howard government, we have been able to get a real flavour of what a privatised Telstra will look like. It has been a classic example of how to wind back regional investment, jobs and services. In the past four years, capital investment by Telstra has dropped from $4.5 billion to $3.2 billion, and it is going to drop further. Similarly, staffing in Telstra has dropped as well and more job cuts are planned. These jobs are predominantly those of people working out in the field, doing the work required to deliver telecommunications services to people and to maintain the network.

One of their representatives, Steve Mason, the Secretary of the Communications, Electrical and Plumbing Union’s Telecommunications and Services branch in Queensland appeared, before the Telstra sale inquiry of the Senate Standing Committee on Environment, Communications, Information Technology and the Arts. He indicated that about 20 per cent of Telstra’s redundancies are from Queensland. He was emphatic that:

About 50 per cent of those would be people who are face to face with customers out in the field...

In 1989, Telstra had 117,000 people working for the company; they now have about 37,000. A lot of those people would have left through natural attrition, but since 1989 about 6,000 a year have left as a result of redundancies.

While network maintenance has been falling behind, Telstra has managed to lose $2.5 billion in investments in Asia by owning, in one case, a Hong Kong mobile phone company. In my view, Australian taxpayers are not concerned with owning dotcom style investments overseas when only a fortnight ago it took seven hours for the editor of the Torres News, Mr Mark Bousen, to send an email from his desk to a member of his staff who was sitting very close to him. Many companies have opted out of the internationalise-at-any-price and high-tech investment fads of the late nineties, but it seems that Telstra has not. It is still exposed to unacceptably high levels of risk in Asia while it gets pilloried at home for the failure of BigPond to cope with
the email needs of Australian families and businesses.

To continue to establish the picture of telecommunications under the Howard government and a privatised Telstra, let us look at line rental fees. These have skyrocketed, as we have heard. Three years ago, the price for getting a phone in your home was $11.65 per month. That figure is now between $23.50 and $26.50 a month. In the next year or two it will rise to over $30 per month. Within the space of four to five years, the price for the privilege of having a telephone in your home, before you pay for a single telephone call, is going to get to well over $400 a year.

Let us now look at the government’s assertion about future proofing. The context of the most critical area of new technology for Australia and the Australian economy is broadband. Telstra is letting Australia go backwards. We are 19th in the OECD in terms of household connections. Why would this be? Because Telstra’s majority shareholder, the Howard Government, takes a stand-off and hands-off approach to getting broadband out to all Australians. Its dominance means market pressure is limited and, because Telstra controls Foxtel, the main potential competitor for broadband services, it can cower under the cost umbrella and ensure that outdated and substandard existing products like ISDN can be milked for all they are worth for as long as possible. This is not just a niche issue. It is a fundamentally important issue for the development of regional Australia. That is what key corporate stakeholders and institutions from the north have told this government, but the government, as we know, is not listening.

The Executive Officer of the Cairns Chamber of Commerce, Mr Sandy Whyte, represented the chamber and an organisation called Advance Cairns at the hearing into the Australian telecommunications network in Cairns on 28 April this year. Mr Whyte told the committee:

Although Cairns is an international city ... (w)e are not close to Brisbane, Sydney or Melbourne. So communications is critical, whether it is talking locally between businesses or looking externally. You have to remember that if a business in Cairns wants to export, for example, that can mean looking at clients in Townsville, Brisbane, Sydney, Melbourne, Jakarta, London, Rome or New York. So telecommunications is critical to the growth of this region.

The Advance Cairns submission was based on a major survey which was promoted to over 50,000 residents and businesses via the Cairns Post. Seventy written responses were received from a broad mix of businesses in Far North Queensland. The response to the survey question asking whether ‘regional telecommunications services meet your needs or meet the needs of the region’ was:

A full 70-plus per cent of the people say they do not.

Seventy-plus per cent of the people who responded said that regional telecommunications services did not meet their needs or the needs of the region. Advance Cairns also put in a submission to the Estens inquiry in 2002. When asked in March about his broad view of the response of the Estens inquiry to submissions, Mr Whyte was clear. He said, ‘I have not seen a lot in terms of the response.’ And Labor would have to agree with him. These are the issues the Estens inquiry—run, as we know, by a personal friend of the Deputy Prime Minister and a member of The Nationals and which was a total whitewash—chose to ignore in its recommendations to the government on regional telecommunications services. The picture in regional Australia is dramatically different from the view that the government would have you believe. The reality out there is
actually the direct opposite of what the government is saying.

This has also been confirmed by the higher education sector, where we have seen Professor Eric Wainwright, who is responsible for IT at James Cook University, saying that the IT and T picture is pixelated to say the least. He told the telecommunications network hearing in Cairns:

It is very hard to do CAD/CAM work and shared engineering work between other sites because of bandwidth restrictions. For the sort of bandwidth we have, 3-D simulations are really a no-no ... There are a lot of things that you want to do in telemedicine in terms of visualisation and imaging. Similarly, with geographical information systems, which is one of our specialities, there are a number of restrictions on what we can do with partners in other universities at the moment. All this is a longwinded way of saying our bandwidth demand is going up very quickly and we are having trouble meeting it.

Not only do we see on the technology side that the so-called future-proofing guarantees of this government ring hollow but this legislation removes various reporting obligations that currently apply to Telstra with respect to financial data once government ownership goes below 15 per cent. It removes the ministerial power of direction and it removes Telstra from the scope of the freedom of information legislation. This is hardly a recipe for regulation, let alone future proofing.

Labor’s position on these issues and on the future of Telstra is very clear. Not only do we oppose the privatisation of Telstra but we will return Telstra to its core responsibilities under majority government ownership. We will ensure strict regulation and a clear internal separation between Telstra’s activities as the wholesaler, owner and manager of the network and its activities as a seller of telephone calls and communications capacity so that we have a clear and genuinely competitive environment and a level playing field between Telstra and its competitors as they use Telstra’s network. Finally, we will be introducing strengthened protections for consumers in a range of areas that apply not only to Telstra but also to its competitors.

Under Labor, Telstra will be a carrier, not a broadcaster. Telstra will be a builder, not a speculator. I urge fellow senators, particularly those in the minor parties—the Greens, the Democrats, the Independents and One Nation—to join us and give voice to the overwhelming view of the Australian people that Telstra should not be sold.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (12.34 p.m.)—I have to start by correcting Senator McGauran’s final implication and also the more specific statement earlier in her speech that somehow Labor is the only party that has been consistent on the issue of opposing the sale of Telstra. The parliamentary record shows categorically the contrary. Given Labor’s record of rampant privatisation, as Senator McGauran and others have outlined repeatedly in this debate, I am not sure that consistency on the issue of privatisation is something that I would raise if I were in the Labor Party.

The policy of the Australian Democrats on privatisation more broadly has never been one of blanket opposition to all privatisation; it has been one of taking a precautionary approach and insisting that public assets remain in public hands unless it is clearly proven to be in the public interest to do otherwise. It has been clearly demonstrated by the Senate committee inquiry into this legislation that the government has not proved its case at all that it would be in the public interest to sell Telstra, and that is definitely the view of the Democrats as well. It is very much still in the public’s interest to retain Telstra in majority public ownership, and the vote of the Democrats on this legislation will reflect our
party’s universal, clear-cut, consistent and longstanding view on that matter.

Telstra provides a range of services that are absolutely vital to our national security and to our economic and social development. In many ways, the infrastructure and the fabric of a telecommunications system for our nation is perhaps more crucial now than it was as our nation was developing. We are increasingly relying on e-commerce, e-health and e-banking. For many businesses, especially small businesses, efficient and effective communications systems are absolutely essential. A cost-effective, reliable communications system is especially critical for Australians living in regional, rural and remote areas where tyranny of distance, isolation and lack of services can often only be overcome with such a system.

The Democrats have long recognised that the government has a significant role to play in the supply of telecommunications infrastructure because it is an essential service. As I said, in many ways it is becoming more rather than less essential. We do not see government ownership and regulation of that industry as incompatible or illogical. It has to be emphasised that it is the parliament—and in particular the Senate, as the independent house of parliament—that is the maker of the laws and the regulations under which the company operates, not whomever the government of the day is. To suggest otherwise is either to underplay the power and role of the parliament and the Senate—as this government is always keen to do—or to over-emphasise the government’s regulatory powers and functions, which this government is also always keen to do.

Back in 1996 the Democrats chaired the committee into the Telstra (Dilution of Public Ownership) Bill. The committee at that time found that it was desirable for Telstra to continue to remain in full public ownership. That report argued that through full public ownership Australians would be more likely to benefit from access to quality services at competitive prices, from social benefits flowing from Telstra’s significant revenues through to government, from opportunities for employment and local manufacturing, and from an interest in developing communications technologies and industry innovation. The Democrats at that time supported the committee’s three key recommendations: that Telstra remain in full public ownership; that the bill at that time be divided into two bills—one concerning the proposed sale and the other concerning the customer service guarantee; and that environmental programs of the government be funded from recurrent expenditure or, indeed, from a proportion of Telstra’s profits rather than trying to sell off all the silver at once.

In the Democrats’ minority reports for the subsequent privatisation bills—the Telstra (Transition to Full Private Ownership) Bill 1998 and related bills tabled on 8 March 1999—the Democrats again recommended that at that time Telstra should remain in majority public ownership. Among other things, we also recommended that the standard telephone service be immediately upgraded; that the ACA be empowered to make changes to the universal service obligation; that regular reviews of that obligation and the customer service guarantee standard be guaranteed in legislation; that service providers should automatically pay compensation to customers in instances of customer service guarantee breaches; and that the definition of the standard telephone service be broadened to include mobile telephony and Internet access. This time around not much has changed. If anything, the necessity of an effective communications network keeping pace with technological developments is more critical than ever. If anything, the pub-
lic appear more opposed than before to full privatisation.

Last week I was in Mackay to launch the regional results of a survey that my fellow Queensland Democrat, Senator John Cherry, and I had sent out to a range of Queensland electorates—four of them National Party electorates and three of them Liberal electorates, including the seat covering Mackay, the seat of Dawson, which is held by the newly promoted parliamentary secretary, Mrs De-Anne Kelly. There were survey responses from a large number of people. More than 80 per cent of respondents in the electorate of Dawson opposed the sale. More than 80 per cent believed the standard of services provided by Telstra will decline if it is fully privatised. The same number disagreed with the government that telecommunication services have been improved to a level that should allow the further sale. More than 80 per cent also believed that the further sale of Telstra would not benefit them. Of course, these results would have come as no surprise to the sitting National Party member for Dawson, Mrs Kelly, who conducted her own survey. Her results also showed that 81 per cent of her constituents were opposed to the sale of Telstra, yet she ignored that vast majority view and voted in the House of Representatives to sell Telstra anyway—as did every other coalition member from Queensland electorates.

The results from the surveys conducted by me and Senator Cherry were reflected across those Queensland electorates. We had responses from over 13,000 Queenslanders. As senators who send out surveys to electors seeking responses on issues of importance to them would know, that is a very high return rate—over 10 per cent of people took the time to express their view. As I say, it is consistent with surveys carried out by others. Clearly, the coalition politicians are not listening to the voters. Importantly, the survey also asked whether the Senate would be doing the right thing in preventing the government’s desire to sell off the rest of Telstra. Again, over 80 per cent of people supported the Senate in performing that role.

There is a good prospect that this bill will end up in the pile of double dissolution bills. If that happens, no doubt the government will once again label the Senate as ‘obstructionist’ and getting in the way of so-called democracy, despite the fact that the Senate’s action in preventing the passage of this bill would be a massive endorsement and recognition of the huge public opposition to this bill passing. It has to be stated again and again in the face of government propaganda on this issue that in this parliament alone since the last election—the parliament first sat back in February 2002, so it has been only 20 months—the Senate has passed over 271 bills. Around one in four were improved by the Senate before becoming law—many of them through Democrat amendments—a clear indication of the effectiveness of the Senate just in that regard. Only seven out of those 271 have been negatived—that is little more than two per cent.

Contrast that with the situation before the Democrats entered the Senate in 1977, particularly since we first earned the balance of power in 1981—a position, I should stress, the electorate has continued to elect the Democrats to perform ever since—when there really was a problem with an obstructive Senate. Clearly, it is not just a matter of what powers the Senate has but how those parties that are in it use those powers. Clearly, the Senate can be obstructive because the Liberal Party proved that back in 1974 and 1975, with a little bit of help from outrageous breaches of convention by conservative premiers in New South Wales and Queensland. In that one year in 1975, more than one in four bills were blocked by the coalition—27 per cent. Never since the De-
mocrats have held the balance of power or a share of it has the percentage risen anywhere near five per cent—it is usually below three per cent. Twenty-seven per cent is getting obstructive, particularly when you count the refusal to pass supply. Two to three per cent is being responsible in addressing public concerns about inappropriate, unacceptable legislation, which is what this bill is.

Debate interrupted.

Sitting suspended from 12.45 p.m. to 2 p.m.

QUESTIONS WITHOUT NOTICE
Foreign Affairs: Iraq

Senator FAULKNER (2.00 p.m.)—My question is directed to Senator Hill as Minister for Defence and Minister representing the Minister for Foreign Affairs. I refer the minister to his answer yesterday regarding comments made by Brigadier General Stephen Meekin, and ask: if the Washington Post journalist inaccurately or wrongly used Brigadier Meekin’s comments, as the minister claimed, why then are the brigadier’s comments entirely consistent with views expressed by the US Department of Energy and the US Department of State in the October 2002 National Intelligence Estimate, and consistent with the views of the International Atomic Energy Agency in its report of 7 February 2003? Can the minister confirm that David Kay has reported that the Iraq Survey Group has failed to uncover any evidence that Iraq undertook significant steps to build nuclear weapons or produce fissile material after 1998?

Senator HILL—What I said yesterday was that I had received advice from my department, who as I understand it had been in contact with Brigadier Meekin. It is very difficult for me to comment on the views of other parties. But it is no secret that there has been debate now for some considerable time as to the purpose of these aluminium tubes, and it is difficult to ascertain the purpose of material such as this, which I understand could be used for a number of different purposes. They could be used in the construction of rockets, they could be used in a nuclear weapons program or they could be used for other purposes.

Brigadier Meekin, I understand, was particularly addressing the issue of their possible use within conventional weapons. That is why he has said that he has been misrepresented—because he is referring to them in that context and yet the article seems to have interpreted what he said in the context of the potential use of these materials within a nuclear weapons program. In relation to the Kay report, we have answered questions on that before and indicated to the Senate the outcome of that interim report and the advice within it that we should await further reports, in particular, ultimately, the final report.

Senator FAULKNER—Mr President, I ask a supplementary question. If, as the minister says, there is a lack of certainty about the use of these aluminium tubes and if there are genuine concerns about the use of the aluminium tubes in uranium enrichment, why have no attempts been made to secure or destroy the reported 20,000 aluminium tubes in Iraq’s inventory?

Senator HILL—Senator Faulkner obviously was not listening to my answer. The issue is that these tubes, as I understand it, can be used within a nuclear weapons program. With the removal of Saddam Hussein, we all hope that there is no possibility of that occurring.

Foreign Affairs: Iraq

Senator SANTORO (2.03 p.m.)—My question is to the Leader of the Government in the Senate. Will the minister update the Senate on the recent terrorist bombings in Iraq? Will the minister also explain why terrorist acts such as this only reinforce Austra-
lia’s determination to help bring peace and stability to the long-suffering people of Iraq?

Senator HILL—We were all appalled by a series of suicide car bombings which took place in Baghdad yesterday. Reporting suggests that at least 30 people may have been killed in these senseless attacks and up to 200 may have been injured. The Australian representative office has reported that there were no Australian casualties. I am advised by the ADF that appropriate defensive measures are in place to guard Australian interests in Iraq from potential car-bombing attacks. The government of course condemns these vicious and cowardly attacks in the strongest possible terms.

What is most disturbing about these attacks is that they were aimed at organisations that are working to deliver a better future to the people of Iraq after years of suffering at the hands of Saddam Hussein’s regime. The Baghdad headquarters of the International Red Cross was the target of one of the latest attacks, with at least 12 people reported dead. This attack was not aimed at a military target; it deliberately targeted a neutral organisation and was intended to inflict more hardship and suffering on the Iraqi people. Similar attacks were launched on police stations manned by the new Iraqi police force. The re-establishment of the Iraqi police force is a clear symbol that the people of Iraq are ready and willing to take control of their own security. The attacks on these police stations are aimed at destroying the first steps of the Iraqi people towards self-determination and self-control.

We cannot let the terrorists succeed. These latest attacks underline the importance of the continued presence in Iraq of the international coalition. The overwhelming majority of Iraqis are embracing their new-found freedom and we are seeing significant steps towards the building of a new, free Iraq. Iraqi schools and hospitals are open, improvements continue in the area of water production and communications, and electricity supplies are at prewar levels. Local courts have reopened. The Iraqi police force is back on duty. The training of the new Iraqi army is progressing. The first steps towards democracy are being taken, with around 85 per cent of Iraq’s cities and towns now having either town or provincial councils. Therefore, significant progress is being made despite the violence of terrorists, Ba’athists and other militants. We must not allow senseless terrorist attacks to stop this progress. The coalition forces will not abandon the Iraqi people to yet more suffering at the hands of those who have no respect for democracy or human dignity. We will not be scared off by their violence.

Foreign Affairs: Iraq

Senator ROBERT RAY (2.07 p.m.)—My question is to Senator Hill, the Minister representing the Minister for Foreign Affairs. Why did the foreign minister in September 2002 tell the Australian parliament that the importation of aluminium tubes to Iraq could be used for Iraqi uranium enrichment purposes? Is it not the case that US officials, including Greg Thielmann of the US State Department’s Bureau of Intelligence and Research, have now confirmed that there was a consensus in mid-2002, based on US and allied intelligence assessments, that these aluminium tubes were not for the purpose of Iraqi uranium enrichment?

Senator HILL—No. As late as yesterday, my advice was that the purpose for which the tubes were purchased is still uncertain. What I said yesterday was that we should wait until the final report of the Kay investigating body and that hopefully might bring this issue to an end. It is always difficult with equipment and materials that have dual purposes. It is clear that the experts at the rele-
vant time, referred to by Senator Ray, believed that these cylinders may have been intended to be used within the uranium enrichment program. The fact that there has been a debate about that is not in dispute. The fact that there is still a debate about it is not in dispute. Ultimately we might know the answer. No doubt the intelligence officers who were advising at the time, to whom Senator Ray referred, were taking into account the record of Saddam Hussein and acting cautiously.

Senator ROBERT RAY—Mr President, I ask a supplementary question. Who were these experts in January 2003 who were continuing to claim that these aluminium pipes could be used for uranium enrichment processes? Is it not a fact that the Australian government stopped making claims on the aluminium pipes some time in early February this year on the basis of advice from US intelligence agencies? Why in heaven’s name didn’t our liaison officers in Washington in the latter quarter of 2002 pick up the views of the Bureau of Intelligence and Research, saying that these pipes were not for that purpose? Why didn’t they report that matter to government in order to have government cease making these claims much earlier than they did?

Senator HILL—I fear I might be becoming repetitive: I said that, as late as yesterday, the advice that I was receiving was that there are still uncertainties as to the purpose of these tubes. There was a vigorous debate taking place in the months that led up to the conflict in Iraq. That is not in dispute. The fact that intelligence officers may have different views in these circumstances is also not surprising. As I said, the fact that intelligence officers would advise cautiously to the background of Saddam Hussein’s weapons of mass destruction program is also not surprising.

Solomon Islands

Senator PAYNE (2.10 p.m.)—My question is to the Minister for Defence, Senator Hill. Will the minister update the Senate on the efforts of the Australian defence forces to bring peace and stability to the people of the Solomon Islands?

Senator HILL—I am pleased to do so because I bring good news on this particular matter and good news for the people of the Solomon Islands—that is, that law and order has been restored sufficiently for us to significantly reduce the military force present in the Solomon Islands. As we have said before in this place, over 3,000 weapons have been surrendered since RAMSI was established in the Solomon Islands; over 15 police posts have been established throughout the country; a number of the high-profile militants have been arrested; and significant law and order improvements have been achieved. It is a great credit to all of those who are involved in RAMSI. I particularly make mention of the special coordinator, Nick Warner; Ben McDevitt, the head of the Australian Federal Police force that went over there; and Lieutenant Colonel John Frewen, the head of the Australian military contingent. All have done a marvellous job.

It is also a great credit to the regional cooperation that has been achieved in this instance. RAMSI is a regional mission, a mission of Pacific states. The fact that all of these states have come together to support the people of the Solomon Islands in these circumstances is a credit and it shows what can be achieved through such cooperation. I also think it is a credit to the government and the people of the Solomon Islands. They came to Australia when they had a problem that they could not resolve through their own resources and asked for help. We and others in the Pacific were prepared to give that help, and the government and the people of the...
Solomon Islands took their opportunity and, as I said, have now achieved substantial improvement in their own law and order situation, which enables them to address the many other problems that their small island state faces.

We will be able to reduce the force by withdrawing two of the infantry companies, by withdrawing most of the engineers and by bringing back the Iroquois helicopters to Australia. The major ship, the Manoora, left the Solomon Islands yesterday. I should say that, in reducing this force, we will also be leaving two companies in the Solomon Islands—one an Australian company of infantry and the other made up of Pacific states and Australia. The New Zealand helicopters and some ships will also be remaining. This is to demonstrate that the job is not yet complete. Significant progress has been achieved. We said we would leave a force commensurate with the difficulties that are faced. Significant work still needs to be done, and for some time there will be a military force there of the appropriate size to give support to the police in their leadership of this particular mission.

It is very pleasing to see what has been achieved. It is a great credit to all of those who contributed to it. As I am specifically referring today to the withdrawal of forces of the ADF, I pay particular credit to them. The Australian Defence Force have again performed marvelously and done a great job for our country and, in this instance, done a great job for our friends as well.

Foreign Affairs: Iraq

Senator FAULKNER (2.14 p.m.)—My question is directed to Senator Hill, the Minister for Defence. Does the minister recall Brigadier-General Stephen Meekin’s interview in the Sydney Morning Herald on 22 August, in which he outlined his work within the team of weapons inspectors in Iraq and their search for the missing ‘smoking gun’, and where he gave a full report of the weapons discoveries made to that point? Minister, how is it that Brigadier Meekin could make that comprehensive public assessment on 22 August but, while he is doing the same job two months later, you dismiss his expertise and call him ‘peripherally involved’? Further, Minister, why wouldn’t you let journalists speak to Brigadier Meekin yesterday to clarify this matter? Why have you gagged the brigadier?

Senator HILL.—We have not gagged the brigadier. We made the point that he was speaking as a spokesman of the Iraq Survey Group and he was permitted to make his statements as such. Within the guidance of the Iraq Survey Group, he is still permitted to speak. It is very hard to ask me about inconsistencies in particular articles. I responded yesterday to what the brigadier regarded as a misrepresentation in the Washington Post. The fact that there was a different emphasis—if that is the right way to put it—in Australian newspapers is not really for me to answer. What I said yesterday was that he was peripheral because he was not principally involved in the issue of nuclear weapons production. He was speaking in relation to these tubes, I am advised, as to the potential for them to be used within conventional weapons—thus the misunderstanding. I am disappointed that it seems to be so difficult for the Australian Labor Party to address that subtlety.

Senator FAULKNER—Mr President, I ask a supplementary question. Minister, can you confirm that Brigadier Meekin is Director-General of Scientific and Technical Assessment for the DIO and commands the Joint Captured Enemy Materiel Exploitation Centre, the largest unit reporting to the Iraq Survey Group, which has worked with the nuclear team on the aluminium tubes? Minister, isn’t he perfectly placed to make a judgment on whether the tubes are innocuous? Is that why you have gagged him?
Senator HILL—As I said, we have not gagged him at all. He is within the survey group and he operates according to the rules of the survey group. As I understand it, his expertise does not specifically relate to nuclear weapons; it relates to conventional weapons. That is not surprising, seeing that he advises the Australian government on these matters, as Senator Faulkner has worked out, when he was back here in Canberra in his day job. The message from yesterday, as I understood it and which I repeated in the Senate, was that, in relation to conventional weapons, he was not concerned that these tubes were a danger. That is the message that I reported to the Senate yesterday.

Australian Defence Force: Entitlements

Senator GREIG (2.18 p.m.)—My question is to the Minister for Defence, Senator Hill. Can the minister confirm that same sex partners of Defence personnel are specifically denied entitlements available to married and de facto partners, including access to Defence housing loans, war partners’ pensions, relocation expenses and accommodation and, most recently, the newly announced services work force access program for partners? Will the minister please explain what policy outcome is served by imposing this form of apartheid on some ADF personnel but not others, given the government’s high praise for all Australian troops and their families in the wake of recent events and the fact that all personnel were prepared to put their lives on the line for Australia and its interests?

Senator HILL—This is sort of a change of pace, I think. It is true that there have been changes of policy in recent years to recognise de facto relationships between different sexes differently from those of the same sex. However, the ADF does its best to ensure that it operates in a non-discriminatory way and thus there can be employment of homosexuals within the ADF; we do not employ on the basis of sexual orientation. Therefore, I think the best answer I can give to the honourable senator is to concede that his point is valid in terms of the outcome, but I ask him to recognise that the ADF’s policy is evolving over time and is respectful of individuals’ personal relationships but at this stage does not give the same status in material benefits to those who are in same sex relationships as to those who are in a legal form of marriage.

Senator GREIG—Mr President, I ask a supplementary question. I note that, contrary to the minister’s claim, the Department of Defence in fact points to the government as the reason for this ongoing discrimination. Given that the ban on lesbian and gay people serving in the military was lifted 11 years ago and that some of the entitlements being denied to ADF personnel are currently available to Commonwealth public servants, how does the minister reconcile this discrimination in the wake of the ADF’s much touted equity and non-discrimination program?

Senator HILL—If the honourable senator wants to blame the government, I will cop that as well. As I recall, I wrote or authorised an answer to the honourable senator in recent times in which I did my best to set out this situation and the evolution that has occurred over time. It is true that the honourable senator can point to different outcomes arising from different relationships. I ask him to recognise that there is movement within the ADF. They are respectful of different sexual orientation and they do make an effort to accommodate situations that may arise out of that but, as a conservative organisation, they
may not be moving at the pace that Senator Greig would like to see.

The PRESIDENT—Senator Faulkner, I would ask that this time you address your question through the chair, rather than to Senator Hill.

Foreign Affairs: Iraq

Senator FAULKNER (2.22 p.m.)—As I always do, Mr President. My question is directed to the Minister for Defence, Senator Hill, and in his capacity as the Minister representing the Minister for Foreign Affairs. I refer the minister to claims made by the Four Corners program last night that an Australian company was involved in the provision of aluminium tubes allegedly intended for a reconstituted Iraqi nuclear weapons program. Did the government instruct the company to seek a permit for the provision of these services, as required by the Weapons of Mass Destruction (Prevention of Proliferation) Act? Was a permit issued by the minister to allow the company to proceed with arrangements for the export of the tubes? If a permit was not issued, why was the company not prosecuted for being in breach of the act?

Senator HILL—I think it would depend. There are many components that can be used within a weapons of mass destruction program that do not fall within the dual use materials that require consent. I would need to go back and research the history of this particular approval process. It may well be that it did not require approval, whilst at the same time the tubes could well have been intended to be part of a nuclear program.

Senator HILL—I think it would depend. There are many components that can be used within a weapons of mass destruction program that do not fall within the dual use materials that require consent. I would need to go back and research the history of this particular approval process. It may well be that it did not require approval, whilst at the same time the tubes could well have been intended to be part of a nuclear program.

Senator FAULKNER—Mr President, I ask a supplementary question. I would appreciate it if the minister would go back and check whether the government instructed the company to seek a permit, whether the permit was issued and, if it was not issued, why the company might not have been prosecuted for being in breach of the act. While the minister is checking that information, perhaps he might also confirm that the reason the company was not prosecuted was that there were major doubts expressed by overseas intelligence agencies as to the real purpose of the aluminium tubes, doubts that the Howard government ignored until January 2003. Further, I would request that the minister report back to the Senate on those matters as soon as possible.

Senator HILL—I am happy to do that, but I do not think there is a dispute about the fact that aluminium tubes can be used for a number of different purposes. I sat and listened to the supplementary question, and I also doubt that they would come within the dual use items that are listed in the regulations. So I suspect that probably is the reason why approval was not sought or given. I am happy to research that and try to be helpful to the Senate, as usual.

Immigration: Villawood Detention Centre

Senator HARRADINE (2.25 p.m.)—My question is to Senator Vanstone, the Minister for Immigration and Multicultural and Indigenous Affairs. Has the minister’s attention been drawn to allegations reported to her department that a pregnant woman at Villawood detention centre was encouraged to have an abortion? Is this a routine procedure and practice in detention centres, with a fixed charge of $1,500? Has the minister investigated these allegations?

Senator VANSTONE—I thank Senator Harradine for the question. I had not been advised of the allegations that Senator Harradine has raised until he gave my office some notice of this question, I think an hour or so before question time. I made inquiries and, at this stage, the advice that I have is that the department are not aware of a particular investigation into such a matter. They are aware that there was a female detainee who, I am advised, approached the detention
services provider requesting a termination. I am advised that she then received the normal and standard counselling. The detention service provider agreed to meet the costs if she chose to proceed. My advice is that she then decided not to proceed.

Senator Harradine, that advice is on the basis of a couple of phone calls, and people were looking for a file. I will seek further information in relation to that. If you have information—for example, if you can identify the particular woman and the time—that will be very helpful. I suspect what will be run in the news now is an allegation without any detail. Of course, that cannot be followed up until we do have the detail. If you give me the detail, we will follow it up.

Senator HARRADINE—Mr President, I ask a supplementary question. The minister can be assured that, as usual, my statements are based on credible reports. What is the government’s policy for the care of pregnant women in detention centres? Does the government acknowledge that such women require special care? Is it correct that women are guarded during delivery and denied access to the father of the child?

Senator VANSTONE—Senator Harradine, that question does not follow exactly the advice that I had as to what your question would relate to. I will answer what I was told you would be asking me—that is, whether women were deprived of appropriate translation services. I am advised that that is not the case. The advice that I have at the first instance is that it is a part of the contractual requirements that appropriate translation services be provided. Yes, Senator Harradine, everyone understands that women who are having a baby need special care, and that care is provided. If you have any further queries, I am happy to follow them up for you.

Iraq: Security

Senator CHRIS EVANS (2.29 p.m.)—My question is directed to Senator Hill, the Minister for Defence. I refer him to his earlier answer to a question regarding the violence in Iraq and his statement that there had been no Australian casualties. Has the government revised its assessment of the security situation in post-Saddam Iraq and of the time and resources that will be necessary to restore security there? What additional measures have been taken to protect Australian forces inside Iraq, given the deteriorating security situation? What advice has been given to Australian civilians, including Australian aid workers, regarding their security? What guarantees can the government give to them about their protection inside Iraq?

Senator HILL—The protection of Australian interests in Iraq is constantly monitored and adjusted to meet any changes in local conditions. Following a review in August, a request was received from the Australian joint force commander for an increase in the force protection capability in Iraq due to a greater than expected volume of tasking for the Australian security detachment. Later that month, an additional ASLAV and crew were dispatched to the Middle East to provide a greater flexibility in tasking over extended periods for the security detachment. All requests for security assistance of any nature by the ADF are considered against the existing threat level and assigned forces. ADF members deployed to the Middle East area of operations are trained in, briefed on and assessed on personal security.

In response to mass bombings in late August, the ADF again conducted a comprehensive analysis of security measures. This review resulted in the hardening of existing facilities in Iraq, including improvements to physical barriers which make approach by any unauthorised vehicle more difficult. All
this was completed while working closely with the local population to minimise disruptions to their day-to-day life. So these matters are monitored on an ongoing basis. As the security environment changes, changes are made to best ensure the safety not only of the ADF personnel but also of the public servants and other Australians who are in Iraq on government business, and, where it is possible, to support those who are in Iraq on personal business as well.

Senator CHRIS EVANS—Mr President, I thank the minister for his answer and ask a supplementary question. Could the minister indicate what the government’s current plans are regarding the withdrawal of any of the 1,000-plus Australian troops in Iraq and the immediate region? Does the minister concede that the 80 Australian air traffic controllers assisting to run the Baghdad airport will have to remain there for the indefinite future, rather than come home, as had been expected when they handed over to commercial operators? Would the minister inform the Senate whether he has updated his July forecast that ADF troops would need to stay in Iraq for at least another four years?

Senator HILL—I do not remember saying that they need to remain in Iraq for four years. You may well have been reading somebody else’s words, I think, in that instance, Senator Evans. In relation to the size of our force, I am not expecting any significant change in the near future. Senator Evans probably is aware that we are in the process of rotating the frigates to provide maritime security at the head of the Gulf. In relation to the air traffic controllers, they continue to do excellent work in Baghdad. It has been our intention that they would be replaced by civilians. Senator Evans may have noted in the press that training of Iraqi traffic controllers for Baghdad has started, but that will be in conjunction with other civilians who are to be contracted. We were hoping that that would be in place by January of next year. There is some doubt about that now, and we are monitoring that situation. The ADF force elements are doing a very important job and, whilst it is important, they will remain there. (Time expired)

Immigration: Litigation

Senator HUMPHRIES (2.33 p.m.)—My question is addressed to the Minister for Justice and Customs, Senator Ellison, representing the Attorney-General. Will the minister advise the Senate of action proposed by the government to reduce delays in the resolution of migration cases and relieve the great strain being placed on the Australian court system by migration cases of dubious merit?

Senator ELLISON—I thank Senator Humphries for what is a very important question. With his background, he would realise the problem that we face today in Australia in relation to the backlog of cases in our courts—and especially so in relation to the management of migration litigation. The government has been concerned for some time now about the delays we have experienced in relation to the resolution of migration litigation and the low rate of success of the applicants in that area. So it was yesterday that the Attorney-General, Mr Ruddock, announced that there would be a review of migration litigation and that this would be looking to make the system more efficient in relation to the management of these cases.

When you look at some of the examples, you can see what I mean. In 2002-03, more than one-third of migration applications in the Federal Court and the Federal Magistrates Court were withdrawn by applicants before the court reached a decision. The government won 92.5 per cent of the remaining cases. These figures show clearly that the taxpayer is paying for a significant number of cases which have dubious merit.
of cases which have dubious merit. Court time is being wasted at taxpayers’ expense.

Senator Sherry—Lawyers giving misleading advice; that’s what it is! It is like those financial planners you won’t do anything about!

Senator Ellison—Senator Sherry should take careful note of this, because when this is done it deprives other people of access to the courts. This is a fundamental aspect of the administration of justice in this country. This government is committed to the proper consideration of migration cases, but not at the expense of other applications which have merit and which need to be tried in our courts.

There has been a rapid surge in the number of migration applications in recent years, to the point where migration cases form a substantial and increasing proportion of the workloads of both the Federal Court and the Federal Magistrates Court. Migration applications filed in or transferred to the Federal Magistrates Court went from 182 in 2001-02 to 1,397 in 2002-03. That is an increase of 668 per cent in applications which were lodged. This is an inordinate increase in relation to migration litigation—and remember the large number of these cases which are withdrawn before the court even reaches a decision.

In the Federal Court, migration matters comprised 66.5 per cent of appeals last year, which was an increase of 56.5 per cent on the previous year. This is an important review that the Attorney-General has announced. It will be headed by First Parliamentary Counsel, Ms Hilary Penfold QC, an individual with a wealth of experience in advising the government on solutions to complex policy problems and someone who is well placed to tackle these difficult issues. The review will be assisted by a high-level steering committee comprising a Federal Court judge, a federal magistrate and deputy secretaries from the Attorney-General’s Department, the Department of the Prime Minister and Cabinet and the Department of Immigration and Multicultural and Indigenous Affairs. I also note that the Federal Court, the Federal Magistrates Court and the Refugee Review Tribunal are contributing staff to the review and I welcome the practical contribution which they will make.

The review will report to the government by the end of this year. It is a review which is well overdue—we need to manage this problem we are experiencing in the federal jurisdiction—and it will not only benefit applicants in the area of migration litigation but also free up the system to allow more access to other people who deserve their day in court.

Taxation: Family Payments

Senator Mark Bishop (2.38 p.m.)—My question is to the Minister for Family and Community Services, Senator Patterson. Can the minister confirm figures in the recently tabled Centrelink annual report that a total of 643,000 families received a family payment debt in 2001-02, only marginally fewer than the 728,458 families who received a debt in the first year of the scheme? Is the minister concerned that the average debt per family has risen from $885 to $890 and that, in total, families are paying back more than $1.2 billion to the government?

Senator Patterson—The government has actually given families more money and more assistance, but it has been done through the tax system. As I have said over and over again—and as Senator Vanstone has said innumerable times—it is unfair if two families are receiving the same income and one family receives more in family tax benefit than the other. We are ensuring that two families who receive family tax benefits will receive the same family tax benefit if they
have the same income. I have been concerned about the number of overpayments. People who get overpayments tend to have what I would call ‘lumpy incomes’—incomes that go up and down because they move in and out of the work force or because they have part-time work, or which change because one member of the family goes out to work during the year—and it is difficult for them to assess it. But, equally, it is unfair if two families have exactly the same income and one receives more in family tax benefit. Similarly, if one family has a small investment and has not had tax taken out of that investment income during the year, it is deemed to be fair—for all of us—that we reconcile that at the end of the year.

Senator Mark Bishop—And prosecute them.

Senator PATTERSON—and ensure that the tax is paid, and that two families do not have different amounts of money from the taxpayer. Senator Bishop is sitting over there saying, ‘Well, just prosecute them.’ You sat here during the debate on the bill and said: do not actually reconcile their tax, do not take out their rebate, just let them use the rebate and then, if they cannot pay it back, prosecute them through the courts. That is not the way we want to deal with this. It is within the tax system. We want to ensure that two families on the same income are treated the same.

I did express concern about the number of people who are in receipt of overpayments. During the time I have been minister, which is a couple of weeks, I have been out to a number of offices to talk to families and people who have had overpayments. I have talked to them about how we could reduce the likelihood that they will get an overpayment. I have looked with them at the material that we present. Senator Vanstone introduced a program called More Choice for Families, where people can decide how they will split their family tax benefit.

Senator Jacinta Collins—They can’t afford to.

Senator PATTERSON—Senator Collins sings out, ‘They can’t afford it.’

The PRESIDENT—Do not take any notice of the interjections, Senator.

Senator PATTERSON—I have to take notice of the interjections because Senator Collins says they cannot afford it. Senator Collins is suggesting that we have an unfair system, that we have families that cannot estimate their income getting more than families that can estimate their income. I have actually sat with these people, for two hours at a time, talking to them about how we might improve their understanding of the system and reduce their likelihood of getting an overpayment. One of the things they have indicated to me is that they would like to know more about the More Choice for Families program. I am talking to Centrelink about how we can increase their awareness of the More Choice for Families program to reduce the likelihood that they will get an overpayment. We are giving families more than Labor ever gave them, but we are making sure that it is fair. Under Labor, when a family overestimated their income and received a lower family allowance, the Labor Party did not top it up. So families that failed to get the right amount had to go without, because Labor could not be bothered giving them a top-up. We are giving the families a top-up, but we expect people who have an overpayment to pay it back. Those who get too much pay it back; those who get too little get a top-up. Under Labor, they never got a top-up.

Senator MARK BISHOP—Mr President, I ask a supplementary question arising from the minister’s response. Can the minister confirm that, out of a total of 2.1 million
family payment customers and more than 1.3 million incorrect payments, just one person was prosecuted during 2002-03? Minister, in light of this fact, do you agree with your predecessor’s view that:

There are some people ... who have cottoned on that it is a very inexpensive way to borrow money from the government. Now that cannot continue.

Senator PATTERSON—It would be an even more inexpensive way if we did not reconcile their tax at the end of the year.

Immigration: Children

Senator ALLISON (2.44 p.m.)—My question is to the Minister for Immigration and Multicultural and Indigenous Affairs. Why is it that 95 children are still held in detention centres in Australia, despite instructions being given three years ago saying alternative accommodation should be found for them? Does the minister acknowledge the long-term mental and emotional damage these children are suffering as a result of this experience and what responsibility is your government taking for the damaged lives of these children?

Senator VANSTONE—I thank Senator Allison for her question. The continued detention of an unlawful non-citizen is a last resort. Wherever possible a bridging visa is granted to unlawful women and children as soon as practical. The number of women and children detained are a small fraction of the total number of detainees. My advice is that the figures for the last financial year are approximately 15 per cent for women and less than 10 per cent for children. They are only kept in detention if the grant of a bridging visa is inappropriate.

We have worked to find some flexible and workable alternative detention models. It might be appropriate at this point to remind senators opposite that it was Labor that introduced mandatory detention. Port Hedland was opened in 1991. The proportion of children to adult boat arrivals was much higher under Labor. Admittedly, the number of arrivals was much lower at that time, but I am told that the proportion of children was 30 per cent compared to the current proportion of arrivals, which is around 19 per cent. I say that, Senator Allison, because I know you were not here at the time I am speaking about, but I did not hear much about that issue from senators opposite, who were then in government.

Where it has been decided that unaccompanied minors, women and children should continue to be detained they are taken to a detention centre. Then they are assessed against the guidelines, which were announced in December 2002, for eligibility to be placed in a residential housing project or some other alternative detention arrangement. The point I make with respect to the previous Labor government, Senator, is that there were no alternative arrangements under them.

We work closely with state child welfare agencies and, where necessary, develop appropriate strategies to safeguard the welfare of children in detention. Consistent with the International Convention on the Rights of the Child, the government believes it will usually be in the best interests of the child to remain with their parents. However, where a child welfare agency recommends separation from parents, to the extent possible within the legal framework, that advice is accepted. Unaccompanied minors who do not have family members in detention are usually detained in alternative care arrangements, such as in foster care. In some instances, they may remain in detention centres in the care of extended family members—an uncle or an aunt or older brothers—for short periods of time pending removal. Children who are in detention do have access to appropriate social and recreational programs as well as educational programs. Where possible, eli-
ble children in detention facilities are able to access external schooling. The advice I have, Senator, is that currently over 70 per cent of children attend external schooling. I am told that in Baxter it is all but one or two. It might be of interest to you, Senator, to know that the residential housing projects that we have at Port Hedland and in one other detention centre are being extended. As I think I have mentioned in this place before, we hope soon to open one up outside of the detention centre at Baxter in Port Augusta, which will house a fairly significant number of women and children. I am looking forward to that facility being opened. It will be a far more preferable situation for women and children.

Senator ALLISON—Mr President, I ask a supplementary question. I thank the Minister for Immigration and Multicultural and Indigenous Affairs for her answer. Isn’t it still the case that less than 10 per cent of children detained are in alternative accommodation? Why is it that mental health practitioners have been denied access to detainee children for the purposes of assessing their condition? What have you done to assess children at risk of mental illness? And given the fact that the Royal Australian and New Zealand College of Psychiatrists, the Royal Australian College of Physicians, the combined Committee of Presidents of Medical Colleges, the AMA and the Australian Psychological Society all oppose indefinite mandatory detention, when will you release the children that you currently jail?

The PRESIDENT—Senator Allison, I remind you that you should be addressing your question through the chair.

Senator VANSTONE—Senator Allison, no-one wants to see children in detention centres. The easiest solution to this problem of course would be for people not to come in unlawfully with children, putting them at risk of being in detention centres. Senator, I have made it very clear that we are doing what we can— unlike the previous government which did zilch, zero, nothing—to find better solutions here. There may be people who say this should never happen, but I doubt that they would also want to say to people smugglers, ‘If you concentrate and focus yourselves on the vulnerable people who have children, you’ll be okay.’ I do not think that is a message that any of those colleges would want to give the people smugglers. One of the difficult situations you face in government is that you cannot always have both things that you want. You have to choose the lesser of two evils.

Taxation: Family Payments

Senator WEBBER (2.50 p.m.)—My question is to the Minister for Family and Community Services, Senator Patterson. Is the minister aware that the number of appeals in relation to family tax benefit payments to the Social Security Appeals Tribunal has tripled from 7.6 per cent of all complaints in 2001-02 to 21 per cent in 2002-03? Minister, in light of this record number of appeals by families, why won’t the government support sensible reforms like Labor’s proposal to offer families the option of avoiding having their tax returns stripped?

Senator PATTERSON—I thought that Senator Webber would have understood from my answer to the last question that I was asked that we want to ensure that people have as little debt as possible by reconciling their tax at the end of the year. For those people who have a tax rebate, who have made a donation or who have had more tax taken out of their income than was necessary or who have a family tax overpayment, their tax is reconciled in the same way that everyone else who is in the tax system who has an income which has not had tax taken out of it or who has a debt to the tax office has their tax reconciled. It is not stripping. For some
families on low incomes who have a small investment and have not had tax taken out of that income, we do not call it stripping; we call it reconciliation. What we are reconciling is the tax of families who have received more from the taxpayer than they ought to have because they have not been able to estimate their income correctly.

We need to assist families that have difficulty assessing their income in advance. As I said before in answer to Senator Bishop, these are the families that have what we call lumpy incomes, where they may have people going into the work force, students going to work, part-time jobs or a salary increase as a result of a bonus. Those people need assistance to know what options they have. With more choices for families, there are facilities to help them reduce the likelihood of having an overpayment.

Around two million families, with 3.5 million children, have benefited from the family tax benefit. Payment rates have increased from the previous system, and additionally the vast majority of Australian families with dependent children are now eligible for family assistance. We have improved significantly on Labor’s clumsy system of 12 payments. We have streamlined that. We have ensured that families that do not receive sufficient family tax benefit can actually get a top-up. They could not get that under Labor. In fact, if you got less than you were entitled to from the taxpayer, you lost out. Labor did not care. What we care about is that families on similar incomes get the same family tax benefit over a 12-month period.

Senator WEBBER—Mr President, I ask a supplementary question. In light of the record number of complaints by families to the SSAT, when will the minister act on the Commonwealth Ombudsman’s scathing report into the system of family payments rules, which found:

- the system seems to inherently result in a large number of debts and that many debts are significantly high;
- debts arising from the scheme are affecting many lower income families;
- debts may be unavoidable ...

Senator PATTERSON—I went out and talked to the families. As minister for two weeks, I have been out to Taylors Lakes. I have been up to Sydney. I have been out to Queanbeyan. I have talked to the families that have received overpayments. Have you been out and talked to them? No, Senator Webber. I have been there to talk about how we can assist them in not getting overpayments. We want to ensure that families are treated fairly and equally and that families on the same income get the same benefit from the taxpayer.

**Superannuation: Policies**

Senator WATSON (2.54 p.m.)—My question is directed to the Minister for Revenue and Assistant Treasurer. I ask whether the minister can inform the Senate of the Howard government’s initiatives for all Australians, including those earning lower incomes, to save for their retirements. Were not these incentives part of the election commitment by the Howard government?

Senator COONAN—I do thank Senator Watson for his longstanding and ongoing interest in this important matter. I am happy to say that yesterday the Senate did pass the government’s $1.3 billion package of superannuation co-contribution and reduction of surcharge measures aimed at making superannuation more attractive and more accessible to a wider range of Australians. The matched savings measure, or the co-contribution, is a direct injection into the retirement incomes of those earning up to $40,000. Under the co-contribution measure, those on incomes of up to $27,500 will have their own personal superannuation contribu-
tions matched by a government contribution of up to $1,000 annually. The co-contribution will be tapered over $27,500 up to the upper income threshold of $40,000.

Just to take a very modest example, it will mean that somebody who makes a personal contribution of $500 a year, maybe earns $20,000 a year and works part time over the course of their working life will have an additional $41,281 in superannuation savings on retirement. In fact, 540,000 people are expected to benefit from the co-contribution scheme in 2004-05, and it will cost $920 million over four years. Additionally, the surcharge reduction measures passed yesterday provide that the maximum surcharge rates will be reduced from 15 per cent to 12.5 per cent over three years, and this measure removes some of the disincentives facing those paying the extra charge over and above the tax that everyone pays on their superannuation.

Senator Sherry is shouting about superannuation over there, which is all he ever does. If you look at what Labor have done on superannuation, I am afraid that their policies and their promises ring very hollow indeed. It is a hollow note for retirement incomes for Australian workers. We have had a lot of promises, of course. In 1996, Labor apparently started, according to Senator Sherry, with a blank sheet of paper, and it has not progressed much since then. We had Labor in 2001 foreshadowing a review but nothing eventuated. In August 2002, we saw some options from Labor but no policy. There was supposed to be a policy again in October 2002; there was nothing. In September 2003, we were told it would be November. But what year? Labor’s superannuation policy gestation must be the longest policy gestation in history. When Labor do get around to trying to decide what to do about superannuation, it will be very interesting to see how they reconcile their position on tax. We have the shadow Treasurer out there now saying that high-income earners need a tax break. Obviously he has not told Senator Sherry. In the Senate, we have Senator Sherry saying that we must not under any circumstances reduce the surcharge which is such a disincentive for those who would otherwise be able to save for their retirement.

**Senator Sherry**—You introduced it!

**Senator COONAN**—It is interesting that you should say that. Labor introduced the contributions tax in 1988 well knowing that it would be a growth tax affecting the superannuation savings of every Australian. Labor have to reconcile that. This government has actually got around to boosting the retirement savings of low-paid workers with a direct injection of matched savings. The Labor Party have done nothing but jeopardise the agreement that we reached with the Democrats. *(Time expired)*

**Senator WATSON**—Mr President, I ask a supplementary question. I admire the minister’s enthusiasm in responding to the question and her initiative in getting the package through. I ask the minister: were not these incentives part of the election commitment by the Howard government?

**Senator COONAN**—I thank Senator Watson for reminding me that this government delivers on its election promises. Most particularly we deliver on our election promises on superannuation. We actually care about low-income earners, whereas the Labor Party are more interested in a political stunt and derailing and embarrassing the Democrats than looking after low-income earners in this country. It was a disgusting stunt. The Labor Party have proven that they do not care about superannuation. They are devoid of ideas of their own. All they are interested in doing is derailing the ideas of others. This government will continue to work with all senators in this place who do
care about superannuation and will continue to develop good policy for all Australians.

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

QUESTIONS WITHOUT NOTICE: 
TAKE NOTE OF ANSWERS
Taxation: Family Benefits

Senator MARK BISHOP (Western Australia) (3.01 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Family and Community Services (Senator Patterson) to questions without notice asked by Senators Bishop and Webber today relating to family payment debts.

When Minister Patterson was rewarded for her failure in the Health and Ageing portfolio and given Family and Community Services, she promised to address the problems in the family payments system. This system saw the tax returns of 230,000 families stripped of an average of $890 last financial year. In the first year of the system, 728,000 families were hit with debts. In the second year of the system, 643,000 families were caught. In all, around $1.2 billion in debts have been raised against Australian families—an average of almost $1,000 per family. Senator Patterson promised to investigate the problems—a promise similar to the one given by Senator Vanstone when she took over the portfolio. But at the first hurdle Senator Patterson has failed to act.

Labor recently moved a simple amendment to the family payment rules that would have made a large difference for families. This amendment would have allowed families to fill out their income estimate at the commencement of the financial year to nominate a debt repayment option. Labor believes that families should be able to tick a box saying, ‘Yes, you can strip my tax return,’ or, ‘No, you can’t, take the debt out of my future payments.’ Senator Patterson would not agree to this change. It is the health story all over again. She is there to hold the line while Australian families suffer.

Australian families want a change to the rules. They want a system that pays them the right amount each fortnight, not one that leaves them with a budget-busting debt at the end of the financial year. If you need evidence of their unhappiness about the current rules, you need only look to the number of appeals to the Society Security Appeals Tribunal. Last year, appeals to the SSAT absolutely skyrocketed, rising from 7.6 per cent of all complaints in 2001-02 to 21 per cent in the financial year ended 30 June 2003. Family payment appeals are now the second most contested payments, based on SSAT appeals. 2,015 families tried to get family payment decisions changed, the majority—approaching 80 per cent—without success. The SSAT confirmed in its annual report that a majority of the complaints relate to debts. Here is irrefutable evidence that the system is unfair and biased. That so many families have gone so far in trying to have a decision overturned demonstrates one thing: the level of angst about the rules instituted and carried out by this government.

The government has always been quick to boast about the number of convictions for fraud under Centrelink rules as a way of showing how tightly it administers its payments to Australians. Yet on this occasion it hides the truth from them. Under the family assistance legislation, 2.1 million payments are made to families each year. Last year, just one person was convicted of an offence under the act—more than half a million incorrect payments but just one case of fraud prosecuted. This underlines the fact that it is the system producing the debts rather than the deliberate actions of Australian families. While the government is quick to take payments from families by stripping their tax...
returns without warning, it seems it is slower to ensure that people do not miss out.

As Minister Patterson gets on top of her new portfolio, she has four priority areas to address in Family and Community Services: firstly, the payment of family tax benefit and child-care benefit based on current income, not future income; secondly, the stripping of tax returns; thirdly, the huge blow-out of appeal numbers to the SSAI—(Time expired)

Senator HUMPHRIES (Australian Capital Territory) (3.06 p.m.)—The Labor Party attempts to characterise the government’s reforms in family assistance and family tax benefit as, in some way, eroding the rights of Australian families, cutting back their entitlements, making them worse off and driving them out of the arms of a system which provides an adequate safety net for their needs. The reality of what the government has done in the last few years does not reconcile with that bleak picture. In the last few years, this government has changed the system with two basic characteristics foremost in that process. One has been to make the system more accountable, and that level of accountability is what Senator Bishop has complained about today. The other is to make the system more generous. Essentially, both characteristics can be summed up by saying that we want to make sure that Australian families—and, indeed, all those in the Australian community who deserve the largesse of the taxpayer in the form of assistance of some kind for their incomes—receive those benefits on the basis that there are clear rules, that those rules are clearly applied, that those entitled to benefits receive benefits at the maximum extent available and that those who are not entitled do not receive those benefits. That has been the approach the government has taken, and proof of that fact, particularly the proof of the generosity with which the government has approached family tax benefits, has been the extent of the increase in government outlays in this area.

Family assistance under this government has increased by around $2 billion a year. A $2 billion increase in outlays does not indicate a government which is about reducing benefits to Australian families, it does not indicate that the government is anxious to cut people out of the system—as you would think from Senator Bishop’s comments—and it does not indicate a general deepening of crises facing Australian families. Clearly, in the last few years, general economic conditions affecting Australian families have improved dramatically. Lower interest rates, lower rates of inflation, higher employment and higher participation rates in employment all suggest that greater pressure has been taken off Australian families, but at the same time as that has occurred we have seen an increase in outlays by the Australian government to Australian families—a $2 billion increase.

Income-testing arrangements are more generous than we found them when we came to office in 1996. More families receive the maximum levels of assistance, and families are able to keep more of each dollar they earn under the system that we administer. That is the hallmark of a fair system and a generous system. The claims that Australian families are suffering, as Senator Bishop has suggested, simply cannot be borne out. The fact is that we have a proud record of economic management delivering better conditions for Australian families, and that has been matched by an administered system of family benefits and welfare payments through Centrelink that has increased the level of support to Australian families. The government’s use of top-ups for families requiring assistance is both fair and generous. Under the system we inherited from Labor, families had to repay overpayments of family assistance, but they did not receive
top-ups if they were underpaid. For example, around 680,000 top-ups of family tax benefits and child-care benefits have been paid for the 2001-02 financial year where families overestimated their income. That is a reform put in place by this government to make the system fairer and more generous, and it has affected the viability of many Australian families.

To suggest that this has been somehow an inappropriate process and that it somehow indicates that the government have been niggardly is simply without foundation. In addition, we have announced a package of measures to give families more choices to reduce the likelihood of an overpayment, and those measures have been progressively introduced since November of last year. This place can be satisfied that the government’s record is a proud one and that more reform is on the way to ensure that Australian families are well served by our welfare system. (Time expired)

Senator JACINTA COLLINS (Victoria) (3.11 p.m.)—The answers from Senator Patterson to questions in question time today continue to highlight that the government does not grasp—and Senator Humphries has reinforced this—that this is the mother of all domestic issues. As described by Sue Dunlevy in today’s Daily Telegraph, members of the government and members of the cabinet simply do not comprehend what is occurring in Australian families. So let us get to precisely the point: only five per cent of families can afford to defer and get a catch-up to avoid debt. We know that a third of all families are accruing these debts of, on average, $850. The vast majority, particularly those struggling on the lowest incomes, cannot avoid debt because they cannot afford the only solution, the only choice, that the government is offering, and that is to get a catch-up. A catch-up is too late.

Senator Patterson referred to the families that she has been talking to in various places. Then she should understand by now that, when family circumstances change, six or 12 months later is too late. Families need payments for their children when those children are dependent—not six or 12 months later when those children are no longer dependent. It is almost criminal that this government expects families to defer payments not when they need them but perhaps six or 12 months later than when they needed them. The whole point of these child support payments is to help families support the children—not to wait 12 months later with the government thinking you can compare two families, one next to the other, on the basis of their average, annualised income. The point is that we are meant to be supporting children. Children have needs that cannot be delayed 12 months.

This is the surprising fact that in the move to the new family payments system the government has not been able to comprehend. We have debated it time and time again with Senator Vanstone. We had hoped that Senator Patterson—she indeed promised—would look at this issue, but today we see no relief. We see no indication at all that she has come to terms with this issue, that she understands what the problem is and that she is likely to have any solution. The way she left the Health and Ageing portfolio and now, with this portfolio, is not giving us any prospect of a solution to this issue leaves us with little satisfaction at all.

I should also highlight that this system is not improving. Senator Vanstone gave us assurance after assurance that, as Australian families got used to the system, the numbers of families accruing debt would decline over time. We have not seen that. The decrease in families accruing debt is less than 10 per cent. There has been no significant change in the number of families accruing debts. They
are not getting used to this new annualised estimate of income system. It is not working.

But it is not the only system that is not working at the moment that relates to Senator Patterson’s portfolio. Let us look at another system: the child-care benefit system. This relates to the family tax benefit system as well, but in one critical area, where we have enormous shortages of child-care places—another critical issue referred to by Sue Dunlevy today with respect to cabinet’s failures—and outside school hour care places, the government is doing a very strange thing. It is refusing to approve places, and it has only approved places that attract the child-care benefit. So we have thousands of families missing out on child-care subsidy because they can get their maximum entitlement to child-care benefit only if it is an approved place—and the government has capped approving an adequate number of places for two years. It is a very unfair system.

The way that the government has dealt with the pneumococcal vaccine is also unfair. This government now has compromised the integrity of the whole system of vaccination for children. It has not maintained universal vaccination. We are still waiting for this minister to issue new regulations on how families can access the maternity allowance and the child-care benefit. Families are confused. They think that they have to pay $500 for this vaccine in order to get the child-care benefit or the maternity allowance. Until the minister releases a determination to clarify that point, she is responsible for the confusion of Australian families who think they need to pay an extra $500. *(Time expired)*

**Senator BARNETT** (Tasmania) *(3.16 p.m.)*—I rise to acknowledge the very important role of the government’s management of the economy in its support of families. We had a very different situation 30-odd years ago under a Labor government when we had the highest interest rates in decades. Indeed, we had very high inflation. I think in the third quarter of 1973 it was 17.1 per cent. That was in 1973—30 years ago—and it was about this time of year when it hit the record heights. What we have is good economic management and, as a result of that, we have those benefits flowing through to families in Australia. That is the good news. That is something that is dearly missed by the Labor Party in this debate in the chamber this afternoon.

The Howard government has a proud record of economic management. It is delivering low interest rates and low inflation, unprecedented in the last 30 years. It is actually leading to a growth in real wages, and that growth is benefiting Australian families—mums and dads and their children. It is also providing record employment options for them. Productivity, in terms of our economy, is at the highest level amongst the OECD countries. Our excellent and outstanding Treasurer, Peter Costello, has often reminded us of how well we are doing compared with the OECD countries and, indeed, with profitability amongst business and companies. All this is the real world, and the benefits flow through to families. This is a point that needs to be made.

The other point that needs to be made in this debate is about the great initiative and success of Senator Helen Coonan in delivering superannuation benefits to low-income earners. Let me just highlight this by quoting a *Courier Mail* article from today, 28 October 2003, with the headline of ‘Super boost for low incomes’. That boost will flow through to families as well. The article says: Low-income earners will have their retirement savings boosted by up to $1000 a year, after the Senate approved government changes to superannuation laws last night.
I say that in the context of this debate regarding families. Over this year—that is, 2003-04—the government has allocated an estimated $19 billion in assistance to families through the family tax benefit, child-care benefit, parenting payment, the maternity allowance and the maternity immunisation allowance. It should be noted that we have an outstanding record under Senator Kay Patterson and, indeed, the former minister, Michael Wooldridge, with immunisation rates of above 90 per cent. I congratulate both those ministers for their efforts.

The government’s expenditure on the baby bonus will increase to an estimated $170 million this year, and the baby bonus provides additional assistance to families following the birth of their first child. It should be remembered that the fairer tax system has also delivered benefits to families. That has helped reduce the effective marginal tax rates faced by many of those parents re-entering the work force, allowing the decisions about returning to work to be made with fewer economic disincentives. The family tax benefit has increased by about $2 billion a year. Around two million Australian families and 3.5 million children have benefited from the introduction of that family tax benefit.

On 3 October this year, the Prime Minister also announced that the Australian government is committing $7 million to a further 73 projects under the Stronger Families and Communities Strategy. That just has to be good news for families. The government spent more than $7 billion on child care in its first six years in office. How does that compare to the last six years of the previous Labor government? It is over 70 per cent more in real terms—that is, after inflation—than it was in Labor’s last six years in office. I want to commend Larry Anthony for the work that he is doing in that portfolio as Minister for Children and Youth Affairs. He has an excellent leadership role. (Time expired)

Senator McLUCAS (Queensland) (3.21 p.m.)—I rise to take note of the answers from Senator Patterson to the questions from Senator Bishop. In doing so, can I just say that I hope I do stick to the topic, because the previous contribution from Senator Barnett was very wide ranging and I found it very difficult to see where that contribution really linked to the motion that is before the chair.

Senator Bishop asked Senator Patterson a number of questions about the family tax benefit. In answer, Senator Patterson said that she had been concerned about the number of people who were in the overpayment category. I am pleased to hear that Senator Patterson is concerned about that, but it seems very similar to the comment Senator Vanstone made when she became minister in charge of that portfolio some time ago.

In answer to the questions, Senator Patterson then outlined the reasons for overpayment and talked about lumpy payments—how there had been changed work arrangements and how someone had picked up a job that they did not expect to. It is easy to identify the problem; what we are about here is actually finding solutions. She also made the point—and I do not disagree with this—that it is only fair that families in the same circumstances are treated in the same way. That goes to the core of it; that goes to what we have to do as legislators in this place to find sensible and practical ways of ensuring that payment systems are effective, efficient and fair without being a burden to families. That is exactly what the family tax payment has become for many families—more of a burden than a welfare payment.

Senator Patterson said that she had been meeting with clients. She said that she sat with families for two hours at a time to explain to them how the family tax benefit sys-
tem works. So Senator Patterson is concerned, and the solution is for her to sit with families. I thought that Centrelink had quite a number of very well trained staff whose job it is to explain to families what the payment programs are. I would question whether it is good use of a minister’s time to sit with families to explain to them—as Senator Patterson has said—how the family tax benefit works. I would agree though that it would be good use of ministerial time if Senator Patterson spent the time listening to the reality that a lot of these families are facing: the difficulty in actually accessing the payment, the difficulty in ensuring that Centrelink has the appropriate information about the projected income and then, when the inevitable occurs—and all of us who work in our electorate offices know this will occur, an error in the reporting will happen—the difficulty in dealing with that inaccurate reporting and potentially going to the appeals tribunal.

The appeals system that we have is appropriate. We have to have an appeals system. We have seen 2,015 appeals lodged with the Social Security Appeals Tribunal recently—all to do with family tax benefit payments. That is quite a considerable increase. There will always be costs in dealing with an appeals system. To operate it will be expensive. That is part of the appeals process. We also have to remember that any individual that takes a matter to the Social Security Appeals Tribunal does not take that decision lightly. All of us here have seen constituents struggle with the decision to take a matter to the appeals tribunal and then to progress that matter.

We know that it is a quasi-legal process. It is not easy. It is especially not easy on families. I am concerned for the 591 people who had to struggle through that process, had to find the time and the resources and had to seek advice to get through that process in order to prove that they were, in fact, correct—that the information that they had provided to Centrelink was correct—and have their appeal upheld. There is some cost to government in running an appeals process and we should bear that. We should also think of the cost to those families who have had to deal with that process who are not trained to do it and find it difficult.

Question agreed to.

**Australian Defence Force: Entitlements**

**Senator GREIG (Western Australia)**

(3.26 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Defence (Senator Hill) to a question without notice asked by Senator Greig today relating to sexuality discrimination in the Australian Defence Force.

The key thing I want to talk about is the extraordinary contradiction I find between what we hear from the minister and the government and what we hear from the defence forces themselves. There is a huge amount of duckshoving, where it seems that neither the government nor the defence forces want ownership of the discrimination or to take responsibility for the discrimination. When I questioned Major General Willis from recruitment on this issue in a Senate committee roughly two years ago and asked why this discrimination continued, I was told quite specifically by him how the defence forces were bound. He said on 25 June 2001:

I understand that, yes, but at this stage of the game the policy that we have in Defence is supported by the Marriage Act (1961) which stipulates that marriage, according to law in Australia, is the union of a man and a woman, and the Sex Discrimination Act (1984) which defines a de facto spouse as being ‘a person of the opposite sex’. That is government policy and that is where it ends as far as we are concerned.

You can see quite clearly that the Defence Force very firmly points the finger at the government as the source of responsibility and as the source of policy on this. Yet today
we again heard the minister try to argue that it was the Defence Force that wants this because of its alleged conservatism on this issue. Both statements cannot be true.

The minister also said that this is part of a slow evolutionary change. Be that as it may, we are talking about a gap of 11 years since the original ban was lifted. This is an evolutionary change of palaeontological proportions. Yet, when drafting the government’s new military rehabilitation compensation scheme, the defence department advised that no consideration was given to equalising benefits for same-sex couples. This sort of major overhaul of a scheme is something that only occurs every few decades.

By comparison we find that New Zealand, Britain, Canada and even Israel do not discriminate in the way that the Australian government does with its Defence Force personnel. We find this an extraordinary contradiction or conflict as the Australian Federal Police do not discriminate in this way. I do not believe you can argue in any reasonable way that there is some sort of huge gulf of cultural difference between the Federal Police and the Defence Force on these issues. Indeed, what I find in conversation and email contact with same-sex partners from the defence personnel—at last count, there were 108 on a localised email network here in Canberra; that is, 108 Defence Force personnel involved in same-sex relationships—is that they find no particular difficulty in moving on this issue. They do not get resistance from their colleagues and their comrades; they do not find any particular resistance from the hierarchy.

Senator Hill—Well, that’s good.

Senator GREIG—What they find is that the hierarchy is keen to point to the government to blame. The minister interjects and says, ‘That’s good.’ Perhaps it is, but that does not change the discrimination. And the discrimination is real. We are talking about often painful, largely financial, discrimination against personnel—discrimination that is not applied to other personnel—particularly in terms of relocation expenses, accommodation and, most appallingly, death benefits and compensation if a personnel member is killed or injured overseas. That, I think, Minister, is the most shocking and one which I would urge you to address.

We have a situation where if a Defence Force personnel member is killed or injured overseas their surviving same-sex partner at home is denied not only grief counselling but also death benefit compensation. I think that is grossly unacceptable in this day and age, when we as a nation are asking those people, as I said in my question, to put their lives on the line for our nation and its interests. We should treat all Defence Force personnel on an equal basis. This is ultimately an issue of morale right across the defence forces but also an issue of recruitment because, if we are keen as a nation to recruit more people to the ADF, we will not do so by holding onto this archaic discrimination.

Question agreed to.

NOTICES

Presentation

Senator Murray and Senator Faulkner to move on the next day of sitting:

That—

(1) There be laid on the table, by each minister in the Senate, in respect of each agency administered by that minister, or by a minister in the House of Representatives represented by that minister, a statement in accordance with the succeeding provisions of this order.

(2) A statement be tabled in respect of each advertising or public information project undertaken by each agency where the cost of the project is estimated or contracted to be $100 000 or more.
(3) A statement be tabled within 5 sitting days of the Senate after the project is approved. If the Senate is not sitting when a statement is ready for presentation, the statement be presented to the President under standing order 166.

(4) A statement indicate:
(a) the purpose and nature of the project;
(b) the intended recipients of the information to be communicated by the project;
(c) who authorised the project;
(d) the manner in which the project is to be carried out;
(e) who is to carry out the project;
(f) whether the project is to be carried out under a contract;
(g) whether such contract was let by tender;
(h) the estimated or contracted cost of the project;
(i) whether every part of the project conforms with the Audit and JCPAA guidelines; and
(j) if the project in any part does not conform with those guidelines, the extent of, and reasons for, the nonconformity.


Senator Ludwig to move on the next day of sitting:

That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts Legislation Committee on the Plastic Bag Levy (Assessment and Collection) Bill 2002 [No. 2] and a related bill be extended to 26 November 2003.

Senator Bartlett to move on the next day of sitting:

That the Senate—
(a) notes the release by the Prime Minister (Mr Howard) of a discussion paper on constitutional change;
(b) supports there being a broad community debate exploring ways to improve the operation of Australia’s parliamentary and political system;
(c) encourages the Prime Minister to consider any constitutional and parliamentary changes that have widespread community support; and
(d) expresses the view that one improvement to our parliamentary system would be for the Constitution to be amended to remove the power of the Senate to block supply for the ordinary services of government.

Senator Brown to move on the next day of sitting:

That the Senate—
(a) notes:
(i) former Prime Minister Mr Hawke’s undertaking to the Duke of Edinburgh in 1988 regarding new mining proposals on Christmas Island that, ‘approval will only be granted under the strictest environmental conditions and provided that no further clearing of rainforest occurs’,
(ii) the statement on 11 February 1988 by the former Minister for the Arts and Territories, Mr Punch, announcing that the Federal Government would not allow any further rainforest clearing on Christmas Island,
(iii) that all phosphate mining leases since 1988 have prohibited rainforest clearing as a condition of the lease, and
(iv) the announcement in 2003 by the former Minister for Regional Services, Territories and Local Government, Mr Tuckey, that the Federal Government would conduct a strategic assessment of Christmas Island; and

(b) calls on the Government not to lift the long standing moratorium on rainforest clearing on Christmas Island and to reject the application by Phosphate Resources Ltd for nine new mining leases covering 256 hectares all of which contain rainforest.

Senator ALLISON (Victoria) (3.31 p.m.)—Pursuant to standing order 781, I give notice of my intention at the giving of notices on the next day of sitting to withdraw business of the Senate notice of motion No. 3 standing in my name for Wednesday, 29 October for the disallowance of the Civil Aviation Amendment Regulations 2003 (No. 5), as contained in Statutory Rules 2003 No. 201 and made under the Civil Aviation Act 1998.

Senator Bartlett to move on Thursday, 30 October 2003:

That the Senate—

(a) notes the release by the Prime Minister (Mr Howard) of a discussion paper on constitutional change;

(b) supports there being a broad community debate exploring ways to improve the operation of Australia’s parliamentary and political system;

(c) encourages the Prime Minister to consider any constitutional and parliamentary changes that have widespread community support;

(d) expresses the view that sections 44(i) and 44(iv) of the Constitution should be amended to remove the current prohibition on dual citizens and public sector employees being able to nominate for election to the Commonwealth Parliament; and

(e) urges the Government to give consideration to the constitutional reform proposals outlined above.

Senator Brown to move on the next day of sitting:

That the following matters be referred to the House Committee for inquiry and report by 2 December 2003:

(a) the disappearance of many birds from the parliamentary grounds;

(b) the poisoning of bogong moths and whether this had an impact on the disappearance of the birds; and

(c) why this poisoning was conducted, and whether there were special contributing circumstances such as the visit by foreign dignitaries.

Senator FERRIS (South Australia) (3.33 p.m.)—At the request of the Chair of the Standing Committee on Regulations and Ordinances, Senator Tchen, I give notice that, at the giving of notices on the next day of sitting, he will withdraw business of the Senate notice of motion No. 1 standing in his name for 11 sitting days after today for the disallowance of the Civil Aviation Amendment Regulations 2003 (No. 6), Statutory Rules 2003 No. 232, made under the Civil Aviation Act 1988. I seek leave to incorporate in Hansard the committee’s correspondence concerning these regulations.

Leave granted.

The correspondence read as follows—

Civil Aviation Amendment Regulations 2003 (No 6), Statutory Rules 2003 No 232.

18 September 2003
Ref: 104/2003
The Hon John Anderson MP
Minister for Transport and Regional Services
Parliament House
CANBERRA ACT 2600
Dear Minister

I refer to the Civil Aviation Amendment Regulations 2003 (No 6), Statutory Rules 2003 No 232. These regulations provide for the appointment of Designated Aviation Medical Examiners and Designated Aviation Ophthalmologists and related matters.

The Committee notes that clause 67.125 imposes an obligation on a DAME or a DAO to inform CASA within 5 working days where the holder of a medical certificate informs the DAME or DAO of a medical condition that is safety-relevant. It is not clear whether a failure to report within the 5 working day period, or to report at all, is an offence.

The Committee would therefore appreciate your advice on the above matter as soon as possible, but before 10 October 2003, to enable it to finalise its consideration of these Regulations. Correspondence should be directed to the Chairman, Senate Standing Committee on Regulations and Ordinances, Room SG49, Parliament House, Canberra.

Yours sincerely

Tsebin Tchen
Chairman

Senator the Hon Tsebin Tchen
Chairman
Senate Standing Committee on Regulations and Ordinances
Room SG49
Parliament House
CANBERRA ACT 2600

16 Oct 2003

Dear Senator Tchen

Thank you for your letter of 18 September 2003 concerning Civil Aviation amendment Regulations 2003 (No 6) Statutory Rules 2003 No 232, which provide for the appointment of Designated Aviation Medical Examiners (DAME) and Designated Aviation Ophthalmologists (DAO) and related matters.

The Committee has noted that clause 67.125 imposes an obligation on a DAME or a DAO to inform CASA within five working days where the holder of a medical certificate informs the DAME or DAO of a medical condition that is safety-relevant.

The Committee has sought advice on whether a failure to report within the five working day period, or to report at all, is an offence.

When written, the subject clause was intended to create an obligation upon a DAME or DAO to report when the holder of a medical certificate experienced a safety-relevant medical condition. There was no intention that failure to report would be considered an offence and for this reason there was no penalty set out at the foot of regulation 67.125. However, it was intended that a DAME or DAO’s compliance with reporting provisions would be one of the criteria considered when re-appointing DAMES or DAOs.

Legal advice to date indicates that the regulations are consistent with this approach. The failure of a DAME or DAO to report within the specified time frame is not an offence due to the fact that nothing exists in the regulations to create such an offence. By contrast, some of the other provisions of these regulations do make it an offence to contravene the obligation imposed by those particular provisions for example, regulations 67.130 and 67.135.

The drafting of these provisions relies on section 4D of the Crimes Act 1914. The effect of section 4D is that when a penalty is set out at the foot of a provision in regulations, it indicates that contravention of the provision is an offence against that provision. There is no penalty set out at the foot of regulation 67.125.

Instead of creating an offence, the regulations provide a different sanction for a failure to comply with the obligation imposed by regulation 67.125. The regulations provide that CASA may cancel a person’s appointment as a DAME or DAO if there are reasonable grounds for believing that the person has contravened regulation 67.125. This power is given to CASA by regulation 67.095, which also requires that the Authority give the person an opportunity to make representations about the issue. The Administrative Appeals Tribunal (AAT) would have jurisdiction to review a cancellation (regulation 67.141).
Thank you for raising this matter with me.
Yours sincerely
John Anderson

Postponement

Items of business were postponed as follows:

Government business notice of motion no. 1 standing in the name of the Minister for Local Government, Territories and Roads (Senator Ian Campbell) for today, relating to the consideration of legislation, postponed till 29 October 2003.

SCIENCE: ASSISTED REPRODUCTIVE TECHNOLOGY

Senator HARRADINE (Tasmania) (3.34 p.m.)—I move:

That there be laid on the table by the Leader of the Government in the Senate (Senator Hill), no later than immediately after motions to take note of answers on 29 October 2003, the following two expert reports prepared for and subsequently issued to members of the Council of Australian Governments for its meeting on 29 August 2003:

(a) a report that discussed protocols to prevent the creation of embryos for the purposes of scientific research, prepared by the Committee for the Review of Ethical Guidelines for Assisted Reproductive Technology, a subcommittee of the Australian Health Ethics Committee of the National Health and Medical Research Council (NHMRC); and

(b) a report prepared by the NHMRC that considered the adequacy of supply and distribution for research of excess assisted reproductive technology embryos, which would otherwise have been allowed to succumb.

Question agreed to.

EDUCATION: REGIONAL IMPACT STATEMENT

Senator CARR (Victoria) (3.35 p.m.)—I move:

That the there be laid on the table by the Minister representing the Minister for Education, Science and Training, no later than Wednesday, 29 October 2003, the regional impact statement prepared by the Department of Education Science and Training, in support, explanation and justification of the higher education policy package, referred to at the hearing of the Employment, Workplace Relations and Education References Committee on 17 October 2003 (Hansard, p. 119).

Question agreed to.

COMMITTEES

Legal and Constitutional References Committee

Extension of Time

Senator MACKAY (Tasmania) (3.36 p.m.)—At the request of Senator Bolkus, I move:

That the time for the presentation of the report of the Legal and Constitutional References Committee on the State Elections (One Vote, One Value) Bill 2001 [2002] be extended to 1 March 2004.

Question agreed to.

Procedure Committee

Reference

Senator BROWN (Tasmania) (3.36 p.m.)—I ask that general business of the Senate notice of motion No. 1 standing in my name for today, proposing reference of a matter to the Procedure Committee relating to joint meetings of the Senate and the House of Representatives, be taken as a formal motion.

The DEPUTY PRESIDENT—Is there any objection to this motion being taken as formal? There is an objection, Senator Brown. It is on the Notice Paper so, as soon as we have dealt with a couple more items, it will come up. Formality has been denied.

Senator BROWN—I note that the government denied that formality.
MILITARY DETENTION: AUSTRALIAN CITIZENS

Senator NETTLE (New South Wales) (3.37 p.m.)—I move:

That the Senate—

(a) notes that:

(i) Mamdouh Habib is currently incarcerated at Camp X-Ray in Guantanamo Bay, Cuba, without charge,

(ii) Mr Habib’s wife, Maha Habib, has attempted to communicate her concerns regarding her husband’s status to the United States (US) Government, and

(iii) Mrs Habib wrote to the US President stating that her husband ‘has not been charged with any crime—not under American law, Australian law or any law. In his two years of imprisonment I have not been able to speak with him. How are his rights being protected by the United States? It is beyond understanding how he could have been caught up in all of this… If the United States Government considers that [Mr Habib] is a threat to its security, then please inform us of his crime and press charges against him. If not, then please return him to his family and country’; and

(b) calls on the Federal Government to convey the Habib family’s request to the US Government as soon as possible.

Question agreed to.

FUEL QUALITY STANDARDS AMENDMENT BILL 2003

Report of Environment, Communications, Information Technology and the Arts Legislation Committee

Senator FERRIS (South Australia) (3.38 p.m.)—On behalf of the Chair of the Environment, Communications, Information Technology and the Arts Legislation Committee, Senator Eggleston, I present the report of the committee on the provisions of the Fuel Quality Standards Amendment Bill 2003, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

COMMITTEES

Procedure Committee

Reference

Senator BROWN (Tasmania) (3.39 p.m.)—I move:

That the following matters be referred to the Procedure Committee for inquiry and report by the first sitting day in February 2004:

(a) whether the recently adopted practice, of joint meetings of the Senate and the House of Representatives for the purpose of addresses by foreign visitors, should continue, or whether some alternative procedure should be adopted; and

(b) the rules which should apply to any future joint meetings or alternative procedure, with particular regard to:

(i) the right of the Senate exclusively to determine how the conduct of senators shall be regulated, and

(ii) the ability of senators to interact with foreign visitors, including by presenting correspondence to them and discussing relevant matters with them.

This motion is self-explanatory. I note that an amendment to this motion has been circulated by Senator Brandis, and I will come back to that in a moment. But let me say here that this is a very clear-cut move to try to get some procedures and rules to deal with—

The DEPUTY PRESIDENT—Senator Brown, you might have said ‘circulated’ but I can assure you that it has not been circulated in the chamber. It might be being passed around by a couple of people, but we at the table do not have it. I just want to draw that to your attention as you were referring to it. We do not have a copy of any such amendment. I am aware of its existence, though, Senator Brown, so continue.
Senator BROWN—I have two copies on my desk—maybe so I would take notice of it, but I am not particularly interested in it at this stage. Senator Brandis is fairly new and might not know that, if he gives it to an attendant and gets it copied, it can be circulated at this stage.

The DEPUTY PRESIDENT—It is all right, Senator Brown; we have been taken care of—proceed.

Senator BROWN—I was just helping, Mr Deputy President.

The DEPUTY PRESIDENT—I always appreciate your help, Senator Brown.

Senator BROWN—That is mutual, Mr Deputy President. Getting back to the point: we have developed in this parliament, under several prime ministers and with three American presidents, a process of having a joint house sitting to hear the addresses from those presidents. This was added to last Friday by an address from the President of the People’s Republic of China, Hu Jintao. As far as I can ascertain, there has been no input by the members of the parliament into that procedure; it has come from the executive on each occasion.

While both houses did vote to allow this to happen and said that it would be under the rules of the House of Representatives, it has been a fly by the patch of your pants process. As far as I am aware, we have not had a debate about whether this procedure is appropriate for the houses of parliament, which are the debating chambers of the people of Australia. You will remember that the Greens submitted two weeks ago in the debate then that the appropriate place was the Great Hall or, potentially, the Press Club, where a lecture or a speech is delivered and people listen. That is the nature of such things. But in the debating chambers of parliament to which we are elected—

Opposition senators interjecting—

Senator BROWN—if some of the bleaters opposite listen in here, they might learn something. These are the debating chambers for the people of Australia. There are rules which talk very strongly about strangers being present in the house. The extraordinary exception has been these presidents, and we need to be able to ascertain in a dignified and adult debate whether that is the appropriate thing for this parliament. We are going to have some of the lickspittles comment on this, saying that there is nothing we should do when a visiting head of state comes from a great power except sit in subservience, but the whole question is—

Senator Ian Campbell—if you feel it is subservient to sit there, then that is a reflection on you.

Senator BROWN—that was your action, Senator, and it is not what we feel or think, it is what we do that matters. The question is: are the debating chambers of this great parliament the place for members ever to be put where they cannot debate?

Government senators interjecting—

Senator Ian Campbell—it wasn’t a debate, you dill.

Senator BROWN—that is what was wrong with it. The members opposite are saying it was not a debate. That is what I am saying: it should be a debate if it is going to be in the chambers of this representative democracy. I know I am not going to get anywhere with this, because they do not understand that this parliament is more important, and its role in the Australian democracy is more important—

Senator Ian Campbell—So you are more important than the parliament, and we do not understand that?

Government senators interjecting—

Senator BROWN—than how we offer a podium to visiting heads of state.
The DEPUTY PRESIDENT—Senator Brown, resume your place for a moment. I know people on my right are interested in interjecting but Senator Brown, irrespective of what people think, has the right to be heard. If you want to speak in the debate, you will have the opportunity.

Senator BROWN—It is quite remarkable, but part of the whole point I am making, that we have government members here interjecting on me. I expect that and I accept it.

The DEPUTY PRESIDENT—Senator Brown, address your comments to me and not to them.

Senator BROWN—I am doing just that; and I am debating it, if you listen carefully.

The DEPUTY PRESIDENT—I am listening carefully.

Senator BROWN—I will go back to where I was before that interjection. The whole point I am making here is that there are government members interjecting on me, and that is part of the process of deliberation in these chambers—an exchange. But what we are evolving here is a special circumstance where non-elected people come into this place and are heard in a situation where no debate can take place.

Senator Ferguson—Just like the Governor-General.

Senator Robert Ray—We did try to fix that; be fair.

Senator BROWN—that is right. But you opposed the Governor-General being elected, you might remember, and therefore given a presidential appellation and a distinction as an Australian head of state that is not there at the moment. I will not get diverted by that. There are fundamental questions here as to what is the appropriate way, the appropriate forum and the appropriate circumstance for a lecture or a speech to be given by a visiting head of state. Where are the lines drawn? Who in the parliament determines these things?

Senator Sandy Macdonald—Not you.

Senator BROWN—the members opposite say not us, because they are firmly wedded to the executive and they believe the executive should run parliament. The Greens are saying no, that is not the case: the members run parliament. It is not up to the executive; it is up to the members. At the heart of this problem is that question: are the proceedings of parliament to be determined by the members or by the executive? What we had last week was the executive, effectively. I want to see a debate on that, and I am glad that we are getting one already. Maybe we should have had this debate a long time ago. I remind you, Mr Deputy President, that the motion here is to have this matter referred to the Procedure Committee for inquiry, which is the proper thing to do. The debate that takes place today may at least help open the hearts and minds of senators opposite to the fact that there are problems with the current process and there are better alternatives, at least to be considered, than having anybody from another country brought into our parliament in a way in which the parliamentarians are effectively gagged.

You will remember that the Greens in this place moved that, before President Bush or President Hu Jintao took the podium, there be an agreement that there be one hour for interaction with members of parliament after their speeches. That was voted down, as I recollect, by all other parties but the Greens in this place. That was a real and determined effort to open up the process in a chamber of debate, but that did not happen. When you cut off all other avenues for the raising of important issues of the day with visiting heads of state, it is very important to say that you are going to get some parliamentarians
who do not accept that but who accept that, in this Australian parliament, issues are to be raised.

I am concerned that there is becoming a global process, which is repressive of democracy, that says visiting heads of state, be they democratically elected or dictators, can go to the great democratic—and, indeed, non-democratic—forums of the world and reinforce each other’s point of view without the representatives of the people elected into our democratic parliaments being able to take them on. This is the globalisation of a process of non-democracy, where people come into parliaments to speak to the elected representatives and the elected representatives are mute. That is the position that already pertains in Beijing; it is not the position that pertains in Washington, London, Wellington or Canberra. But it is threatened by this process of visiting heads of state being given special rules to deliver speeches within the democratically elected chambers.

I ask people to think about that. Are we going to have the Beijing model imposed on Canberra or are we going to defend the Canberra model, whatever they might think in Beijing? That is what is at stake here. Sure, they have elected representatives, but you will never see them interjecting on a speech of Hu Jintao—if you do, you go to jail. What is going to happen here? If we interject on Hu Jintao or any other visiting heads of state, we get expelled. That is the first step down the road towards the Beijing model. We should be at least stopping to think if that is what we want.

There is another very important matter here which needs to be considered—that is, the right of the Senate and senators to determine the circumstances in which they are taken up in debate anywhere in this parliament. There is a precedent where, if there is a joint sitting in this place, the standing orders here prevail and, if there is a joint sitting in the other place, the standing orders there prevail. You see the drift: these joint sittings, these ones with an international focus, are more and more often in the House of Representatives.

Senator Robert Ray—It is a bigger chamber—that’s why!

Senator BROWN—It is a bigger chamber, but the rules there mean that it is very fuzzy, to say the least, as to what the standing of senators is. That is what needs to be considered by a committee. I know what is going to happen in a minute. We are going to have government members getting up to condemn, and we will hear the word ‘rudeness’. They will say, ‘How dare you be rude to other people!’ But their philosophy is one of manners before human rights. What they are going to argue is that manners are much more important in this area than the human rights of democrats jailed, tortured and sometimes killed elsewhere. That is their priority. We will hear more of that today, and we know we are going to hear that full-on.

They want to personalise a debate that is, significantly, about the procedure of this great parliament and who sets the rules. For one, I am very defensive of the Senate’s right to set rules about its members at all times. If we are going to entertain that, we need to have established agreed rules for the occasions when foreign heads of state speak to this parliament in any chamber. Let us have it debated; let us have it talked about and let us discuss the options. That is what this motion is about. It is much more about that than about the events of last Thursday and Friday, which, of course, have led to this motion. You will know that I have flagged some other motions about particular events on Thursday and Friday which may or may not be looked at by the Privileges Committee. But those are about the specifics. This mo-
tion is saying, ‘Let’s review where parliament stands and, in particular, where this Senate stands.’ I question whether the Senate should become subservient to the House of Representatives. If it is going to do so, where is the line to be drawn?

I also ask this question: is it up to the executive only to invite people to address this parliament or do the parliamentarians have a say in that? I believe that parliamentarians should have a say. This is the Australian parliament; it is not just the executive. Are we going to invite the Prime Minister of New Zealand to do this next time she comes? Will the Prime Minister of India come?

Senator Brandis—They wouldn’t come to be yelled at by you!

Senator BROWN—I would not be as sure as other members are about that. But I believe that this parliament is too readily allowing a drift towards the executive controlling everything, and a backdoor controlling of the Senate through that process. Last week, two senators were prevented from attending a meeting of the Senate on Friday through a move by the Speaker. Those senators were named by one of Howard’s ministers who is not in or from this place and, by the way, with the Speaker ignoring a call from senators, at least, for a division. What comeback does the Senate have when the Speaker manifestly breaks his obligation to allow a division to be called when five or more people are calling for it? That was a political move by the Speaker. That is the Speaker going into the service of the government by stepping out of the role of independent arbiter and, in the house of the executive, acting in the service of the executive. Are we, as senators, going to allow that to happen? What comeback do we have with the Speaker? I suggest that we have none. I do not think we should put ourselves in the position where the executive has control over this Senate and where two members of the Senate are prevented from attending a meeting of the Senate by a vote in the House of Representatives.

Sure, we know that the government wants to reform the Senate and disable it, but this is backdoor reform of the Senate and it should be debated. I think it has to be openly debated. I know that members opposite are going to get up and go on with a whole range of epithets that we have all heard before, but I ask them to address the substance of this debate—the important matters. Where are the people of Australia in this? If their elected representatives are gagged, where are they left in this? It is very important that we address that question. I find it difficult enough that the executive, a 43 per cent elected government, should be determining what goes on in this parliament, let alone that, when a foreign head of state—and, indeed, on Friday, a Communist dictator—comes here, two members are prevented from going in to hear that delivery, as a result, I might add, of great pressure upon the authorities of this parliament by that dictatorship. These are very important questions. I do not resile from anything that happened on Thursday and Friday.

Government senators interjecting—

Senator BROWN—I am affronted by some of the processes that happened on Thursday and Friday, but, unlike those people baying opposite, I am saying, ‘Let’s have a debate about the process and let’s get it right.’

Senator Ian Campbell—You should apologise!

Senator BROWN—I hear the word ‘apology’ being used opposite. If apologies are due, I accept that. But that is not going to solve the problem. We are going to have to talk about this and sort it out, because this is our democratic parliament. We are representing the people of Australia first here. The
executive should not be in total control of this. The Procedure Committee will have a very big responsibility if this matter gets to it. I recommend that the Senate, at a minimum, ask the Procedure Committee to deal with the matters that have come forward in this very important Greens motion.

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

Omit all words after “That”, substitute “the Senate:

(a) condemns the behaviour of Senators Brown and Nettle during the address to the joint meeting by the President of the United States of America (the Honourable George W Bush) on 23 October 2003, in defying the order of the chair and the proper direction of the Serjeant-at-Arms;

(b) considers the behaviour of Senators Brown and Nettle to have been grossly inappropriate, discourteous, lacking in good manners and reflecting poorly upon the Parliament and Australia; and

(c) in light of the behaviour of Senators Brown and Nettle, asks the Procedure Committee to consider what steps should be taken to ensure the proper conduct of joint meetings to welcome foreign heads of state”.

Copies of the amendment have been circulated at least to party leaders and have been given to the attendants. When the people of Australia last Thursday saw the antics and the predetermined sideshow of Senator Brown and Senator Nettle during the course of President Bush’s address, I think most people—I dare say more than 90 per cent of the people of this country—thought that Senator Brown and Senator Nettle were responsible for an insult to the President of the United States and to the American people. Of course they were, but they were guilty of much more than that: they were guilty of a contempt of this parliament.

In the name of free speech, Senator Brown and Senator Nettle sought to deny the freedom of speech of the invited guest of the Australian people—sought to prevent the Australian people hearing what President Bush had to say. In the name of parliamentary democracy, Senator Brown and Senator Nettle sought to suborn parliamentary democracy. And now they come to this chamber, bleating, awash with crocodile tears and pretending to be the custodians of free speech—pretending to be the custodians of this institution. Their own conduct last Thursday in belittling this institution—in denying the freedom of a foreign head of state to be heard by the Australian people and by the representatives of the Australian people—demonstrates the hypocrisy of their position.

Let us remember what it was in this premeditated, preordained and orchestrated stunt that Senator Brown and Senator Nettle contrived to do. First of all, they interrupted the President three times. Then, in response to a lawful direction by the Presiding Officer, the Speaker of the House of Representatives, operating under standing orders that this chamber had agreed to, they refused to abide the lawful direction of the Speaker of the House of Representatives. Thirdly, when the Speaker of the House of Representatives lawfully and properly directed the Serjeant-at-Arms to escort Senator Brown and then Senator Nettle from the chamber, they refused to obey that lawful direction. So it is not merely a question of bad manners, Senator Brown. That is offensive enough, but it is the least of your offences. It is the premeditated contempt shown by you and your colleague Senator Nettle for the procedures and the standing orders of this chamber, as agreed to by this chamber; the defiance of its presiding officer; and the defiance of its officer the Serjeant-at-Arms. To this day, you
have not had the decency to apologise—to purge your contempt of this parliament.

I think until fairly recently the Australian people tended to divide the Greens party into two camps. There seemed to be two points of view about the Greens party. There were those Australians who thought that the Greens were a collection of well-meaning oddballs—and there was certainly a degree of evidence to give comfort to that view. There were others, I think, in Australia who regarded the Greens not so much as well-meaning oddballs but as a mob of scruffy ratbags. There was certainly plenty of evidence to give comfort to that point of view. But, as their behaviour last Thursday demonstrated, the Greens are not well-meaning oddballs and they are not scruffy ratbags; they are something much more sinister than that. They have introduced into our democracy—one of the world’s greatest and most successful democracies—a new and sinister element. The journalist Andrew Bolt, in a very perceptive piece published in the—

Senator Brown—Mr Acting Deputy President, I rise on a point of order. I have been listening carefully to what the member has said, but I would ask you to be careful to defend the standing order which states that he shall not reflect on a member and to be very careful about the quotation he is about to make, whether or not it is made.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Which standing order are you basing your point of order on, Senator Brown?

Senator Brown—The standing order which says that he shall not reflect on a member.

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

Senator BRANDIS—In a very perceptive column syndicated throughout Australia in last Sunday’s newspapers, the journalist Andrew Bolt pointed out the striking and very dangerous antecedents of the fanaticism of contemporary green politics in this country, and its commonality and common source with the views that inspired the Nazis in prewar Germany. In an earlier piece, published in July, Mr Bolt directed our attention to two studies that have been written of contemporary green politics—and I have read them in the last day or so; they make chilling reading—which go all the way to explaining the modus operandi of the Greens last Thursday. The first, by an American scholar, Professor Raymond Dominick, examined the common source of the fanaticism of contemporary greens with the nature worship practised by the Nazis in the 1930s. The book is called The Environmental Movement in Germany.

Senator Brown—That is a clear—

The ACTING DEPUTY PRESIDENT—Are you rising on a point of order?

Senator Brown—Yes, I am.

Honourable senators interjecting—

The ACTING DEPUTY PRESIDENT—Are you rising on a point of order, Senator Brown?

Senator Brown—Yes, I am. If you will control the house, you will hear me say that, Mr Acting Deputy President. I am referring to standing order—

The ACTING DEPUTY PRESIDENT—I will control the house, Senator Brown, not you. What is your point of order, Senator Brown?

Senator Brown—My point of order relates to standing order 193—

Senator Boswell—Mr Acting Deputy President, I raise a point of order.

Senator Brown—You can’t. Sit down.
The ACTING DEPUTY PRESIDENT—Senator Boswell, I will take your point of order after I have heard Senator Brown’s point of order.

Senator Brown—On the point of order, you can see under standing order 193, ‘Rules of debate’, that a senator ‘shall not use offensive words’ against either house or against members or officers. It also mentions ‘personal reflections’. The senator on his feet has been making references to a very obnoxious regime, and to writers. That goes all the way to the behaviour of Senator Nettle and me last Thursday. That is an objectionable reference; it cannot be countenanced and I ask you to have it withdrawn.

The ACTING DEPUTY PRESIDENT—I understand that Senator Brandis is quoting from a media article and, unless I have advice to the contrary, I intend to allow those quotes.

Senator BRANDIS—Mr Acting Deputy President, in speaking to the point of order, may I also observe that the sentence of my speech to which Senator Brown took objection was a remark about contemporary green politics; it was not specific to an individual.

The ACTING DEPUTY PRESIDENT—I listened intently to what Senator Brandis had to say. I understand that he was not reflecting on the Senate or on the senators and therefore there is no point of order.

Senator BRANDIS—And I intend to continue to call to the attention of the Australian people the extremely alarming, frightening similarities between the methods employed by contemporary green politics and the methods and the values of the Nazis. Mr Acting Deputy President, I was referring to the book by Professor Raymond Dominick, The Environmental Movement in Germany, but even more illuminating is a work by a person who is known to be on the far left of green politics in Europe, Professor Peter Staudenmaier, who wrote a book four years ago called Ecofascism: Lessons from the German Experience. He, too, drew the comparison between the political technique of the Greens in contemporary Western societies and the political technique of the environmental movement—or the naturalist movement, as it was then known—in Germany in the 1920s and the 1930s. The work of both of those scholars caused Patrick Moore, a former head of Greenpeace International, to say:

In the name of “speaking for the trees and other species” we are faced with a movement that would usher in an era of eco-fascism.

The commonalities between contemporary green politics and old-fashioned fascism and Nazism are chilling.

First of all—and this is the most obvious point of the lot—is the embrace of fanaticism, the embrace of a set of political values which will not brook the expression of legitimate difference. So, as we saw from Senator Brown’s and Senator Nettle’s behaviour in the House of Representatives chamber last Thursday, they are unable to listen to somebody whose political colour they dislike, whose political views they disagree with, without screaming at them. They will not even brook the legitimacy of alternative points of view. The zealotry—the fundamentalism—we saw from Senator Brown and Senator Nettle last Thursday identified them as true fanatics. The second feature that we see is so much a common feature—

Senator Brown—Mr Acting Deputy President, I raise a point of order. I thought that standing order 193 had been made apparent to you. I ask that that comment be withdrawn.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Brandis, perhaps I should invite you to withdraw the term ‘fanatic’ or ‘true fanatic’.
Senator BRANDIS—Mr Acting Deputy President, I am unaware that the word ‘fanatic’ has been ever considered to be in breach of standing order 193 and I invite you to rule that an allegation of fanaticism, which is merely an allegation that somebody holds a political opinion with unreasoning zeal, is not a reflection upon the person but merely a comment on the intensity of their view.

The ACTING DEPUTY PRESIDENT—Senator Brandis, that seems to be a discriminatory term and when applied to a senator it is unparliamentary. I would ask that you consider withdrawing it.

Senator BRANDIS—I abide by your ruling, Mr Acting Deputy President.

The ACTING DEPUTY PRESIDENT—You should withdraw, Senator Brandis.

Senator BRANDIS—I withdraw.

The ACTING DEPUTY PRESIDENT—Thank you.

Senator BRANDIS—The second feature of contemporary green politics which bears chilling and striking comparison with the political techniques of the Nazis and the fascists is not merely their contempt for democratic institutions but a very cynical willingness to use those democratic parliamentary institutions to achieve antidemocratic ends. Let it never be forgotten that the Nazis came to power in 1932 when they won a majority in the Reichstag in free elections.

Senator Robert Ray—They didn’t win a majority.

Senator BRANDIS—When they won control of the Reichstag—thank you, Senator Robert Ray—in free elections. The mechanistic use of democratic institutions—the invocation of the good repute of democratic institutions by those who wish to destroy those institutions—is a hallmark of contemporary green politics, just as it was a hallmark of those who were their antecedents.

The third feature which we see in common between the Greens and the Nazis is a kind of ignorant nationalism, as reflected most obviously in their hatred of globalisation. Professor Staudenmaier, in his book about ecofascism, tracing those values back to their philosophical antecedents, their philosophical roots, writes:

At the very outset of the nineteenth century the deadly connection between love of land and militant racist nationalism was firmly set in place. Yet again, another connection that we see between the values which Senator Brown represents and the values which were the antecedents of European fascism is commented on by Professor Staudenmaier and found in the writings of Ernst Arndt and Wilhelm Riehl. Wilhelm Riehl, in a 1853 essay ‘Field and Forest’, said—

Senator Brown—Mr Acting Deputy President, I rise on a point of order. The imputation that my values are the same as precursors to Nazism is abhorrent and should be withdrawn.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Brown, as far as I was able to ascertain, and I listened intently, Senator Brandis did not refer to you. He did refer to the Greens, but I do not recall him referring to you since the other point of order.

Senator Brown—Mr Acting Deputy President, I invite you to look at the Hansard, because he referred to me by name. You were not listening carefully enough, if that is the case. No member of this parliament—whether it be Senator Brandis or I or anybody else—should have that sort of reflection on them in this place. It is against standing orders and he should withdraw.

Senator Robert Ray—I rise on a point of order. Every time that Senator Brown interrupts Senator Brandis, he gets his second wind and he can read his notes again. He is
running out of puff. Can we just hear him finish his speech?

The ACTING DEPUTY PRESIDENT—
I would be delighted to so rule, Senator Ray, but I have a procedure to follow.

Senator BRANDIS—Mr Acting Deputy President, I was merely quoting from a learned text and I was making the point, which I would submit to you is not against standing orders, of identifying the common roots of different ideas.

The ACTING DEPUTY PRESIDENT—
I think the point is, Senator Brandis, that if you mentioned Senator Brown by name then you should withdraw. If you mentioned ‘the Greens’, I understand that term is not unparliamentary. It may be unsavoury to some people but it is not unparliamentary. I ask you to withdraw if you mentioned Senator Brown by name.

Senator BRANDIS—To that extent, Mr Acting Deputy President, I withdraw.

Senator Faulkner—Mr Acting Deputy President, I rise on a point of order. With your extensive knowledge of the standing orders, could you inform me if there is a standing order against pomposity?

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

Senator BRANDIS—I want to quote to the Senate a fairly long extract from Professor Staudenmaier’s book Ecofascism: Lessons from the German Experience. He identifies the antecedents of those views in the writings of Arndt and Riehl. He says this:

Riehl, a student of Arndt further developed this sinister tradition. In some respects his ‘green’ streak went significantly deeper than Arndt’s; presaging certain tendencies in recent environmental activism, his 1853 essay Field and Forest ended with a call to fight for “the rights of wilderness.” But even here nationalist pathos set the tone: “We must save the forest, not only so that our ovens do not become cold in winter, but also so that the pulse of life of the people continues to beat warm and joyfully … Riehl was an implacable opponent of the rise of industrialism and urbanization; his overtly antisemitic glorification of rural peasant values and undifferentiated condemnation of modernity established him as the “founder of agrarian romanticism and anti-urbanism.”

These latter two fixations matured in the second half of the nineteenth century in the context of the volkisch movement; a powerful cultural disposition and social tendency which united ethnocentric populism with nature mysticism. At the heart of the volkisch temptation was a pathological response to modernity. In the face of the very real dislocations brought on by the triumph of industrial capitalism and national unification, volkisch thinkers preached a return to the land, to the simplicity and wholeness of a life attuned to nature’s purity. The mystical effusiveness of this perverted utopianism was matched by its political vulgarity. While “the Volkish movement aspired to reconstruct the society that was sanctioned by history, rooted in nature, and in communion with the cosmic life spirit,” it pointedly refused to locate the sources of alienation, rootlessness and environmental destruction in social structures, laying the blame instead to rationalism, cosmopolitanism, and urban civilization. The stand-in for all of these was the age-old object of peasant hatred and middle-class resentment: the Jews.

Reformulating traditional German antisemitism into nature-friendly terms, the volkisch movement carried a volatile amalgam of nineteenth century cultural prejudices, romantic obsessions with purity, and anti-Enlightenment sentiment into twentieth century political discourse. The emergence of modern ecology forged the final link in the fateful chain which bound together aggressive nationalism, mystically charged racism, and environmentalist predilections.

That is the text to which the journalist Andrew Bolt referred in his article last weekend and in his earlier article in July. It is, as I said earlier in the speech, a chilling reminder of the common antecedents of late 20th/early 21st century Green politics and early 20th
century German fascism. The antirationalism, the perverted mutated naturalism, the mysticism, the hostility to cosmopolitanism, capitalism, global structures and to the global economy are all there to see.

It is time that somebody in this country blew the whistle on the Greens. The Greens are not the well-meaning oddballs we thought they were. The Greens are not the scruffy ratbags we thought they were. The Greens are a sinister force in this country—inspired by sinister ideas, wrapped up in a natural mysticism—which is hostile and which sets its face against the very democratic values which this parliament represents and then cynically uses the procedures of this parliament in order to give itself political cover so that the sinister and fanatical views represented by Green politicians can grow and gain strength under the cover of democratic forms.

As well—and I will not go too much further into this—we see other common features. We see the very clever use of propaganda. We see the absolute indifference to truth. We see the manipulation of bodgie science in order to maintain political conclusions. We see the hatred of industrialisation. We see the growth of occultism built around a single personality. We see a fundamentalist view of nature in which the integrity of the human person comes second to the whole of the natural system. My point is that the behaviour we saw from Senator Nettle and Senator Brown last Thursday was not just a publicity stunt. It was not just a random event. It was the very mechanical prosecution in this parliament of a profoundly antidemocratic ideology having deeply rooted antidemocratic antecedents. To hear Senator Brown—and no doubt Senator Nettle in a moment—stand up and seek to claim democratic cover for their actions and for their ideology should shock us. It should alert us to their game and it should send a message loud and clear to the Australian people—not just to the 90 per cent of Australians who condemned their behaviour last Thursday but to 100 per cent of Australians—that this is the kind of crypto-fascist politics we do not want in this country.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (4.24 p.m.)—I foreshadow that I shall move:

Omit all words and substitute the following:

“That the Senate request the Procedure Committee draw up rules which should apply to future joint meetings of the Parliament.”

I listened enraptured to Senator Brandis’s contribution. What a wonderfully pretentious speech that was. All the Rumpolian rhetoric was rolled out by Senator Brandis. There was all this overblown self-importance, so pompous, so bombastic. There was an argument made for 20 minutes that Senator Brown and Senator Nettle are not representatives of the Australian Greens in the chamber but really, underneath it all, are Nazis. That is what we have heard from Senator Brandis.

I thought that Senator Brandis might come into the chamber and speak in support of an amendment that he has put to the motion standing in Senator Brown’s name which is before the chair, and I thought it was possible that Senator Brandis might canvass the substantive issue of whether it is appropriate or not for senators or members to defy the chair in a joint meeting of the House of Representatives and the Senate. I thought a case might have been mounted in relation to that. I thought that Senator Brandis was going to mount a case about what he claims was discourtesy, a lack of good manners and the deliberate intention, according to him, of Senators Brown and Nettle to bring the parliament into disrepute. I thought that he would make a case to the Senate about the need for the Standing Committee on Proce-
dure to examine the effectiveness of the current procedures that apply to joint meetings of the Senate and the House of Representatives and what might be done to improve those procedures. That is what Senator Brandis had flagged with us. That is not what he did. As I said, he made a very pretentious contribution, basically claiming that Green politics is marching lock step with the politics of national socialism. Senator Brandis is entitled to his view. I actually want to debate the substantive issue that is before the chair, and I think that will come as a relief to many senators in this chamber.

I am surprised that the government began this debate at all. I am surprised that the government denied formality to Senator Brown’s motion, which was a reference of certain matters to the Procedure Committee. In my view, the government is cutting off its nose to spite its face. It seems to me that, in denying formality to this motion, it has presented to Senator Brown, Senator Nettle and, frankly, to any other senator who cares to hop up on it, a soapbox to discuss the issues that have received a great deal of media attention in relation to the joint meetings of the parliament last week. Of course, the truth is that it is not of concern to the government to provide a soapbox to the Australian Greens senators. What Senator Brandis was about was his own soapbox. We have had 20 minutes from him of his rather creative and eccentric analysis of the political position of the Australian Greens.

If this motion had been declared formal, the matter would have gone to the Procedure Committee. The committee, as it has consistently and effectively done, would have dealt with the issues that are vexing Senator Brown and the government and, in our view, do need to be dealt with prior to any future joint meetings of the parliament. But no, that was not the approach of the government. The government itself decided to declare this motion not formal and we saw in question time Senator Brandis running around with his proposed amendment to the Procedure Committee motion that stands in Senator Brown’s name. A lot of time and effort has gone in so Senator Brandis could make that remarkable speech to the chamber.

This government is going to argue in the next few days or weeks what a busy legislative program it has. It is going to come to the opposition, the minor party and the Independent senators and say, ‘We need more hours, we need more days, we need more weeks of sitting to get our busy legislative agenda through.’ But when the Manager of Government Business in the Senate or the Government Whip mentions that to me I will be reminding them about this pointless debate that we are having now. I will be reminding the government that it was the government that denied formality to Senator Brown, it was the government that wanted to grandstand on this particular motion and it was the government that was wasting time. It is the same government that has, in the last few hours, come to the opposition and asked for more time to debate the Telstra bill tonight. If that is what you are really on about why resort to this sort of transparent tactic in the chamber this afternoon? It is a pretty low-level contribution that we have seen from the government. We seem to have a bit of a stand-off here with Senator Brown and Senator Nettle in one corner and Senator Brandis and the government in the other corner.

It is worth reflecting on what we believe is appropriate for how the parliament approaches a joint sitting. What is appropriate in terms of the procedures, first of all? This is something where we have to acknowledge that the substantive resolutions and messages from the House and the resolution of the Senate establishing these joint meetings do contain weaknesses. The truth is that in 1991
the Senate agreed to a message to allow a joint meeting of the House of Representatives and the Senate on 2 January 1992. At that time the House and the Senate agreed that:

... the procedures of the House shall apply to the meeting so far as they are applicable ...

This was also the case in 1996 when there was a proposal to have a joint meeting of the House and the Senate on 20 November that year to hear President Clinton, the President of the United States. Previously it was George Bush Sr in 1992. Again, both chambers determined that:

... the procedures of the House shall apply to the meeting so far as they are applicable ...

The same approach was taken in relation to the joint meetings of the House and the Senate on 23 and 24 October this year to hear from President George W. Bush and President Hu Jintao, the President of the People’s Republic of China. Exactly the same decision was made and the same motions went through both chambers. We have not had a situation previously where those procedures have been questioned, where there has been a need for the Speaker presiding in the joint meeting to make certain orders from the chair and where those orders made from the chair have been defied by members or senators present at the joint meeting. That is what happened on this particular occasion.

As far as the opposition is concerned, as you would know Acting Deputy President Lightfoot, we have taken a consistent position to try to ensure that the orders of the chair are adhered to by senators. That has always been the position that the Labor Party have taken in this chamber. It is a difficult situation when the order of the Speaker at the joint meeting and the direction of the Serjeant-at-Arms are ignored. In this case it was ignored by two senators. There is a substantive issue of whether it is even competent for two senators to be excluded from such a joint meeting. That is a serious issue which has not been addressed previously and is one on which the current provisions are silent. It is worth reminding senators about the words that are contained within the message that this Senate received from that House of Representatives and agreed to by resolution:

... the procedures of the House shall apply to the meeting so far as they are applicable ...

That is the same approach that was taken in all four joint meetings for President George Bush Sr, President Clinton, President George W. Bush and President Hu. The same procedures apply. What does that mean? None of us knows. No-one knows what that means and we obviously have to sort it out.

At the meeting of the two houses it was made clear that the only proceedings should be welcoming remarks by the Prime Minister and the Leader of the Opposition and an address by the President of the United States of America on the one hand and the President of the People’s Republic of China on the other. These particular joint meetings started with prayers. I do not object to that, but they were not allowed for in the resolution. In relation to the joint meeting where President Bush addressed both houses of the Australian parliament we had a situation where Mr Abbott was given the call after the Speaker named Senators Brown and Nettle. It seems to me that is not allowed for in the procedures that were adopted. I do note, because I was actually present in the chamber at the time Mr Abbott was given the call and he moved his motion at the joint sitting, that a division was called for. It was not acted on by the Speaker. Again the procedures are not clear. So there are a lot of issues and questions—serious ones—that ought to be sorted out, and that ought to be done in a sensible way.
I think the Procedure Committee of the Senate has the capacity to do that and I would argue it is the best forum for these sorts of issues to be addressed. After all, there have been a lot of suggestions and arguments put forward that Senator Brown and Senator Nettle were involved in stunts in those joint meetings. Whether you agree with that or not, what we have seen today from the government, from Senator Brandis, is also a stunt. We have seen a stunt from Senator Brandis. So these things are not uncommon in the Australian parliament, and it is not uncommon, of course, for people to act in a disorderly way. But when that does occur—and we have seen it to some extent even in this debate—there are procedures which apply, and I think all of us understand what the constraints of the standing orders are. We do not know what those constraints are in relation to joint meetings. If there are to be any further joint meetings we certainly ought to get this sort of situation sorted out.

As far as the opposition are concerned, we have been consistent in our approach in this chamber: we believe senators are required to conform to the rulings of the chair. Everybody in this chamber knows that that is the case. The weakness in the approach that Senator Brown and Senator Nettle took at that joint meeting was that they refused to abide by a ruling of the chair; they defied the chair and they defied a request and direction of the Sergeant-at-Arms. Should they have been subject to such a ruling? I do not know. Should they have been subject to such a direction from the Sergeant-at-Arms? I do not know. But I know they were. Whether or not the procedures of the House are applicable in that regard I do not know. I do not know whether any of those particular provisions can apply to senators, and I am sure greater minds than mine will spend a great deal of time trying to work this out. But I do know this: if we are to have any future joint sittings those sorts of issues need to be sorted out.

I do not think we have had, in this whole exercise, very impressive parliamentary behaviour from any of those concerned. It is true that there is a possible contempt in relation to Senator Brown and Senator Nettle’s behaviour. But we had an exercise worthy of a Rugby World Cup scrum at the end of President Bush’s address. We had the Prime Minister, Mr Howard, acting like some sort of loose-head prop over there in the House of Representatives. We had you, Mr Acting Deputy President Lightfoot—not then presiding, of course, but just as plain old Senator Lightfoot—coming in from the side of what, to the rest of us, looked like a rolling maul and claiming later on that certain people were running into your elbow. Well, if you think that is a dignified way of behaving I think you are having yourself on. I think there is a huge dose of hypocrisy in what we are hearing in this particular debate. I do not think that you, Mr Acting Deputy President, or others at the conclusion of President Bush’s address covered yourselves with any glory at all. Of course it was undignified; of course it was disruptive all round. It is a good idea, I think, for the Procedure Committee to have a look at these issues and allow any interested senator, whether they be a government senator, an opposition senator or an Australian Greens senator, to come forward with any ideas.

As far as the opposition are concerned, we really do believe that some of these procedures need to be codified before we have any further joint sittings. That is the sensible approach to take. But I do not forget that this issue has been turned into high farce this afternoon by the government itself. The government needs to take a long, hard look at itself if it puts forward an amendment to a proposed Procedure Committee reference, an amendment that stands in the name of Sena-
tor Brandis, and he makes such a pompous, bombastic, overblown and self-important speech which, frankly, was absolute nonsense. It was one of the most pretentious speeches I have ever heard. It was not an argument in favour of the amendment he moved, not an argument on the substantive issue which I would have thought most senators, and members for the matter, would want to reflect on to get some of these issues sorted out. We do have a robust democracy in this country, and hopefully the next time we have a joint sitting we will understand what constraints or rules apply to all of us in that particular forum. **(Time expired)**

Senator BARNETT (Tasmania) (4.45 p.m.)—Senator Brown’s and Senator Nettle’s conduct at the joint sitting last Thursday was, in my view, disorderly. It was grossly inappropriate, discourteous, lacking in good manners and reflected poorly upon the Parliament of Australia. Senators Brown and Nettle defied the chair, ignored the request of an officer of the parliament—the Serjeant-at-Arms—who was acting at the direction of the Speaker, the Hon. Neil Andrew, in accordance with the House of Representatives standing orders.

Those standing orders applied at the joint sitting as agreed to by the Senate chamber, in fact, we had a democratic vote. Earlier in this debate, Senator Brown talked about the need for democracy. We had a vote and it was overwhelmingly supported that we take in and support the standing orders of the House of Representatives for that joint sitting. That motion confirmed that we would be hearing from Prime Minister John Howard and President George Bush of the United States. It did not specifically say that we would not be hearing from Senators Brown and Nettle but that was clearly implied.

It is appropriate and important that this Senate condemn the behaviour of Senators Brown and Nettle in defying the order of the Chair and the proper direction of the Serjeant-at-Arms during that joint sitting last week. What sort of precedent are we setting if we do nothing? Firstly, what steps are required to ensure that the rulings of the presiding officer are obeyed? I ask that question because those rulings were disobeyed. Secondly, what steps are available to protect the officers of the parliament and, in this case, the Serjeant-at-Arms? The Serjeant-at-Arms was actually put in an invidious position where he was directed by the Speaker of the House of Representatives—after Senator Brown had been named—to remove the senator from the chamber. He was put in an invidious position because Senator Brown totally disregarded the request and the ruling of the Chair and then disagreed and belligerently disobeyed the Serjeant-at-Arms’ requests to remove himself. What should be done in this case? It should be given some careful consideration by the Procedure Committee, and perhaps even the Presiding Officers, as to the appropriate way to go in this case. That officer of the parliament was carrying out the lawful directions of the Speaker.

Thirdly, an important question is: are any amendments relevant and necessary to the standing orders in terms of what is appropriate to clarify the operation of standing orders Nos 203 and 204? I have looked at them carefully in terms of their relevance to the joint sittings of both Houses of Parliament. Firstly with respect to standing order No. 203(1)(d), it says

(1) If a senator:

... ... ...

(d) persistently and wilfully refuses to conform to the standing orders;

and that is exactly what happened last Thursday. It continues:

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CHAMBER
(e) persistently and wilfully disregards the authority of the chair,

the President may report to the Senate that the senator has committed an offence.

Those things, in my view, have occurred and careful consideration needs to be taken now in terms of what action is required under standing order No. 203.

Standing order No. 204 relates to a suspension of a senator and the senators in this chamber are aware that Senator Brown has previously, a few months ago, been named and on that occasion under standing order No. 204 was removed from the Senate for the day. If they are then named within 12 calendar months of that first occasion they are removed for seven sitting days. I ask for careful consideration to be given to that in terms of its relevance to joint sittings. It is in our standing orders and I think consideration needs to be given to it.

I also ask—in light of the disorderly, discourteous and disrespectful behaviour last Thursday of the two Greens senators—will Australia have the right and the ability in the future to host a foreign leader of distinction, to have them visit this great nation and appear before a joint sitting of both Houses in the future? Because of the senators’ behaviour last week the parliament was not a fitting place to host a foreign leader; it lacked decorum and dignity. That is very sad. As a result, in my view, Senator Brown’s and Senator Nettle’s behaviour was most inconconsiderate and reprehensible.

I ask about the importance of free speech in Australia and this parliament, because you cannot have free speech if the rights of others to be heard is denied. That is what happened last week through the actions of Senators Brown and Nettle. Senator Brown’s action denied the right of the President of the United States to be heard and, indeed, denied the rights of all senators and members to actually listen and to hear from the President in accordance with the standing orders. Senators Brown and Nettle hijacked someone else’s forum to speak and their right to be heard, and that is nothing less than political thuggery.

I raise those questions and I express my disappointment and regret at the ramifications of Senator Brown’s and Senator Nettle’s actions during President Bush’s speech to the parliament. Senator Brown may think that he has been clever in stealing some of the limelight, galvanising sections of hard-core Greens support across Australia and getting away with defying a ruling of the Speaker of the House of Representatives—because that is exactly what has happened—but, as an example to impressionable young people, Senator Brown’s halo of massive self-righteousness did not slip last week; he had it ripped off and he threw it away. Any hint of dignity was abandoned; any sense of fair play was dashed. If every other member and senator had behaved in such an infantile, contemptuous and ridiculous fashion, our parliament would have been changed from the seat of democracy to a spectacular madhouse where only the loudest are heard and only the strong survive.

I respect the background to Senator Brown’s protest encompassing the war in Iraq and detention of suspected terrorists without trial. These are highly controversial issues, and I fully understand and respect the concerns expressed by Australians like Senator Brown and his colleague Senator Nettle. But my understanding rests solely with those concerns. The Greens senators should note that a variety of divergent viewpoints is only ever able to flourish in a robust democracy where free speech prevails. Iraq was many things under Saddam Hussein; however, it was never a robust democracy with free speech, nor did it show the promise of becoming one, so long as Iraq was the subject
of a cruel dictator intent on raping the nation and robbing it of its promise and its future. It was a murderous regime hell-bent on silencing public opinion and dissent with torture and murder and, in the case of the Kurds, with weapons of mass destruction—which some people are so naive as to think, even now after all we have learned, did not exist in Iraq.

I have no empathy with Senator Brown’s actions last week because, in the wash-up, they actually reach out to young people in Australia like a giant beacon of green light telling them that civil disobedience and disorderly and disrespectful behaviour are okay—that they are not only okay but they actually get results. When the nuclear powered aircraft carrier USS Enterprise visited Hobart in 1976, Senator Brown held a lone vigil in protest on top of Mount Wellington, near Hobart. He got his point across. I respect Senator Brown’s right to take such action. But what message does the action last week of Senators Brown and Nettle send to other members of parliament or other future renegade politicians intent on putting their politics ahead of democratic processes? And what about our children; what message does it send to them?

Senator Brown attempted to talk over President Bush, who may I say showed good grace and far greater maturity than Senator Brown. So Senators Brown and Nettle are declaring not only that defiance of the rules is okay but also that it is okay to make sure that any alternative or dissenting view is not heard. President Bush was invited by our government to address the Australian people and he used his speech to explain his government’s position on Iraq and the merits of a free world. That seems pretty democratic and reasonable to me. But, if you passionately oppose someone else’s point of view, the least you can do is hear their explanation. If you do not want to hear their explanation, in my book it means that you are prejudiced. But if you turn up and attempt to silence your opposition—in this case President Bush—by shouting them down or interrupting them, that potentially makes you a fascist. If that is not enough, by repeatedly breaking the rules you are also an anarchist. It simply makes a farce of parliament as a democratic institution.

On the contrary, I commend and acknowledge Senator Brian Harradine for the way he put his point of view concerning President Hu and the Chinese regime with respect to their human rights and other policies in China by absenting himself from the chamber at that time. I acknowledge that and commend Senator Harradine in that regard.

I can guarantee that, if the media stunt by Senators Brown and Nettle is not checked, it will be repeated and occur more frequently. I believe it sends a frightening message to our children. Tragically it encourages them and others to become prejudiced, obstinate and unwilling to listen to others. I can also guarantee that today Senators Brown and Nettle are a very satisfied pair. They achieved their goal of improving their chances of pushing their popularity above the magical number required to win a Senate seat in each state. To me then, this perfectly explains the silence of Michael Organ MHR. We all know that his imperative is to remain a majority representative in his own electorate. The two senators, on the other hand, are entrenched in the minority victim mentality that stems from the protest movement that they represent, and their actions only make sense when one looks at them in this light.

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (4.57 p.m.)—We have before us two separate motions that are being almost simultaneously debated, plus a third one foreshadowed by Senator Faulkner. The first is a referral by
Senator Brown to the Procedure Committee regarding joint meetings or joint sittings, or whatever you want to call them. The second is a rather different one from Senator Brandis condemning the behaviour of Senators Brown and Nettle. As most senators would know—and I am sure Senators Brown and Nettle would know—I condemned their behaviour last week. So I suppose in relation to parts (a) and (b) of Senator Brandis’s motion regarding the description of their behaviour I am in agreement.

None of my criticism of the two senators went to the substance of their concerns; it went to the impact of their actions. I suppose I would do the same in relation to the other motion by the government. Even if I agree with the sentiments of some of it, although certainly not with the third part, its impact is once again to draw the Senate back into another not particularly edifying type of engagement of the sort which led to my expression of disapproval of the actions in the joint sittings—not just the actions of disorderly behaviour by the Greens senators but also the jostling that Senator Faulkner earlier on made a colourful rugby scrum analogy to. There was similar jostling from Senators Brown and Nettle in trying to thrust their way through towards the so-called great man himself. Of course none of them engaged in a real rugby scrum as we had in the parliamentary world cup a few weeks ago—which was probably a very smart move on their part because, if they had, they would have a whopping great scar across their foreheads, as I have.

I am very supportive of the substance of the first part of Senator Brown’s motion—and, again, I am mixing up the two motions in the argument I am putting forward today in relation to both of them. Adding to my irritation in relation to the method the Greens senators used to get their message across last week was the fact that I agreed with their concerns almost 100 per cent—I suspect absolutely 100 per cent—and the Democrats have voiced virtually identical views on all of those issues over many months, as have many other Australians. My concern was that the impact of the action shifted the focus away from those issues and onto the action itself. So the story was about the action of the Greens senators, the rugby scrum at the back of the Senate and all of that hoo-ha rather than about the issues being raised by other people such as those in the protests outside earlier, including by Mrs Habib, to the press; my colleagues Senator Brian Greig and Senator John Cherry, who boycotted the sittings and gave their reasons through the media; and Senator Harradine, who has already been mentioned. A lot of opportunities for public debate about those issues were very much pushed down the ladder by the focus on the parliamentary scrum and that whole unedifying incident.

What the Senate is probably in danger of here today from Senator Brown’s opening comments and Senator Brandis’s even more ferocious rejoinder is both sides saying they are standing up to fight to defend the integrity of the parliament and, in doing so, throwing so much mud at each other that the entire parliament looks even sadder and sorrier than it did at the start of the debate. The Democrats do not want to enter into that whole scenario. Senator Brown’s motion is another example of putting forward a simple, straightforward issue—whether we should look at getting some rules in place for joint sittings and whether we should have joint sittings at all, which I think is an even more appropriate question—in such a way that undoubtedly the coverage will not be about the admittedly less sexy but nonetheless more important issue of how we deal with joint sittings in the future. Rather, it will be about Senator Brown equating the Australian parliament’s procedures last week with how
the Beijing government does business. I personally find that extraordinarily offensive, particularly given Senator Brown’s quite appropriate criticism of the dictatorship in Beijing and its appalling human rights record. I have my criticisms about this government and the way this parliament runs but I would not put them anywhere in that ballpark.

That sort of totally over-the-top, mismatched equation distorts the substance behind the issue. That is the concern I have. It might make great media—in fact it does make great media in the short term—but it distorts what the real issue is. The same goes for Senator Brown’s criticism that people sitting there in silence were lickspittles—which was probably an unparliamentary comment, although it certainly was not worth my bothering to object to it under the standing orders—sitting in subservience. I am quite entitled to sit in silence to listen to speeches. I think it is a more appropriate way to act in most contexts and certainly in the context of ceremonial sittings. But you cannot stand up and say that standing orders should be upheld and people should not make unparliamentary remarks every time someone criticises you if you are then going to subvert them yourself. It is that sort of discordant or mismatched approach that I find problematic. This is really a criticism of the approach rather than of some of the views behind it.

The Democrats moved a motion before each of these last joint sittings not to have them in the House of Representatives, or in either chamber, but to have them in the Great Hall, as we have done quite regularly with many other visitors. I do not go to many of these events but I have been to one for the President of Ireland and one for the President or some high official of Greece not long ago. They are reasonably regular. They can occur without all of the wild suggestions that we had in the lead-up to last week’s visits that somehow we were being subservient and letting go of our national integrity by allowing foreigners into our place to address us and tell us what they might like us to do. Taking it out of the parliamentary chamber and putting it in the more realistic and matching context of an address to parliament, whether in the House of Representatives or in the Senate. If you have a constitutionally based joint sitting, as occurs after a double dissolution or when the Governor-General or the Queen opens parliament, it is held in the Senate. The government wanted to have these sittings in the Reps. I do not get fussed about who gets to sit in whose house, frankly. I just do not think it is appropriate to have those sorts of ceremonial proceedings with foreign visitors conducted in the parliamentary chamber, because it gives the false perception that it is part of the parliamentary process. Indeed, one of the questions I would like the Procedure Committee to examine—and I will write them a letter about all this; we do not need to have another long drawn-out debate that we can use for posturing—is that they are called joint meetings, not joint sittings, and yet I understand that they are counted as Senate sittings for the purposes of sitting days for disallowance motions and disallowance of regulations. That seems incongruous to me. It is one question amongst many that I think are worth pursuing.

The Democrats made our point clear before this joint meeting—and indeed before the previous joint meeting with President Clinton and, I believe, before the other one with President Bush Sr, although I have not double-checked that. We do not support these ceremonial joint sittings in either house of parliament.
tarians, diplomats and everybody else, as regularly happens, is the right thing to do. The Democrats moved that. We did not get support except from the Greens. Unfortunately we lost, as we do rather more often than I would like, but that is democracy. That is another example of what I am talking about. You cannot complain about that being an assault on democracy when it was a democratic decision—not one I supported but, nonetheless, one that was taken.

Similarly, the Senate decided democratically—again, it was not something I supported but the Senate decided to do it—to accept the House’s invitation to have the meeting in their chamber and agreed, in the words Senator Faulkner read out before, that the proceedings would be conducted as far as was relevant in the way the House had already decided. That is democratic. We lost. That is annoying, but it is a bit rich to get up and say that somehow it was undemocratic. It might not be something you like—we criticised it and continue to do so, and that is why this reference is desirable—but we did set the rules, such as they were. The valid point to make is that in some areas there are no rules at all. It was not that we were kowtowing or being subservient licksplittles and scraping our noses on the carpet to the executive; it was the fact that there were no rules at all. That, again, is why this sort of reference is valuable: to see that, if we are going to have these sorts of joint meetings again—and I really hope we do not—then at least we will have thought through what the rules are rather than just making them up each time as we go along. That is the value of this motion.

The second part of the motion, rather than just putting forward a straightforward, blank and anodyne—to use the right word—motion, opens it all up for everybody to look at the important issue. We have to have the politics come in. We have had all the outrage comments. That will be the focus of the media commentary except for the two fine members in the gallery, who I am sure are much more focused on the interesting substantive bits rather than on the flummery and will do a substantial report quoting various standing orders, I am sure.

Senator Robert Ray interjecting—

Senator BARTLETT—It is. I remember it was a bit like a bagatelle a few years ago or something like that—that is probably a better word than the ones I have been using lately. I think what Senator Faulkner has foreshadowed is the way to go. The second part of Senator Brown’s motion talking about the right of the Senate to exclusively determine how the conduct of senators shall be regulated appeals to the Senate supremacist in me. Theoretically, you could have the Senate determining how our behaviour is going to be regulated and the House determining how their members are going to be regulated and we will have two sets of rules for each of us in the same joint sitting, which might make it even more entertaining in a media sense than last week, but I do not think it makes for orderly proceedings.

It is similar to the ability of senators to interact with foreign visitors. It should be pointed out that we have foreign visitors in this chamber all the time. The idea that we have somehow compromised our integrity by allowing some foreigner to come in here and address us in the chamber is wrong. Sure, addressing us is unusual, but having people in the chamber is run-of-the-mill. I do not know how common it is, but we will probably have a delegation sitting in the chairs over there once every sitting fortnight or so. If they have someone of sufficiently high status, they will be invited across to sit on the floor of the chamber, which is more than any of our staff or advisers are ever allowed to do—not that I am suggesting they should...
be allowed to do that. About the only place I can get away from them is in the chamber! It is not unusual to have foreigners on the floor of the chamber—or people who are not Australian, to use a more neutral term.

We have in place rules—as Senator Brown would know well because he has broken them a couple of times—so that, when they are sitting over there, you are not supposed to approach them, you are not supposed to give them material and you are not supposed to have a chat. Those are some of the rules we have set in place. He obviously does not like them because he has broken them a few times, but he can put forward to the Procedure Committee that they be changed, which he may have done. I do not actually have a view either way. We have put in place rules about interacting with foreign visitors—or strangers in the house, to use an even more quaint phrase—including presenting correspondence and discussing relevant matters to them, as Senator Brown’s motion said. We have basically said that you do not do it in the chamber whilst we are having proceedings. It seemed totally appropriate to me that we do that on any of these ceremonial occasions as well. You should try to arrange to meet them outside.

The big issue there—and I think the criticism has to go back to the government who, once again, have in part brought this upon themselves—is what we saw last week with the unbelievably cringe-worthy and embarrassing lunch that the Prime Minister had with all his best mates over in the Lodge, at taxpayers’ expense of course. As a leader of a recognised political party—and I do not have huge tickets on myself—I approached the Prime Minister’s office a couple of times asking whether I could communicate with either of the visiting presidents in a brief meeting, say a five-minute formality or any of that sort of stuff. I heard he was having a function. It seemed like a reasonable opportunity. That is fine; it is the Prime Minister’s decision. But, frankly, whilst I like to highlight the significance of the main balance of power party in the Senate and us being a recognised political party, the refusal—

**Senator Robert Ray**—Don’t worry, they’ll call up for you when they want your vote.

**Senator BARTLETT**—I will not talk about the one time we did all get invited to the Lodge. The refusal to even invite the Leader of the Opposition was particularly churlish. If you are going to conduct that sort of show where you just keep him to yourself so you can have a party with your mates and lock out everybody else, where every attempt to have even the most basic of communication with the visiting President or even Condoleezza Rice or anybody else is just dismissed, you are pretty much pushing it back to a circumstance where maybe the only chance you have is when you are all gathered in the same room as him. I would urge the Prime Minister to think about that if he is going to do these sorts of things again. If he wants to lock things away and have his own little private festivities and celebrations with his good mates, he brings it upon himself in part.

The theme I want to emphasise is not just people’s views about policies or particular people but the way you go about expressing them and the way you go about enabling other people to express them, which has a big influence on the outcome. The outcome that interests me is getting the most focus on the issues. The outcome that may interest others is keeping people away from certain people or enabling opportunities to get publicity. All of those things are influenced by how you conduct proceedings and how various people choose to allow things to be arranged. All of those things have a reaction, not necessarily an equal and opposite reac-
tion but certainly a consequential reaction that has to be taken into account.

The thrust of referring this to the Procedure Committee is appropriate. As I understand it, it could have been done just by a letter to the committee. We did not have to have a debate or all the rhetoric that went along with it but, again, that is par for the course. The Democrats believe Senator Faulkner’s very basic foreshadowed motion is more appropriate because it does not pre-assume anything. Senator Brown has a perfect right to suggest what he has suggested in part (b) of the motion. I do not agree with senators exclusively regulating our own conduct and interaction with foreign visitors, because obviously that has implications. We should be interacting with them on ceremonial occasions—certainly if they are going to be in the parliament—roughly equivalent to the way we do when the Governor-General opens parliament. I do not think we should be interacting with them otherwise. It is a ceremonial occasion. They are here to address the parliament as the representatives of the people heretofore assembled and all that stuff, and we are supposed to sit there and let it wash over us like all those ceremonial things.

People might argue that we should shift that, but I would rather assume that those formal proceedings are deadly dull and dry—the way they are—and that we have the more interesting debates outside of them, rather than trying to marry the two together in a way that is never going to work. Senator Brown can put forward those ideas, but I do not want to support them in the context of this motion, because I do not agree with them. I certainly support the Procedure Committee examining rules for future joint meetings.

I foreshadow an amendment to Senator Faulkner’s foreshadowed amendment—that is, to simply add the word ‘any’ so that the committee draws up rules which apply to any future joint meetings. It is a bit pedantic, I suppose, but it is simply to give an indication, from the Democrats’ point of view, of the possibility of having them, rather than assuming that we will. My view—and I think it is the view of all the Democrats—is that we would be better off not having any more such joint meetings. You could use the excuse, up until last week, that we do it for US presidents because they do it for us in the Congress—that is, it is a reciprocal arrangement. I still do not think that is a good reason but, now that we have let the Chinese President in as well, there is no benchmark, no line that can be drawn, and we will make it up each time as we go along. I do not think that is the best way to do it. I do not think it is appropriate to equate the sorts of speeches you get from visitors, whether they are leaders or heads of states—visiting dignitaries of any sort—with parliamentary proceedings. That is in part why I think we call them joint meetings rather than joint sittings. We should meet completely outside of the parliamentary chambers, as the Democrats have moved.

I have a final note for Mr Alan Ramsay, who I know reads a lot of these things. He did manage to completely get it wrong a couple of weeks ago when he suggested that it was the Greens who moved that we meet in the Great Hall rather than here and that everybody else voted against them. It was the Democrats who moved that motion, and we therefore voted for it, as did the Greens. As I said earlier, I would hope that, amongst everything else he does, he corrects his mistake. I am sure he has done that before, and I am sure he would be happy to do it again. The Democrats will support Senator Faulkner’s foreshadowed amendment. (Time expired)

Senator HARRADINE (Tasmania) (5.17 p.m.)—This is a matter that needs considera-
tion; it has needed consideration for some years now. First of all, let me make it perfectly clear that I do not condone the actions of Senator Brown and Senator Nettle—I thought they were highly inappropriate in a number of ways—but I really questioned the wisdom of the amendment put forward by the government to Senator Brown’s motion. That is past now and we have to face up to the question—which, as I say, has been outstanding for a number of years—of what to do about these joint meetings. I ask anyone around the chamber: is there any constitutional basis at all for joint meetings? There is none. There is no constitutional basis for joint meetings at all. The only constitutional basis, of course, is section 57, which relates to joint sittings of both houses of parliament to resolve deadlocks.

I remember the debate starting because of former Prime Minister R.J.L. Hawke being greeted at a meeting of both houses of the United States Congress and, obviously, when George Bush Sr was coming out here there was the question of what to do about these joint meetings. I ask anyone around the chamber: is there any constitutional basis at all for joint meetings? There is none. There is no constitutional basis for joint meetings at all. The only constitutional basis, of course, is section 57, which relates to joint sittings of both houses of parliament to resolve deadlocks.

To cut things short, I will be supporting the foreshadowed amendment by the opposition, which states:

That the Senate request the Procedure Committee draw up rules which should apply to future joint meetings of the Parliament.

I would add the words ‘if any’, and I think that it would be desirable for the Procedure Committee to advise us, after their mature consideration, as to whether it is appropriate to have joint meetings of both houses of parliament. There are a number of questions that need to be raised about these joint meetings, including, as I was reminded recently by the chair of the Privileges Committee, the question of privilege. Does parliamentary privilege cover members of parliament who attend joint meetings? It may not. So that is how I propose to vote on this matter and, if acceptable, I would include the two words ‘if any’.

**Senator ROBERT RAY (Victoria) (5.21 p.m.)—**Today’s debate is supposed to be a stoush between the Liberal Party and the Greens, but it has been no thriller in Manila, let me tell you. Some pretty turgid contributions have been made today. Basically, it reminds me of the replayed qualifying final in 1990. You will recall that Collingwood and the West Coast Eagles drew the first match, and biff started in the first minute of the second match. I always remember some bloke down the road from me interjecting, ‘You mongrel umpire, let them fight!’ That is my attitude today: let the Greens and Liberals fight it out. What, really, has this got to do with the opposition?

There are some more substantial issues that we should address. The first one is: why wasn’t this motion declared formal and voted on in the normal way? Because the Liberal and National coalition got a bit self-indulgent today. Their more gung-ho characters said, ‘We really want to come in here and get stuck into the Greens. Therefore we’ll declare it not formal and we’ll have a fully-fledged debate.’ This is passing strange from the same government that has been approaching us to say, ‘Can we sit tonight to get more debate out of the road on the Telstra legislation?’ We are about to waste three hours on this particular debate, yet we are expected to stay here later on tonight to suit the government’s convenience. Maybe we will not. Certainly the Manager of Opposition Business in the Senate is indicating no, we will not, we are not going to do that. There is a price to be paid here. If you want to sow your wild oats on the other side and get stuck into the Greens because you really
enjoy it then you have to pay a price—and the price you are going to pay, maybe, is an extra sitting week at the end of the session because you did not get your business transacted in time.

There is one clear issue that we should address upfront on this, and that is the respect for the authority of the chair. This is where the two Greens senators here have committed a sin. I do not think they respected the authority of the chair. When they were directed to leave the chamber, they should have left. This chamber, the other chamber, and joint sittings rely on the authority of the chair—and it must be respected. It does not mean that the chair will not make mistakes. Of course the chair will make mistakes, and we use other means and methods to rectify those mistakes. But if we are to have joint sittings or anything else in this place and the authority of the chair is not respected then democracy will be the loser.

I do not want to hear any hypocritical chants from the other side. I sat here for 1½ hours one day when the Liberal-National coalition defied the chair over the naming of Senator Kemp and he refused to leave this chamber. We could not expel him even though he had been named by the Deputy President. Whether that naming was justified or not I am not commenting on. But there must be some respect for the chair. On occasions, this chamber has degenerated into anarchy when there is no respect for the chair. Whatever we do in future we have to make sure that the authority of the chair is upheld.

Our amendment today says, ‘Let’s not try to adjudicate on past events. You can do that through other committees or other debates.’ What we would like to see is this whole matter of joint meetings or sittings referred to the Procedure Committee so at least some thought can be given to the rules of debate and procedures into the future. We do not know whether we are going to have any joint sittings into the future. But, if we do, we should at least think about the rules of them.

I understand one of the complaints was that, having had two senators named and a division called for, no division was held at the joint sitting. That does raise serious problems because a chair may have got the numbers wrong. I suspect they did not on this occasion. I suspect there would have been a pretty overwhelming vote. I think the noes might have got two, if they were lucky.

The ACTING DEPUTY PRESIDENT (Senator Bolkus)—Possibly three.

Senator ROBERT RAY—I am not sure that Mr Organ would have voted with them on this occasion.

Senator Brown—Quite a few Labor people indicated they were in favour of it.

Senator ROBERT RAY—Oh, did they? So you say. We normally try, though, to uphold the authority of the chair, even if we do not particularly agree with the judgment exercised therein, otherwise you get anarchy. Nevertheless, it is a reasonable point to be made by minority groups that they were entitled to a division. As I understand it, they were not accorded that right. They have a legitimate complaint that the Procedure Committee will have to look at. There is a whole range of other areas that the Procedure Committee can look at in terms of trying to draw up some rules. We cannot impose these rules on the House of Representatives. There would need to be discussion and agreement between the two chambers on the rules of debate and procedure if we are to have another joint sitting.

A lot of people here today have criticised the Greens’ behaviour. They have implied that minority groups and the Greens are opportunists. So they are—so what? They are good opportunists. They like publicity. Sena-
tor Brown has never found a bad microphone yet—and good on him. That is one of the skills of politics. It is not a skill I have, but it is a skill he has, and that is greatly resented by those opposite for some particular reason. The fact is that what happened last time will happen next time. We will hear all the bleats from those over there. When it comes to allocating Senate preferences, guess who will get put on the Liberal ticket ahead of the Labor Party? It will be the Greens in virtually every instance. So let us not have the bleating from those opposite that there is something absolutely evil about the Greens. We must be a pretty poor lot, because we are always at the end of the ticket after the Greens—absolutely every time. There may have been an exception in Tasmania once, but in general you can rely on the coalition good old boys putting the Greens well ahead of us on the ticket. So let us dispense with some of that hypocrisy.

There is something nauseating about the Liberal attitude on this issue. To give him credit, Senator Barnett I thought delivered quite a good speech. Senator Brandis lost his way. He had too much material and he got dragged into the vortex of his theory of the absolute commonality between the Greens and Nazism—a point that some of us found a bit obtuse. Nevertheless, the basic attitude of the Liberal Party to these sorts of alliance issues can be summed up in one word: sycophancy. They are absolute sycophants when it comes to the relationship with the United States. I do not think that is healthy. Everyone knows that I firmly support an alliance with the United States. It is not shared by some people on my left here, but I do. But it does not have to be on the basis of sycophancy. I have pointed out before that Canada are great allies of the United States. That does not mean they went to Iraq or that they tug their forelock every time an issue comes up. The Americans actually respect people that have a go and respect people with a slightly different viewpoint, provided that the basic tenets of the alliance survive. I think that, again, we have had that attitude exhibited a bit here today.

One question that has been raised is about the future of joint sittings and how we can get off the treadmill. I am not sure we can. As I think Senator Bartlett mentioned, we used to have a parliamentary lunch or dinner for visiting guests. Apparently, that arrangement can become a problem because guests or members of parliament might interject or intervene, so we have moved more towards the joint sittings. Now that interjections also occur during those, I wonder where we will head next. I do think that, in general, having a parliamentary lunch or dinner is a much better idea. I do not go to many of them; I do not like them much. I am condemning everyone else in the chamber to turn up, so there is an element of hypocrisy in what I am saying. Nevertheless, I do think they are better than joint sittings when you can do them.

The question of the behaviour of guests has also been raised. Again, double standards abound. I have sat in this chamber when members of the coalition have cheered on people in the gallery interjecting in the speeches of Labor government senators. I was also here when the Democrats in 1991 cheered on dissidents in the gallery. Sometimes it depends on who in the gallery is saying what as to whether we approve of them intervening in the affairs of parliament or not. One of the tenets of democracy is that, if you want to make a contribution in the chamber, you need to get elected. Get your 14.7 per cent or your 50.1 per cent, and then you can make a contribution. Do not just make a contribution by getting a ticket into the gallery and intervening. We are all responsible for our guests here, and I do not place much blame on the Presiding Officers for excluding some guests to a slightly more
remote observation post than they otherwise may have had.

The question of the constitutionality of joint sittings has been raised here today. It is something that none of us has thought about very much. I am appreciative that Senator Harradine has raised it here today because it could have some fairly strict ramifications. If in fact it is not properly constitutionally based then parliamentary privilege and a whole range of other things may not apply. I do not know how you would expect the Procedure Committee to resolve this. Whilst we have a great chair in Senator Hogg and we have many people on it, I am not sure that Senator Ferguson, I and others would be able to resolve this constitutional issue. It might mean we would have to seek advice from a more eminent constitutional lawyer, and there are plenty of those around. I do think that it would help us to know whether joint sittings are constitutional. I assure Senator Harradine that I will make sure it is raised at that committee and that we pursue it in one form or another, because we need to know. I assume we have a fair bit of time before the next joint sitting; they do not happen every week, every month or even every year.

We have heard some reference today to good manners and all rest of it. I suppose it is desirable that guests in this country are shown good manners, democratic tolerance and so on. The person who should lead in that is the Prime Minister, who did not show very good manners in his invitations to his lunch at the Lodge. He is not the only leader who has done that. I can recall former Prime Minister Keating failing to include the Leader of the Opposition in a visit to Israel for former Prime Minister Rabin’s funeral. I did not approve of that, and I do not approve of the exclusion of the Leader of the Opposition from lunch with the President of the United States. I also think that the Leader of the Democrats should have been invited to that function. I really do not know why they were not. I do not know whether it was petty mindedness or whether it was at the request of the Americans—I very much doubt it. But when it comes to good manners, the first person who should exhibit them is the Prime Minister and maybe others would follow suit.

The choices we are left with today in this debate are to carry the motion moved by Senator Brown, which makes some value judgments; or we could vote in an amendment moved by Senator Brandis, which is good in parts but also has a lot of judgments in it; or we could actually be positive and vote for Senator Faulkner’s foreshadowed motion, which basically at least tries to take it forward. It does not adjudicate on the past—it does not say that the Presiding Officers were right and Senator Brown and Senator Nettle were wrong—but sets out how we would consider a proper set of rules for the future that we could all feel comfortable with. If we do come up with a set of rules, and people, for opportunistic reasons such as wanting cheap publicity, break them then they should be dealt with harshly. On the other hand, if everyone signs up to these rules, I think the parliament would be a lot better off and would have a lot more certainty. Finally, I again acknowledge that we have to look at the issue of constitutionality.

Senator SCULLION (Northern Territory) (5.34 p.m.)—I rise to support the amendment moved by the coalition to Senator Brown’s motion. I would like to preface that by making a couple of comments on Senator Robert Ray’s contribution. Whilst it raised a number of important points, I think he prefaced his submission by saying: ‘I’m not sure what this has to do with the opposition. This is really between the coalition and the Greens. It’s nothing to do with us; we are just side-liners. I have to say, augmented by the submission from the Leader of the Opposition,
Senator Faulkner, that this is a bit of a waste of time; it is a stunt. These sorts of activities are not uncommon in parliament. It is quite normal to have the leader of the Free World insulted as he was. Let’s really play it down.’ I think it was a bit too cute by half.

Everyone is aware that the Greens are to the Labor Party what One Nation was to the coalition. We need to try very hard to continue to claw back the very far Left and the radical side of that. I think some of Senator Ray’s comments in regard to the constitutionality of these matters, and certainly those comments on the issue of calling for a division, were very important. When the voices from the Greens called for a division, they conveniently forgot the fact that they were not supposed to be there, and I hope that that is taken into account in those deliberations.

I enjoyed my day in the joint sitting of the House very much. I am delighted to say that, when I saw the footage in June of the previous year of our Prime Minister sitting in front of the joint houses of parliament of the United States, it gave me a good feeling. I do not generally get glowing feelings, but it gave me a sense of pride that all the Americans were watching and getting the message that Australians are good guys. John Howard talked about very similar issues to those that President Bush mentioned and he talked about the importance of the relationship between Australia and United States of America. I thought: what a fantastic thing.

What a sense of occasion this was going to be. We were going to offer our hospitality to the President of the United States in the same way that the United States offered its hospitality to our Prime Minister. The joint sitting of parliament and the pomp and ceremony of the occasion were all very important, so I ensured that my daughter, Sarah, was in the gallery. She is 16 years of age but I would not say she is impressionable. She is very interested in political processes. Unfortunately, she does not quite share my views on many issues, but that is what happens when you are 16. This was a very important and historic moment for her. She was really peeved when I came out of the gallery because instead of saying, ‘Wasn’t it wonderful that we had the President of the United States here to speak to us?’ and ‘He gave a wonderful speech,’ and ‘Wasn’t it fantastic that America have seen what wonderful people we are—we need to increase trade and tourism—what a great place to visit,’ my message was, ‘Wasn’t it outrageous what those people said?’

She asked, ‘What’s going to happen about that? They can’t get up and do that. What happens when they are asked to leave?’ I have to say that her moment was spoilt. She said to me, ‘Don’t the Greens look after the environment? What are they on about all this for?’ Of course, the position that the Greens have taken in the Australian political spectrum has changed very radically. Sarah said to me that she hoped something would be done to correct what she thought was a considerable wrong. She does not think it is a waste of time or that the coalition bringing this issue before the Senate is a stunt. She believes, as do many Australians, that this was wrong. They want something done. They are outraged. I am proud to be part of a government that stands up in this place and says that something needs to be done, which is exactly what the amendment to Senator Brown’s motion is about.

Every day we stand up, look around and say that we live in a changed world. I noticed the heading on the front page of the Australian ‘Ramadan bomb blitz in Iraq’. That is shocking, isn’t it? This is happening every way we turn. Ramadan is a sanctified institution that the Muslim world has observed since time immemorial. As we share our knowledge we interact in a very cosmополи-
tan world. All of us, as global inhabitants, have learned far more about those sorts of things. We all understand the sanctity of Ramadan; it is the most holy month of the year for the entire Muslim population of the world.

Another institution that should be as honoured and protected would be the Red Cross. Everybody knows that the white trucks with the red crosses are respected by all sides of a military engagement. You cannot shoot at them; they are protected.

We read in the *Australian* that the sanctity of both Ramadan and the Red Cross has been destroyed because a Red Cross ambulance was filled with explosives and, on the first day of Ramadan, driven straight into a Red Cross centre which was blown up. Why would someone do that? They do it to attract attention to whatever political motives they have, to be in the headlines. And, sure enough, they have won: they are in the headlines. And, sure enough, they have won: they are in the headlines because they attacked the absolute sanctity of institutions. It always seems to be that way with terrorism; the very hard activists tend to go that way. There is no caring, of course, for ‘collateral damage’, for the loss of lives of innocent people—people working for the Red Cross. It seems to me that the more you upset and hurt the innocent, the bigger the headline.

I think there are some very direct parallels in what happened in the joint sitting and in what happens in the general world of terrorism. The activity that occurred during the joint sitting was political terrorism because it usurped the sanctity of the historic moment and made a grab for headlines. Of course, Senators Nettle and Brown were in the headlines, in all the tabloids and in all the newspapers. They rushed straight out and gave an interview about what they thought about the world. But they do not pay any attention to the consequences of this political terrorism. We do not have to go far to read that people in other parts of the world do not see it the same way we do. I would like to quote from the *New York Times*, which says:

More boisterous in their anti-Bush enthusiasm were the members of the Australian Parliament who heckled him during a speech, shouting that the US had no right to become the world’s sheriff. Most Americans would have thought that. It may not have been accurate but they would have read that and thought that members of the Australian parliament were shouting at their President. They would have been asking, ‘Is that a place to visit? Is that a place I would like to go to as a tourist to spend my money?’ I have a number of emails that I would like to quote. This email is from someone in Alaska:

I cannot believe the audacity, stupidity and lack of class that certain members of the Australian parliament showed in their treatment of President Bush.

This is an email from a person in Florida:

How dare you heckle President Bush in a rude, obnoxious and intolerant manner? I always considered Australia to be our good, staunch and loyal friend. Never again shall I think so. You and all your Green friends can go to hell.

The Americans thought it was all of us. And that is what happens. This is the sort of collateral damage that political terrorism can cause. It is absolutely outrageous. But there is a more serious aspect: trade and relationships, which we are trying to promote and which will benefit employment and result in a prosperous Australia in the future. Another email, sent from Boston, states:

I work for one of the three biggest mutual fund companies in the world and we are constantly looking to expand our business in the Pacific. Whilst my individual views do not necessarily represent the company, I am personally re-adjusting my view of Australia as an emerging global financial centre for international business leaders and their pension funds.
You tell me that is not collateral damage. This is going to have an impact not only on Australians today but, more importantly, on Australians in the future. As I said, I had a child as one of my guests, and I was pleased with her behaviour. She is the future of Australia. She and her peers watch carefully what their leaders do. We are mentors. The way we behave in parliament sends a very clear message about how people should behave.

We have and need rules in this place. If Senator Brown had a point of view that is different from mine and I decided: 'I know what I will do; it is only six short steps; I will dive over and give him a couple of slaps and he won’t talk any more’—that would be anarchy. Of course this place recognises that that sort of anarchy is inappropriate. We have rules in this place that ensure that we continue to have free speech. I was delighted to hear Bob Brown say in his address that a speech is something that someone delivers and which others listen to. It would have been fantastic if he had remembered that on the day of his offensive behaviour. It is unfortunate in hindsight to think that these sorts of things occurred to you a little too late.

This is a democratic place. I have come to this place only recently, but I must say that freedom of speech and the sanctity of freedom of speech in this place have been upheld by everybody. It does not matter which side of parliament you are on, everybody recognises that there are procedures to ensure that the sanctity of freedom of speech is absolutely upheld in an institution. Everybody I have met in this place obeys the rules because the rules are there. They respect the institution of this place and have the good manners and the good grace to let someone have their say.

The Greens senators usurped the joint sitting in an act of political terrorism to somehow get their names in the headlines, causing all that collateral consequential damage to Australia today and Australia in the future, and that is appalling in itself. What really needs to be thought about—and I am a little miffed and most offended by this—is that when the Speaker of that institution went through the processes and said to Senator Brown, ‘Sit down. Please leave the House. You are instructed to leave the House,’ he was ignored. Senator Brown said that he was not leaving. He ignored the sanctity of the institution because he would be in the headlines. That is political terrorism again.

The Speaker then brought in the enforcer, the grey-haired Serjeant-at-Arms. He very respectfully approached Senator Brown and said, ‘Excuse me, Mr Brown, it is time to go.’ Those are the rules in order to maintain the sanctity of the place. But the Greens just thumb their noses at it because they do not care enough about the institution. They simply care about what they think is good for the Greens and for themselves as individuals. They set aside the history of this nation and how this nation will be viewed not only by the United States but also by the people of the world. They did this in front of the leader of the free world and the children of Australia—in front of my daughter. This brings shame not only to me but to this place. It is very important that we continue to move forward. The motion moved by Senator Brandis takes the issue to the Procedure Committee, and I certainly commend him for that.

People say, ‘This is my political party. That is what I believe in. They are my beliefs.’ But Mr Organ in the other place at least had the decency to sit down, listen and behave appropriately. All of us in this place were terrified that further insult would be offered to the leader of China, another leader of the world. I was really concerned that that was going to happen. Everyone was con-
cerned. But reason prevailed. Senator Brown and Senator Nettle—not the party—need to be clearly brought to order in this matter. They need to recognise that anarchy has no place. They may feel totally marginalised because of their views and because of their ridiculous policies on so many issues but they need to understand that they cannot practise political terrorism in this place. I commend the motion to the Senate. The Procedure Committee will now consider what steps should be taken in the future to ensure the proper conduct in joint sittings to welcome foreign heads of state.

Senator MURPHY (Tasmania) (5.49 p.m.)—I will be very brief on this matter and in respect of the amendment that has been proposed by Senator Brandis and the amendment foreshadowed by Senator Faulkner. I have listened to most of the debate and I agree with Senator Faulkner and Senator Ray in supporting the proposition that Senator Faulkner has advanced. If this parliament is going to have joint sittings or indeed joint meetings, it is important that it has rules. I do not know whether the Constitution, with the exception of section 57, has made an allowance for joint sittings. As I understand it, the resolution for the joint meeting was to have the application of the standing orders of the House of Representatives. In that case, I see that they allow for interjections at question time every day. It would be a pretty sparse House of Representatives if the same process was used in respect of the two senators. I do not agree with what Senator Brown and Senator Nettle did. I did not attend the joint sitting and I think people are free to make that decision. When we have a visiting head of state from another country, regardless of where it is and regardless of whether or not we personally agree with their position or the policies of their country, we should at least respect their integrity and allow them to be heard in silence. Later on we can go out and say whatever we think about the respective policies or views of a particular head of state, because this is a democratic country and we do have freedom of speech. The type of action that occurred does not serve this parliament well.

I will go firstly to Senator Brandis’s amendment. I do not believe that you can proceed down the path of having a proposal by way of amendment to condemn the action of two senators, given the questionable application of the joint meeting. If you wanted to criticise Senator Brown and Senator Nettle, you should have proposed a motion doing just that. If you are seeking a process through the Privileges Committee to determine rules of application for joint meetings or joint sittings, whatever they may be, you should have proposed such a motion.

Senator Harradine raised the constitutionality of such sittings. Section 57 is the only section of the Constitution that allows for a joint sitting, and that is one following a double dissolution of the parliament. There are other sections of the Constitution that will be relevant to the consideration of the Privileges Committee, and I would suggest that section 49 and section 50 are matters that they ought to consider. Section 50 says:

Rules and orders.

50. Each House of the Parliament may make rules and orders with respect to—

(i) The mode in which its powers, privileges, and immunities may be exercised and upheld;
(ii) The order and conduct of its business and proceedings either separately or jointly with the House.

If the government is genuinely seeking a resolution to determine a set of rules for process, we should do that. I think Senator Faulkner’s motion does that. If you want to have a motion to condemn the action of individual senators within this chamber, it should
be done separately. That is a separate debate. If the government—or, indeed, anyone else—is of a mind to do that, they should proceed to do that.

It is a very important matter that rules are determined. Then, of course, we can have a debate. I suppose a report will come from the Privileges Committee, if a resolution is carried to refer the matter. A report will come back to this chamber and we can have a debate about what rules we think ought apply. I think that that would be a very important step. But if the joint sitting is held in the House, then the House will have to adopt the same rules, and I would suggest that some form of message be considered in reference to the House to allow them to consider whether or not they are prepared to accept what the Privileges Committee of this chamber might suggest by way of rules or that they want to go through a separate process. Maybe there has to be a joint meeting of the two committees to make a determination in respect of that process. Whatever the case, I will vote against the motion of Senator Brown, I will vote against the amendment moved by the government and I will support the amendment moved by Senator Faulkner.

Senator NETTLE (New South Wales) (5.54 p.m.)—In rising to speak to Senator Brown’s motion to refer to the Procedure Committee the issue of how we should deal with joint sittings of parliament, I would like to say that the contributions from almost all members in this debate have recognised that there is a problem in regard to the process by which we conduct these joint sittings of parliament. Something needs to be worked out, and almost everyone who has contributed to the debate has acknowledged that this is an issue that needs to be dealt with. Senator Harradine spoke about it being an issue that has needed to be resolved for many years. We need to work out the process by which such sittings occur; otherwise the process remains unclear.

The Australian Greens, before the visit of President Bush and President Hu, put forward proposals to the Senate on ways in which we thought it would be appropriate for heads of state to address the Australian parliament. We put forward a range of suggestions. I will not go into all of those now, but they dealt with whether Australian taxpayers should be spending the almost $2 million to bring parliamentarians back for a sitting of parliament in our chamber rather than in the Great Hall. They dealt with the issues of opportunities for members of parliament to interact with heads of state when they come to this country. The Greens raised all those issues in the Senate before President Bush’s and President Hu’s visit. Again we have the Greens making a constructive contribution to the parliament about how we should deal with these issues—how we should deal with joint sittings of parliament and what processes we should follow. We will continue as elected representatives to contribute to that debate and to making a decision on what all of us here have acknowledged is an important issue that needs to be resolved.

I am not going to take this opportunity to talk about the Australian Greens’ views on what occurred on Thursday last week, because we do have opportunities as elected representatives to put forward our perspective on the actions of President Bush, Prime Minister Howard and President Hu of China. I would like to take the opportunity today to put forward the views of the thousands of Australians and people around the world who have been contacting our offices—my office, the office of Senator Brown, the office of Michael Organ and, indeed, Greens offices around the country—with their views on my actions and those of Senator Brown in the parliament last Thursday. One email which we received in our office said:
I have been motivated to write this email for two reasons: first, I write to pledge my eternal gratitude for your actions in parliament last week. Unfortunately, I have come to expect cowardice and a lack of principle from our politicians, and I am frustrated at the nature of political discourse in Australia today. It has, in fact, brought me to tears to watch parliamentary speeches or on the evening news in which Mr Howard perpetually lies and manipulates. While I do not suggest this is unique in the world of politics, they do it so blatantly and with a smirk that it makes my blood boil.

Back to that point, I want to thank you—for your stand. It means a lot to me as a disillusioned citizen. Secondly, I am appalled that two elected representatives were expelled from the national parliament. I can barely believe the reaction of your colleagues to your stand. They are just embarrassed because it is obvious that they have been lying through their teeth about the support of the Australian people for our Americanesque policies. It is truly a shameful day for Australia to see two elected reps forced to watch parliament from the cafeteria.

We received another email which said:
Thank you for taking the stand you did when President Bush visited this country. It was the right thing to do and I am glad that you and Senator Brown had the courage to do so.

We received an email which said:
I would like to congratulate you on your courageous stand in parliament when Bush spoke to the joint sitting of parliament. Thank you for voicing the opinion of many Australians, including myself, who believe truth and integrity has been sadly lacking amongst politicians in recent years, both coalition and Labor.

We received an email from a woman saying:
I write to thank you for protesting the visit of George Bush to Australia. You and Senator Brown are a ray of hope for those of us who do not want to be colonised by the USA.

Another email said:
Whilst my own local MP and senators showed sycophancy towards US foreign policy, thank you to you and Senator Brown for demonstrating that we all were not willing participants in the coalition of the gullible.

Another email said:
I wish to congratulate and thank you for taking the courageous action with your Australian Greens colleague Bob Brown of protesting in the parliament last week during President Bush’s address. You may be pilloried by the sycophantic politicians on both sides of politics and an equally pusillanimous media but be reassured that you speak for countless Australians who are disgusted by the almost total absence of any moral fortitude displayed by the Lib-Labs towards the USA and China. All strength to you both.

We received another email saying:
Bravo! Your courage, bravado and action for truth and justice is to be applauded. Thank you for being a role model for those who quash their truth in fear. Thank you for walking the talk and not just talking it. Our bestest wishes and thank you for voicing your opinions in parliament. I am off to literally join the Greens instead of just voting and doing fundraising gigs here and there.

Another email said:
We want to congratulate you both on your principled stand in the parliament on Thursday. You spoke for the majority of Australians who opposed the unlawful invasion of Iraq. You spoke for the families of those imprisoned in Guantanamo Bay and for all of us who were very alarmed at this government’s allowing another country to imprison two of its citizens unlawfully without due process. You also spoke up for Australia as a sovereign nation rather than a client state of the United States. And for those who say it was discourteous—what exactly is the etiquette of imprisonment without trial, and invading and bombing the citizens of another country?

The emails that we received in those two days last week counted in the thousands. I am sure that after Senator Brandis’s speech we will be receiving many more. I take the opportunity to say thank you to our staff and the staff in Greens’ offices around the country who have been responding to the emails we have received.

CHAMBER
There are many issues that need to be resolved out of this incident, the foremost of which is the detention of two Australian citizens in Guantanamo Bay in Cuba. David Hicks and Mamdouh Habib have not been afforded the rights that a prisoner of war would receive under the Geneva convention. They have not had the opportunity to meet with lawyers, they have not had any contact with their family. For David Hicks, it is nearly two years since he was taken into Guantanamo Bay by the Americans. It is this treatment of Australian citizens that I know my colleague Senator Brown and I had at the forefront of our minds when President Bush came to this parliament to address us.

I had been given a letter by Maha Habib, the wife of Mamdouh Habib, who has been in Guantanamo Bay for I think a year and a half now. She has not had any contact with her husband apart from a censored letter that she received in March this year through the International Red Cross. She wrote a letter to President Bush and asked me to present that to him. It has since been forwarded to him and a motion was passed by the Senate today that included the central content of Maha Habib’s letter. It will also be forwarded to the US government. These are the issues that need to be resolved out of the actions that occurred last week.

Instead, what we heard from Prime Minister Howard in particular, and from President Bush, was that the process would be fast-tracked. Prime Minister Howard did not make clear in that interview what process he thought was going to be fast-tracked, and neither did Senator Hill in answering my question in the Senate yesterday. But the process that has been outlined for the treatment of these two Australian citizens in Guantanamo Bay is that they should come before a military tribunal—a military tribunal that is not operating on the same sorts of rules of justice or evidence that we see in Australian courts. When that military tribunal, which does not allow the two Australian citizens to have access to any Australian lawyer, has made a decision, it can be absolutely and completely ignored by President Bush because he alone makes the determination on the fate of two Australians who have been taken into detention in Guantanamo Bay. President Bush has said previously of all detainees in Guantanamo Bay that they are ‘bad men’. He alone, under the proposal by the United States, will be making a determination about the future of these two men.

From every comment that Prime Minister Howard has made to date he thinks that this is okay. Prime Minister Howard thinks it is okay that the fate of these two Australian men should be determined by President Bush alone. Prime Minister Howard said he is going to fast-track the process. He is going to make every effort he can to fast-track a process whereby President Bush says what shall be the fate of two Australian men. Somehow the Prime Minister believes that is justice that he is prepared to stand up and advocate for. I think all Australian citizens should be worried if this is the kind of representation that they get from Prime Minister Howard. The United States citizens that were held in Guantanamo Bay have come before a court in the United States, have come before a jury and have faced trial, yet Prime Minister Howard does not seem to think this is appropriate for Australian citizens.

These are the issues that need to be resolved. These are the issues that the actions of me and Senator Brown have brought to the forefront of the public debate, not just in this country but around the world. The responses that we have received in our office have been overwhelmingly positive. In fact, the most positive emails that we have received have been from the United States; they have been from people in the United
States saying, ‘Thank you for speaking up against the actions of President Bush.’ That
is the overwhelming response that we have seen. In a poll run by the Sydney Morning
Herald 60 per cent of people supported the actions of me and Senator Brown, and I read
that in the Age 58 per cent of people were in favour of the actions of me and Senator
Brown.

I want to speak about the issue that motivated me to rise and speak to President Bush
on Thursday of last week. When President Bush began speaking about the US-Australia
free trade agreement I stood up and said to President Bush: ‘You must not sell out Aus-
tralian farmers, our cultural industries or our Pharmaceutical Benefits Scheme. You must
not use the same bullyboy tactics in trade as you have done in security.’ I spoke up and I
said those words because the United States free trade agreement that is being negotiated
with Australia at the moment does not have at its forefront the best interests of the Aus-
tralian people. We know this because of the comments of our own Prime Minister and the
trade minister, because of the comments of the representatives of the United States who
are negotiating the trade agreement and because these trade agreements are being pushed forward by industries within the United States that have not managed to push their agenda onto the World Trade Organisa-
tion discussions. The United States has not been achieving the objectives that it wants to
achieve within the World Trade Organisation. We saw that in the collapse of the Cancun
talks in Mexico earlier this year. So the approach that the United States is taking in
relation to trade is to make bilateral agreements, one-on-one negotiations between the
United States and other countries, which allow the United States to exercise its negoti-
at ing power which comes from being the largest economy in the world and to use that
power to ensure it gets the best outcomes for the United States pharmaceutical industry
and the best outcomes for Hollywood and the providers of American entertainment to the
world. That is its role in this negotiation, and it is doing this in a bilateral forum because
that is the way in which it can greatly increase its power when negotiating with a
country like Australia.

We have seen the way in which the Australian government are prepared to join with
the United States in, for example, a case at the World Trade Organisation about the GE
labelling laws that exist in Europe, whereby the Australian government signed on with a
case the United States is taking against the European Union to break down, as a per-
ceived trade barrier, those GE labelling laws in Europe. This is an issue that is on the table
and being negotiated this week in Canberra by the Australian government. Yet the Aus-
tralian government have shown their willingness to join with the United States on this
issue by going to the World Trade Organisation and, even though we are not producing
GE foods, saying to the US, ‘We will join you in an action to take away the choice that
consumers have in the European Union about whether or not they eat genetically
modified foods.’ This is why the Australian Greens are concerned about the actions of
the Australian government when it comes to negotiating a trade agreement with the
United States and this is why it is important that these issues be raised because we cannot
rely on the Howard government to raise these issues in the negotiations. They have
made it quite clear they are not looking after the interests of Australian farmers who want
to have GE-free produce that they can market in the global economy. They are making
that blatantly clear through their actions. We cannot rely on the Howard government to
represent the voices of Australians when it comes to these issues.

CHAMBER
These are the many issues that need to be resolved out of the actions that occurred, thanks to me and Senator Brown, on Thursday last week. Also, as everyone in the Senate has acknowledged, the other issues that need to be resolved are the process issues—

Senator Ludwig—I am not sure Senator Brandis did!

Senator Nettle—That is right, Senator Ludwig—I am not sure either that Senator Brandis acknowledged this. But I think everyone else who has contributed has said the process issues need to be resolved for how we deal with joint sittings of parliament. The Greens again will contribute to that debate to ensure that we follow democratic processes decided by this parliament when foreign heads of state come to visit our country.

Senator Ludwig (Queensland) (6.14 p.m.)—This afternoon we have spent a considerable amount of time—including government time, which would have otherwise been spent in a debate about the Telstra bill—debating a motion moved by Senator Brown. It may be worthwhile to recap where we are with respect to that debate, given the wide-ranging contributions that people have made during the course of this afternoon. I would not be the first to suggest that we may have lost our way in getting to this point. I do not believe that we have, but certainly, there are times when an argument or debate in respect of a particular matter might be wanted and, in fact, such a debate did ensue this afternoon. I might add that the motion is a broad one which probably adds more than is necessary for a usual reference of the particular issue.

The particular issue we are talking about is the kerfuffle that Senator Brown and Senator Nettle caused during the visit of President Bush. That led to a number of matters, not just the procedural issues about the meeting procedures that should be adopted for a joint meeting, that I think the Procedure Committee should look at. The motion also engendered quite a heated debate from the government. To that end, they moved an amendment, which contains three parts—(a), (b) and (c). Interestingly enough, I am not sure whether their speakers actually spoke to any of the points. I did listen intently all afternoon to see if I could pull together the thread of their debate in respect of the particular points by which they sought to amend Senator Brown’s motion. The first part of the government amendment:

condemns the behaviour of Senator Brown and Senator Nettle, during the address to the Joint Sitting by the President of the United States on 23 October 2003, —

and there is a comma inserted there—

in defying the order of the chair and the proper direction of the Sergeant at Arms;
I am not sure whether they were trying to put forward two concepts in that particular part. Firstly, the Senate condemning the behaviour of Senator Brown and Senator Nettle in a joint meeting, so not actually condemning them in this chamber, and then, secondly, whether the condemnation relates to defy[ing] the order of the chair and the proper direction of the Serjeant-at-Arms, which then is an adjunct to the first so that you have the defying of the order and then the proper direction.

I think Senator Ray was correct in his summation of the particular point that the chair should be obeyed and there should not be any disorderly conduct in respect of, or dissent from, the ruling of the chair. The chair should gain the respect of the Senate or the House, as the case may be. That is not always the case, but I think it is a principle that we should at least start with. Whether the government amendment effectively conveys that impression or whether it is a vehicle for the government to use as a bench upon which to shout across at Senator Brown and Senator Nettle during this afternoon remains to be determined. Part (b) of the government’s amendment:

considers the behaviour of Senators Brown and Nettle to have been—

and I will not read the words because what they do is to use an amendment to perhaps reflect upon Senator Brown and Senator Nettle in this chamber over their conduct during a joint meeting. Part (c) then reads:

in light of the behaviour of Senator Brown and Senator Nettle, asks the Procedure Committee to consider what steps should be taken to ensure the proper conduct of Joint Sittings to welcome foreign heads of state.

I think part (c) is where the government, when you examine the original motion of Senator Brown, are perhaps on the same track as he is. In fact, what you have is complete agreement, it seems, by the government and, at least, Senator Brown and Senator Nettle that there does need to be a reference to the Procedure Committee. Then you wonder whether or not the other two points to the government amendment were gratuitously provided to allow them to stand on a soapbox to castigate Senator Brown and Senator Nettle about their behaviour on 23 October 2003.

If you look at the behaviour of Senator Brandis during the debate you can only say it was appalling. It was not a matter of a sophisticated debate arguing the point well. I decided to take notes to refute some of the points that he may have raised of a more technical nature and to raise issues that might go to the motion that he put forward and I ended up with a blank page. My pencil was not broken, it was just that Senator Brandis lost his way in the course of the debate. He started out by at least rising and from there he really did not address the motion at all. I thought that perhaps it was deliberate, that perhaps some time between standing up, or at least moving to stand up, and delivering his speech he realised that the amended motion was ridiculous and should not be moved, so he decided not speak to it. That is the only conclusion that I can come to in respect of this issue.

So Senator Brandis did not speak to his motion. He spoke about—I had to write this part down; it was not germane to our debate and so I will not take too much of the chair’s time—Professor Staudenmaier’s theories of the Greens and their likeness to Nazism or some such rubbish. It could only be termed some such rubbish because it did not seem to relate to the motion at all. Besides that, Senator Brandis then took an extraordinarily long time to quote out of the professor’s book. It was certainly entertaining but it was not relevant to the debate before us today.
Fortunately we were then saved, at least in part, by Senator Barnett in relation to the government’s position. He at least articulated the government’s position in respect of part (c) of the motion, which relates to reference to the Procedure Committee. So I congratulate Senator Barnett for at least being relevant to the debate being had this afternoon. However, I think his points missed the mark—and they missed the mark in this respect. Senator Barnett, in support of Senator Brandis’s amended motion, went on to refer to the Senate standing orders in respect of what Senator Brown and Senator Nettle may or may not have done or what they should be held accountable for. But now, given the debate we have had this afternoon, at least it is clear that in any event Senate standing orders may not apply.

It is worth going back and examining source documents to understand what the actual position might be. One of the best source documents we can refer to now is the original motion moved in the Senate which has allowed us to follow this procedure in the first place. That motion was moved by Senator Hill. I will not read it all; I will only extract the relevant parts. One part is that ‘the President of the Senate notify all senators (b) to accept the invitation of the House of Representatives to meet with the House’ for that purpose. So it is to meet with the House for that purpose and (c) ‘concur in the provisions of the resolution of the House relating to the conduct of that meeting’. I am not sure if what that means is all that clear. Subsection (2) states that ‘this resolution be communicated to the House of Representatives by message’. Then we had a debate about that and a number of amendments were moved. But the important part to be gleaned from that is that it concurs in the provision of the resolution of the House relating to the conduct of that meeting. One could surmise, but it would be open to debate—and clearly we have debated it this afternoon—that that means you would adopt the House rules in respect of any meeting.

We then go to the next source document to examine what was called for for that time. The only source document we were presented with, which was on our seat at that time, was a document which announced what we were in the House for—after the ringing of the bells, upon which we went over to the House—and that was to hear the Hon. George W. Bush, President of the United States of America. That is referred to in that document as ‘a meeting of the House of Representatives and the Senate’. We have had debate about whether it is constitutionally sound to have a joint sitting. I am not sure that was a joint sitting, in fact. It seems to be referred to in two different and distinct ways: one way in the motion that was put forward in this House and now with it being called ‘a meeting of the House of Representatives and the Senate’. I may have preferred it being called ‘a meeting of the Senate and the House of Representatives’, but be that as it may.

The next part we then have to look at is the standing orders of the Senate. They make no mention of what happens when senators are invited into the House to participate in a joint meeting, as it is colloquially referred to. Then there are the House standing rules—I have had a quick look at these but am open to assistance on this—which are also silent as to what the roles, rights and privileges of senators would be in respect of the House of Representatives. Therefore, there is a significant amount of concern and I think it is right, from the perspective of both the government and the Greens, to say that resolution of what in fact goes on is needed.

To make that plain, Senator Faulkner foreshadowed an amendment, which I think encapsulates a much cleaner approach to the
whole issue. Senator Faulkner asked that ‘the Senate request the Procedure Committee to draw up rules which should apply to future joint meetings of the parliament’. Senators Bartlett and Harradine, as I understand it, wanted or foreshadowed amendments which would at least make it ‘any’ or ‘if any’. So their view seems to be that they were not in favour of a joint meeting. Given the possibility that there could always be one, or perhaps not, it would not effectively change the outcome of that motion to adopt either of those—but perhaps Senator Harradine expresses it in easier English.

In any event, all that is required for this matter to be progressed are the issues that I have raised and talked through. The issues that Senator Barnett raised, although obliquely, also go to what would be the rules and what would apply. I will not mention Senator Brandis because he did not mention any of those things. I suspect that he was tied up in mental masturbation in respect of the whole issue of Nazism and the Greens. I just do not know where he was going, quite frankly, and it still escapes me. I stand here trying to think of an argument against what he was saying, but I do not think there was an argument in his whole dissertation.

At this point the question is: which of the motions moved is better? After Senator Barnett’s speech, I think the government is more persuaded to adopt our approach to how this matter should be proceeded with. I think the government is embarrassed by Senator Brandis’s speech and I think it will abandon his motion. I urge the government that that would be more appropriate than allowing itself to be fooled into accepting Senator Brandis’s bizarre amendments—part (c) is probably the only one worth salvaging, but he did not speak to it. Senator Faulkner’s amendment does the issue more justice and provides a better direction for us to take.

Let it be clear that the government to date has taken a very ad hoc approach to joint meetings—if we can call them that, and that is perhaps the best way of describing them. As I understand it, there are no separate provisions for joint meetings. I do not think the ad hoc approach of trying to adopt someone else’s rules applies. You get yourself into a lot of issues that way.

I will not say that Senator Brown did us a favour, but he perhaps pointed out where rules need to be developed and applied. You can use this issue surrounding Senator Brown as a shorthand example to point out those areas. As I understand it—and I was not sitting far away—he did rise to his feet. Perhaps he could have called for a point of order. Whether the Speaker of the House would have recognised that call is questionable, because the Speaker can only recognise a member of that House under its rules. Senator Brown did not do that; he made an interjection. That is not unheard of in the House of Representatives—my understanding is that they think we are a bit quiet on interjections—so one wonders whether Senator Brown’s interjection was all that unruly. But, given that the House does have rules and the Speaker’s ruling should be obeyed, what ruling could he have applied? He applied his own rules, but of course it was to a senator. A ruling to a senator is not mentioned in the House rules, so does such a ruling have application? All these issues arise that I think the Procedure Committee does need to examine.

If Senator Brown had had a quarrel with Senator Nettle, how would that have been resolved by the Speaker? It would have been very difficult using the House rules, I suspect. The other issue is: do the Senate rules apply? Clearly, by the motion we moved, they do not; so I think Senator Barnett was a bit off the point in his contribution. We are left with numerous issues that remain un-
tested and remain for consideration by the Procedure Committee. Issues such as where joint sittings should be held, who can sit in the chamber and who can be an official delegation do need proper scrutiny. Above all, better minds than mine need to consider the issue of the constitutionality of a joint meeting in any event to ensure that we operate appropriately in this place.

I have a few moments to deal with some of the other issues raised this afternoon. As I said, Senator Brandis’s speech was much ado about nothing. I think the government got embarrassed about their own stunt. I admit that sometimes I am moved to interject as well, but during Senator Brown’s speech they interjected incessantly and constantly. One wonders whether they actually painted themselves into a very hypocritical corner with that behaviour. My assessment is that they did and that you will find that, having spent a couple of hours in this debate, they will change their minds. I have no doubt about that. I think the force of the arguments presented by the opposition will convince the government to cave in and cut Senator Brandis loose from this debate. (Time expired)

Senator BROWN (Tasmania) (6.35 p.m.)—In his final comments Senator Scullion said, ‘We were all terrified that further insults might be directed to the leader of China.’ What an extraordinary statement that is but how deeply it cuts into the processes of last Thursday and Friday. The most conservative people in the parliament were terrified that the communist dictator who locks people in prison for making political and religious statements that he does not agree with might be upset by what somebody in this democratically elected parliament might say. If there is to be an example to children of what not to do, that is it. You must stand up against dictatorship—you must stand up to people who take away the freedoms and rights of others—and you have got to do it when the opportunity arises.

I will comment briefly on the matter of jurisdiction in the joint sitting, because that brings us right back to the alternative motions before us. As far as I am concerned, last Thursday and Friday the Speaker of another place did not have jurisdiction over senators. We were having a joint meeting—and other senators have pointed out the fuzziness here. I am a senator and, as far as I am concerned, I am not under the direction of the Speaker of another place. These houses are divided very strongly. If you accept the point that we were having a joint meeting, I ask you where in the standing and sessional orders of the House of Representatives it says that anybody but a member may speak in that chamber. There is no provision for it. The standing orders say:

The Speaker may admit distinguished strangers to a seat on the floor of the House.

That is all—full stop. There is no provision in the standing orders for anybody but a member to speak in the House of Representatives, but that is what happened last Thursday and Friday. I ask the Senate: why has it taken the Greens to raise this issue?

There is no provision under the standing orders for anybody else to speak in our elected chambers. When it came to the Speaker exercising his supposed authority over senators, who are from a different chamber, during a parallel meeting—it is a joint meeting of the houses of parliament—the Speaker chose not to use sections 303, 304 or 305 of the House of Representatives standing orders relating to disorder but went to 306 because that brought in the Serjeant-at-Arms. If a member, not a senator—it does not apply to senators—had been acting in such a grossly disorderly way, the standing order says:
... the Speaker shall order the Member to withdraw immediately from the Chamber and the Serjeant-at-Arms shall act on any orders received from the Chair in pursuance of this standing order. When the Member has withdrawn, he or she shall forthwith be named by the Speaker and the proceedings shall then be as provided in standing orders 304 and 305—

that is, you have a division. Had Senator Nettle and I withdrawn as the Speaker requested, the speech of the President of the United States would then, under these standing orders, have to have been interrupted by a division of the chamber, or at least by a vote of the chamber with the potential for a division. By not withdrawing, (a) we were not taking orders because we are not members of the chamber, but (b) we saved a much greater interruption to the President’s speech than would have occurred under the standing orders. The second matter that is germane to this is that, because we did not withdraw, the Speaker, under standing order 306, had no right to have us named and then have us removed at the end. The matter of not having a division is on the record.

What I am concerned about in the amendment put forward by the Labor Party and the Democrats is that it leaves out very important matters in the motion that I have put before this chamber. Firstly, it does not canvass the option or ask the Procedure Committee to canvass the option of not having joint meetings for visiting speakers—in other words, determining that such speeches should be given in the Great Hall of this parliament. That is left out if you vote for the Labor alternative. So the options are foreclosed. I would counsel the opposition to think about that because that is central to the debate that we are having here. You chop it out if you go for Senator Faulkner’s alternative.

Secondly, the Greens’ motion says that the committee might look at:

(b) the rules which should apply to any future joint meetings or alternative procedure, with particular regard to:

(i) the right of the Senate exclusively to determine how the conduct of senators shall be regulated...

Again, that gets cut out. I am saying that I am a senator. I want the Senate to decide at all times the rules for senators and how they shall be applied, but that is cut out under the Labor amendment. Finally the Greens’ motion also says that in such joint meetings, the Procedure Committee might look at:

(ii) the ability of senators to interact with foreign visitors, including by presenting correspondence to them and discussing relevant matters with them.

These are cut out again. These amendments, which seem to be going to be accepted by the Senate, say there will be no interaction with future speakers in the parliament, which is the core issue at stake here—that is, giving up on democracy and giving up on our representative obligation to speak up on issues which are important to the Australian electorate.

I think Senator Harradine wanted to amend this motion—but did not—in a way which would say, ‘Let’s have the sitting somewhere else.’ But the Labor Party amendment, supported by the Democrats, at the outset cuts out the Procedure Committee’s directive in the Greens’ motion to look at what sort of interaction there will be in future speeches. In other words, it is endorsing this idea of a collective of both dictators and elected heads of state going from parliament to parliament, self-enhancing their points of view with no possible input from the diversity of points of view there are in this country and around the world. That is absolutely not what is wanted here.

We should be reviewing joint sittings if they are going to be held. We should be seeing whether it is not more appropriate—and
we absolutely maintain it is appropriate—that these sittings be held in the Great Hall. If there are going to be joint sittings, there has to be some form of democracy taking place in those sittings. If you are just going to give set-piece speeches with no interaction, go to the Great Hall. But if you are going to have a speech in a parliament there has to be a response. There is no provision anywhere in the standing orders for there to be no response for members or senators to speeches given in either chamber in this parliament.

There is no provision under the Constitution—it was not intended by the founding fathers to be there—for anybody to come from outside and speak in these chambers. This is being invented, and it is a derogation of democracy that is occurring here. The Greens say, ’Let’s talk about this,’ and it is the Labor Party which says: ‘No, we will cut that off. We will cut off the central debate about whether these joint sittings should occur for people who were previously barred, and are still barred from coming in under standing orders—that is, strangers—and we are not going to look at how you interact with them when they do come into the chamber.’ We will be opposing the amendments and standing very strongly for the motion that we have put forward for reference to the Procedure Committee.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—I put the question that the amendment moved by Senator Brandis to Senator Brown’s motion be agreed to.

Question negatived.

Senator LUDWIG (Queensland) (6.44 p.m.)—At the request of Senator Faulkner, I move:

Omit all words, substitute “That the Senate requests the Procedure Committee to draw up rules which should apply to future joint meetings of the Parliament, if any”.

Question agreed to.

Senator Brown—Mr Acting Deputy President, on a point of order: I am very mindful of the hour and that there may be a double division here, so let me just say that Senator Nettle and I voted against this amendment by the Labor Party, and then we can proceed.

Original question, as amended, agreed to.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order! It being nearly 6.50 p.m., the Senate will now proceed to the consideration of government documents.

DOCUMENTS

Australian Strategic Policy Institute

Senator SANDY MACDONALD (New South Wales) (6.48 p.m.)—I move:

That the Senate take note of the document.

I wish to take note of the Department of Defence, Australian Strategic Policy Institute annual report 2003-04. This organisation—ASPI—was established nearly two years ago, and the institute has gained prominence for its contribution to thinking about foreign affairs and defence choices that face Australia. It operates almost exclusively on annual funding provided through an arrangement with the Department of Defence. It may diversify its income stream in future, but the present annual funding of $1.2 million is provided exclusively by the government, and it appears to be money well spent.

Australia does not have a range of strategic policy think tanks, like many other developed Western countries, but it has this organisation which operates very effectively. It brings some balance to the debate in foreign affairs and defence outside that provided by the Department of Defence and the Department of Foreign Affairs and Trade and brings the debate away from government, though the government funds it. It goes without saying that we face challenging de-
fence and foreign affairs choices. We live in a challenging international environment and time, particularly in our region. There are problems on the Korean Peninsula, and always acknowledging that 60 per cent of our trade goes to North Asia, the arc of instability, including PNG in the South Pacific nations, many of whom are being challenged in their economic and social advancement, Australia has a very particular and special responsibility to this region. Unfortunately, there has been very little focus on this region since World War II, and it is very topical and timely, I think, that one of ASPI’s papers this year was on the Solomon Islands just prior to the deployment of our friendly intervention earlier in the year.

Of course, more education needs to be attended to, particularly for our secondary schools and universities about the south-west Pacific, and ASPI plays an important role there. Of course, with the instability in Indonesia and the aftermath of Bali, their post-Bali report was opportune. It reflected on how the world has changed since September 11 and referred to the Bali tragedy, which occurred some weeks before they brought out their paper. They have done very good work, particularly on Afghanistan and the war against terror and on Iraq and the aftermath of that.

We live in a very complex world. Foreign affairs and defence issues are often a war of ideas. The ASPI people—particularly the Director, Hugh White, and his colleagues—are really clever and well informed. They do a very good job of strengthening debate on the issues that are important to Australia in terms of our foreign affairs and defence environment. I applaud them. I think that it is money well spent and that they should be congratulated, and I do so.

Office of the Employment Advocate

Senator HUTCHINS (New South Wales) (6.54 p.m.)—I move:

That the Senate take note of the document.

The annual report of the Office of the Employment Advocate has been made available to us today. I think you would be well aware of the criticisms that Labor has of this organisation and the role that it plays. I do not think it acts as an independent body of the Public Service; I think it is an arm of government. I want to point out in the report a concerning development that seems to have been, in the overview, advocated by the director, Mr Hamberger. In bureaucratese, in his area which he refers to as ‘better work and management practices’, he highlights two important issues that he sees in the future. The first is performance based pay and the second is de-casualisation. As I said, it is the bureaucratese that seems to obfuscate what Mr Hamberger is saying is a problem. I want to go to the second issue: de-casualisation. The first issue is quite obvious—that is, performance based pay would seem to indicate to me that the legislation, because of the way it is drafted by the coalition, now allows people to enter into agreements in which they are probably only getting paid for performance or work rather than being guaranteed any hours.

The second issue which Mr Hamberger highlights is, as I say, de-casualisation. Mr Hamberger, in the way he writes it, tries to say in the report that they are attempting to de-casualise the industries that come before them and promote—it would appear without putting it into words, so I will use my words—permanent work. However, Australia is second only to Spain in the OECD countries in having the greatest level of casual employment in our work force. Nearly 26.4 per cent of the work force in 1999 were casual employees. In 1982 that was 14 per
cent. We have had a rapid rise in the number of casual employees in our work force. No doubt in his roundabout way Mr Hamberger has noted that. But of course you are going to get casuals, permanent part-timers or whatever in a work force where the only guarantee you have is a basic hourly rate for a basic hour of work. You are not going to get an opportunity to have permanent work if the laws make it so attractive for employers to do that.

The laws that have been changed under the coalition government mean that employers can more readily approach their employees on an individual basis and make sure that those conclusions occur. In fact, in the areas that Mr Hamberger has highlighted—hospitality and retail, and mainly small businesses—you will have seen that the balance of power in the work force is no longer in the middle but in the hands of the employers. So Mr Hamberger and his coalition masters should not be at all surprised that there has been this rapid growth in casual work in the country, and that is having a detrimental effect on not only the nature of work but also the people that are performing this work and their families.

Mr Acting Deputy President, 28.6 per cent of households in this country earn less than $500 a week, and that is the result of the industrial relations laws that have been ushered in by this coalition government. No matter what Mr Hamberger can say in his nice, pleasant bureaucratese, obviously the Office of the Employment Advocate are well aware that something is going dramatically wrong in the work force because of this rapid casualisation. They, it appears to me, want to try to prevent employers from going down that path. But that is not happening, and it cannot happen whilst the laws are as they are. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Wet Tropics Management Authority

Senator BARTLETT (Queensland—Leader of the Australian Democrats) (6.59 p.m.)—I move:

That the Senate take note of the document.

I will speak to this document, the annual report of the Wet Tropics Management Authority, in the five minutes available and I will probably speak to it again on another occasion because it is a very important report. It deals with quite a magical area, not just of my own state of Queensland but indeed of Australia. The Wet Tropics World Heritage area lies between Townsville and Cooktown on the north-east coast of Queensland. It covers an area of almost 900,000 hectares. Its best known component is probably the Daintree rainforest. If any senator has not visited that region, I very much urge them to do so. It is a magnificent, spectacular region visually and has not just immense environmental value but, of course, huge economic value to the people of Far North Queensland.

Yet many Australians who have heard of the Daintree and the wet tropics assume that it is all saved, it is all safe and there is no problem. They think: ‘Isn’t it good that that is all saved.’ The sad fact is, as this report highlights in part, it is not all saved and protected; it is actually significantly at-risk. Whilst there are many people in the Far North working very hard to address and remove those risks, they are still very real. Unless some of them are addressed very quickly, it may be too late.

Senator Brown, on behalf of the Greens, makes regular references in this chamber and outside it to the magnificent forests of Tasmania. Having visited those, I very much agree and congratulate him on his constant work to protect those areas. I have, partly at his urging, visited those regions. I would like to ensure that equal attention is given to the magnificent forests of Far North Queensland,
particularly the Daintree. I certainly invite Senator Brown to visit or revisit that region. There may be taller trees in southern Tasmania, but the biodiversity of the forests in Far North Queensland in the wet tropics is simply unparalleled and would blow anybody away.

There are approximately 3,000 plant species, 315 mammal species, over 130 reptile species, 78 freshwater fish species, 370 bird species and 54 frog species within that area. The biodiversity of plant species is particularly important, as the area contains an almost complete record of plant evolution on earth. Twelve out of the world’s 19 families of primitive flowering plants grow in the area. Within these families, there are at least 50 species that are found only in the small Wet Tropics World Heritage area in Far North Queensland.

Many people, certainly those that follow politics, would remember that the inclusion of the wet tropics area on the World Heritage List was not without its problems. The listing was opposed by a small but vocal minority who went to extraordinary lengths to ensure that the area was not included on the list. The encounter of former minister Senator Richardson with some of the people in Ravenshoe is probably something that will go down in Australian political folklore. As a result of the opposition to the listing, the boundaries of the World Heritage area were not always determined on the basis of science or natural heritage values. Many of them were political compromises that were intended in part to satisfy this vocal minority. That is an important point in terms of the consequences of those political decisions, which may have been necessary. I do not criticise, on the basis that sometimes politics is the art of the possible, but the consequences are now being felt.

It is a good message to send in the context of the current proposal to rezone the Barrier Reef, where, despite all the assurances that it is going to be done on the science of ensuring maximum protection, the political pressure from a small minority, again in Far North Queensland, is putting some of those rezoning decisions at risk. It is particularly relevant to this report from the Wet Tropics Management Authority, because, apart from everything else that is unique and magnificent about the Daintree, it has the double magnificence of adjoining the Barrier Reef World Heritage area. That part of the world where the reef meets the rainforest is truly unique and magical.

The most outrageous example of the political compromise is the Daintree coastal lowland tropical rainforest, which is located between the Daintree River and Cape Tribulation. This rainforest covers approximately 20,000 hectares. It has extremely important natural heritage values and some of the most primitive, rare and threatened plant and animal species in the world. Its botanical diversity is of particular significance. It is of such significance that I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Grains Research and Development Corporation

Senator O’BRIEN (Tasmania) (7.05 p.m.)—I move:

That the Senate take note of the document. Initially, it is interesting to note that the Department of Agriculture, Fisheries and Forestry produces the report of the Grains Research and Development Corporation. Indeed, a lot of important work is done by that organisation relating to a very important industry for Australia. It is significant to say that that organisation has performed much more effectively than the minister responsible for the department, who, I would say, has
a report card which shows a lot of Fs, not too many Cs and absolutely no performances which would exceed a bare pass mark. We have started the financial year with thousands of Australian animals dying on live export shipments bound for the Middle East, with a 10 per cent mortality rate on the never-ending voyage—as it seemed—of the MV Cormo Express.

At the end of the financial year, it appears little has changed. The year began with the release of the Hildebrand report into the sugar industry. In a delayed response to that report, the government promised much—certainly much more than it was prepared to deliver. Mr Truss promised that he would secure the future of the sugar industry by providing short-term income support and financial support for overdue industry reform. The first blow for the industry, of course, was the three-month delay between the release of the Hildebrand report and the announcement of the government’s package, but the second blow was the revelation that the minister could not get any money for the industry from the Treasurer and would introduce a new tax on sugar.

Labor sought to disallow that tax but, as with the GST, the Democrats delivered for the government and another tax was implemented on commodities in Australia, this time on food and again with the support of the Democrats. The third and most telling blow for the industry has been the failure of the minister and his government to honour its commitment to the Australian sugar growers and thousands of other workers that rely on the industry for their livelihood.

The minister’s colleagues have started to collect the tax and have delivered a few months of income support but Minister Truss has long abandoned any intention to fund industry reform. Instead, the minister has spent month after month finding reasons to withhold promised industry support. A month after the income support dried up, sugar growers are yet to receive a single cent of the reform funding that was promised by Mr Truss in September last year.

Around the same time as the minister was announcing his sugar package, he was doing his best to muck up the administration of Australia’s US beef quota. Not for the first time, he adopted a selective quota allocation, ignoring the recommendations of the government dominated Senate Rural and Regional Affairs and Transport Legislation Committee. He also ignored the collective view of the beef industry’s peak bodies, including the Red Meat Advisory Council, the Cattle Council of Australia, the Australian Meat Council and the Australian Lot Feeders Association. The minister said his decision was in the best interests of the industry and Australia’s commercial relationship with the United States. But, despite the minister’s arrogant assurance that he knew more about the beef exporting business than beef exporters, it seems almost certain that Australia’s quota for the US market will not be filled this year. That is an important market that the government is pursuing through free trade agreement discussions, yet we are not going to fill it this year.

On the matter of the Japanese beef tariff, the snap-back tariff, Mr Truss issued a statement at the beginning of the financial year saying he had received an assurance from his Japanese counterpart that he would be consulted before Japan imposed any reactionary tariff measure. Clearly the Japanese have the same regard for the minister as most Australian farmers, and that was the last we heard from Mr Truss’s personal guarantee. In fact, it was about the last we heard from Mr Truss on the snap-back matter. For the whole period covered by this report, Mr Truss struggled to understand, let alone fulfil, his responsibility to drought-stricken farmers. That
is very important when one considers that the Grains Research and Development Corporation is researching for just those farmers who need the assistance of the research that is provided by their levies. That raises another issue which I will seek to return to. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**Australian Transport Safety Bureau**

**Senator BUCKLAND** (South Australia) (7.10 p.m.)—I move:

That the Senate take note of the document.

The Australian Transport Safety Bureau’s *Supplementary aviation safety investigation* report was tabled today. It has a degree of criticism aimed at the findings of the South Australian coroner in relation to the crash of the Whyalla Airlines Piper Chieftain aircraft with the loss of eight souls. I will seek leave to continue my remarks because I need time to read some of the technical aspects of the report that was handed down today, not being a metallurgist and not understanding many of the terms that are used and to relate them to the comments and findings of the coroner.

My fear with this report is that it has generated a lot of discussion in South Australia—in Whyalla in particular. Some of that discussion I fear is aimed at reopening some of the old wounds that existed when the air crash first occurred when individuals pointed fingers at those who may have been to blame. It worries me immensely that the community might again divide and try to isolate the person who was to blame for the crash when, in fact, all persons involved in the incident were exonerated. For that reason I seek leave to continue my remarks at a later time.

Leave granted; debate adjourned.

**Consideration**

The following government documents were considered:

Department of Immigration and Multicultural and Indigenous Affairs—Report for 2002-03, including reports pursuant to the *Immigration (Education) Act 1971* and the *Australian Citizenship Act 1948*. Motion to take note of document moved by the Leader of the Australian Democrats (Senator Bartlett). Debate adjourned till Thursday at general business, Senator Bartlett in continuation.


**ADJOURNMENT**

The **ACTING DEPUTY PRESIDENT** (Senator Marshall)—Order! There being no further consideration of government documents, I propose the question:

That the Senate do now adjourn.

**SBS TV: Vietnamese News Program**

**Senator SANTORO** (Queensland) (7.12 p.m.)—The Australian community is served very well by SBS Television. It takes its role as the second public broadcaster very seriously. It offers a range of entertainment, news, current affairs and information programs of deep interest and great value to the wider community as well as to specific ethnic and cultural communities. One area into which SBS puts a lot of effort is in broadcasting national news from a number of countries whose ethnic and cultural interests are represented in the Australian community in its acclaimed *WorldWatch* program. But,
paradoxically, it is this strong commitment to facilitating the flow of other nations’ news and views and affairs of state that has, in one instance, raised concerns in Australia—that is the matter of the Vietnamese news program now being broadcast daily. Leading members of the Australian Vietnamese community have complained that it broadcasts Communist Party of Vietnam propaganda.

Trung Doan, Federal President of the Vietnamese Community in Australia, complains that the program broadcast in Australia by SBS is produced by VTV4, which is owned by the Vietnamese Communist Party. Its web site says it provides ‘news and propaganda’ and that it serves ‘the Party and government’. This is difficult territory for a liberal democracy such as Australia, where our own cultural tradition and public broadcasting policy is to mandate independence of view. That is how we live in Australia and that is how people who have come to Australia, among them Vietnamese people, wish to live. Trung Doan says of the daily half hour Vietnamese news program that the first half of the program typically devotes itself to speeches or public statements by Vietnamese government and party officials. He says the remaining items also manage to promote the party in one way or another and they even spin a free ride off some sports news. He says the only thing the program has not yet managed to politicise in the interests of the Communist Party of Vietnam is the weather forecast. It has not worked out how to do that yet, he surmises. Australians might not approve of party political propaganda on television, but they do understand that it has always been part of the broadcasting practice in places where a totalitarian government is in charge.

What the Vietnamese at home in Vietnam have on their television screens to watch is an issue that is quite separate from the issue of what SBS, a broadcaster funded by the Australian taxpayer, is free to choose to broadcast. Trung Doan says SBS TV management claims that, in the process of working towards board approval to commence the news service, translated transcripts were checked and no propaganda was detected. If this were true, as opposed to its being evidence of a fairly fundamental misunderstanding on the part of SBS TV as to what propaganda actually is, it would be a world first.

In Vietnam the Communist Party of Vietnam runs the show—in this case, literally. Communist parties in power, like any totalitarian regime from either extremity of politics, historically use media of all kinds as their personal propaganda and enforcement mechanisms. Even as the last fading images of Karl Marx’s bad dream are playing themselves out in the few remaining countries that are notionally or nominally communist, this fundamental rule—it is Leninist or Stalinist or Maoist rather than Marxist of course—is applied with rigour. That is an international issue. It is a fact of global interrelations with which countries and national governments have to deal—as they desire and as their own national policy dictates.

Our desire as a country is to have good relations with everyone who desires to have good relations with us—in this instance, Vietnam, which is the home of an ancient and wonderfully resilient culture. Today the Vietnamese culture flowers not only at home in Vietnam but around the world in countries of settlement such as Australia, the United States and France. This unique culture in diaspora deserves to be nurtured by, and kept informed of, events and developments within the core culture from which it is derived and through which it can continually renew itself. But there is no role for self-serving communist regime propaganda in achieving so de-
sirable a goal—it will always only be a hindrance.

The management of SBS TV is to be commended for facilitating the flow of free news and information through the World-Watch program. But it might be better served, and it might better serve its Vietnamese-speaking audience, if it were to re-examine its assertion that the bona fides of VTV4 as a news service are beyond question. The SBS Vietnamese news broadcast is aimed at Australian speakers of Vietnamese—overwhelmingly, therefore, Australians of Vietnamese origin or extraction. It is these very people who are protesting. In the circumstances I believe that makes the case for listening to their protests very strong indeed.

At the same time, opinion in the Australian Vietnamese community is diverse. In the matter of televising national news from Vietnam it is divided. Ultimately, people in democracies such as ours are free to make up their own minds about whether what they are reading, seeing or hearing is propaganda or not. Many of Australia’s 170,000-plus Vietnamese fled their country to escape discrimination and mistreatment by the country’s communist regime. Mr Doan makes a very powerful point, one that underscores the tremendous value of SBS, when he says that for English speakers SBS provides news services that aspire to independence, balance and impartiality.

To his endorsement of SBS I would add that for Australia’s Italian, German, Spanish and French speakers SBS provides news programs that similarly meet the standards of balance and impartiality that our society demands. It is entirely understandable that SBS, in fulfilling its charter, would want to provide Vietnamese speakers with a news service from their country of origin. The problem is providing one that does not carry the taint of communist mind control.

This is a matter strictly for SBS—a point the Minister for Communications, Information Technology and the Arts has quite properly made—but I repeat that it is something which SBS management should look at again in the context of complaints from its audience. We must accept, because the evidence is impossible to ignore, that you cannot legitimately separate the issue of ‘news’ that has passed through the rigours of communist ideological tests before broadcast from the other issues that beset Vietnam and its relations with the rest of the world. Detention on charges that would never be countenanced by a free society—or, even worse, on no charges at all—is not a policy of a government or a regime or a party that values freedom of spirit, far less freedom of expression.

I spoke in this place on 3 March 2003 on the issue of Vietnamese human rights, and others in this place have spoken also. I have no doubt there will be a need in future times to speak out again. Dissenting views are part of freedom. It is not my purpose tonight to denounce the government of Vietnam, a regime with which Australia maintains diplomatic relations and business and trading links, and we want this process to continue to the mutual benefit of both countries. But we are talking here about a news program that some of those who are invited to watch it, or may wish to watch it for cultural reasons or to maintain some spiritual link with their homeland, identify with propaganda. When the ‘news’ is produced with the imprimatur of a regime that routinely jails people, such as attorney Le Chi Quang after a very short trial for having written a critical essay, it is immediately suspect. When the ‘news’ is produced by a regime that jails Catholic priests for 15 years, like Father Nguyen Van Ly who in 2000 issued a 10-point appeal for greater religious freedom for Christians and Buddhists alike, it is immediately suspect.
SBS is to be congratulated for its commitment to providing quality information and entertainment to audiences in the languages of their cultural, ethnic or national backgrounds. But it should be ready to listen to complaints when they arise—which is not very often, I should add—about the bona fides of news programs produced by illiberal and undemocratic regimes.

Cruz, Ruth

Senator MACKAY (Tasmania) (7.20 p.m.)—I rise tonight to speak on an issue that is of huge importance to my home state of Tasmania, an issue that has galvanised members of the community from all walks of life. The matter that I want to bring before the Senate tonight is the plight of a young Tasmanian woman, Ruth Cruz. It is not strictly true to call Ruth a Tasmanian because, to date, she has not been officially granted that status. Officially she has not been, but certainly unofficially, by the people of Tasmania, she has.

Ruth was born in El Salvador. Her father left the family when Ruth was three and her mother died of cancer when Ruth was four. Following the death of her mother, Ruth was brought up by her grandmother and her older sister, until her older sister married and came to live in Tasmania with her husband, a political refugee. At the age of 14 Ruth was kidnapped by one of the many gangs that operate in El Salvador. Gang violence is unfortunately common in El Salvador and is used to coerce victims into being drug runners. Ruth witnessed the murder of a friend before managing to escape and go into hiding. Ruth arrived in Tasmania on a visitors visa in late 2000 to be with her sister, Daysi Escobar. When she arrived in Tasmania she was physically and emotionally exhausted. She was socially withdrawn and fearful. According to her sister Daysi:

… she was malnourished, but so used to hunger that she hardly ate. A check up with the family doctor revealed that she was physically weak, anaemic and suffering from a stress-related asthma. An x-ray revealed that she had cracked ribs.

From her position of safety in Tasmania, Ruth then applied for a protection visa on the grounds that she was at risk of gang violence if she returned to El Salvador. This application was refused, as was a subsequent appeal to the Refugee Review Tribunal. Ruth has been able to stay in Tasmania by virtue of a series of bridging visas whilst awaiting the outcome of her various applications to stay on a more permanent basis.

Having failed to secure permanent residency, Ruth had one avenue left open to her: she had to rely on a man who, in his own words, was 'the most interventionist immigration minister ever'—Mr Philip Ruddock. Unfortunately for Ruth, she is not a friend of the former immigration minister, nor does she have sufficient funds to make a substantial donation to the Liberal Party. She had to rely, then, on Minister Ruddock's compassion. What she got, on his last day in the job as immigration minister, was the decision that she would not be granted a visa. He signed the letter to reject her application on his last day in the job—6 October. Yet, extraordinarily, it took 11 days before the Tasmanian director of the immigration department gave the letter to Ruth's lawyer. The letter was handed to the lawyer at 5 p.m. on Friday, 17 October and gave Ruth 28 days to leave Australia.

I think the timing on this was a cynical act to try and reduce the fallout from this callous decision. It is commonly accepted now amongst the medical community, and I believe a protocol of BreastScreen Tasmania—a relevant agency to cite, given yesterday was Pink Ribbon Day—that, wherever possible, bad news not be given to patients on a
Friday. This is in recognition of the powerlessness of the position in which it places the person getting the news, with little access to support or the ability to take action on the news they have been given until the Monday following.

Now whereas those in the caring professions deliberately avoid trying to place people in this powerless, vulnerable position, it seems in the case of the immigration department and the new minister, Minister Vanstone, that this act must have been deliberately taken to induce that very feeling of powerlessness. However, the new minister and her department underestimated the people of Tasmania and the support and compassion they are prepared to extend—even at weekends. The Mercury newspaper carried the story on the front page of its Saturday edition. There was a page 3 story the next day in the Sunday Tasmanian and by Monday a new community group had been formed known as ‘Friends of Ruth’. It emerged that one of the reasons for Ruth’s applications being rejected was that, as a minor, the issue of who had legal custody of Ruth had been unclear. However, on 15 May 2001, Ruth’s father signed a statement saying he wanted her to stay in Tasmania in the care of her sister. Ruth’s father Carlos wrote:

I confirm that there is a great deal of violence in this country—

this is from El Salvador—

and especially the place where I live from gangs who attack young people and force them to join the gangs. My daughter has been threatened and it is likely that her life would be in danger if she returned.

However, despite this statement being referred to at the Refugee Review Tribunal, the department could not find the document and had been unsuccessfully trying to contact Ruth’s father to resolve the custody issue. Despite the department’s inability to track down Carlos Cruz, a local El Salvadorian journalist, Adriana Valle, working on information provided by the Mercury newspaper, managed to find him. The story confirming Mr Cruz’ desire for Ruth to remain in Australia for her safety was published in the Mercury on 24 October. Amazingly, the original documents signed by Mr Cruz were also found that day.

As I said before, the compassion Ruth’s story has raised in Tasmania cuts across all religious, political, ethnic, age and other groupings. Friends of Ruth comprises politicians from across the political spectrum, including the Tasmanian Premier, Jim Bacon, Anglican and Catholic Bishops, representatives from Ruth’s school, community organisations such as Anglicare Tasmania and Tasmanians for Refugees, and the Lord Mayor of Hobart. This group today launched a petition calling on the new minister to review the decision to deny Ruth Cruz a visa, with Friends of Ruth spokesperson Jo Flanagan saying:

The petition asks that the Minister allow Ruth to stay with her family, those people who provide care for her. As a child, we believe she has the right to remain with those adults who will care for her and protect her.

Last night, the Hobart City Council carried a motion calling on the minister to grant Ruth a permanent visa. As a Labor senator, it is not within my power to resolve this issue. It is not in Senator Brown’s power, either, although I do note that he was quoted in our local paper as saying he was going to introduce an urgency bill in relation to this—a bill that we have not seen and, if he did in fact introduce it, I suspect it would be blocked by the government. It is not in the power of the Independent Tasmanian senators either. However, it is within the power of the Liberal senators for Tasmania to use whatever influence they have with their colleague Senator Vanstone and ask her to overturn Mr Ruddock’s decision. I understand from
speaking to people in Hobart today that there is an expectation that there is some short-term comfort for Ruth in that she may be granted another bridging visa to take her through to the end of January. But what Ruth wants, what her sister wants and what Ruth’s father wants is for Ruth to be allowed to stay permanently in Tasmania. That is what the people of Tasmania want as well.

Ruth is not far off completing year 11. She wants to continue to year 12. She is an active member of the community, plays senior soccer and has many friends. I have no real ability to understand how Ruth Cruz must feel. I did not lose my father at three and my mother at four. I have not been subjected to gang violence or kidnap. I am secure in the knowledge that I have a permanent home in the beautiful and safe state of Tasmania. From my position of privilege it is hard to place myself—as it would be for everybody in this chamber—in her shoes. But I can place myself there enough to know that we have a responsibility to vulnerable young people to allow them to develop in a climate free from fear and uncertainty and that we cannot send a vulnerable young woman back to an unstable country where she will have no support—to do so would be unethical and inhumane. We owe it to Ruth and other young people in her position to welcome her to our country and provide her with a safe and secure environment. Minister Vanstone has been accused in the past of lacking compassion. I hope in this case she will prove her accusers wrong and use her discretion to allow this young woman to stay permanently in Tasmania.

**Telstra: Services**

Senator CHERRY (Queensland) (7.29 p.m.)—In the lead up to the debate over the sale of Telstra, I felt it was appropriate to ensure the views of regional communities in Queensland were heard. Senator Bartlett and I, as we have said in this chamber, undertook a Telstra performance survey across regional Queensland. Tonight I want to take some time and report for the record the responses that were received from the people in The Nationals’ electorates of Hinkler and Dawson, covering Bundaberg, Gladstone and Mackay.

But first a bit about the survey itself. The Democrats surveyed all four of The Nationals’ electorates and three coalition electorates in Queensland after ‘The bush’ was behind the sale. My office was overwhelmed with the responses that were received—over 13,000 from across Queensland. This makes this survey the biggest on Telstra’s performance standards undertaken in this debate.

In Hinkler over 1,500 people replied to our survey, and I can tell the local member Paul Neville that there is a great deal of unhappiness with Telstra services in his electorate. With regard to Internet services, when asked whether people were satisfied with the speed of their connection, 53 per cent of people said they were not, with 40 per cent of people seeing the reliability of this connection as either fair or poor. In respect to mobile phones only 32 per cent of people in Bundaberg thought that the performance was good. In some of the comments made about mobile phones people raised concerns about prices rising if Telstra was sold.

On the issue of zone or STD charging the responses showed that only a third of people thought that they were appropriate. I have to say that the current arrangements on charging STD calls that way is really nothing short of highway robbery given technological changes. There is no way that the charging arrangements should be as they are. Comments on public phones, fault repairs and
disability services all showed a similar level of dissatisfaction with Telstra’s performance in Bundaberg and Gladstone. With regard to the time it took for Telstra to connect a home phone or additional line, dissatisfaction levels were above 30 per cent. There is no way that The Nationals can stand tall and say that the Telstra network is up to scratch and delivering at a level that is acceptable to the people of Hinkler.

When people were asked whether services were to a standard that would be good enough to allow further sale, over 80 per cent said they were not. And when people were asked whether services would decline if Telstra was sold, over 82 per cent said they would. To the question, ‘Would the sale benefit you?’ 86.5 per cent said it would not, and 84 per cent of people supported the position taken by the Democrats in the Senate in opposing the sale.

In Mackay, we received 1,527 responses, again a very strong response. Opposition to the sale was running at 81.3 per cent in Mackay, similar to the 80 per cent opposition recorded in the survey by The Nationals’ local member De-Anne Kelly. The difference is of course that, as a Democrat senator for Queensland, I listened, and voted against the sale. De-Anne Kelly voted for it, despite the clear wishes of her electorate as expressed in these surveys. At least she got a promotion to the heady heights of parliamentary secretary out of it. I hope it was worth it.

In Mackay, only 45 per cent of people said that their coverage of mobile phones was good, but 63 per cent said they thought the pricing of mobiles was at least fair. Internet services were again criticised: only 31 per cent described the reliability of the home Internet as good and only 44 per cent were satisfied with the dial-up speed. With business connections, only 38 per cent said the data lines had good performance. Twenty-five per cent of respondents reported that they had had to get a new phone line installed in the last year, and 50.3 per cent were not satisfied with the speed with which the request was processed. Twenty-one per cent said that their phone had been out of action at some point in the previous year. Of those who had had repairs, only 43 per cent said the repair service was good, and only 57 per cent said the speed of the repair was satisfactory.

The stories coming out of Mackay, Bundaberg and Gladstone should be listened to by The Nationals’ members De-Anne Kelly and Paul Neville. There is a real concern about the performance of services in these areas and that real concern will get worse if the Telstra monopoly is privatised. Services are not up to standard and people everywhere do not believe that that they will get any better if Telstra is sold. If I were in The Nationals I would be very nervous about my chances of being re-elected and that I would wear the full brunt of the strength of the opposition.

If we look at some of the evidence presented to the Senate inquiry, the concerns raised by Hinkler and Dawson residents are warranted. In terms of the customer service guarantee, there has been a marked decline in Telstra’s performance over the last two years. In urban areas in Queensland, the percentage of faults not repaired by Telstra within the timelines set by the customer service guarantee rose from seven per cent in June 2001 to 11 per cent in June 2002 to 18 per cent in June 2003. In rural areas, the faults not repaired rose from four per cent in June 2001 to six per cent in June 2003. But at least that is better than in rural Victoria, where the rate for faults not cleared up has risen from five per cent to 12 per cent, Senator McGauran, in that period.

In terms of network reliability, Central, Northern and Far North Queensland are also
below the national average. In the first seven months of 2003, the average monthly number of services with a fault was 1.01 per cent in North Queensland, 1.08 per cent in Central Queensland and 1.18 per cent in Far North Queensland—in all cases well above the national average.

The Australian Communications Authority has indicated that it is concerned by Telstra’s faults performance, particularly in urban areas, and has ‘sought assurances from Telstra that they will take the necessary steps to raise the level of performance’. The CEPU argues that too often Telstra does ‘quick fix’ temporary work to clear faults without dealing with underlying problems. The ACA acknowledged that ‘some, and only some’ of the causes of recurring faults relate to remedial work, but that the new network reliability framework will allow the regulator to pinpoint problem areas.

The ACA has already required Telstra to perform remedial work on 54 poorly performing exchanges—some of those in the Wide Bay area—and, following an audit of a further 48 exchanges, has identified another four requiring remedial work. The network reliability framework is still in its early stages but could prove to be a powerful tool to require upgrading of the network. The Democrats urge the government to support further enhancement and enforcement of the network reliability framework and a requirement for investment from Telstra to fix problems as they arise.

With respect to mobile phones, I mentioned earlier that only 32 per cent of Hinkler residents and 45 per cent of Mackay residents thought that the performance was good. While $16 million in funds has been allocated over the next few years towards improving mobile phone coverage as a result of the Estens report, the Democrats are concerned that this will not be enough. An efficient and effective Internet is an essential part of economic and social infrastructure in rural and regional areas and is becoming more important in the context of the information economy. The need to access services such as e-commerce, e-learning, e-health and e-banking is an absolute essential of modern life.

It will cost Telstra $5 billion to increase Internet speed from the pathetic new standard of 19.2 kilobits per second to a more useable 56 kilobits per second. By contrast, the government’s response to the Estens report provides only $181 million in new funding, just three per cent of what is needed. If Telstra was required to restore capital expenditure to 20 per cent of revenue, a level it held for all but the last few years, that would allow it to fund this investment in just four years. The Democrats believe this would not be an unreasonable ask, and we urge the minister to direct Telstra to do so in the national interest.

Evidence from the Democrats’ surveys in regional and rural Queensland clearly demonstrates that services are not up to standard and that people throughout Queensland do not believe that they would get any better services if Telstra were privatised. If I were in The Nationals I would be very nervous about these results and very nervous about the concerns in regional Queensland about the performance of Telstra. I would be absolutely determined to ensure that the sale bill did not proceed and that the government actually got off the privatisation bandwagon and started focusing on improving services, improving investment and improving customer outcomes before they even thought about selling the Telstra golden cow.

**Workplace Relations: Dismissal Laws**

Senator TIERNEY (New South Wales) (7.38 p.m.)—I rise tonight to draw the attention of the Senate to the way in which the...
blocking tactics that are occurring in the Senate are preventing the creation of thousands of new jobs in Australia each year. I refer to the way in which the minor parties have blindly blocked the government’s proposals to change the dismissal laws in this country. As chair of the Senate committee that deals with employment and workplace relations I have conducted Senate hearings on this issue on four separate occasions since 1997. It is like Groundhog Day: in that eighties movie, as Senator Cherry might remember, actor Bill Murray—no relation to Andrew, of course—wakes up each morning at 6.30 to the same day that keeps being repeated, over and over again.

That is a bit like the Senate hearings. At each hearing representatives of the business community would give evidence that the current laws, which were established by the Keating government in 1994, are costing at least 50,000 jobs each year. Evidence would also be given by the Department of Employment and Workplace Relations in support of the measures we are proposing. At each hearing the unions would oppose the changes, and the Democrats and the Labor Party would come back in the Senate and vote these measures down. This intransigence has left us with a very messy dismissal law system that is now spread across state and federal jurisdictions.

Concerns have been expressed that, despite the merits of moving towards a national system of dismissal, the legislation outst(s) the operation of state laws dealing with the termination of employment. However, attitudinal surveys confirm that the continuing existence of multiple dismissal jurisdictions is a major cause of confusion and complexity for both employers and employees in Australia. It is not possible to have a truly national approach and to eliminate existing uncertainty and confusion if the continued operation of state institutional arrangements allows for forum shopping between competing jurisdictions. Justice Geoffrey Giudice, President of the AIRC, stated in a speech in March 2000:

There is a lack of uniformity between state and federal unfair dismissal laws which no doubt creates uncertainty and perhaps expense for litigants, and as a matter of principle the lack of uniformity may be undesirable in itself.

The federal dismissal system excludes some employees, such as those who have not fulfilled the three-month qualifying period, those employed for a specific task or period, and the non-award employees earning more than $85,400 a year. The majority of these employees would also have been excluded from seeking unfair dismissal remedies by similar exclusions in the state systems. Employees excluded from seeking dismissal remedies under an expanded federal system who were previously covered by state laws may still be able to seek a remedy in a state system if, for example, they were dismissed for a discriminatory reason such as sex or race.

It has been suggested that the Australian government’s proposals are not constitutionally valid and could lead to constitutional uncertainty and trigger protracted litigation. The government’s view is that the proposed expansion of the federal unfair dismissal system is constitutionally valid. The Commonwealth is simply exercising its jurisdiction, which it is constitutionally entitled to do, to legislate for the peace, order and good governance of the Commonwealth in respect of corporations. The legislation is a significant step towards a national workplace relations system. The legislation seeks more user-friendly Commonwealth rules but, more importantly, uses the corporations power to exclude 85 per cent of workers from state unfair dismissal remedies. The last attempt to legislate on this matter was defeated on the third reading. It is a pity that the Senate
could not adopt a more progressive approach to these reforms.

Current unfair dismissal laws impose cumbersome procedural requirements on employers. Small business employers do not have the time or the resources to become experts in employment law. Regulation of small business needs to be minimised in order to encourage growth and job creation in this sector. Survey after survey has shown that the small business community believes that the laws make it difficult to dismiss employees. Results of a survey conducted by Don Harding of the Melbourne Institute in late 2002 found that the unfair dismissal laws played an important role in the loss of 77,000 jobs from businesses that used to employ workers but no longer do so. That is interesting, because the research three years ago was saying it was 55,000 jobs. The latest research is now showing a loss of 77,000 jobs, so in terms of employment policy it is madness to continue with these laws in their current form. This government has been trying to change that for the last four years. Each time, the government has been blocked by the Labor Party and the Democrats—and the Democrats at least should know better.

The current situation is creating a great disincentive. To recap what has happened with the proposed changes to legislation over the last few years, the Workplace Relations Amendment (Fair Dismissal) Bill 2002 was laid aside on 28 June 2002. The Workplace Relations Amendment (Fair Dismissal) Bill 2002 [No. 2] was introduced into the parliament in September 2002 as the government was determined to improve the prospects of people seeking employment and the general conditions in the small business sector. This bill was laid aside on 25 March 2003.

Over one million new jobs have been created since the Howard government came to government in 1996 and greater improvements would have been achieved if the current dismissal laws had been changed. Exempting small business from dismissal laws would improve small business confidence so that small business employers would be willing to take more risks and put on more employees.

Importantly, the bill would not have removed protections against unfair dismissals for small business employees who would have continued to be protected against being sacked for discriminatory reasons such as race, gender, family responsibilities and even union membership. The bill sought to amend the Workplace Relations Act 1996 to exclude people who work in businesses with fewer than 20 people from accessing unfair dismissal remedies. Existing small business employees would not have been affected and the provisions would not have applied to apprentices and most trainees employed by small business.

The Labor opposition have consistently voted against this quite reasonable legislation and against creating simpler and fairer work practices. The failure to pass this legislation has denied small business the opportunity to do what it does best: create jobs and prosperity for all Australians.

Indigenous Affairs: Partnerships

Senator CROSSIN (Northern Territory) (7.46 p.m.)—Tonight, I will tell people some good news about a developing initiative around Darwin. It involves Indigenous and non-Indigenous people and government and nongovernment entities in partnerships, which are promising successful progress for the Larrakia people.

Larrakia is the language group name for the Aboriginal people of Darwin. Traditionally their lands included the Cox Peninsula, Gunn Point and much of the rural area around Darwin—basically the whole area around where Darwin now stands. The Lar-
Larrakia people are often referred to as ‘saltwater’ people, even though their boundaries extend up to 50 kilometres inland. Their country consists of the sea, creeks and rivers around the Darwin Harbour and the mudflats, mangroves, flood plains, savannah and forest but saltwater is the major influence. Today the Larrakia people number around 1,500 in the Darwin area. Historically, they were involved in clearing the land for the Port Darwin township in the 1870s and 1880s. They used their traditional hunting skills to catch food, which they traded with the settlers. As the Darwin population increased, they worked as domestics, on the original railway or as labourers.

History will show us that the South Australian act of 1910, providing for the better protection and control of the Aboriginal inhabitants of the Northern Territory, opened the way for children or adults to removed from their traditional lands to reserves and exposed them to harsh conditions and treatment. Many of them were taken to what is now known as the Kahlin Compound. As the population of Darwin grew and the town expanded the original Kahlin Compound at Myilly Point was taken over for use as a hospital. This then led to the present day Bagot community, which started in 1938 as the Bagot Aboriginal Reserve. People will still recognise the Bagot community as they drive to and from the airport to the central business district of Darwin—Bagot still stands along the Bagot Road.

Many Aboriginal people were moved south in the Second World War but some stayed and helped to look after houses and to rebuild them after the war ended. Children of mixed descent—and I use that as an historical term—were still removed from their mothers and families, causing distress and leaving memories which will never be forgotten. These are the children who we now refer to as the stolen generation. Despite these past experiences and memories, the people are trying to move on and make progress. The Larrakia today are a broadly educated people and are found working in many areas around Darwin—in land councils and as language workers, artists, social workers, public servants and so on. Many are now, in fact, working for their own organisation.

The Larrakia Nation Aboriginal Corporation was formed in 1997 and incorporated in 1998 as an umbrella organisation for members of the larger Larrakia family groups. The corporation is now very much the peak representative body for any issues involving the Larrakia people. These issues include land rights, native title, health and aged care, education, training and employment, social and economic development, and art and culture. By having their own organisation, the Larrakia have taken a big step towards self-determination. While native title activities were the main reason for setting up the organisation, it has now gone well beyond this.

Under the Aboriginal Land Rights (Northern Territory) Act 1976, Aboriginal people were able to lodge land claims to areas of vacant crown land outside the town boundaries. The Larrakia lodged a claim that same year but protracted court battles followed with the previous CLP government of the Northern Territory fighting the claim all the way. The government of the day even tried the step of expanding the boundaries of Darwin to include the area claimed and hence make the claim ineligible. It was only in 2002, under the new ALP government in the Northern Territory, that the appeals and battles were halted and the land claimed under the Kenbi land claim has now been acknowledged as belonging to the Larrakia.

Following passage of the Commonwealth Native Title Act 1993 and with the then Northern Territory government still contesting their claim under the Land Rights Act,
the Larrakia people lodged claim to various areas of vacant crown land. They wanted legal recognition in order to enable the Larrakia people to develop an economic base and to protect their environment and cultural sites. However, the Larrakia people also believe that native title rights can coexist with land use by the general public—the reserves, parks and beaches dotted in and around Darwin, which all can use and enjoy.

A number of landmark agreements were made with the Northern Territory government. In return for Larrakia land to be used for the new railway corridor, the government gave land at Bullocky Point near the Northern Territory Museum which will be used for a Larrakia cultural centre. Land in the suburbs of Palmerston was released and is now being commercially developed by the Larrakia Development Corporation for new suburbs. Projects such as this are providing opportunities for self-generated revenue, training and employment.

So land rights and native title have not locked up vast areas of land and put them beyond the use of and access by the general population—far from it. In fact, far from what the knockers and the scaremongers try to tell them, the general population have lost nothing; but the Larrakia Nation have gained control, confidence and self-respect. They are using this in a responsible way in which we see a win-win situation.

The Itinerants Project is a joint program in agreement with the Larrakia Nation, the Northern Territory government, the Commonwealth government, peak Aboriginal organisations and the city councils of Darwin and Palmerston. It addresses longstanding problems and concerns involving the health and welfare of itinerants who come to the urban area. The Larrakia run a day patrol, give advice and help with basic accommodation, and provide an actual cultural presence through the Larrakia Nation cultural protocols, which are reminders of traditional values and behaviour. The rationale is to encourage itinerants to find their way out of the destructive cycle of alcohol and substance abuse and to return to their homelands.

On 17 October the Larrakia Nation Aboriginal Corporation opened a new resource and administration area, Karawa Park, on land near the Darwin airport. This has a new office, an aged care facility, an arts centre and a nursery for the landscaping business. It also has a shelter which will be used as part of the Itinerants Project, where people can come and sit and do traditional type activities such as music or arts. It is also a centre for the Larrakia CDEP or Work for the Dole programs. The art and craft centre provides an outlet for Indigenous works and is genuinely Aboriginal owned. The Larrakia Nation Aboriginal Corporation hopes to get tour companies to include this in their operations—not only to buy the works but to see them being made; even to take local tours to look for bush tucker or craft materials. Larrakia CDEP workers are involved in office and administration work, land care and the nursery, landscaping, the aged care project, the Itinerants Project and the contracted land management work. In addition to all of the above, the Larrakia Nation Aboriginal Corporation now also operates a local radio station, Radio Larrakia, which provides music and all local news content.

It was a grand opening at Karawa Park, organised and run by the Larrakia people. It included a wide range of speakers, dance, culture and bush tucker. It clearly showed the pride they have in these developments. It showed that they have a vision and a confidence for their future, that they see the way forward as being one of consultation and agreement, and that land ownership is important but not a barrier to development and the use of Larrakia land by themselves and oth-
ers. We are all so used to hearing the negative side of Aboriginal and Indigenous affairs. However, despite the challenges and the difficulties they have had in the past, the Larrakia Nation have played and continue to play a vital role in the historic and cultural heritage of Darwin. These developments are highly positive; they are developments for which the Larrakia people and Darwin itself should be commended.

Immigration: Refugee Week
Austcare

Senator KIRK (South Australia) (7.56 p.m.)—Last week, 18 to 26 October 2003, Australia celebrated Refugee Week. During this week many Australians participated in the inaugural Austcare Food for Thought fundraising campaign. Let me take this opportunity to recognise and congratulate Austcare on its work, both within Australia and overseas, in caring for and assisting refugees to begin new lives. In particular I would like to make mention of the chief executive officer, Michael Smith, the international program manager, Corinne Stroppolo and, as a senator for South Australia, I would make special mention of the South Australian manager, Lina Caparaso.

Austcare is a nonprofit, independent organisation which began in Australia in 1967, some 36 years ago, through the cooperation of various community organisations committed to improving life for refugees. Today Austcare also specialises in working with refugees and displaced people overseas. Over the past week Austcare has hosted numerous events across the country, including art exhibitions, cultural festivals with live music and foods from all around the world, instructive seminars and other events aimed at educating and exposing the general public to the positive diversity and experience that refugees bring to Australian life. The Austcare organisation is an invaluable asset to the Australian community in providing assistance to those who have been displaced for reasons such as violence, persecution, war and famine. On behalf of the Australian Labor Party, I would like to commend the work done by Austcare as part of its Refugee Week initiative and its work more generally since its foundation 36 years ago. The work of organisations like Austcare is especially important as today there are more than 40 million refugees in the world, and more than 85 per cent of these are women and children.

As leaders and legislators, parliamentarians have a special obligation to protect refugees and to develop real solutions to the problems they face. Perhaps more importantly, though, parliamentarians are public figures and, as such, are placed in a unique and respected position. It is important, I believe, that we use our public office to promote respect for refugees among our constituents and to encourage informed debate on refugee protection issues. As we all know, the international climate has undergone radical upheaval over the past few years. Domestic security is now, more than ever, a central issue and must be considered of the utmost importance. Nonetheless, this refocus has resulted in governments all over the world finding it increasingly difficult to adhere to their international obligations under the United Nations treaties to which many of them are party. Australia has always maintained an excellent reputation for human rights and refugee protection, and it is in times such as these that we must not forget these obligations and must remember that the protection of refugees is primarily the responsibility of states.

Unfortunately, the government’s current system of refugee processing and prolonged or even indefinite detention is, as the Labor Party has repeatedly emphasised, entirely unacceptable. I speak specifically of the government’s continuing policy of keeping chil-
dren in detention. As of today, a total of 186 children are being held in immigration detention centres in Australia, Manus Island and Nauru. Over 90 of these children are in detention centres on the Australian mainland. The Australian Labor Party has long opposed the inappropriate detention of children by the current government. It is the position of the ALP that the indefinite detention of children in the current facilities is inappropriate and a danger to the children’s emotional, psychological and physical wellbeing. In a question to Senator Vanstone today, Senator Allison referred to a number of experts in the country who have emphasised the psychological, emotional and physical damage to these children as a consequence of their being held in detention.

I am personally committed to this issue. With Tanya Plibersek, the member for Sydney, I launched a newsletter entitled Kids in Detention Watch in October last year. Since then we have published two more issues of Kids in Detention Watch, the most recent one being released in Adelaide last Sunday, 19 October, when we held a gathering of concerned South Australians in front of the office of the new Minister for Immigration and Multicultural and Indigenous Affairs, Senator Vanstone. I was joined there by the shadow minister for immigration and population, Nicola Roxon, who is the member for Gellibrand, and by many concerned South Australians. During this meeting Nicola and I called on Minister Vanstone to take a stand, make her mark and release into the community the kids who are held in detention.

Unfortunately, to date this has not occurred. I take the opportunity again to call on the minister to release the children from detention. As I said, this issue has become important to me. During my time as a senator I have made a point of visiting the Baxter detention centre in my home state of South Australia, the Port Hedland detention centre and the now closed Woomera detention centre in South Australia to witness first hand the conditions in which these children are forced to reside and to be able to better inform the public of the realities of the conditions in which the government has caused these young asylum seekers to live.

Senator McGauran—What are the conditions like?

Senator KIRK—I can tell you if you wish to know, Senator McGauran.

Senator McGauran—I am dying to know your assessment.

Senator KIRK—I did not want to go into this but, since you have asked me, I will. Although the Baxter facility is well equipped, that does not change the fact that the children are still held there. It is almost impossible to see outside. When you look around, all you can really see of the outside is the sky above you. In my opinion—and, I think, in the opinion of most South Australians—this is not the kind of environment young children should be living in. They should be outside, they should be playing with kids their own age and they should not be experiencing the trauma that many of these children are experiencing.

When I was at Woomera I also visited the Woomera Residential Housing Project, and I formed the opinion that this housing arrangement is a lot more suitable. If it is the case that we need to hold people whilst we process their claims for asylum, in my view this is the way to do it. I remind the government again that it is still to deliver on an unfulfilled promise made, I think, towards the end of last year to introduce more of these facilities for asylum seeker families in detention around Australia.

The residential housing project at Woomera is an important step in rebuilding Australia’s tarnished international human rights reputation, but there is still much more to be
done. I was pleased to hear Minister Vanstone say in the chamber today that progress is being made in establishing a similar housing project in Port Augusta in South Australia. That needs to be done as quickly as possible, because a number of detainees who were in the Woomera Residential Housing Project when the Woomera detention centre was closed have been separated from their husbands and fathers who have been transferred to Baxter.

As I have done many times in the chamber, I emphasise that all children, whether or not they are refugees, deserve the freedom to be with their families in a safe and healthy environment. No reasonable person could argue that denying children their fathers or penning them in behind razor wire is giving them a safe or healthy way to grow up. (Time expired)

Superannuation Committee: Government Response

Senator WATSON (Tasmania) (8.06 p.m.)—Yesterday we had some good superannuation news when the Senate passed the Superannuation (Surcharge Rate Reduction) Amendment Bill 2003, thereby reducing the superannuation surcharge from 15 to 12.5 per cent over three years. This is in addition to the government’s co-contribution into a superannuation contribution account for folk with incomes under $40,000. In fact, it is particularly generous for those whose income is under $27,500 because, for every $1 contributed into a superannuation fund up to $1,000, the government makes a matching dollar for dollar contribution.

Tonight I want to add some further good news in the form of the response from the government to the superannuation committee’s earlier report on the taxation treatment of overseas superannuation transfers. In July last year the Senate Select Committee on Superannuation conducted a brief inquiry into the manner of treating the taxation of superannuation entitlements being transferred from overseas into Australia. The inquiry examined the current arrangements applying to the transfer of foreign superannuation, in particular the way it is assessed as if it were the income of an individual, and the time any liability accrues and is paid. A threshold issue for the committee, therefore, was whether the increase in the value of a superannuation entitlement should be included in the income of an individual when it is transferred to Australia as a lump sum. Currently, that income, or the increase in value, is treated as if it were the income of an individual. Such a transfer could produce a number of very severe tax consequences for individuals because it would involve it being taxed at the marginal rate. It could also create a number of other liabilities such as introducing a super surcharge, a Medicare surcharge, a child support surcharge, or the loss or extinguishment of social security benefits.

Let me give you a simple example of the sort of problem the committee grappled with and how the government has successfully resolved that issue. We had a member who commenced working in the UK in 1975 and arrived in Australia in 1993. At the time, the accrued value of the member’s superannuation entitlements was something of the order of $60,000. But, according to the rules of the UK pension scheme, when the person reached 55, the accrued value immediately jumped—as is often the case with many defined benefit funds—to over $450,000. That was a jump from $120,000. If the member then decided to transfer the entitlements to an Australian superannuation fund, because of the application of income tax rules 27CAA, the assessable amount would be $450,000 less $60,000—the amount of the employer contribution since 1993. If these contributions were nil—for example, if the employer had been on a contribution holiday...
due to a surplus in the UK account—this would seem to result in $390,000 being taxable. Where is that person going to get that money to pay that tax if it was going to be taxed as individual income? Those were the sorts of problems the committee grappled with.

The inquiry examined the current arrangements which applied to the transfer of such foreign superannuation monies, in particular the way that it was assessed as the income of an individual and the time any tax liability was accrued and subsequently paid. The current arrangements were not necessarily set up to appeal fully to Australians who move around the world as part of their lifestyle or professional and business requirements. It is important that we recognise that we do need to encourage these people to transfer their money into Australia. We also need to ensure that migrants wishing to transfer their savings into superannuation funds here are not deterred from doing so or punished or unfairly treated when they make such a decision.

In its report, the committee provided a number of options to government, and I am very pleased that the government has responded so positively. In fact, we looked at 18 possible scenarios or recommendations designed to address or possibly improve the administration and the fairness of the process, and the government has now responded to the report and, in particular, the recommendations in a very positive way. Tonight I would like to briefly comment on the government’s response and its application. By far the main recommendation of the committee was that, when a lump sum is transferred from a non-complying superannuation fund to an Australian complying fund, the amount that is calculated under section 27CAA of the Income Tax Assessment Act should be included in the Australian fund’s assessable income as a taxable contribution. In this way, the amount should not be included in the assessable income of an individual resident for whom it is transferred. So it goes into the taxable account of the fund rather than the individual. More importantly, it is the tax rate that applies that is the good feature.

I am pleased to note that the government has supported this recommendation in principle and reported that it will consult with the superannuation industry and other interested parties to finalise the details of the recommended changes and to ensure that there are no unintended consequences of such a change. Under the government’s approach, section 27CAA, the amount of the transfer—that is, the growth in the overseas superannuation since the person became a resident—will not be included in the individual’s assessable income at the time of transfer. Instead, the fund will treat the amount as a taxable contribution, with the amount included in the fund’s assessable income and subject to tax, not at the marginal rate of an individual but at the usual superannuation contribution rate of 15 per cent. And tax will be paid by the fund. So that overcame the tax problems. Benefits tax on the 27CAA amount will apply in the normal manner when the benefit is ultimately paid out. Other parts of the transfer will remain unchanged as an undeducted contribution.

The committee felt that perhaps it could be desirable to extend the six-month exemption so that, if money is transferred within six months of leaving the UK, it is exempt. A lot of witnesses suggested that we should extend it to two years. I can understand the government limiting it to six months, given that it has taken up the option of taxing it within the fund at the 15 per cent contribution rate. So that is good news.

The government has indicated in its response that the ATO will also be taking steps to improve the level of taxpayer understanding and awareness of section 27CAA,
thereby reducing the possible number of cases where the six-month concession period is missed because of ignorance of the likely taxation consequences. A number of other recommendations of the committee have been addressed by draft ruling 2003/D2 of the tax office, which was issued on 9 April and which addressed a number of the other issues raised by our committee. The ruling especially clarifies a number of areas where double taxation may have been possible and where the committee recommended action was needed to remove uncertainty. The committee was also keen to ensure that the rules in relation to transfers of superannuation amounts were made clear through the development of bilateral protocols between countries. In particular, it was considered important that priority be given to developing a protocol between the UK and Australia.

I am pleased to note that the government’s response to this recommendation is that the relevant agencies—APRA, the Australian Taxation Office and Treasury—have been asked to facilitate the exchange of information between countries to make the operation of the provisions more efficient. The committee believed that anomalous situations existed which discriminated unfairly against some migrants, as in the case I illustrated earlier, and which were a deterrent to bringing funds to Australia—they certainly were until this change was brought about.

It is important that the government supports the development of all initiatives necessary to encourage all Australians to make better provision for their retirement incomes. I believe that the government’s response to many of the recommendations contained in the committee’s report on this significant topic will assist in encouraging people to make better provision for this critical challenge. This week we have seen some pretty positive change to superannuation in this country, so I think it has been a good month for superannuation, a good month for savings and a good month for people who want to invest in superannuation. (Time expired)

Brisbane Airport Development

Senator SANTORO (Queensland) (8.16 p.m.)—Last month I said a few words in this place about the curious policy of the Brisbane City Council towards the Brisbane airport, in whose management company the council—and therefore the ratepayers—are shareholders. Honourable senators will perhaps recall that on that occasion I noted that the Labor Lord Mayor of Brisbane, Councillor Tim Quinn, was suing himself and, as at the last report, he still is. Under Councillor Quinn’s curious spin on how the world goes round, the city council has joined with Westfield in litigation opposing retail competition for the corporation, which in 2002 gave the Queensland Labor Party $40,000.

Tonight I would like to tell the Senate that the new Labor Party determination to obstruct Brisbane’s airport development and employment opportunities for more Queenslanders has spread. It used to be just the personal re-election platform of the member for Griffith, and then it became part of the Labor controlled Brisbane City Council’s bid to acquire powers over land it has no powers over and the additional income stream that would accrue.

Now the member for Lilley in the other place has caught the bash-the-airport bug. It is not clear at this stage whether he picked up this distemper from City Hall or from Wynnum Road at Morningside, where the member for Griffith fulminates and froths and postures and plots about Brisbane airport. But it is very strange—wherever he got it from. The seat of Lilley takes in not only the airport but also a large part of the surrounding area of Brisbane from which the airport’s 8000-strong present work force is largely drawn and which will perhaps provide the
bulk of the projected 40,000-plus employees of airport based enterprises in 20 years.

The member for Lilley has been largely quiet up to now, unlike his party mate across the river in the electorate of Griffith, who has built his political career on proving that commitment to logic does not necessarily attach to the quantum of brainpower with which he is generally credited. The member for Griffith, when he is not being televised listening without earphones to orations in Mandarin, likes to be on television, on the radio or in the press—live or otherwise—making a lot of noise about aircraft noise. Some people suggest that when he is in full cry on this issue, which he often is, the member for Griffith makes more noise than the planes he complains about. He is seeking protest votes of course and, in the beginning, in the absence of any, he set out to create a protest vote for which he has been the electoral beneficiary.

Can it be that his colleague the member for Lilley is so forlorn about his prospects next time around, under his present hapless leader or his successor, also known as Anybody Else, that he now sees the electoral benefits of a short-sighted attack on Brisbane’s biggest single employment growth point? His newly vocalised problem appears to be the sudden appearance—that is his presentation of the facts—of the projected parallel runway the airport is planning for. It apparently does not matter to the member for Lilley that a parallel runway has been in the plans for three decades—separated from the existing runway by two kilometres—and that as a consequence it is far older than his tenure in the seat, or indeed that of his Labor predecessor Elaine Darling. In the fashion of his friend across the river in the electorate of Griffith, apparently the member for Lilley has decided that he will not let the facts get in the way of creating a protest.

The member for Griffith, by the way, has returned to the front line on this. He seems to be circulating a letter in his constituency that makes some robust claims—robust, that is, in the sense of being wrong in a rather fundamental way—about the business development position of the operators of Brisbane airport. In a similar way, the member for Lilley is being transparently and cynically political in his new assault on the development of the airport, where incidentally the second runway—moved further towards Moreton Bay in the latest proposal—is not yet under construction and is not planned to be operational until 2012.

I can tell the Senate tonight that he had a meeting in his office on Friday, 10 October 2003 about the civic horror which he now claims is about to be visited on his constituents by virtue of the planned expansion of Brisbane airport’s capacity to handle growing demand. Seven people attended the meeting, including the local federal member himself and the local city councillor, Kim Fles sor—another one of those canny Labor fellows from City Hall who has been attracted by the strange practice of suing himself. It is obviously a red-hot issue in Lilley!

According to the member for Lilley, the new master plan being developed by the Brisbane Airport Corporation is no different from the last one. He has certainly got that right in two respects: it still contains the proposed second parallel runway that has always been there, and it still proposes to build an economic enterprise zone that will contribute mightily to the future prosperity of his constituents. According to the member for Lilley, the airport corporation has failed to take on board input from the community. But it has—to the extent required by the Airports Act 1996, the Labor Party’s own act—and in fact its consultation has been in excess of the act’s requirements.
According to the member for Lilley, the airport corporation has failed to position the proposed future parallel runway closer to the existing runway. Instead it has remained where it was always planned, with a two-kilometre separation. It has done this for sound operational reasons. The separation is required to meet the stringent operational safety standards for lateral and vertical visibility that international aviation rules demand and which the public would certainly expect to be met.

According to the member for Lilley, this separation is all about creating space for commercial development between runways. But that is not the reason and that is not the plan. The member for Lilley knows what an airport looks like and what is likely to be found within the part used for aviation purposes. The second runway will require new terminal space, taxiways and associated aviation infrastructure. According to the member for Lilley, there is nothing about noise associated with the new runway in the new master plan—and the airport has failed to publish flight paths. The fact is the new runway is now proposed to be positioned closer to the bay and further still from the nearest residential area over which aircraft would fly on the occasions when they did not land or take off over the bay. Today’s aircraft are quieter and climb more steeply than their predecessors. The nearest housing from the proposed southern end of the new runway is 6.4 kilometres away. Aircraft taking off in that direction would be 900 to 1,200 metres high by that time.

Finally—and the member for Lilley, just like his mate across the river in Griffith, certainly knows this—flight paths cannot be fixed 10 years out from the time the new runway is expected to come into service. Aircraft technology is changing constantly. Aircraft noise is reducing exponentially. Furthermore, as the newly vocal member for Lilley and the serial circulator of misinformation in Griffith know very well, airport operators do not develop flight paths. And in any case flight paths are not the responsibility of an airport operator. In the nine-year or 10-year time frame for the second runway to come into operation, new aircraft technology and development of the existing capacity to operate aircraft in some tailwind conditions—and thus in Brisbane’s case to have them both landing and taking off over Moreton Bay—are expected to heavily minimise the number of aircraft flying over residential areas.

It would be a shockingly cynical move for the member for Lilley to create an issue—again like his vocal mate across the river—for personal electoral gain. We can all understand that he might be nervous about how he will fare in the coming federal election, but running around with scare stories is not an honest approach to dealing with that problem. It is particularly unfair to his constituents, who might be duped into believing that what the local member says bears some relationship to the truth. It is also unfair to the Brisbane Airport Corporation, which complies with the Commonwealth legislation under which all Australian capital city airports operate, but which genuinely tries to be a good corporate citizen in excess of its legislated duty. There is not enough credit given to good corporate citizenship—generally, and in this case specifically.

At the Nundah Village Festival, held in September—and the member for Lilley will know this, because he had a stall there—the Brisbane Airport Corporation was a participant and a sponsor. It recorded no negative approaches from local residents who called at its stall on the day. In fact, there was a lot of positive interest in the future employment prospects the planned expansion of the airport would bring. I expect that the Queensland Premier, who is always on the lookout
for future prospects to spruik and claim credit for, would be glad to hear that the sensible people of Nundah want a future that is as prosperous as possible. They do not want to run away and hide from it, like their local member and their local Labor councillor.

One of the initiatives the airport corporation is developing—in excess of its requirements under the Airports Act—is the Brisbane airport noise management strategy, a dynamic document that will for the first time bring together all measures to minimise noise from aircraft using Brisbane airport. The preferred mode of operation at Brisbane airport is for aircraft to be directed over Moreton Bay and away from residential areas. Managing the impact of aircraft noise to acceptable levels is a responsibility shared by airlines, Airservices Australia, the Civil Aviation Safety Authority, the airport operator, and land use planning authorities. As the member for Lilley knows very well, the Brisbane Airport Corporation takes a leadership role in ensuring implementation of noise management strategies that minimise the impact of noise on the community. Its noise management plan includes: establishment of noise exposure forecasts; proposals for managing aircraft noise intrusion above significant, that is, 30 ANEF levels; actively reviewing infrastructure; pursuing noise abatement procedures; community and industry consultation; and placing operational restrictions on aircraft engine ground running.

The key to any sensible development is achieving a balance between economic growth and environmental and social management. The bottom line for the vast majority of people is economic advance that creates growing numbers of jobs in places where people live who want those jobs. Perhaps it is that which separates the Labor Party from reality and the possibility of creating private sector industrial and commercial environments where it is not a crime to maximise opportunity and actually build something that will help meet the real needs of the people for the future. If so, that is sad. If it is not so, the member for Lilley might like to explain to the people of his constituency exactly why he wants to stand in the way of properly ordered progress and growth, and why he thinks it is okay to foreclose on future jobs—other than his own apparently, which he desperately trying to protect—in what should always be Australia’s most dynamic and progressive region.

Trade: Live Animal Exports
Agriculture: Sugar Industry

Senator O’BRIEN (Tasmania) (8.27 p.m.)—It would appear that the first phase of the Cormo Express saga is coming to an end. Most of the 52,000 surviving sheep are now on dry land for the first time in 80 days. However, it is not clear whether or not Eritrea will be their final resting place. Yesterday I asked Senator Ian Macdonald, the Minister representing the Minister for Agriculture, Fisheries and Forestry, Mr Truss, whether he could guarantee that the sheep will not be on-sold to Saudi Arabia. Senator Macdonald said he could not rule out such an option being pursued by the new owners of the sheep. Today Mr Truss confirmed there was nothing in the agreement with Eritrea that prevents that country from on-selling these sheep. He sounded very defensive and so he should be—this episode has made Australia an international laughing stock.

The government and the industry must now focus on recovering our battered reputation as both a trading nation and a champion of animal welfare. When I refer to the new owners, it is important to note that Eritrea accepted these sheep only because they were free. In addition, Eritrea managed to secure a range of incentives. When I say ‘incentives’, I am talking about Harvey Norman with a
pike. It was impossible not to accept this offer. Who needs 14 months interest free terms when you get the sheep for nothing, a heap of free feed, full vaccination of the animals and logistics thrown in for free, and then—just to top it off—an up-front payment of $1 million with no trade-in required?

Senator Ferris—And steak knives.

Senator O’BRIEN—I don’t think they needed steak knives for the lamb, Senator Ferris. They had been tenderised by 80 days at sea, apparently. Nor would you have needed salt, I suspect. In the world there are 193 sovereign nations, 61 dependent areas and six disputed territories. I understand the government tried out the package accepted by the Eritreans, or a variation thereof, on 57 of those nations without success. That is, Australia went cap in hand to around 30 per cent of the world’s sovereign nations trying to off-load these sheep.

I say ‘Australia’ because in recent weeks Mr Truss has been involved in seeking a resolution to this fiasco in name only. The matter has been largely managed by others. The strategy was driven by the Prime Minister’s private office and his department. Management of this fiasco was only dragged back on the rails when responsibility was taken away from Mr Truss, but the damage to our reputation as a trading nation and a nation with high animal welfare standards had well and truly been done by then. Mr Howard should have moved to sideline Mr Truss sooner. Senators would recall that I called on Mr Howard to remove his agriculture minister from management of this disaster in a media statement on 29 September. It appears that he took my advice.

The seeds of this fiasco were sown some time ago, when Mr Truss failed to heed expert advice about action required to put the live export industry on a sound footing. It has long been clear to everyone except Mr Truss that the long-term future of this industry depends on the enforcement of minimum animal welfare standards. It needs to build a positive reputation as a manager of animals as a buffer against unforeseen problems with individual shipments. Mr Truss had a number of chances to do just that. In response to a number of significant incidents affecting the welfare of animals, Mr Truss established the independent reference group of experts in July 1999. That group was asked to develop a plan for industry reform and to report to the minister by February 2000. They did, and in that report the group told Mr Truss:

... unless robust systems are in place to support animal health and welfare, and to address customer and community concerns, the ongoing viability of the livestock export trade will be jeopardised.

In February 2000, Mr Truss was given a clear message by an expert panel about what was needed and the consequences for the industry if he failed to act on its recommendations. In October last year, Mr Truss was forced to reconvene the same group of experts. That group was recalled due to another series of live export incidents involving unacceptably high mortality levels. The second independent reference group report stated, in part:

The IRG considers that the recent spate of livestock export incidents, particularly in shipments originating from Portland, is evidence of systemic failures within the whole live animal export program and associated framework.

The IRG recommends that industry and government urgently address these incidents in a transparent and comprehensive manner, otherwise Australia’s reputation could potentially be damaged.

The IRG strongly believes that its report of February 2000 remains highly relevant as the basis for delivery of sustainable animal welfare outcomes for the live animal export trade.
So we had the minister’s key advisory panel telling him at the end of 2002 that, if he wanted to fix up this important industry, he could start by implementing the recommendations it made to him two years earlier. Those words are a shocking indictment on the performance of Mr Truss, and the future of a $1 billion industry is at risk as a result.

The administration of the regulatory regime for the live export industry is very much a matter for Mr Truss. The expert group found that neither the bureaucracy nor the industry were enthusiastic about making the cultural shift required to reform the trade. I am not surprised about the reluctance of the industry to make the change, but there is no excuse for the government and, in particular, the responsible minister. Mr Truss was responsible for driving the necessary change in his department. It was also his job to forcefully introduce reform to the live export industry. He did neither. In fact, the evidence suggests that Mr Truss ignored the recommendations made in 2000 by his own expert group. It is clear that Mr Truss’s indifference to the fate of animals in the live export industry contributed to the mortality crisis that beset the industry in mid-2002.

A third attempt was made to reform the live export industry with the release of an action plan in October last year. Some progress has been made on implementing recommendations contained in the action plan, but it appears key changes remain undone. Despite the worthy aims of this action plan process, it has not delivered timely and effective reform to the live export industry. The reason is simple: the minister has not driven change and does not have the capacity to drive change.

In recent days the minister has announced the Keniry inquiry—round 4 in efforts to implement actual change in the operation of the live export sector. I note that one of the members of the panel appointed to undertake review No. 3 to develop reform plan No. 4, Mr Lachlan Gosse, is the next-door neighbour of one of Mr Truss’s senior advisers. I am reliably advised that the adviser in question is a very competent officer, so I will resist describing this inquiry as the son of Estens. As senators are aware, Mr Anderson appointed his neighbour to head up the Estens inquiry into Telstra services—an inquiry designed to justify a sale of Telstra. I do not question the integrity of the Keniry review members; I just do not trust the minister.

On behalf of the opposition, I insist that the minister publish the full terms of reference for the review and provide contact details permitting industry groups, animal welfare organisations and individual Australians an opportunity to make submissions. This inquiry must restore credibility to the live export industry. It must produce a set of recommendations that, if implemented, will convince the animal welfare lobby, the talk-back hosts and the broader Australian community that this industry can operate in a way that meets appropriate standards. I called on the government to establish an independent inquiry on 29 September.

Given the serious damage inflicted by the Cormo Express fiasco, the Keniry review might be the live export industry’s last hope. The Keniry inquiry could do worse than look at the key features of the plan for this industry outlined by Labor in a policy document released on 30 July this year. Labor in government is committed to reforming the Livestock Export Accreditation Program by strengthening accreditation auditing, improving the monitoring of exporter quality assurance systems and adherence to industry regulations and standards, ensuring effective remedial and disciplinary action linked to adherence to industry regulations and standards and animal mortality outcomes, and requir-
ing regular reporting to government on audit outcomes and remedial and disciplinary action.

Upon attaining office, Labor will also seek to reform the Livecorp board to ensure that its membership comprises a majority of special qualification members. Under Labor there will be a significant improvement to mortality investigation and reporting. The Department of Agriculture, Fisheries and Forestry would coordinate reporting by AQIS and AMSA, and a Labor minister for primary industries would ensure that consolidated data and mortality reports were tabled in the House of Representatives and Senate during each sitting period. A Labor government will publish consolidated mortality data and the details of transgressing export companies on the departmental website. Under Labor there will be effective action against exporters with poor records.

Labor will also promote the development of an international convention standard regulating vessels that transport live animals by sea, based on the Australian Maritime Safety Authority Orders, part 43. I note that there is an online article that suggests that an Israeli court has commented unfavourably on our export industry and on the fact that there are no internationally accepted animal welfare standards for the live export industry. It is also important that Australia continues to develop its carcass trade, and a Labor government would support government-to-government representations and there would be government support for industry based marketing.

The process of a seemingly endless but failing reform agenda for the live export sector unfortunately mirrors Mr Truss’s proposed reform plan for the sugar industry. As with live exports, there have been a number of adjustment packages developed but not properly implemented. As with the live export sector, cane growers have been drawn into processes that cost them time and money but deliver nothing to them in return. The Howard government produced its first sugar industry reform package in July 1998. That failed and Mr Truss was forced to implement a second assistance package in September 2000. At a press conference on 31 August 2000, the Deputy Prime Minister, Mr Anderson, said:

I’ve been working now with the sugar industry for some months about the very real difficulties that they face and I’m delighted at the package that Warren Truss will be announcing tomorrow ... It’s going to make a huge difference.

He continued:

For some it might simply look like a package. To people in the industry it’s going to appear as a godsend. It is going to make a huge difference ... It gives them a future given they have suffered a series of very real setbacks ... This will secure it ... The package was to cost $83 million but in the end only $60 million was spent. That package failed. Mr Truss was then forced by the ongoing crisis engulfing cane farmers to commission an independent assessment of the industry. That occurred in February 2002. The assessment was to examine the state of the Australian industry, particularly its key economic, social and environmental drivers, to identify opportunities for change that would lead to new innovation and investment, and enhance the long-term profitability and sustainability of industry participants and dependent communities.

I assumed that Mr Truss would have undertaken such an assessment prior to the finalisation of the 2000 sugar support package but it appears that was not the case. The assessment, conducted by the then Chair of the Sugar Research and Development Corporation, Mr Clive Hildebrand, was presented to Mr Truss in June last year. Mr Truss held a doorstop interview in Canberra at 5.15 p.m.
on 10 September to announce some details of his next attempt at assistance to the sugar industry. This was the third sugar adjustment package in under four years. As with its predecessors, this package has gone nowhere. The only funds spent to date have been for the provision of immediate income support to some growers and to provide some help to farm businesses through interest subsidies.

The prospects of significant reform to put the sugar industry on a sustainable long-term footing is fading by the day. As with the live export industry, this attempted reform of the sugar industry has been driven by crisis, and is not based on a strategic approach to industry development. It is vintage Warren Truss: reactive not proactive. Again it will be growers who pay the price, not the minister. Cane growers are facing a declining price for their crop. They are battling a dollar now worth US70c and appreciating by the day, and they are facing rising production costs. This is a depressing outlook for a key regional industry that generates over $1 billion in export income.

When one looks at nearly any area of the agriculture portfolio there is one common thread—that is, there is no strategic approach for managing change. There is not even a strategic approach for development. This is not a criticism of departmental officers. The problem is not the ability of the department to build such plans—they have done just that in the past—the problem is the lack of direction provided by the minister. That is not a political point; it is grounded in Mr Truss’s ministerial record. What other conclusion could be reached, given the three failed attempts to reform the sugar industry in just four years? What other conclusion could be reached, given the three failed attempts to reform the live export industry since February 2000?

It is Labor’s view that a strategic approach is essential if our key rural sectors are to play the role they must in the economic wellbeing of Australia, particularly regional Australia. I know that that view is shared by a number of those who sit opposite us in this chamber. The binding of the agriculture portfolio to The Nationals is proving disadvantageous—even disastrous—for Australian farmers. In the case of the sugar industry and the live export sector, the very existence of many farmers and others dependent on these sectors is under threat. While there is no doubt that The Nationals are intellectually bankrupt, there is still a spark among the ranks of the Liberal senators and members in the other place. To say that a change of minister in the agriculture portfolio is important is a gross understatement in our view because the future of thousands of farmers now depends upon it.

**Senate adjourned at 8.44 p.m.**

**DOCUMENTS**

**Tabling**

The following government documents were tabled:

- Airservices Australia—Report for 2002-03.
- Attorney-General’s Department—Report for 2002-03.
- Australian Competition and Consumer Commission—Report for 2002-03.
- Australian Customs Service—Report for 2002-03.
- Australian Hearing Services (Australian Hearing)—Report for 2002-03.
- Australian Industry Development Corporation—Report for 2002-03.
- Australian Maritime Safety Authority—Report for 2002-03.
- Australian Nuclear Science and Technology Organisation (ANSTO)—Report for 2002-03.
Australian Pesticides and Veterinary Medicines Authority (known as National Registration Authority for Agricultural and Veterinary Chemicals until March 2003)—Report for 2002-03.
Australian Strategic Policy Institute Limited—Report for 2002-03.
Australian War Memorial—Report for 2002-03.
Comcare—Report for 2002-03, including the report of QWL Corporation Pty Limited.
Commissioner for Superannuation (ComSuper)—Report for 2002-03, incorporating reports on the administration and operation of the Papua New Guinea (Staffing Assistance) Act 1973 and the Superannuation Act 1922.
Commissioner of Taxation—Report for 2002-03.
CSS Board—Commonwealth Superannuation Scheme—Report for 2002-03.
Dairy Adjustment Authority—Report for 2002-03.
Dairy Research and Development Corporation—Report for 2002-03.
Department of Agriculture, Fisheries and Forestry—Report for 2002-03.
Department of Employment and Workplace Relations—Report for 2002-03.
Department of Family and Community Services—Report for 2002-03—Volumes 1 and 2.
Department of Finance and Administration—Report for 2002-03.
Department of Immigration and Multicultural and Indigenous Affairs—Report for 2002-03, including reports pursuant to the Immigration (Education) Act 1971 and the Australian Citizenship Act 1948.
Department of Veterans’ Affairs—Data-matching program—Report for 2002-03.
Employment Advocate—Report for 2002-03.
Family Law Council—Report for 2002-03.
Film Australia Limited—Report for 2002-03.
Film Finance Corporation Australia Limited—Report for 2002-03.
Fisheries Research and Development Corporation and Fisheries Research and Development Corporation Selection Committee—Reports for 2002-03.
Grains Research and Development Corporation and Grains Research and Development Corporation Selection Committee—Reports for 2002-03.
Insolvency and Trustee Service Australia—Report for 2002-03.
Land and Water Resources Research and Development Corporation (Land and Water Australia)—Report for 2002-03.
National Australia Day Council—Report for 2002-03.
National Road Transport Commission—Report for 2002-03.
Office of the Official Secretary to the Governor-General—Report for 2002-03.
Private Health Insurance Administration Council—Report for 2002-03.
PSS Board—Public Sector Superannuation Scheme—Report for 2002-03.
Repatriation Medical Authority—Report for 2002-03.
Rural Industries Research and Development Corporation—Report for 2002-03.
Seafarers Safety, Rehabilitation and Compensation Authority—Report for 2002-03.
Sydney Harbour Federation Trust—Report for 2002-03.
Tobacco Research and Development Corporation—Report for 2002-03.
Wet Tropics Management Authority—Report for 2002-03.

**Tabling**

The following documents were tabled by the Clerk:

**Defence Act**—Determination under section—
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Health: Complementary Medicines
(Question No. 1943)

Senator Allison asked the Minister representing the Minister for Small Business and Tourism, upon notice, on 9 September 2003:

(1) Given that, according to the Complementary Healthcare Council, sales of complementary medicines are down 20 to 40 per cent and export sales are down by $200 million, does the Government intend to compensate small retail businesses for this economic loss and the general decline in consumer confidence.

(2) What response has the Government made to the request from the council for funds to invest in marketing for the industry and positive statements from the Government about complementary medicines.

(3) What is the progress on the Government’s request to major distributors that claims by small business for refunds to consumers on recalled products should be expedited.

(4) Is the Government monitoring the financial impact of this recall on small business; if so, what is the impact; if not, why not.

Senator Abetz—The Minister for Small Business and Tourism has provided the following answer to the honourable senator’s question:

(1) It is regrettable that some firms have been adversely affected by the Pan recall. Affected businesses are taking appropriate commercial action to pursue their claims such as legal action, insurance claims and seeking redress through the Pan administration process. The Government does not intend to provide separate assistance.

(2) The Minister for Small Business and Tourism has not received any formal request from the Complementary Healthcare Council for funds for marketing, nor is he aware of such requests to other Australian Government ministers. The Minister has lent his support to the complementary health care industry. For example, see his press release of 6 May 2003.

(3) In early May, the Minister contacted major distributors, who gave a commitment to expedite claims by small retailers for refunds on recalled products returned by consumers and refund all retailers as soon as practicable. For example, Mayne Pharmaceuticals advised that it refunded retailers for returned products at the list price.

(4) The Minister is taking an interest in the impact of the Pan recall and subsequent consumer recovery on the complementary healthcare industry. The Minister has asked industry associations to keep him informed of developments and the Department of Industry, Tourism and Resources has been in contact with companies.

The industry has been through a challenging period with reports of some small retailers having failed, job losses and some loss of export markets, particularly in Asia.

Recent reports indicate that the industry is showing signs of recovery. For example, analysis by AC Neilson indicates that by mid-August, some 16 weeks after the initial recall, the volume and value of sales of vitamins in supermarkets and grocery stores appear to have fully recovered. There has also been brand switching. Sales by pharmacies and health food stores seem to be taking longer to recover. The President of the Pharmacy Guild of South Australia was reported in July as saying that sales of vitamins and complementary medicines in pharmacies were returning to normal.
**Senator Chris Evans** asked the Minister for Defence, upon notice, on 9 September 2003:

Can a market valuation be provided for each property sold by Defence during the 2002-03 financial year.

**Senator Hill**—The answer to the honourable senator’s question is as follows:

A spreadsheet providing market valuations for property sales in 2002-03 is attached.

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<td>4810</td>
<td>$800,000.00</td>
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<tr>
<td>Voyager Point</td>
<td>Sirus Rd</td>
<td>NSW</td>
<td>2213</td>
<td>$16,600,000.00</td>
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<td>$17,900,000.00</td>
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<tr>
<td>Weston Creek</td>
<td>Kirkpatrick St</td>
<td>ACT</td>
<td>2611</td>
<td>$27,000,000.00</td>
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