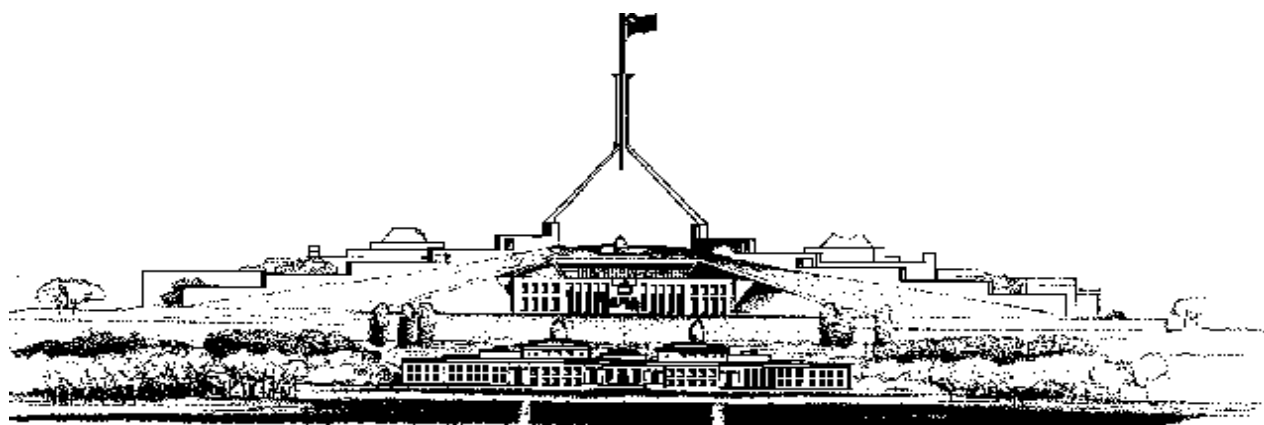




COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



SENATE

Official Hansard

No. 10, 2002

THURSDAY, 26 SEPTEMBER 2002

FORTIETH PARLIAMENT
FIRST SESSION—THIRD PERIOD

BY AUTHORITY OF THE SENATE

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SITTING DAYS—2002

| Month | Date |
|-----------|--------------------------------|
| February | 12, 13, 14 |
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| May | 14, 15, 16 |
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| November | 11, 12, 13, 14, 18, 19, 20, 21 |
| December | 2, 3, 4, 5, 9, 10, 11, 12 |

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Thursday, 26 September 2002

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

NOTICES

Presentation

Senator Lundy to move on the next day of sitting:

That the Senate congratulates:

- (a) the Australian Sports Commission for initiating the Australian Sports Commission Media Awards, which encourage broad and in-depth coverage of sporting issues in Australia;
- (b) the many journalists and photojournalists who were nominated in the seven categories which comprise the inaugural Australian Sports Commission Media Awards;
- (c) sports journalist, Mr Harry Gordon, who was awarded the Australian Sports Commission's Lifetime Achievement Award for his services to the media for more than 60 years; and
- (d) all the award winning journalists and photojournalists, including:
 - (i) Best Reporting of an Issue in Australian Sport: Kate McClymont and Anne Davies of the *Sydney Morning Herald*,
 - (ii) Best Sports Journalism from Rural or Regional Media: Brett Kohlhausen of the *Border Mail*, Albury,
 - (iii) Community Sport Media Award: David Pearson and Brian Webb, 'Topsport 104.1 FM' Darwin,
 - (iv) Youth Sport Media Award: Amanda Smith of ABC Radio National's, *The Sports Factor*,
 - (v) Best Journalism on Australian Sports Commission-related Programs: Robert Drane *Inside Sport*, and
 - (vi) Best Sports Photojournalism: Bruce Long of the *Courier Mail*.

Senator Allison to move on the next day of sitting:

That the Senate—

- (a) requires advice from the Australian Competition and Consumer Commission (ACCC) on its progress in responding to

the Senate order of 27 June 2002 and its expected date of reporting to the Senate; and

- (b) requires the ACCC to investigate and report to the Senate by 22 October 2002 on:
 - (i) the amount of money collected by tobacco retailers from consumers in respect of state and territory tobacco franchise fees relating to the period 1 July 1997 to 5 August 1997 but not forwarded by tobacco retailers or wholesalers to the states and territories or to the Commonwealth ('the windfall'), and the amount of recoverable interest accrued since 5 August 1997,
 - (ii) the appropriate federal legislative response to Justice Kirby's High Court judgment of 6 December 2001 in *Roxborough v Rothmans* viz, 'The "windfall" should remain with the wholesaler to await the legislative measures (if any) for disgorgement to the benefit of users of tobacco, products or otherwise, as the Federal Parliament may enact', and
 - (iii) its recommendations on the possible distribution of the windfall and/or appropriate use of the windfall in anti-smoking measures and litigation against tobacco companies that have engaged in misleading and deceptive conduct or unconscionable behaviour and similar recommendations in respect of the proceeds of any such litigation.

Senator Brown to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act relating to the establishment of a fund for the purpose of education about plastic bag damage to the environment, and for related purposes. *Plastic Bag (Minimisation of Usage) Education Fund Bill 2002*.

Senator Brown to move on the next day of sitting:

That the following bill be introduced: A Bill for an Act to provide for the assessment and collection of a levy on the use of plastic bags at the retail point of sale. *Plastic Bag Levy (Assessment and Collection) Bill 2002*.

Senator TCHEN (Victoria) (9.31 a.m.)—I give notice that, 15 sitting days hence, I shall move:

That regulations 65.060 and 65.270 in item [1] of Schedule 1 of the Civil Aviation Amendment Regulations 2002 (No. 2), as contained in Statutory Rules 2002 No. 167 and made under the *Civil Aviation Act 1988*, be disallowed.

I seek leave to incorporate in *Hansard* a short summary of the committee's concerns with these regulations.

Leave granted.

The document read as follows—

Civil Aviation Amendment Regulations 2002 (No. 2), Statutory Rules 2002 No. 167

The Regulations establish an appropriate framework of safety regulations for the provision of air traffic services and aerodrome rescue and fire fighting services. The Committee has raised the following concerns with the Minister.

Regulation 65.060 prohibits carrying out an unauthorised flight service function. This is a strict liability offence. The Committee notes that 65.045 prohibits carrying out an unauthorised air traffic control function but provides for a defence to a charge under this regulation where the relevant action was reasonable in the interests of safety of aerial navigation. No comparable defence is supplied for regulation 65.060.

Paragraph 65.270(1)(d) provides that CASA may cancel or suspend a licence (etc) if the holder "appears not to have the characteristics of personality, and other psychological attributes" that are necessary to carry out the duties of an air traffic controller or flight service officer. The Committee has sought clarification of how this paragraph is to be applied. For example, what criteria are to be used in determining a person's personality characteristics?

BUSINESS

Rearrangement

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

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

No. 11 ACIS Administration Amendment Bill 2002.

No. 12 Dairy Industry Legislation Amendment Bill 2002.

I seek leave to make a short statement.

Leave granted.

Senator IAN CAMPBELL—I understand that we are still seeking total agree-

ment on those two orders of the day. I make it clear that the government will not proceed with the debate on the bills unless there is a total state of noncontroversy about them. We are hoping to achieve that before lunchtime.

Senator CARR (*Victoria*) (9.33 a.m.)—by leave—I understood the Manager of Government Business in the Senate to be saying that he would not proceed unless there was agreement. I want to register that, where there are second reading amendments to be considered, I do not believe that bills are non-controversial, because they require a vote to be taken. I indicate that government business order of the day No. 9, which is a bill for which I have coverage—

Senator Ian Campbell—We are not moving that. I have moved a motion relating to 11 and 12.

Senator CARR—Why is it on the *Notice Paper*?

Senator IAN CAMPBELL (*Western Australia—Manager of Government Business in the Senate*) (9.34 a.m.)—by leave—My motion dealt with items 11 and 12 to be considered at lunchtime. We are not proposing to deal with item 9. On the broad issue of second reading amendments, generally where the government is of the view that a so-called second reading amendment, known colloquially as a pious amendment, is going to be put and it does not affect the detail of the law, the government is happy to roll over on those things at lunchtime, with a view to making progress.

Senator LUDWIG (*Queensland*) (9.34 a.m.)—by leave—Could I clarify which bills will be dealt with? Is it only the two that you mentioned?

Senator Ian Campbell—Yes.

Senator LUDWIG—Nos 11 and 12, relating to ACIS and the dairy industry?

Senator Ian Campbell—Yes.

Senator HARRADINE (*Tasmania*) (9.35 a.m.)—by leave—It might be all right for the Manager of Government Business in the Senate to talk about rolling over. If there are amendments to the second reading of a bill, that is then not a non-controversial bill as far as I am concerned. Unless I can be otherwise

convinced, that is my current attitude to whether or not a bill is non-controversial. If there is a second reading amendment, clearly it must raise issues of controversy.

Question agreed to.

Rearrangement

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.36 a.m.)—I move:

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

- (1) general business notice of motion No. 191 standing in the name of Senator Sherry relating to superannuation issues; and
- (2) consideration of government documents.

Question agreed to.

NOTICES

Postponement

An item of business was postponed as follows:

Business of the Senate notice of motion no. 1 standing in the name of Senator O'Brien for today, relating to the disallowance of the Civil Aviation Amendment Regulations 202 (No. 2), postponed till 16 October 2002.

COMMITTEES

Foreign Affairs, Defence and Trade Committee: Joint

Meeting

Senator FERGUSON (South Australia) (9.37 a.m.)—I move:

That the Joint Standing Committee on Foreign Affairs, Defence and Trade be authorised to hold a public meeting during the sitting of the Senate on Wednesday, 23 October 2002, from 11 am to 12.30 pm, to take evidence for the committee's inquiry into central Europe.

Question agreed to.

FOREIGN AFFAIRS: IRAQ

Senator BARTLETT (Queensland) (9.38 a.m.)—I move:

That the Senate—

- (a) notes repeated calls for a full parliamentary debate and vote on any decision by the Australian Government to commit Australian military personnel or facilities to a war against Iraq, particularly if any such commitment is proposed in relation to military action

which has not been endorsed by the United Nations; and

- (b) calls on the Government to ensure that a full parliamentary debate and vote on any such proposal occurs on the commitment of Australian military personnel or facilities.

Question agreed to.

UNITED NATIONS: HUMAN RIGHTS COMMISSIONER

Senator RIDGEWAY (New South Wales) (9.38 a.m.)—I move:

That the Senate—

- (a) notes that Ms Mary Robinson ended her term as the second United Nations (UN) Human Rights Commissioner in September 2002, having held the office since September 1997 and having won the praise and respect of human rights advocates around the world for her strong, principled and consistent promotion and protection of fundamental human rights and freedoms;
- (b) welcomes the appointment of Mr Sergio Vieira de Mello as the new UN Human Rights Commissioner, following his leadership of the UN Transitional Administration in East Timor and longstanding contribution to the promotion and defence of human rights in other UN posts, including Kosovo, Lebanon and Cambodia;
- (c) pays tribute to the tireless and courageous work undertaken by Ms Robinson as UN Human Rights Commissioner, acknowledging that she:
 - (i) held this demanding position during a particularly unstable period in world history, including the civil war and peacekeeping effort in Sierra Leone, the civil unrest and wars in the former Yugoslavia, the independence of East Timor, growing unrest in the Middle East, the attack on the World Trade Centre and the war in Afghanistan,
 - (ii) was proactive in her promotion of universal human rights, visiting some 60 countries, including China, Russia and Israel, to address concerns about the erosion of fundamental principles of civil liberty and basic human rights, including the rights of minorities and refugees, and

- (iii) worked skilfully to promote greater public understanding of fundamental human rights, particularly through international conferences, including the UN World Conference on Racism in Durban, South Africa, in 2001; and
- (d) concurs with Ms Robinson's philosophy that anything less than universal adherence to the basic principles of human rights will diminish, 'our capacity to transmit these values to succeeding generations'.

Question agreed to.

ENVIRONMENT: GREENHOUSE GAS EMISSIONS

Senator BARTLETT (Queensland) (9.39 a.m.)—At the request of Senator Allison, I move:

That the Senate—

- (a) notes that:
 - (i) the building sector accounts for about 20 per cent of Australia's greenhouse gas emissions,
 - (ii) the Victorian Government has proposed a compulsory 'five-star' minimum energy rating for new homes,
 - (iii) a minimum five-star energy rating for new houses could halve energy demand for heating and cooling in those homes,
 - (iv) within 10 years this will result in the reduction in greenhouse gas emissions of around 2 million tonnes in Victoria, the equivalent of removing 550 000 cars from the road or planting 3 million trees,
 - (v) most Organisation for Economic Co-operation and Development countries have had minimum building energy performance requirements for more than a decade, and
 - (vi) in comparison with most European countries and North America, the Victorian five-star rating sets a lower standard of energy efficiency;
- (b) welcomes the Victorian Government's move towards reducing greenhouse gas emissions from the building sector; and
- (c) urges the Victorian Government to take the next step by taking into account solar hot water and photovoltaic systems in calculating building energy ratings.

Question agreed to.

UNITED NATIONS: WESTERN SAHARA

Senator BARTLETT (Queensland) (9.39 a.m.)—At the request of Senator Allison, I move:

That the Senate—

- (a) notes that:
 - (i) United Nations (UN) efforts to accomplish the decolonisation process in Western Sahara have not been successful yet,
 - (ii) more than 165 000 Saharawis have been living in refugee camps in the south-west of Algeria for the past 27 years in dire conditions, waiting to return to their homeland which is occupied by Morocco,
 - (iii) the UN Security Council adopted Resolution 1429 on 30 July 2002 and asked the UN Secretary-General and his personal envoy to continue their efforts to provide a genuine opportunity for the Saharawi people to exercise their right to self-determination,
 - (iv) the mandate of the UN mission for the organisation of a referendum on self-determination in Western Sahara expires on 31 January 2003,
 - (v) the only just, legal and lasting solution to the conflict in the Western Sahara is the organisation of a free and fair referendum to allow the Saharawi people to exercise their right to self-determination, in accordance with the UN/Organisation of African Union peace plan, and
 - (vi) a failure by the UN to implement the peace plan would compromise UN credibility and lead to further instability in north-west Africa;
- (b) calls on both parties in the conflict, Morocco and the Frente Polisario, to cooperate fully with the UN in its efforts to organise a free and fair referendum in Western Sahara; and
- (c) urges the Commonwealth Government to make representations to:
 - (i) the UN, urging it to proceed in organising the long overdue referendum of self-determination without further delays, and

- (ii) the Moroccan Government, asking it to cooperate fully with the UN, to respect human rights in the occupied territories and allow independent observers to visit Western Sahara.

Question agreed to.

FOREIGN AFFAIRS: IRAQ

Senator BARTLETT (Queensland) (9.40 a.m.)—At the request of Senator Allison, I move:

That the Senate—

- (a) notes that the National Council of Women of Victoria has expressed great concern at the threatened invasion of Iraq without United Nations sanction and without measuring the incalculable costs to the countless innocents who would suffer as a result of this violence; and
- (b) reminds the Government that countless women and children will suffer as a result of any military action against Iraq.

Question agreed to.

ENVIRONMENT: PLASTIC BAGS

Senator BARTLETT (Queensland) (9.40 a.m.)—At the request of Senator Allison, I move:

That the Senate—

- (a) notes:
 - (i) that Australians use an estimated 13 million plastic bags a year,
 - (ii) that the introduction of a plastic bag levy in Ireland in March 2002 has totally changed consumer behaviour so now about 90 per cent of people bring their own bags to avoid paying the levy,
 - (iii) the serious, and sometimes fatal, impact plastic bags have on Australia's native fauna and flora, and an estimated 100 000 birds, whales, seals and turtles around the world,
 - (iv) that, according to research conducted by the Council for the Encouragement of Philanthropy, 85 per cent of shoppers in Australia support a levy on plastic bags, and
 - (v) the recent comments by the Minister for the Environment and Heritage (Dr Kemp) that the Government is considering a plastic bag levy if measures under the National Packaging Covenant fail;

- (b) congratulates the Council for the Encouragement of Philanthropy in Australia for its research and lobbying for a levy on plastic bags; and
- (c) urges the Federal Government to consider a levy on plastic bags as a priority, independent of the National Packaging Covenant.

Senator Brown—Mr President, on a point of order: I support this motion but note that my information is that six billion plastic bags are issued in Australia each year.

The PRESIDENT—That is no point of order, Senator. You are lucky that you got away with it.

Question agreed to.

Senator Brown—I wish to record my support for that motion and the government's opposition.

The PRESIDENT—I do not think you can speak on behalf of the government, Senator. You have made the point.

FOREIGN AFFAIRS: IRAQ

Senator BARTLETT (Queensland) (9.42 a.m.)—I move:

That the Senate calls on the leaders of all parliamentary political parties to ensure that any parliamentary vote on motions concerning Australian involvement in, or support for, military action against Iraq is a conscience vote.

Question negatived.

Senator Brown—I would like my support for that motion to be recorded.

NOTICES

Postponement

Senator HUTCHINS (New South Wales) (9.43 a.m.)—by leave—I move:

That business of the Senate notice of motion no. 2 standing in my name for today, relating to the reference of matters to the Community Affairs References Committee, be postponed till the next day of sitting.

Question agreed to.

COMMITTEES

Publications Committee

Report

Senator COLBECK (Tasmania) (9.43 a.m.)—I present the third report of the Standing Committee on Publications.

Ordered that the report be adopted.

**TREASURY LEGISLATION
AMENDMENT BILL (No. 1) 2002**

First Reading

Bill received from the House of Representatives.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (9.43 a.m.)—I move:

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

Question agreed to.

Bill read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Treasurer) (9.44 a.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

I rise today to introduce a bill that will clarify the operation of two Acts: the Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001 and the General Insurance Reform Act 2001.

The Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001 has modernised and increased the relevance of data collections from financial sector entities, ensuring that the Australian Prudential Regulation Authority (APRA) collects the data it requires for the purposes of its prudential functions. The provisions of the Act were proclaimed to commence at certain times to enable a staggered introduction.

The General Insurance Reform Act 2001 has substantially strengthened the prudential supervisory regime for general insurers operating in Australia.

The provisions of the Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001 relating to general insurance, Part 3, were intended to commence by proclamation on 1 October 2001 and the General Insurance Reform Act 2001, which amended provisions in Part 3, was drafted accordingly, and came into effect on 1 July 2002.

However, the original proclamation of the commencement of Part 3 was invalid and a further

proclamation was made. This provided that the provisions would also commence on 1 July 2002.

This has led to an ambiguity as it is unclear whether the provisions contained in the Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001, which repealed sections of the Insurance Act 1973, operate before or after the amendments made by the General Insurance Reform Act 2001, which substitute new provisions. The provisions contained within the General Insurance Reform Act 2001 are those that are meant to have effect.

The provisions relate to the role, accountability and responsibility of auditors and actuaries, access to premises and the signing of documents which are all key factors in maintaining an effective prudential framework

The amendments contained within this bill would ensure that the operation of the two Acts had their intended effect by legislating that the provisions of the Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001 commenced immediately before the provisions of the General Insurance Reform Act 2001. This would ensure that, where the same provision is amended by both of the Acts, the amendments made by the Financial Sector (Collection of Data—Consequential and Transitional Provisions) Act 2001 operate first.

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

**BILLS RETURNED FROM THE
HOUSE OF REPRESENTATIVES**

Message received from the House of Representatives returning the following bill without amendment:

Health Legislation Amendment (Private Health Industry Measures) Bill 2002

**HIGHER EDUCATION FUNDING
AMENDMENT BILL 2002**

**Consideration of House of Representatives
Message**

Message received from the House of Representatives returning the Higher Education Funding Amendment Bill 2002, acquainting the Senate that the House has agreed to amendments Nos (1), (4), (5), (9) to (12), (14) and (15) made by the Senate, disagreed to amendments Nos (3) and (7), disagreed to amendments Nos (2), (6), (8), (13) and (16) but has made amendments in place thereof,

and requesting the reconsideration of the bill in respect of the amendments disagreed to and the concurrence of the Senate in the amendments made by the House.

Ordered that the message be considered in Committee of the Whole immediately.

House of Representatives message—

- (1) Schedule 1, item 10, page 6 (lines 13 to 17), omit paragraph (c), substitute:

(c) if the institution is a non-self accrediting private institution:

- (i) is a course that is accredited by a State or Territory accreditation agency listed in the Australian Qualifications Framework Register of Bodies with Authority to Issue Qualifications; and
- (ii) is a course which the Minister is satisfied meets the criteria in place in the National Protocol for the Accreditation of Higher Education Courses to be offered by non-self-accrediting providers, based on the advice of the State or Territory accreditation agency listed in the Australian Qualifications Framework Register of Bodies with Authority to Issue Qualifications.

For the purposes of paragraph (c), a part of an agency is taken to be an agency in its own right.

- (2) Schedule 1, item 12, page 6 (after line 28) after item 12, insert:

12A Subsection 98A(1)

National Protocols means the *National Protocols for Higher Education Approval Processes* (first endorsed by the Ministerial Council on Education, Employment, Training and Youth Affairs on 31 March 2000), as in force from time to time.

- (3) Schedule 1, item 12, page 6 (before line 29), before item 13, insert:

12B Subsection 98A(1)

non-self accrediting private institution is an eligible private institution which appears in column 2 of the table in subsection 98AA(1).

- (4) Schedule 1, item 20, page 9 (lines 9 to 16), omit section 98JA, substitute:

98JA Eligible private institution to report information

- (1) The Minister must, as soon as practicable after 31 December in each year, require each eligible private institution that offers an eligible post-graduate course of study to report to the Minister, in an approved form, information regarding their operations during that year.
- (2) The eligible private institution must comply with a requirement under subsection (1) as soon as practicable.
- (3) The information provided under subsection (1) must include (but is not limited to):
 - (a) information consistent with that required of any institution to which similar financial assistance is granted under this Act; and
 - (b) further information consistent with that required of any institution under this Act, as determined by the Minister.

Note 1: Section 108 requires any institution to which financial assistance is granted to provide a financial statement, together with an auditor's report.

Note 2: The Minister may require statistical and other information under paragraph 18(1)(g). The Minister may also require further information relating to students in designated courses of study at the institution under section 58.

- (4) The Minister must be satisfied that the eligible private institutions have met these requirements and must table the relevant information in each House of the Parliament as soon as practicable after receipt.

- (5) Schedule 1, item 17, page 7 (line 24), to page 8 (before line 1), omit subsection 98AA(1), substitute:

- (1) For the purposes of this Chapter, an *eligible private institution* is an institution of higher education specified in the following table:

| Eligible private institutions | | | |
|---------------------------------------|----------------------|---|--|
| Column 1 | | Column 2 | |
| self-accrediting private institutions | private institutions | non-self accrediting private institutions | |
| Bond University | | Christian Heritage College | |
| Melbourne College of Divinity | | Tabor College (South Australia) | |

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.46 a.m.)—I move:

That the committee does not insist on Senate amendments Nos (3) and (7) disagreed to by the House of Representatives and agrees to the amendments made by the House in place of amendments Nos (2), (6), (8), (13) and (16).

Senator CARR (Victoria) (9.46 a.m.)—With respect to the **Higher Education Funding Amendment Bill 2002**, the opposition will be supporting the government's motion. It is all too clear that we do so in a context where the government has had to acknowledge that attempts to define serious educational policy and then to legislate on it cannot be made on the basis of secret deals. They cannot be done on the basis of what is essentially a policy lazy approach, whereby the government goes off, talks to a couple of people, makes an election announcement and determines to pay substantial public subsidies to a small group of people in the private sector. We have raised our concerns in this regard, essentially because we think that there ought to be some rationality to government policy. After all, if you are going to hand out large sums of public money, you should at least be able to explain why you are doing it.

To date we have had nothing more than the proposition that the government had made an election commitment. It was an election commitment to provide public subsidies to a small group of people, which gave a distinct market advantage to that group of people over and above potentially up to 80 other providers, who may, in turn, seek access to the same public subsidies. There are some serious issues here about policy consistency. There are some very grave concerns about accountability. It is just not good enough for the government to go out and make private arrangements which have serious implications and set precedents for others, who can now rightfully and with great legitimacy say, 'This group has got a public subsidy; why haven't we?' This is in the face of a public lobby on behalf of the private sector in education, which actually want to see this subsidy extended to them and have stated so explicitly. This is not only with re-

gard to PELS—the Postgraduate Education Loans Scheme—but also with regard to the Higher Education Contribution Scheme. There are important questions for us to consider in this regard.

There is a further and substantive issue of quality assurance and the accreditation process. It is about the capacity of this parliament to be confident that the money it is appropriating in education is spent in a manner consistent with the aspirations and the national objectives that are in place in order to produce a very high quality education system which should be the envy of the world. If the government makes private arrangements and relies upon particular accreditation processes based on administrative practices which are now very much out of date—practices which were in fact put in place long before the conditions set down in the national protocols for approval of higher education institutions—then it is possible that the government is performing at somewhat less than optimum best practice.

It is important that we are able to say to students that when they enrol in an Australian educational institution accredited by the government they have the best education available to them and that it is equal to all the educational services offered across the country. We have a standard that we want to protect. This is extremely important for our international reputation. It is also extremely important for individual students to have a qualification that means something. Further, it is very important that we do not have a race to the bottom with the new competitive environment that the government is now trying to foist upon our higher education institutions. The opposition has argued that there ought to be consistency with respect to the accountability requirements and the quality assurance requirements in that regard.

We have a situation where the government have brought a bill into the parliament which was badly thought out. We have been able to expose the extraordinary inadequacies of public administration. The government have relied upon a state government authority that some five or six years ago, under a Liberal government in South Australia, accredited

courses on the basis of vocational education performance measures and applied them to a higher education program. There seems to be, in some quarters of the government, a failure to understand the significance of that problem. It has been up to the Labor Party to come forward and help the government out. We are good like that. We see the need to help this mob out because they certainly need a great deal of assistance. They need a considerable amount of assistance, because they are determined to muck it up.

Senator Stott Despoja—So you've done your bit on the bill?

Senator CARR—We have done our best to deal with a very difficult situation as a result of the government's gross incompetence. Now we have had to say to the government, 'We'll step in.' Jenny Macklin, Labor's education spokesman, has been able to move amendments in the House of Representatives which the government have had to accept. The logic of our position is quite clearly difficult for the government to resist. Occasionally they have to face facts—and they do on this occasion. Labor has had to salvage something from this terrible situation. It has forced the government to acknowledge the weaknesses of their ways. What is now apparent is that the government have had to acknowledge that Labor was right. Labor was right, and we have won the argument that the quality assurance processes should be made explicit and absolutely consistent with the national protocols. Those national protocols are extremely important for the protection of students and our higher educational institutions.

Importantly, under the amendments that we will see now, there is an opportunity for a watching brief on the issue to be extended by this parliament to ensure that the new system works to the best extent possible and that the states and territories are able to meet their obligations under the national protocols and make sure that there are not accreditations occurring outside those protocols. Obviously, we do not think the whole situation has been resolved. We do not think that is the end of the matter. We believe this issue should be revisited, and we will revisit it. We have, however, substantially improved the ac-

countability requirements. Ms Macklin's amendments do just that. That is why we will be urging the Senate to accept these amendments. These are Labor amendments; the government have been obliged to accept them, and they have to acknowledge that they have made a mistake in the way in which they have approached this issue.

We have been able to achieve the creation of an enduring link in the legislation to ensure that there are reporting requirements which are consistent with those for public institutions. Why shouldn't it be so? Why shouldn't private institutions in receipt of public subsidies be obliged to meet the same requirements as public institutions? Why should there be a lower standard for students in the private sector than for students in the public sector? The other opportunity is that the government are given a mechanism to address issues such as equity and make sure that people are not discriminated against because they are enrolled in private institutions and also to make sure that those private institutions meet their obligations in regard to admissions policy and research activity. This is not our choice of outcomes. Obviously, I do not say to you that this is a course of action that a Labor government would have followed, because it was flawed from the beginning. However, Labor has salvaged the situation and, through these amendments, there is a huge improvement on the original.

Senator Stott Despoja—Is there?

Senator CARR—There is a huge improvement, Senator Stott Despoja. The government have had to back down; the government have had to acknowledge that they made a terrible mistake, and for this minister it is a bit of a humiliation. I think it is only fair to acknowledge that. It must be difficult for him to face this, but, truth be known, this was never his agenda. I think we have to acknowledge that it was not Dr Nelson's agenda—

Senator Sherry—Are you sure?

Senator CARR—I am absolutely certain that Dr Nelson has bigger fish to fry; I acknowledge that. He has essentially had forced upon him an ideologically blinkered strategy left over—in fact, it is part of the

debris—from the Kemp regime. He is trying to clear it away.

Senator Sherry—Don't give him that credit!

Senator CARR—He is trying to clear it away. We should give credit where it is due. He has had to face up to the humiliation that the government have been obliged to follow.

The TEMPORARY CHAIRMAN (Senator Ferguson)—Senator Carr, please address your remarks through the chair.

Senator CARR—I certainly will. I have just been provoked! Labor senators are very concerned about the government's failure here and they do see that there has been this gross error.

Senator Sherry—You're being too soft!

Senator CARR—I think that Dr Nelson has had a poisoned chalice handed to him by Dr Kemp: a policy that was built on an election commitment which was a private deal, an arrangement entered into where special privileges were extended to a particular group of people at the expense of the rest of the industry. It is quite inconsistent with the normal free market strategies pursued by Dr Kemp, but I suppose policy consistency is not a hallmark of conservative governments. I think we have to acknowledge that the government are wrong, they have been embarrassed by this and they have now acknowledged their weaknesses in this regard. I trust the officers from the department who are here with us today will be able to influence the government's direction more effectively in the future, because I am sure they would understand how wrong it is to introduce these sorts of inconsistencies into the Higher Education Funding Act. They would acknowledge in their private moments how relieved they are that there are at least some mechanisms now that they will be able to talk to the states about to ensure that the states do their job.

Senator HARRIS (Queensland) (9.58 a.m.)—I rise to speak to the message from the House of Representatives relating to the [Higher Education Funding Amendment Bill 2002](#) and the Australian Research Council Act 2001. In noting that the House have acquainted the Senate that they have accepted

some amendments, rejected others and also drafted amendments in place of certain Senate amendments, I would like to take note of the alternatives the House of Representatives have presented the Senate with. I will speak first of all about item 20, 'Eligible private institutions to include information in annual report'. Proposed subsection (1) says:

The Minister must, as soon as practicable after the end of 30 June in each year, cause an annual report to be prepared by each eligible private institution that offers an eligible post-graduate course of study. The annual report must include (but is not limited to) ...

Then it sets out a series of requirements. Proposed subsection (2) says:

The Minister must cause copies of any annual report prepared under subsection (1) to be laid before each House of Parliament within 15 sitting days of that House after completion of the annual report.

I believe that is the tenor of what the Senate was actually asking the original bill to be amended to. I draw your attention, Chair, to House of Representatives proposed amendment (4). I am now quoting from proposed section 98JA, 'Eligible private institution to report information':

(1) The Minister must, as soon as practicable after 31 December in each year, require each eligible private institution that offers an eligible post-graduate course of study to report to the Minister, in an approved form, information regarding their operations during that year.

(2) The eligible private institution must comply with a requirement under subsection (1) as soon as practicable.

What does 'as soon as practicable' mean? Does it mean that the institution can take six months or 12 months? We have a requirement for the institutions to actually provide the minister by 30 June each year with a report and then we have this open-ended proposed section. In accepting some of the Senate's amendments, the government has definitely improved the bill. The tenor of the amendments that we have before us appears to go a long way to recognising the issues that the Senate has raised, but we have this amendment on the requirement of the institutions that I believe is far too open ended.

In concluding, I would like to put on the record that the government has still not accepted the main issue that has been raised in this debate, and that is the issue that, for the first time, the government has listed two non-self-accrediting institutions to have access to PELS. I realise that during the debate the minister very clearly indicated that no institutions other than those that are set out in column 2—Christian Heritage College in Queensland and Tabor College in South Australia—will have access under this legislation. But the clear concern that was expressed by the vice-chancellors that we consulted was that they believed that this would start a process where other institutions would have leverage to be able to voice their particular position to also have access to the PELS scheme. I want to place very clearly on the record that the vice-chancellors are not saying that those non-self-accrediting institutions should not be financed—that is not their position. They clearly believe that the government should provide funding for those non-self-accrediting institutions through a different budgetary process. Their concern primarily stemmed from the fact that the \$18.5 million that is available for PELS to approximately 120 institutions would be further diluted by access given to other non-self-accrediting institutions. I will place on the record that One Nation will support the passage of the bill, but it is disappointing that the government has not taken into account the concerns of the vice-chancellors of the universities.

Senator STOTT DESPOJA (South Australia) (10.05 a.m.)—Like Senator Harris, the Australian Democrats have pointed out on numerous occasions our concern with this legislation, the **Higher Education Funding Amendment Bill 2002**, for some of the reasons outlined in both Senator Harris's and Senator Carr's contributions. This legislation pre-empted the so-called comprehensive review of higher education, the Crossroads process that has been put in place by Minister Nelson. Also, we did not think an appropriate rationale or even an adequate rationale was put to the chamber as to why these four institutions, in particular the two non-self-accrediting institutions to which Senator Harris referred, should be given public sub-

sidy. By that I mean private institutions getting public education money—that is, taxpayers' dollars, money that is provided by Australian taxpayers, going to these private institutions, particularly those two non-self-accrediting private institutions.

The Democrats do not resile from our earlier criticisms and our concerns but, without meaning to reflect on a vote of the Senate, we all know that the amendments put forward by me, Senator Harris and Senator Nettle went down; they were not supported in the debate on this legislation. The Democrats supported the opposition amendments in an attempt to see increased accountability mechanisms built into this legislation. We recognise and we acknowledge, having looked at these amendments—I am seeing these amendments and the House of Representatives message for the first time; indeed I do not know if anyone, apart from the government and the Labor Party, had much warning that this debate was coming on; it was a bit of a surprise to me and, through you, Chair, obviously it was a surprise to Senator Harris as well—that they represent a marginal improvement to this legislation.

When I heard Senator Carr's contribution earlier, as I was running down to the chamber expressing surprise that this was coming on, I thought, 'My gosh, the government's agreed to everything. This is fantastic.' But then I realised it was Senator Carr putting on a very good performance, trying to make a marginal improvement to the bill sound like an extraordinary opposition victory.

Senator Carr—It was.

Senator STOTT DESPOJA—Senator Carr, that is a marginal improvement and you know it. You and I have worked on higher education policy long enough to know that this is a marginal improvement. Given that this represents a backdown, somewhat, by the Australian Labor Party, I would like Senator Carr—and the minister, if he would like to—to tell us about the amendment to which Senator Harris referred.

Senator Harris picked up on one of the key amendments that have been lost in this message from the House. Amendment (16) talked about more than the annual report, the

annual reporting date and the issue of practicability, as Senator Harris pointed out. Look at the original size of this amendment. It talked about the annual report, including the following: evidence that course requirements and learning outcomes are comparable to those of a similar field of study at an Australian university; evidence of staff quality, qualifications, research output, referred research publications and citation indices; institutional governance, facilities and student services; financial status and operation; student and staff data; equity plans and outcomes for students and staff; and planning data. I do not see that reflected in the amendment that has been accepted by the House, which is something along the lines of:

The Minister must, as soon as practicable after 31 December in each year, require each eligible private institution that offers an eligible post-graduate course of study to report to the Minister, in an approved form, information regarding their operations during that year.

What information during that year will be made available? Senator Harris, let alone the issue of when the information will be made available, the issue is how much information and what information will be provided. I think that is a significant backdown by the Labor Party in that respect.

We supported the Labor Party's original amendments because, yes, we recognised there were issues of institutional governance, issues of accountability and, indeed, as referred to in that original amendment, issues to do with access and equity and that nexus between research and teaching to which I referred many times in my contributions to the debate on this legislation. I am just wondering whether someone from the government or the Labor Party would like to enlighten us as to what guarantees the Labor Party has been given by the government that the reporting requirements will be as stringent as we had originally hoped, given the fact that there is an unprecedented element in relation to this legislation—namely, money being given to those non-self-accrediting private institutions.

Generally, let us not forget that we have put four private institutions into the HEFA

schedule. We have had the debate previously about Notre Dame and others, but we are now talking about four more private institutions accessing public education funds. That is the fundamental issue that the Democrats were concerned about in relation to this legislation. I was convinced that there was an element of concern from the Labor Party as well but, instead of rejecting outright this further extension of public education dollars to private institutions, they sought to amend it in a way that increased those accountability provisions. We supported that. We were disappointed they did not support our amendments but that is not the issue now.

Having said that we supported the ALP amendments, we expected them to stick to them. I recognise that Senator Carr and the shadow minister, Ms Macklin, have gained some marginal improvements through negotiations with the government but I am just wondering, really, how satisfactory these amendments are. Senator Carr, what guarantees have you been given by the government, by the minister, that you will get those stringent reporting requirements that you demanded and that you passed in a resolution of this Senate?

Senator CARR (Victoria) (10.12 a.m.)—I will briefly respond to Senator Stott Despoja's remarks. Firstly, I suppose it is not to be unexpected that, when there is success in this approach, the Democrats would try and play it down. I accept that that is the way it works; that is fine. We, however, are very confident that there has been a significant improvement in the situation and we will argue that position. We are more than happy to argue that publicly.

Secondly, there was an imputation that there had been, somehow or other, arrangements made by the government and the opposition with regard to the timing of this bill. I can assure Senator Stott Despoja that, like her, I knew that this matter was coming on when I read the red this morning. That is the long and short of it: I had as much notice as she did about this bill being returned at this time. I knew it was debated yesterday in the House but I read the red this morning and that was my notification.

Senator Ludwig—They would have got the draft yesterday.

Senator CARR—The manager points out to me that there were, in fact, draft reds available. I will confess that I did not read the draft red last night but I did read the red this morning.

Senator Stott Despoja—I just wanted to know what you agreed on—

The TEMPORARY CHAIRMAN (Senator Ferguson)—Order! Senator Stott Despoja, this is not a debate with Senator Carr; I ask you to cease interjecting. Senator Carr, would you please address your remarks through the chair.

Senator CARR—Of course I will address my remarks through the chair. These are matters being canvassed across the chamber and the committee tends to be a little more informal than, I understand, the standing orders would otherwise properly allow. The substantive question is: when did we know when the amendments were going to be agreed to by the government? I understand that that was the case yesterday and that they were moved by us. These amendments were moved by us. So, again, it was no great secret. The member for Jagajaga moved these amendments. Therefore, it should not be a surprise to the Democrats that I would support those amendments here. They are Labor Party amendments which the government has been obliged to accept.

Concerning the question of guarantees, we know that when dealing with this government guarantees mean very little. So often before we have heard words about their guarantees. What we can say is this: in the discussions around these amendments we are firmly of the view and it is our clear understanding that these institutions will be required to report on the same basis as public institutions. We will see in their annual reports and in the government's published statistics the effect of the policies being pursued in regard to admissions and research and the other matters that we would expect from any other public institution. So the reports will be as rigorous as they are for public institutions.

You may well argue that that in itself opens up a few other questions, but that is

their understanding. We have also said that, if their understandings are shown to be incorrect, we will revisit the issue—I have stated that already. After the next election I anticipate that there will be a change of government, and I am sure all the senators will acknowledge that, and we will have plenty of opportunities.

Senator HARRIS (Queensland) (10.16 a.m.)—I am a little puzzled and disappointed that it appears Senator Alston is not going to address the substantive issue that I have raised of the difference between the original amendment that was proposed and passed by the Senate and the alternative amendment that has actually been presented to the Senate. The original amendment stated:

The Minister must, as soon as practicable after the end of the 30 June in each year, cause an annual report to be prepared ...

The minister was then required within 15 days of that report having been produced to provide a copy of that by laying it before each house of parliament.

When we look at the proposed amendment that the government is asking us to accept, the date of causing the report to be produced has changed. There is not an enormous amount of angst about that. But there is nothing in the proposed amendment that requires the minister to table that at a particular time. So the government is asking us to move from a position where the minister is obliged to table a report after it has been produced to a position where the minister does not have to do anything with a report once it is produced.

We also have the issue that I raised before—and I am speaking now about page 5 of the amendments, subsection (2), where it says:

The eligible private institution must comply with the requirement under subsection (1) as soon as practicable.

Senator Alston has not in any way indicated to the chamber what that means. Can they take the entire year to provide that report? Can they take from 31 December one year to 31 December the next year to provide the minister with that report? As this amendment stands, that is exactly what it says. I would

like Senator Alston to convey to the chamber whether there is a requirement for the minister to table that report once he receives it and to comment on the open-endedness of subsection (2) on page 5?

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (10.19 a.m.)—I was not here for the start of the debate, so I apologise for that. The original amendment, to which I believe Senator Harris is referring, is the one that would have massively duplicated the existing state accreditation processes, so it was basically a Commonwealth land grab. I hesitate to say it, but I think Senator Carr's summary was pretty accurate as to the effects of the amendment, because it does ensure that the institutions will report consistently with the obligations imposed on public institutions and it will provide a range of information that he had adverted to as well.

As Senator Harris rightly points out, the legislation simply requires that information be provided as soon as practicable. I am authorised to undertake to the chamber not only that that information will be provided and incorporated in the triennial funding reports but also that those reports will be tabled on an annual basis. So the information will be there regularly. You will have the certain knowledge of progress and you will have it on a rolling basis, so I think that pretty much satisfies most of the concerns.

Question agreed to.

Resolution reported; report adopted.

PUBLIC INTEREST DISCLOSURE BILL 2001 [2002]

Report of Finance and Public Administration Legislation Committee

Senator FERRIS (South Australia) (10.22 a.m.)—On behalf of the Chair of the Finance and Public Administration Legislation Committee (Senator Mason), I present the report of the committee on the Public Interest Disclosure Bill 2001 [2002], together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator MURRAY (Western Australia) (10.23 a.m.)—by leave—I move:

That the Senate take note of the report.

I introduced the **Public Interest Disclosure Bill 2001 [2002]** as a private senator's bill in June of last year. The report of the committee, which is a unanimous one, is an invaluable addition to the body of work on this vital accountability area. I thank the witnesses for their input, without which we could not have got the insights that we have. This bill is based on one simple principle: that those who have the courage to speak out against corruption and impropriety deserve protection. Despite strong and generally unanimous Senate pressure, certainly since 1994, successive federal governments have shown a reluctance to embrace this principle and to establish comprehensive protection for whistleblowers. The only protection available for the public sector is under section 16 of the Public Service Act 1999, and it is manifestly inadequate—a point the committee unanimously makes.

Whistleblowers play an important role in ensuring the accountability of government. They are individuals who, by reason of their employment, come across information that reveals corruption, dishonesty or improper conduct at any level of government. When such people bring this information to the attention of the appropriate authorities, they must be protected from retribution. Whistleblowing is often the only way that impropriety can be exposed. However, this can come at a significant personal and career cost to the whistleblower. The often justified fear of reprisal can stop potential whistleblowers from coming forward. We should always recognise that whistleblowers are acting in the interests of us all when they expose corruption or improper conduct. Unless we can provide a means of encouraging them, corruption or improper conduct can continue unchecked.

This state of affairs is clearly not in the public interest. The state and territory governments almost unanimously now have whistleblower protection bills, and the federal government needs to catch up. While the exposure of improper conduct can be embarrassing for federal governments, this does

not justify allowing such conduct to continue by refusing to protect those who would expose it. Experience both in Australia and overseas has shown that whistleblowers and their families are often harassed and suffer emotionally and financially as a consequence of the whistleblower having exposed unacceptable conduct within the organisation. The public interest demands that public employees be able to expose impropriety without that fear of reprisal.

The bill that I introduced, which was not perfect and would be considerably improved by the recommendations of the committee, is an important step in the right direction. The committee's report is another important step. It points to good improvements that can be made to the bill and is a welcome consideration of the necessary features of a legislative regime to protect public interest disclosures. I am hopeful that it may provide the impetus for a legislative response by the government on this issue. The response will not come until there is an appreciation by government both of the public interest in encouraging whistleblowing and of the general support of parliament and parliamentarians for it. Those witnesses who appeared before the committee illustrated both points, and I hope that the government will carefully consider their testimony and the committee report which arose from it.

In conclusion, I return to the principle that people should be encouraged to make disclosures that are in the public interest to the proper authorities without fear of recrimination. Those people who put their careers and livelihoods on the line to expose impropriety for the benefit of the community as a whole deserve our protection. I thank the chair, the committee members and, in particular, the committee secretariat for their hard work on this report. I thank the witnesses. I strongly encourage the government to consider the report carefully with a view either to accepting my own bill, as appropriately amended, or to developing their own legislative response.

Question agreed to.

**SUPERANNUATION (GOVERNMENT
CO-CONTRIBUTION FOR LOW
INCOME EARNERS) BILL 2002
SUPERANNUATION LEGISLATION
AMENDMENT BILL 2002**

Report of Superannuation Committee

Senator FERRIS (South Australia) (10.28 a.m.)—On behalf of the Chair of the Select Committee on Superannuation (Senator Watson), I present the report of the committee on the provisions of the Superannuation (Government Co-contribution for Low Income Earners) Bill 2002 and the Superannuation Legislation Amendment Bill 2002, together with the *Hansard* record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator MACKAY (Tasmania) (10.28 a.m.)—by leave—I move:

That the Senate take note of the report.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.

**CRIMINAL CODE AMENDMENT
(ESPIONAGE AND RELATED
MATTERS) BILL 2002**

Second Reading

Debate resumed from 25 September, on motion by **Senator Ian Campbell**:

That this bill be now read a second time.

Senator HARRIS (Queensland) (10.29 a.m.)—I rise to speak on the **Criminal Code Amendment (Espionage and Related Matters) Bill 2002**. Earlier this month we paid respect to those who lost their lives in New York on September 11. It is said that a lot has changed since that tragic day. Indeed, it has. In a little over a year the laws of our country have fundamentally changed. The antiterrorism legislation passed by the Australian parliament has been deeply disturbing to those who cherish freedom and the Australian way of life. Perhaps the most disturbing change is the government's apparent belief that our society cannot be both safe and free at the same time. Freedom and democracy are the foundations of our country: they define us as a people, they are the source of our strength as a nation and they

are our beliefs that thousands of Australians have sacrificed their lives for. Defending those beliefs in times of international crisis is more than an act of patriotism, it is a moral imperative.

The Criminal Code Amendment (Espionage and Related Matters) Bill 2002 extends and toughens the laws against alleged espionage with serious implications for basic democratic rights. Espionage provisions formed part of the Crimes Act 1914 when it was first enacted. Part 7 of the act, then entitled 'Breach of Official Secrecy', contained and continues to contain the relevant offences. The act was amended in 1960 to include the current espionage provisions. In 1987 the government established an independent review committee on Commonwealth criminal law chaired by the former Chief Justice of Australia, Sir Harry Gibbs. The review examined part 7 of the Crimes Act 1914. In 1999 the Australian intelligence system and the espionage provisions came under scrutiny when a former member of the Defence Intelligence Organisation, Mr Jean-Philippe Wispelaere, was arrested in the United States and charged with a range of offences associated with the unauthorised disclosure of United States intelligence material. The Commonwealth Inspector-General of Intelligence and Security was commissioned to review security procedures. He reported in 2000 and made more than 50 recommendations. These are not publicly available because of the sensitive nature of many of the measures.

The bill before us today affects Australian espionage laws in four ways. Firstly, the bill refers to conduct that may prejudice Australian security and defence rather than safety and defence, and explicitly defines this term, consequently affording protection to a range of material that may not be protected under the current law. The terms 'security' and 'defence' will apply to both the espionage offences as well as the existing official secrets offences in section 79 of the Crimes Act.

Secondly, the bill expands the range of activity that may constitute espionage to cover situations where a person discloses information concerning the Commonwealth's security or defence with the intention of

prejudicing the Commonwealth's security or defence, or the intention of giving advantage to the security or defence of another country. Thirdly, the bill affords the same protection to foreign sourced information belonging to Australia as it does to Australian generated information. Fourthly, the bill increases the maximum penalty for a person convicted of espionage from seven years imprisonment to 25 years imprisonment.

Turning to the problems of the bill, One Nation has a number of key criticisms. The bill widens the meaning of Australia's defence and security to include the operations and methods of intelligence and security agencies. This means that exposure of an illegal action of a security agency or even the revelation of a security bungle could fall within the meaning of an act of espionage. There are several problems with these new terms. Further, the definition of 'security' or 'defence' contained in the bill is an inclusive definition; it does not exclude the ordinary meaning of 'security' or 'defence'. This is a very wide provision and it means that the offences created under it have application for issues of defence which may relate to the defence forces as such or the specific geographic requirements of Australia's defence and are therefore wide and imprecise.

In evidence to the Senate Legal and Constitutional Legislation Committee, the Hon. Justice Dowd, President of the International Commission of Jurists, explained this issue in the following terms:

The use of the word 'includes' is a very dangerous drafting technique because it does not define at all; it simply expands. If you are doing something as clearly important as this, you should define it. You have not defined 'defence', you have not defined 'security' and therefore there are three concepts: security undefined, defence undefined and an expansion of both. That is no way to draft legislation for serious offences such as this; you should in fact define it.

It is in the public interest to discuss the methods and operation of security agencies and under this legislation such discussions will become an offence liable to prosecution.

This is another bill where we see many sweeping definitions. For example, 'information' means information of any kind,

whether true or false and whether or not in a material form. It includes an opinion or even a report of a conversation. Under the terms of the bill, 'information' is not limited to classified information and it could include information that is already in the public domain. The information does not have to be obtained directly from the Commonwealth, it is enough for it to be in its possession or control.

Mr David Bernie, Vice-President of the New South Wales Council for Civil Liberties, has stated that the definition of 'information' is extremely broad and does not just relate to classified information. He explained to the Senate Legal and Constitutional Legislation Committee:

I understand there is a system of classification in relation to information. I think if we are going to be dealing with information we should be dealing with classified information. We should not be dealing with information that deals with the amount of tea and biscuits that might be consumed by the Department of Defence or ASIO. It should be about classified information because we are talking about offences here which will have a penalty of imprisonment for 25 years.

An element of the offences relating to espionage and similar activities involves communicating or making known information that is or has been in the possession or control of the Commonwealth. One Nation is concerned that this bill may preclude the release, in the public interest, of information that is not in the public domain. These offences are punishable by imprisonment for 25 years.

The New South Wales Council for Civil Liberties has observed that the Commonwealth obtains a very broad range of information, all of which may be regarded as information for the purposes of the bill. It has said:

Given the wide definition of information this could include ministerial briefings of many kinds to, for example, the defence or foreign minister and as the information is not limited to classified information could include information that is in the public domain in any event. The information does not have to be obtained from the Commonwealth; it is enough for it to be in its possession or control.

Yet again with this bill we see the government trying to introduce the reversal of the

onus of proof. Under the proposed legislation, the defendant in a prosecution will be required to prove one of the defences. This is contrary to the fundamental principles of justice under our system of law. As with the antiterrorism bills, the government is attempting to overturn one of our important common law principles and a democratic right—that is, that we are innocent until proven guilty. On this point, the International Commission of Jurists has noted that the bill:

... reverses the criminal onus and is contrary to the overwhelming nature of criminal offences and obliges a person whom may have quite innocently obtained information who [may be] making soundings for quite [l]awful purposes to go into evidence to show that the taking of soundings was lawful. This offence should be presented in the normal form and require the Crown to negative the items included as defences.

Reversing the onus of proof places too much responsibility on the defendant to prove their innocence. The defendant should have all the protection that the law provides, which the common law, as we understand it, has had built into it for hundreds of years.

In conclusion, by passing this bill in its present form the government will seriously erode the public's right to information. This legislation threatens scrutiny of government in Australia. It has potential to stifle public debate and should be withdrawn. One Nation echo the sentiments of thousands of Australians when we say that the government's antiterrorist strategy is badly flawed when it includes attempts to limit the circulation of information generally. Democratic governments should not use the war on terrorism as an excuse to crack down on citizens. The problem with this bill is how these provisions will be applied not only today but also years from now. In the wrong hands, it could be extremely dangerous. If passed in its present form, the bill will seriously erode civil liberties. Key elements of the bill are an overreaction. Coupled with the government's proposal to give ASIO greater powers to detain people, the proposed bill constitutes an insidious threat to our freedom.

Senator KIRK (South Australia) (10.41 a.m.)—I rise to speak on the **Criminal Code Amendment (Espionage and Related Matters) Bill 2002**. This bill is a worthwhile

piece of legislation and it has the opposition's support. Espionage is a very serious crime—one of the most serious that can be waged against the security of a country—and our laws must make that clear. The issue of protecting our national security is one which the Labor Party take very seriously and we certainly support measures which balance the fine line between protecting our nation and its secrets and protecting individual civil liberties. This bill updates Australia's antiquated laws in this area and strengthens the penalties for breaches of the legislation.

A number of matters have recently shone new light on intelligence agencies, not least of all the September 11 attacks which have made the entire world nervous as to the consequences when intelligence fails to predict the horrifying. There was the case of Jean-Philippe Wispelaere, the Australian now serving 15 years in a US prison for espionage, and the case of R v. Lappas, both of which drew attention to our current espionage laws, which were created before the First World War. It is imperative that our parliament craft intelligence legislation carefully and reasonably to have a framework that can punish those who are the actual perpetrators of espionage and to protect the innocence of those who are not.

It was as early as 1991 that the focus on espionage began in the form of the Review of Commonwealth Criminal Law headed by former High Court justice, Sir Harry Gibbs. More recently, there was an inquiry headed by Bill Blick, the Inspector-General of Intelligence and Security. Mr Blick's report confirmed the need to update our espionage laws and to impose tougher penalties on those who break these laws. The report made more than 50 recommendations, which were not made publicly available due to their 'sensitive nature'. According to the Attorney-General, this bill 'evolved as a result of both the Gibbs and Blick reviews'.

The proposed legislation was originally tabled before the November 2001 election and before I was a member of this parliament. The bill lapsed with the dissolution of parliament but has now reappeared as a very different document. The original bill caused great concern among Australia's press and

academia. In addition to the espionage provisions that are in the bill we are considering today, the original bill also transferred the official secrets provisions of part 7 of the Crimes Act 1914 to chapter 5 of the Criminal Code Act 1995. This aspect of the bill was heavily criticised for containing jail terms for secondary disclosure or whistleblowing in relation to non-national security matters, even when the information was disclosed or published on public interest grounds. While Western parliaments have for many years attempted to protect the rights of whistleblowers, it seems as though the mission of this government in its original bill was to punish them. For some reason, it appeared as though the government was nervous about people revealing to the public important issues such as the trials and tribulations of former Minister Reith, his son and his telecard. There was wide concern that journalists could be prosecuted for unauthorised leaks, even if they were in the public interest. The secretary of the journalists union, Chris Warren, in regard to unauthorised leaks said:

[A]n unauthorised disclosure is nothing more than a stage-managed story by a politician. The government is using the ghosts of the September 11 tragedy to revive some very bad laws, which have been dormant for several years.

Academics were also strongly critical of the bill in its original form. For example, Don McMaster in the *Australian Journal of International Affairs* said:

[T]he proposed legislation is of concern in that, if implemented, it may contravene internationally recognised human rights, including the rights to liberty, fair trial and freedom of association.

Any bill which has the possibility—or, in the case of the original bill, the almost certain probability—of catching innocent people simply to seem tough on crime and terrorism is a particularly dangerous and shameful development. We can fight terrorism without impacting on our individual civil liberties and we can fight terrorism without impacting upon Australia's free and open media.

The report of the review headed by respected former High Court justice Sir Harry Gibbs recommended the decriminalisation of non-security disclosure of information. The government decided to ignore this recom-

mentation despite its claim that the original bill was based on the Gibbs review. The opposition are opposed to any draconian security legislation that unfairly infringes the rights of ordinary Australians such as journalists and ordinary public servants and bars them from revealing government scandals. We applaud the fact that, under considerable public pressure, the government has removed the provisions regarding official secrets from the current bill.

Turning now to the current bill: the opposition believes that the bill in its current form will modernise and strengthen Australia's espionage laws. Now that the sweeping official secrets provisions have been removed and other minor amendments proposed, it can be said that the bill strikes the right balance. Labor supports measures which take a strong and principled stand against terrorism and against espionage, but the government must be wary of going too far and creating an Australia where agencies can too easily interfere with the civil and political rights of individuals. The bill before us today, with the official secrets provisions removed, is a good law for Australia.

The Senate Legal and Constitutional Legislation Committee considered the current bill, and its unanimous report was tabled in May this year. With the more controversial provisions of the original bill removed, the committee supported the legislation but suggested amendments, which the government has agreed to. The committee had four remaining issues of concern with the bill. The first of these was information in the Commonwealth's possession. An element of the offences relating to espionage and similar activities involves communicating or making known information that is or has been in the possession of the Commonwealth. Concerns were raised about whether information both within the possession of the Commonwealth and in the broader public domain would still technically fall within the offence provisions. The specific concern was that there would be much information now within the public domain that would be unlawful simply because it was once in the possession of the government. While the Attorney-General's Department advised that this was not the

intention of the bill, the Senate committee still insisted that this provision be amended. The government has now responded to this concern by proposing an amendment changing this provision and creating a defence against liability if the information was already in the public domain.

The second area of concern of the Senate committee was disclosure of information. The committee also expressed concern, as I said, that there was some uncertainty surrounding the section that stated that it was unlawful to disclose information to 'another country or foreign organisation'. The committee was concerned that the proposed offences would inadvertently cover government disclosure of protected information through lawful or official channels such as under the intelligence-sharing agreements that Australia has with other countries. The committee quite rightly saw the flaws in this section, for our intelligence communities need to consult with allies on a regular basis. That essential practice should not be made illegal. Once again, I am pleased to say that the government has altered the bill to the satisfaction of the opposition so as to address this issue.

The third area of concern that the Senate committee had was knowledge of information in the possession of the Commonwealth. The committee shared the concerns of the International Commission of Jurists in evidence that was given to the committee that a person who communicates information to another country not knowing that the information is in the possession or control of the Commonwealth might have committed an offence. The committee recommended that the bill be amended so that an element of each offence is that a person knows that the information is or has been in the possession or control of the Commonwealth. Again, this recommendation of the Senate committee is reflected in the government's amendments.

The fourth and final area of concern that the Senate committee had related to the offence of illegal soundings. The Crimes Act 1914 contains an offence of communicating to anyone outside Australia information on hydrographical soundings of the sea surrounding Australia. The bill proposed to

translate that offence across to the Criminal Code Act 1995. In 1991 the Gibbs Review of Commonwealth Criminal Law recommended that, because of the questionable need for the provision in light of technological developments, the sounding offence should be repealed. Despite this recommendation of the Gibbs review, the government chose to retain the offence in the current bill.

The Senate committee took evidence about the unintended application of such an offence—for example, by foreign-owned fishing vessels sending soundings information back to their country of origin and thereby committing an offence. The committee also raised concerns that, where the taking and recording of soundings is required under law, ships' masters were inadvertently potentially committing an offence. The committee therefore proposed that the current provisions relating to soundings be repealed and the bill amended to delete the proposed division 92. The government has agreed not to proceed with the soundings provisions contained in the bill. The government introduced amendments to the bill that substantially give effect to the recommendations of the Senate committee to which I have just referred. The House of Representatives unanimously adopted those amendments.

I turn now to some of the specific provisions in the bill, beginning with the penalties provisions. The Attorney-General has stated that the real purpose of the bill is to increase the penalty for espionage from a maximum of seven years to 25 years in jail. Based on international standards, our penalty for espionage is small. This is compared with the United Kingdom, Canada and New Zealand, which have penalties almost double those of ours. The United States, on the other hand, has penalties that can range from life imprisonment to even death if the offence involves the death of a US agent or if it involves particularly sensitive information. Certainly Australia should not head too far in that direction—and more than trebling our current maximum penalty, as this bill does, is not a particularly desirable outcome. But, hopefully, increasing jail sentences is not the government's sole law enforcement mechanism.

However, an increase in penalty is a needed outcome from this legislation to bring it into line with international standards and the penalty created in this bill is, in my view, sufficient.

Another effective change that this legislation will bring about is changing the language of the offence of espionage from conduct that may prejudice Australia's 'safety or defence' to Australia's 'security or defence'. Using the word 'security' rather than 'safety' will expand the definition of the offence to cover more material than is currently protected. The parliament's intention is reflected in the words that the legislation contains. We must, therefore, be thorough and attentive to ensure that we have solid language so that the courts can interpret legislation as the parliament intended. The changing of the word 'safety' to 'security' will not now allow cases to fall through technical cracks. 'Security or defence' is defined in clause 90.1 of the bill as including 'operations, capabilities and technologies of, and methods and sources used by, the country's intelligence or security agencies'.

This definition did attract criticism from the New South Wales Council of Civil Liberties and the Law Institute of Victoria for the reason that it prevents exposure of illegal activities within security organisations. Despite a lacklustre defence of this definition at the Senate committee hearings by the Attorney-General's Department, this provision remains in the legislation. We must, therefore, be aware that this bill quite generally will prevent information from being leaked from intelligence agencies even if it is in the public interest. In regard to this definition, Michael Head, from the University of Western Sydney, stated in an article in the *Alternative Law Journal*:

It could apply to the revelation that the Howard government used the DSD to monitor communications with the Norwegian freighter the Tampa during the August-September 2001 confrontation over the government's refusal to allow the ship's rescued refugees to enter Australia.

Despite the criticisms that this definition attracted, the definition should be strong and encompassing. I do not believe that it will substantially interfere with the public inter-

est. Our security organisations need to have a legislative framework for security of their information and this section will provide that.

Another aim of this bill is to offer the same protection to foreign-sourced information belonging to Australia as it does to Australian-generated information. This is important because Australia, having a relatively small intelligence community, must share the resources of our closest allies, and we must ensure that we maintain the integrity and safety of our allies information. Thankfully, Australia has had very few espionage cases over the years—so, while this legislation is important, it is not of immediate concern in a safe, predominantly peaceful country such as Australia. This should not, however, dissuade us from preparing for any eventualities that may occur. We must do this carefully to ensure that we punish the right people in the right way. We must ensure that innocent people are not jailed as a consequence of this legislation, and we should not fast-track this legislation because of recent tragic international incidents.

Espionage is a crime that threatens the security of this country and the continuation of our freedoms. We must ensure against this, as the consequences of espionage could be both dangerous and catastrophic. As mentioned by my colleague Senator Faulkner, the government has recently entered into a legally binding agreement with the United States governing the exchange of information between the two countries. Senator Faulkner pointed out that the foreign minister has said that this agreement will involve a requirement that personnel accessing classified information be security cleared to an appropriate level. The United States uses techniques such as polygraph tests that are not usually used in Australia. I understand that ASIO is currently undertaking a one-year test of polygraphs. I would hope that before these are introduced into this country, parliament will have the opportunity to fully scrutinise their proposed use.

By way of conclusion, it is encouraging that the Attorney-General has, of late, taken a positive approach to this legislation by taking an unacceptable bill and putting it in a

workable form. He has done so, firstly, by removing the dangerous elements of the 2001 bill and, secondly, by incorporating the Senate committee's recommendations into appropriate amendments.

Australia needs tough but fair measures to fight crimes such as terrorism which our intelligence community protects us from. This bill in its amended form is now in a form which is both tough and fair. I support the bill and I hope that it will become an effective piece of legislation that can assist in preventing and penalising the dangerous crime of espionage.

Senator PAYNE (New South Wales) (11.00 a.m.)—I welcome the opportunity to participate in the second reading debate on the **Criminal Code Amendment (Espionage and Related Matters) Bill 2002**. The bill was introduced before the prorogation of the previous parliament and has been reintroduced by the government for consideration in these sittings. Its main effect is to establish new espionage offences in part 5.2 of the Criminal Code Act 1995. It is intended to strengthen Australia's espionage laws in a number of ways. There are four particular points in that regard that I wish to allude to.

Firstly, the bill refers to conduct that may prejudice Australia's 'security and defence' rather than Australia's 'safety and defence' and explicitly defines that term, consequently making protection available to a range of material that may not be protected under current laws. The term 'security and defence' will apply to both the espionage offence and the existing official secrets offences contained in section 79 of the Crimes Act.

I want to make a brief further reference to the matter of security and defence which was alluded to by the previous speaker. The change to the term 'security and defence' in the bill is, as I understand it, intended to reflect the more modern intelligence environment, if you like. The term 'security' is intended to capture information about not only the operations but also the capabilities and technologies, the methods and sources of Australian intelligence and security agencies. It was the view of the government that the term 'safety' was unlikely to include such

information. The broad definition of 'security and defence' is available in clause 90.1 of the bill.

The bill also expands the range of activities that may constitute espionage to include those situations where a person has communicated or made available information that concerns the Commonwealth's security or defence with the intention of prejudicing the Commonwealth's security or defence or advantaging the security or defence of another country. These are obviously very serious matters, as previous speakers have also alluded to. It also affords the same protection to foreign sourced information that belongs to Australia as it does to Australian generated information. As Senator Kirk alluded to, it increases the maximum penalty for a person who is convicted of an espionage offence from seven years to 25 years imprisonment. These are all particularly important components of the legislation.

I propose to speak briefly today about what is contained in the bill, because I think that is perhaps more relevant to consider than those areas that are not in the bill that is before the chamber. As I indicated, one of the key areas is the increase in penalty from seven to 25 years imprisonment. That is regarded as a recognition of the serious nature of the crimes of espionage and associated activities and in the current environment is a particularly appropriate step for this parliament to take.

The Senate Legal and Constitutional Legislation Committee, which I have the honour of chairing, considered this bill and inquired into it earlier this year and reported to the Senate in May. That report contained five particular recommendations, including one that the bill progress subject to the consideration of those recommendations. I want to acknowledge this morning and draw attention to the very important recognition that the Attorney-General has given to the work of that committee—of all of its senators—in bringing forward those recommendations and in the consideration of the amendments that the government has put in this bill as it is now presented. It is important to acknowledge that the committee process of the Senate is taken very seriously by the Attorney-

General in that regard. Speaking on my own behalf, I am very grateful for the Attorney-General's interest in that process and for the support of the Attorney-General's Department in making information and material available to the committee to ensure our deliberations are well informed.

With respect to the first of those recommendations, the committee suggested that it be made explicit in the bill that a person would not be liable for prosecution under these espionage offences where they communicated information that was in the public domain. From the committee's perspective there was some concern that that had not been made clear in the drafting process. The government have indicated they propose to accept that recommendation, and the amendments contained in the legislation that is before us create a defence to the espionage offences where the information that is being communicated is already in the public domain with the lawful authority of the Commonwealth. From the committee's perspective, that is an important recognition of that particular recommendation.

The second of the committee's recommendations related to subclauses 91.1(1)(c) and 91.1(2)(c), which involved a person's action perhaps resulting in information being disclosed to another country or a foreign organisation. The committee noted the potential for an unintended consequence because of the use of the word 'disclosed' in that context—that a person who communicates or makes available information to a foreign country with the intention of prejudicing the security or defence of the Commonwealth may not be liable for prosecution where that information is already known to the foreign country. So the committee recommended that the bill be amended to address any possible uncertainty arising from the term 'disclosed to another country or a foreign organisation'. As a result of that, the references in the espionage offence provisions in division 91—those subclauses to which I referred previously—to information 'disclosed' will be replaced with the words 'information communicated or made available'. That does address the committee's concerns in that regard.

The third of the key recommendations from the Legal and Constitutional Legislation Committee report reflected the concern that an offence might be committed by a person who communicates information to another country, not knowing that the information is in the possession or control of the Commonwealth; that is, that there was not an element of knowledge in the provision as it was initially drafted.

The committee's recommendation was that the bill be amended so that an element of each offence in this category would be that a person knows that the information is, or has been, in the possession or control of the Commonwealth. The amendments that the bill comes forward with now will replace the reference that I have just cited with a reference to information that:

... the person acquired (whether directly or indirectly) from the Commonwealth ...

That is an acknowledgment of the committee's concerns in that regard. The fault element that will be present in that offence will be the element of recklessness—that is to say that the person was reckless as to whether they acquired the information, either directly or indirectly, from the Commonwealth. I am pleased also to welcome that amendment in the new bill before the Senate today.

An issue of some interest—and an area of new examination for some members of the committee—was the soundings provisions that were located in the bill. The committee recommended that those offences be repealed. There are a number of reasons for that. It is important and appropriate to acknowledge the expertise of my coalition colleague Senator Scullion on the committee in this regard. He has significant experience and expertise in this area, and committee members and some people in the Attorney-General's Department were very grateful for Senator Scullion's specialist knowledge in this area.

The intent of the amendments is that the soundings provisions that are currently in division 92 of the bill will be removed, but the existing soundings provisions in section 83 of the Crimes Act will be retained in their current form. That is because the government considers that it is not appropriate that the

existing provisions be repealed until there has been an opportunity to assess the continuing utility of the provisions as they stand. As I understand it, the Attorney-General's Department continues to work with the Department of Defence to look at what the most appropriate legislative and administrative measures are to protect soundings. These are obviously very important issues for Australia's commercial, navigational safety and security interests, and it is important that they are taken very seriously by the departments concerned and, of course, by the government.

Finally, having this bill before the Senate now is a continuation of the government's commitment to protect Australia's national security, to deter the very serious crimes of espionage and to ensure that the penalty for any action aimed at betraying Australia's security interests is very serious. This is an important step in ensuring that the legal framework we have in place supports that commitment. Not only does the bill strengthen and restate the existing provisions in the Crimes Act that prohibit deliberate disclosure of national security information to a foreign power, but, as I said at the commencement of my remarks, it also increases the maximum penalty for those offences from seven years to 25 years imprisonment. It is worth noting that the report on this bill by the Legal and Constitutional Affairs Legislation Committee was unanimous, and I am sure all committee members will welcome the government's adoption of our recommendations. I commend the bill to the chamber.

Senator BROWN (Tasmania) (11.10 a.m.)—I want to speak on this important bill on behalf of my colleague Kerry Nettle and the Australian Greens. I am grateful to Katrina Willis in Senator Nettle's office for her briefing on the matter as well. We have a different point of view to that of the last two speakers on the matter. The **Criminal Code Amendment (Espionage and Related Matters) Bill 2002** substantially widens the scope of Commonwealth activities and information to be kept secret from the Australian public. It does this by expanding the definition of espionage from 'activities that may prejudice

Australia's safety and defence' to 'activities that may prejudice Australia's security and defence'. 'Security', of course, is a popular term with governments at the moment.

The bill creates four new espionage offences and extends protection to the operations, capabilities and technologies of, and the methods and sources used by, Australia's intelligence and security services. It will have the widest possible jurisdiction, extending beyond Australia's borders to anywhere in the world. Under this bill it will be an offence to disclose information about the Commonwealth's security or defence with the intention of prejudicing those things, and it will also be an offence to disclose information about the Commonwealth's security or defence to advantage another country's security or defence. Let us put this in context. The government has stated that the bill has its genesis in the arrest and charging of the Australian citizen Jean-Philippe Wispelaere in 1999 with offences relating to the unauthorised disclosure of United States intelligence material. Indeed, the offences relating to disclosure of non-Australian material being held by the Commonwealth are designed to cover such circumstances.

This bill also aims to give the same level of protection to foreign sourced security and defence information belonging to Australia as to Australian information, both in Australia and overseas. We are witnessing another grab for power by the executive and its agencies. Through this extension, the government wants the authority to hide from public view even more information about what it does in the name of protecting our nation's interests. History shows us that governments have a propensity to engage in all manner of activities, including those of a dubious nature, in the name of protecting the nation. Of course, the very great difficulty is where to draw the line between our time-honoured civil liberties and the clandestine works of security agencies, intelligence gathering agencies and the parliament that designs the laws in which they work.

The Attorney-General has said that the bill, if enacted, would create in Australia one of the tightest, strongest pieces of legislation on sensitive information amongst the coun-

tries with which Australia exchanges such information, but when you look at it the bill bears all the hallmarks of the government's ill-considered new anti-terror agenda. As with other legislative components of this agenda that have been brought before the parliament in recent months, this bill seeks to give even more power to unaccountable forces, all in the name of protecting the national interest. The government has been doing its best to whip up hysteria about the threats Australia faces. Just this week the Attorney-General, speaking about the [Australian Security Intelligence Organisation Legislation Amendment \(Terrorism\) Bill 2002](#), confirmed there is no specific threat to Australia; yet we are told that we are on heightened security alert all the same.

The Attorney-General warned the parliament to expect more measures to curtail the freedom of citizens. He said:

... as the threat environment evolves, we will need to review the appropriateness of our tools in the fight against terrorism.

The Greens believe that we should be wary about demands from the government for greater protection of its activities from public scrutiny, remembering, of course, that we already have very extensive laws in place both for the surveillance and for the tracking down of people who might be a threat to our security. We should be particularly wary at a time when the government seems to be trying to ready Australians for a war—namely, the Bush led invasion of Iraq. The Australian section of the International Commission of Jurists told the Senate Legal and Constitutional Legislation Committee inquiry into this bill:

Considerable care has to be taken in terms of Security and Espionage Legislation ... in times of war ... when the institutions of our society are under threat ...

The International Commission of Jurists also expressed concern about the scope of the new definitions of espionage that this bill proposes. The definitions of 'security' and 'defence' are very wide. Likewise, the use of the word 'prejudice' is very subjective and difficult to define. The New South Wales Council of Civil Liberties also criticised the definitions, stating that they would include

the operations and methods of intelligence security agencies. The council said that this could mean that the exposure of an illegal action by a security agency could fall within the meaning of 'an act of espionage'. That means that, in talking about an illegal act being undertaken by an espionage agency, citizens could fall foul of this bill. Human rights watch groups could also find themselves charged and convicted for publicising the security operations of repressive regimes in other countries or publicising human rights breaches by Australian authorities. The Council of Civil Liberties recommended a general defence for whistleblowers and activities of such organisations.

Senator Nettle or I will be moving an amendment in the committee of the whole. We will be further elaborating on how important it is that we have that defence of whistleblowers and the activities of civil rights groups in this country against the potential overreach of this bill. The bill lengthens the maximum term of imprisonment for espionage offences from seven years for similar existing offences to 25 years. That is more than three times the current period. In his second reading speech, the Attorney-General stated:

... the proposed offences are consistent with equivalent provisions in the United States, the United Kingdom, New Zealand and Canada.

He said:

We should regard espionage as seriously as these countries.

Yet with the exception of United States, where the death penalty is applied in some espionage offences—an unacceptable penalty in any circumstances—the maximum penalty for these equivalent provisions in the countries cited is 14 years, not 25 years, as the Attorney-General averred.

Depriving a person of his or her liberty is a most serious matter. Twenty-five years is a very long time to be imprisoned, and the government has proposed no compelling argument in support of substantially extending the maximum term as it is currently laid out. If the government considers it adequate to rely on overseas comparisons for creating these new offences then the overseas terms of imprisonment should also be adequate.

They are about half of the term the government is proposing. The Australian Greens will be moving an amendment to make the maximum term of imprisonment 14 years. This retains discretion for a judge to impose a lesser penalty, of course.

This bill retains the existing penalty of the maximum five years in jail for breaching an order by a judge acting in a federal jurisdiction to restrict the publication of and access to evidence relating to an application or other proceeding. But, because this bill expands the range of information shielded from public scrutiny, this penalty provision has the potential to be applied far more widely than in the past. We believe that it is inappropriate to jail anyone for breaching a suppression order in these circumstances. There may be occasions when there is a genuine public interest in disclosing the subject of court proceedings, particularly in the case of what Commonwealth intelligence and security agents are doing in the name of Australians. Putting a jail sentence on this is inappropriate and too harsh. The Australian Greens will be moving an amendment to delete the maximum five years imprisonment penalty and replace it with a fine. This is consistent with practice in New Zealand, where the maximum penalty for breaching a suppression order, including in relation to espionage offences, is \$NZ1,000.

Under the bill only a judge in a state or territory supreme court can decide whether to grant bail to a person charged with an espionage offence. The Australian Federal Police Commissioner will issue an order to all members of the AFP that bail should be opposed in espionage cases as a general policy. We do not support that. Depriving somebody of their liberty should be done in exceptional circumstances and should relate to those particular circumstances. We see this bill as part of the government's agenda to crack down on civil liberties through the guise of the so-called war on terrorism. The Australian Greens repeat that there are very extensive existing laws to track down, keep watch on, suppress, arrest and bring to justice people who are engaged in activities which are inimical to the nation. We are extremely wary of the proposals by this government

that further limit and truncate the civil liberties of Australians.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.22 a.m.)—I thank senators for their contribution on what is a very important bill. We are dealing with the **Criminal Code Amendment (Espionage and Related Matters) Bill 2002**. I will refer to a number of points made by senators. Senators Faulkner and Kirk reiterated issues raised by a number of people in the other place about the agreement between Australia and the United States concerning security measures for the reciprocal protection of classified information which was signed by the Minister for Foreign Affairs, Mr Downer, and Ambassador Schieffer on 25 June this year. Senator Faulkner has repeated claims which are ill-informed—that the agreement will hinder the access of elected representatives to classified information or that elected representatives would need to be subjected to a personnel security clearance. This is simply not the case. The agreement will not in any way prejudice the existing procedures for access to classified information by parliamentary representatives. The issue was specifically considered at the time of signing the agreement. The continuation of the current practice in relation to parliamentary representatives was expressly confirmed in an exchange of letters by both parties at the same time as the treaty. The letter stated:

In respect of the requirement for security clearances in the agreement, the parties acknowledge the special status of elected representatives at the federal level and confirm their intention to continue to apply their current practices to them.

This information is readily available from the Department of Foreign Affairs and Trade. It was also made crystal clear by the Attorney-General in his speech in reply in the other place, and I suggest that those who want to raise this issue do their homework and have a look at what was said. The new agreement merely updates, simplifies and strengthens a framework for the bilateral exchange of classified information which has been in place and worked well since 1962. It does not change domestic law or policy.

The agreement was tabled in parliament on 27 August this year and considered by the Joint Standing Committee on Treaties on 16 September. Until such time as that committee reports on the agreement, no action will be taken to bring it into force. A national interest analysis summarising the agreement was circulated when the agreement was tabled. May I remind the opposition and Senator Faulkner that it was the Howard government that introduced the Joint Standing Committee on Treaties as part of the Howard government's landmark reforms of Australia's treaty making process in May 1996. I recall it very well because I was the chair of the committee which led to that new process. The result of those reforms is of course a much more transparent process which gives Australians unparalleled input into and opportunity to understand the work of government in making new international laws.

Senator Faulkner also repeated concerns about the ASIO polygraph trials which were raised by the member for Banks, Mr Melham, in the other place. The polygraph trial being undertaken within the Australian Security Intelligence Organisation is still in progress. I can advise the Senate that, as the Attorney-General stated in his press release of 21 September 2000, it is a voluntary trial being undertaken to evaluate the potential of the polygraph as a personnel security tool. For reasons of security, details of the trial are not being made public. I am not aware of any discussions between the Australian and US governments concerning possible requirements for polygraph testing of Australian personnel granted access to classified information released by the US. The ASIO trial commenced in response to recommendations by the Inspector-General of Intelligence and Security, Mr Bill Blick. Mr Blick was commissioned by the Prime Minister to undertake a review of security procedures following the 1999 arrest of a former Commonwealth officer, Jean-Philippe Wispelaere, on charges of attempting to sell highly classified material. ASIO agreed to undertake an internal and voluntary trial of polygraph tests to evaluate the potential of those tests as a personnel security tool.

Senator Greig touched on some of these issues. He outlined the history of Jean-Philippe Wispelaere, who, as I stated, was formerly a Commonwealth officer in the Australian Defence Intelligence Organisation. He of course has been convicted and is serving a sentence in the United States. Senator Greig suggested that Mr Wispelaere's father intends to sue the Australian government, alleging negligence in giving security clearance to his son, on the basis that they failed to detect schizophrenia and his addiction to steroids. Can I say quite frankly that there have not been any proceedings commenced as yet. Of course, if proceedings are commenced then any allegations or claims by Mr Wispelaere's father can be tested in a court of law. Otherwise, the government denies what has been said. We believe that this really is of no great moment.

Senator Greig also raised the question of a prisoner transfer agreement between the United States and Australia. Of course, we have passed the Commonwealth International Transfer of Prisoners Act 1997. That does enable transfer of prisoners between Australia and foreign countries in certain circumstances. However, in order for there to be a transfer between the United States and Australia, we do need to have an agreement. Such an agreement can be addressed in the form of the Council of Europe Convention on the Transfer of Sentenced Prisoners, which will not take effect until 1 January, or we can have a specific agreement between the United States and Australia. As I understand it, from 1 January 2003, transfer of prisoners between Australia and the United States will be possible, subject to terms and conditions established under the convention I mentioned and to each country's domestic legislation. I think that deals with the aspect of transfer of prisoners.

Senator Greig also referred to the lack of whistleblowing provisions in the espionage bill. The bill was never intended to deal with the issue of whistleblowing. Its purpose is to strengthen Australia's espionage laws. The Public Service Act 1999, which commenced on 5 December 1999, introduced a whistleblowing scheme for the Commonwealth

public sector. Public servants who want to make a genuine public interest disclosure can make such disclosures to persons who are authorised to receive such disclosures. That was dealt with extensively in that legislation.

Turning back to this bill, this bill establishes an effective legal framework to both deter and punish people who intend to betray Australia's security interests. That is the straightforward intent of this bill. It is a very important one, one that is needed especially in our modern times. As a result of this bill, we will have one of the tightest, strongest pieces of legislation to protect sensitive information among our information exchange partners. This bill will strengthen Australia's espionage laws in a number of ways. The type of activity that may constitute espionage has been expanded. A person may be guilty of an espionage offence if they disclose information concerning the Commonwealth's security or defence while intending to prejudice the Commonwealth's security or defence. They may also be guilty of an offence if they disclose without authorisation information concerning the Commonwealth's security or defence, to advantage the security or defence of another country. Importantly, the new offences will also protect foreign sourced information belonging to Australia. As a result, we can offer greater assurances to our information exchange partners that, when they provide information to us in confidence, we will protect that information in the same way that we protect our own sensitive information. A person who compromises foreign information in our possession will face the same penalty as a person who compromises Australian generated information. The penalties will reflect the seriousness of the offence. As a result of this bill, the maximum penalty for a person convicted of espionage will be 25 years imprisonment.

In addition to strengthening the offence provisions, the bill includes provisions that further support the process of bringing cases of espionage to trial. The most important measure in this regard is to guarantee that only a judge of a state or territory supreme court will decide the question of bail. In addition, I am advised that the Australian Federal Police Commissioner intends to issue an

order to all members of the AFP that, as a general policy, bail should be opposed in espionage cases. This will ensure that, wherever possible, those alleged to have committed espionage will not be able to escape the law. This is a very important part of the bill.

The government's amendments to the bill that were moved and passed in the other place responded to recommendations made by the Senate Legal and Constitutional Legislation Committee. The committee made five recommendations, including that the bill progress subject to the other four recommendations. The government has accepted and given effect to the Senate committee's recommendations. I believe that when Senator Harris addressed this bill he was doing it on the basis that we had not accepted those recommendations from the Senate committee. I would remind Senator Harris that we have indeed accepted those recommendations. I want to make that very clear.

When the Attorney-General introduced the bill into the House of Representatives on 27 September 2001, the bill contained provisions dealing with official secrets. It was not debated and lapsed when parliament dissolved for the November 2001 federal election. When the Attorney-General introduced the bill into the House of Representatives again, on 13 March this year, the official secrets provisions were not included in the current bill. Much has been said about this. The official secrets provisions were designed to replicate existing provisions in the Crimes Act in more modern language consistent with the Criminal Code. These provisions were the focus of considerable media attention and were the subject of a considered misinformation campaign. It is very important that I put the record straight. The media suggested that these provisions were designed to limit the freedom of the press and that they would have prevented the reporting of government activities. The media scare campaign suggested that the government was conspiring to plug leaks. This campaign was alluded to by Senators Faulkner and Greig in the debate on this bill. This bill was never intended to deal with the issue of whistleblowing. Its purpose is to strengthen Australia's espionage laws. The government's

view—and it is one which is backed up by legal advice—is that there is in substance no difference between the existing provisions of the Crimes Act and those that were intended to replace them. Despite this, to avoid delay in achieving the primary purpose of the bill—to strengthen Australia's espionage laws—the government decided to excise these provisions from the bill. There was nothing more or less to it than that.

The government did so not out of any concession that there was any substance to these misinformed claims. On the contrary, the government did so because the government did not want to hold up the passage of this important legislation. The government decided that for the time being the Crimes Act provisions should stand in their current form. The government is committed to protecting Australia's national security and punishing those who threaten Australia's interests. Through this bill, the government is not attempting to limit the freedom of the press or to plug leaks. This bill is not aimed at hampering or preventing public discussion. This bill is aimed at providing a safe framework for the exchange of sensitive information and will ensure that we have strong laws to punish those who seek to betray Australia's interests. It will also provide protection for Australia's national security and punishment for those who threaten Australia's interests.

This bill is very important for the national interest. It serves Australia well, and I place on record those other points because there has been a good deal of misinformation about this bill and its intention. The intention of this bill is none other than to protect Australia's national interest, and I have outlined how it will deal with that in relation to people who offend the laws against espionage. I thank the opposition and Democrats for their support of this bill, and I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

In Committee

Bill—by leave—taken as a whole.

Senator BROWN (Tasmania) (11.36 a.m.)—by leave—I move Australian Greens amendments (1) to (5) on sheet 2652:

- (1) Schedule 1, item 5, page 6 (line 25), omit “25 years”, substitute “14 years”.
- (2) Schedule 1, item 5, page 7 (line 9) omit “25 years”, substitute “14 years”.
- (3) Schedule 1, item 5, page 7 (line 24), omit “25 years”, substitute “14 years”.
- (4) Schedule 1, item 5, page 8 (line 6), omit “25 years”, substitute “14 years”.
- (5) Schedule 1, item 5, page 10 (line 3), omit “Imprisonment for 5 years”, substitute “10 penalty units”.

Before I come specifically to those amendments to the **Criminal Code Amendment (Espionage and Related Matters) Bill 2002**, I want to comment a little on what Senator Ellison has just said. There are two points of view here, but this debate must be predicated on our common understanding that we currently have extensive laws for dealing with espionage in this country. The question is about the extension of those laws under this legislation. On the last point that the honourable minister was referring to, he said: ‘There’s no difference as far as whistleblowers are concerned. We’ve effectively made no change under the law.’ We are concerned about ensuring that is the case. We are also concerned about the clauses in this bill which are different. We have this legislation in here because it is different to the existing situation. We are concerned with the exploration of those differences: the extension of the term ‘a threat to Australia’s security’, under the heading of espionage; the related increased ability for surveillance; and penalties, which are dealt with in our amendment.

As I said in my speech on the second reading, the Attorney-General has wrongly asserted that that the proposed offences in this legislation are consistent with equivalent provisions in the United Kingdom, New Zealand and Canada. Of course, in the United States, which the Attorney-General also mentioned, and as the honourable minister would know, the death penalty applies. It is one of those breaches of the United Nations provisions and international law that the United States persists in having under its own laws. I would submit it is a breach of

the United States constitution as well, but several courts in the United States have disagreed with that.

That matter aside—because there is no move in this legislation for the death penalty, thank goodness—we need to then look at what the maximum penalty is elsewhere. We find that it is in fact 14 years in the other countries cited. The Attorney-General said, ‘Let’s move up to the penalty provisions in the United Kingdom, New Zealand and Canada.’ Instead of that, he has moved way ahead, to making the maximum penalties for espionage offences 25 years. That is up from the seven years in the current legislation.

Senator Nettle’s amendment is saying, ‘We’ll take the Attorney-General at his word.’ In our amendments we substitute ‘14 years’ for ‘25 years’. In our fifth amendment to schedule 1, item 5, page 10, (line 3) we omit ‘Imprisonment for five years’ and substitute ‘10 penalty units’. Regarding that latter amendment, I reiterate that we believe it is inappropriate to jail people for breaching a suppression order in the stated circumstances. The bill as it stands expands the range of information shielded from public scrutiny. The penalty provision in the bill, which is five years, has the potential to be applied more widely than in the past, and we are concerned about that. There are occasions when there is a genuine public interest in disclosing the subject of court proceedings, particularly in the case of what Commonwealth intelligence and security agents are doing in the name of Australians.

It is a difficult matter, isn’t it? How much information should come out about our spy organisations? How much should be suppressed? There is an extraordinary range of views on this matter in the Australian community. We are seeing that reflected in this debate here. The Greens believe that there should be an opportunity for scrutiny at the parliamentary and public level of what the spy agencies are doing. We know that they are not immune from doing the wrong thing. We also know that it is necessary to gather information which is in the national interest and to shield us from nefarious influences that may have designs against the national interest.

However, in this case, our amendment deletes the five-year penalty and replaces it with a fine. The Attorney-General was saying, 'Let's move into line with the United Kingdom, New Zealand and Canada.' We have looked at the maximum penalty for breaching a suppression order in New Zealand, our nearest neighbour. Their penalty—and this includes espionage offences—is \$NZ1,000, which is considerably less than \$A1,000. We are saying '10 penalty units', which goes beyond that, but there it should be. We are really concerned about the imprisonment penalty being waved over their heads of citizens who have information which they believe should come to the public notice about the working of spy agencies. They are threatened by a jail sentence of five years, which the government has suddenly brought out of the blue and put into this legislation.

I think it is very important that there be a restraint on this rush to bring in draconian legislation that is out of kilter with penalties in other areas of the law and which is aimed at putting a shield of silence around the operations of our necessary spy agencies. As I said, it is a very difficult matter, but these agencies should not be immune from public surveillance and from media exposure when the wrong thing is happening. Of course, in public debate there should not be a threat of this nature hanging over their heads of journalists or the public alike. It is right out of kilter. I would indeed like to hear the minister's explanation of the five-year penalty and whether he has information different to mine about the penalties for these particular offences which apply in the United Kingdom—pretty well known for its harsh penalties in this area, I might add—Canada and New Zealand.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (11.44 a.m.)—The situation is that the government opposes these five amendments, and I will deal with the last one first. What we are looking at here is a five-year penalty, and the Greens are proposing that it should instead be '10 penalty points'. Section 93.2 of the bill substantially replicates the existing provision in section 85B of the Crimes Act

dealing with holding hearings in camera. That is a very important provision because from time to time proceedings are held in camera for very good reason. The five-year penalty for violations of an in camera suppression order has not changed and is consistent with other offences concerning the proper administration of justice.

Where a court has gone to the extraordinarily step of holding a hearing in camera and someone breaches that, their action is in the order of perverting the course of justice and in some cases the release of sensitive information could expose a person to harm. The penalty is an appropriate maximum penalty, and it goes without saying that in a particular case the court retains the discretion as to the particular penalty. The penalty is only expressed as a maximum. I reiterate that, where a hearing is held in camera, it is done for a good reason, and woe betide anyone who breaches the provisions of that hearing in camera. The court has said that it should be in camera—that it is not public—and someone who breaches that should then suffer the full consequences and the full force of the law. It is striking at the heart of the administration of justice. That is why we believe that a penalty of a maximum of five years imprisonment is appropriate.

In relation to amendments (1) to (4), the Greens are proposing to omit 25 years and substitute 14 years. These are espionage offences and they are maximum penalties. The court has a discretion to impose a lesser penalty. Any suggestion that the penalty for the most serious cases of espionage should be anything less than penalties for other serious offences, particularly when we are looking at the threat of the security of this nation, is totally misguided. What we have here are offences which could possibly involve the death of a human being, in that the commission of these offences in providing information could expose Australian operatives, could expose Australia's national interest, and could expose and make people vulnerable to harm—expose them not just to harm but to being killed. Bearing that in mind, 25 years maximum imprisonment is totally appropriate.

A person who spies for an enemy during a war may be imprisoned for life under the offence of treason. At the moment the maximum penalty for espionage during peacetime is only seven years imprisonment. It is imperative therefore that we increase that maximum. Increasing it just to 14 years is not appropriate. Twenty-five years is a penalty that the government says is appropriate, having regard to the fact that espionage could cause this nation great harm.

In the United States we have witnessed high-profile cases of American intelligence officers that have sold highly classified material. Their betrayal resulted in US security and defence being compromised and, in some cases, the deaths of US agents. It is alleged that the actions of Aldrich Ames, a senior CIA officer who was arrested in 1994 for espionage, resulted in the deaths of 10 US agents and the stalling of sensitive and confidential military projects. In that case information provided by Ames to his Russian contacts resulted in the execution of US agents based in Russia. There is increasing speculation that Robert Hanssen, the FBI agent recently arrested for espionage, may have also contributed to the deaths of US agents as a result of his disclosures. In the current heightened security environment, serious breaches of security may have catastrophic consequences. An act of espionage has the potential to place the lives of individuals and the security of a nation in jeopardy. For this reason it is important that the espionage offences be structured in such a way as to capture the types of activities that could cause such serious harm and attract a penalty that is commensurate with that potential harm.

The government regards this very seriously and believes that penalties for such offences as drug trafficking, where we have up to 25 years imprisonment and life imprisonment in some cases and 20 years for organised people-smuggling, are useful comparisons. In regard to that sort activity and the potential harm that I have mentioned, the government is firmly of a view that a maximum term of 25 years is entirely appropriate.

Senator GREIG (Western Australia) (11.50 a.m.)—I would have to agree with the

minister on both points and for similar reasons. I think it is worth noting that the maximum penalty in the United States, for example, for this issue is the death penalty. I personally do not support the death penalty under any circumstances, let alone in Australia, but when the Australian government is advocating a maximum penalty of 25 years in comparison to that international standard then this is rather modest and far more appropriate.

I agree that espionage is a very serious crime. As the minister correctly says, it can involve injury and death of civilians and citizens. For that reason I do not think that we should treat it lightly. I feel that 25 years is an appropriate maximum to reflect that—and it is a maximum. It is open to the judge or magistrate or whichever courts is dealing with the case to exercise discretion. Senator Brown and I have been involved in long debates over the question of judicial discretion on mandatory sentencing and we are across those issues and understand the necessity and importance of that. So I think that in relation to amendments (1) to (4), 25 years is acceptable and is appropriate.

In terms of Senator Brown's amendment (5), the proposal to change an imprisonment maximum of five years for the breach of a suppression order to 10 penalty units, as I understand it, is a change from an imprisonment term to a fine of \$1,100. I would argue that, should a journalist, for example, or someone in the community, breach a suppression order by releasing or publishing information which was subject to a suppression order, such a person would not in any way be deterred by the prospect of being fined \$1,100. I would argue that would be no deterrent at all for most people working in the Australian media for whom \$1,100 would be all but a minute's salary. Breaching a suppression order is perverting the course of justice. I believe that it too should be taken seriously and treated seriously, and should be subject at the very least to the possibility of a jail term. For that reason I prefer that the bill remains as it stands, and we would have some difficulty in supporting amendments (1) to (5), as advocated by Senator Brown.

Senator BROWN (Tasmania) (11.52 a.m.)—I am a bit surprised by that, and I think that there will be not a few journalists entranced by the idea that \$1,000 is a minute's work for them.

Senator Greig—For media moguls.

Senator BROWN—Maybe it is for media moguls, as Senator Greig says, but it is not media moguls who are going to be put under the draconian five-year threat by the Democrat-supported government penalty regime here; it is going to be their ciphers, investigators and investigative journalists. What Senator Greig may have overlooked and what Senator Ellison has not explained is: how come, in 100 years of developing laws on espionage, the Australian body politic has made seven years the penalty up until now, rather than 25 years? Why are we going from seven years to 25 years? Why pick that particular figure? The Attorney-General said that he was lining up with practice in other Commonwealth countries, and he named three of them. But when we looked at the penalties in those other three Commonwealth countries, we came up with 14 years as a maximum, and that is what the Greens are moving.

It is easy to pick a figure out of the air and to apply it. We are in an environment at the moment where it is easy to bring in draconian penalties. What we are dealing with here—and I ask Senator Greig to think about this—are laws which are going to be in place for a long time to come. What we are not seeing in this parliament is the winding back of penalties for citizens who engage in public debate at the edge of our time-honoured civil liberties and open society in a time when there is tension and a great deal of concern about insecurity. We should debate these things and it should be on a very informed basis, not just, 'I have a hunch that it would be good to raise this from seven years to 25 years.' I have not heard Senator Ellison say why seven years was wrong. I have not heard him say why 14 years in similar jurisdictions is wrong. Indeed, I did not hear Senator Greig say why the New Zealand parliament was wrong in its penalty on the suppression order. We are not dealing here with picking figures out of the air, as far as the Greens are

concerned. We are dependent on the long parliamentary debates of the past in those jurisdictions and our own country which settled on penalties which are far shorter than the draconian penalties that the government is now bringing in.

I say again that we are not hearing why the parliaments were wrong before. This is not some adjustment. The government is bringing down a massive increase in the penalties. Senator Ellison spoke about US spies in the Cold War, and since, and the executions of agents. We are dealing here with a country—I am talking about the United States, but you can bring Russia into this—which has a far different approach to the sanctity of life when it comes to people who infract against the laws. My home state of Tasmania did away with the death penalty back in the sixties, as did most of the rest of this nation. It is getting on for half a century ago. Equating us now with a country which not only sees the death penalty as being important, but which executes hundreds of people each year, is not appropriate in this parliament. We are looking at penalties which are inappropriate and which greatly ratchet up the government's intention to suppress public debate about intelligence operatives, intelligence operations and the way in which they work. This is very dangerous territory. It is very easy to slip this through.

The minister referred to a 25-year penalty now for people who are involved in people-smuggling. It is much more complicated than it sounds at the outset. He is saying, 'We have the 25-year penalty through there for people,'—potentially including Australians who are involved in what the government calls blanket people-smuggling but which, in some cases, may mean saving people from the extraordinarily dangerous backgrounds from which they come anyway—'so let us have 25 years here.' We are seeing a ratcheting up of the penalty system for a whole range of policy issues which the government has at the top of its agenda. I would urge caution. These debates have been held in this parliament in this country before, in equally tense situations. Why was the 25-year penalty not brought in during the Cold War? Why did the Petrov episode not lead to a 25-

year penalty? Perhaps the minister could tell me that. They were far more anxious times for the nation in terms of its security than we have at the moment, I can tell you—because I remember them.

The minister went on to say that bail should be opposed in all cases—and the government will be giving a directive to, presumably, its prosecutors. He went on to state: Those who have committed espionage should not be able to escape the law.

What happened to the presumption of innocence? Are we not allowed to speak about it any more?

Senator Faulkner—Read that again.

Senator BROWN—He said:

Those who have committed espionage should ...

This followed straight on from ‘we will be’—

Senator Faulkner—The sentence itself is reasonable, isn’t it?

Senator BROWN—I am talking about bail. The government is saying that people who are charged should not be bailed. The reason the minister gave for that was that people who have committed espionage should not be able to escape the law. But he was saying that these people who are presumed to have committed—

Senator Faulkner—That is different; it is not what you said.

Senator BROWN—No, that is what the minister said. Let me make that clear.

Senator Faulkner—I’m only going on what you said.

Senator BROWN—I am sorry; I did not put—

Senator Faulkner—I have no idea what he said, but I did hear what you said.

Senator BROWN—I wanted to put that in the context of what the minister was saying. He was not talking about convicted criminals; he was talking about people who are charged and he said that they should be kept in jail, without exception. I do not agree with that. Fortunately, this has not been able and is not able to remove the court’s jurisdiction, but the government’s viewpoint is that for these particular charges people

should be kept in jail until they are proved innocent. They are guilty until proved otherwise. This, again, is a dangerous tenor in the way the government is bringing legislation into this place. It goes counter to a century of national law in this place and it goes counter to a much longer period of common law and the expectation that we are innocent until proved guilty. I do not accept the ideology which says we should be jailed until we prove we are innocent.

I am more than alarmed by the context in which the government has brought in this legislation and by the penalty regime it has. The Democrats might think that is fine; the Greens do not. We think it is out of kilter. We recognise the times we are in but we have been in them before and we did not see the parliament pass this sort of regimen in those times. I urge caution on the committee. I ask again that the Greens’ amendment be seen in the context of the penalties that we cite as being in very close relationship with those in the United Kingdom, Canada and New Zealand, and I commend it to the committee.

Senator FAULKNER (*New South Wales—Leader of the Opposition in the Senate*) (12.03 p.m.)—In relation to the amendment that is before the chair, the principle that applies here is this: the penalties in relation to these offences need to reflect the seriousness of the offences that are committed. That is the principle that I think should apply. That is the principle that I think is shared with my colleagues in the federal parliamentary Labor Party. We have looked closely at this legislation. We had very serious concerns with the original bill. I outlined them in my speech in the second reading debate and I do not intend to revisit those concerns again. The government has moved or been forced to move to deal with those issues. In relation to this amendment the principle is that the penalties need to reflect the seriousness of the offences that are committed. As far as the Labor Party is concerned, we think the current bill gets that balance right. We will not support the amendment.

Question negatived.

Senator Faulkner—You were one vote short of a division, Bob.

Senator Brown—It was a very close matter, Senator Faulkner, when you consider the arguments which preceded it. I do accede that only the Greens supported that amendment.

Senator Faulkner—Only a Green, Senator Brown.

Senator Brown—I am speaking—

Senator Faulkner—I am sure you accurately reflected Senator Nettle, were she here.

Senator Brown—As it was her amendment, I think you are quite correct.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—You should not let Senator Faulkner divert you from your next amendment, Senator Brown.

Senator Brown—I always like to listen to what Senator Faulkner has to say.

TEMPORARY CHAIR—Perhaps you could do that outside the chamber on this occasion.

Senator Faulkner—That's a bit hard when we are both inside the chamber.

Senator BROWN (Tasmania) (12.05 p.m.)—by leave—I move:

- (1) Schedule 2, item 5, page 8 (after line 28), after subsection (2), insert:
 - (3) It is a defence to a prosecution of an offence against subsection 91.1(1), (2), (3) or (4) where the disclosure of information the person communicates or makes available is in the public interest.
- (2) Schedule 1, item 5, page 8 (line 30), note, omit "(1) and (2)", substitute "(1), (2) and (3)".

The report of the Gibbs review recognised the importance of protecting whistleblowers in the public interest. The New South Wales Council for Civil Liberties, as we all know, in its excellent submission called for the protection of human rights activists. I ask the minister: how does the bill protect those two groups? To refresh the memory of the committee, on page 2 of its submission the New South Wales Council for Civil Liberties said:

We are concerned that acts of 'communicating or making available information that results in or is likely to result in making information available to

other countries' will capture acts of whistle blowing. Unless it is more clearly defined, and a defence inserted, publication of information could also make it available to other countries. We recommend a whistle blowing defence, as recommended by the Gibbs committee, is inserted into the bill.

The intention of the provision seems to be to protect our allies from the disclosure of information that prejudices or compromises the operation of their security services by creating an offence of the disclosure of 'information concerning the security or defence of another country ... that has been in the possession or control of the commonwealth.'

Given the wide definition of information this could include ministerial briefings of many kinds to, for example, the defence or foreign minister and as the information is not limited to classified information could include information that is in the public domain in any event. The information does not have to be obtained from the Commonwealth; it is enough for it to be in its possession or control.

We believe that the wide definition will serve to make liable to prosecution, activities far beyond those envisaged or intended by the attorney general in his second reading speech. As the actual countries are not defined, if someone gave information about the security arrangements of North Korea to the United States, and that information was in the control or had been in the control of the commonwealth they could face prosecution under this section.

Clearly what we need here—and what is always essential in legislation of any kind, but more particularly in legislation of this kind—is that it says exactly what it means; it leaves no presumption. The New South Wales Council for Civil Liberties kindly provided some examples to concentrate our minds. The first example reads:

The National League for Democracy in Burma has information concerning the operation of Burmese security forces and their intention to execute or imprison pro democracy campaigners in that country.

I know that the Minister for Foreign Affairs will take note of this example, because he is going to be in Burma next week. The example goes on to state:

At the same time the Australian Foreign Minister has been briefed with this information. The national league for democracy, operating in Sydney passes the information to the U.S. Congress and

the U.S. State Department so that it might take action against Burma. This could be a clear case of an offence under subsection 4 making the members of the National League for Democracy liable of an offence for which they could be imprisoned for 25 years.

Is that the intention of the government, the opposition or any of us? I think not. These are, of course, hypothetical examples. The second example from the council reads:

It is unclear what constitutes 'lawful authority' as referred under the bill. This is absent from the definitions contained in the Bill and subjective in its nature.

ASIO agent X receives information about North Korea's security arrangements, briefs the attorney general and in an act of goodwill and cooperation, passes the information to the United States. Agent X, if the Attorney General decides to prosecute, could be prosecuted for espionage under this provision. The only defence available to Agent X is that he had lawful authority—which is undefined and its meaning open to debate.

As the council points out, we do not have a list of which countries are included. It is a blanket provision. Giving information about the USA or New Zealand ranks exactly the same as giving information about China, Iraq and North Korea, as cited in these examples.

I would like to hear from the minister or from the opposition how they see people caught up in that situation faring. I reiterate that the Gibbs review saw this as a matter of concern. I know that the minister has said that there is nothing different in this legislation. The Greens want to make sure that the matter is cleared up. If it was not clear in the previous legislation, and that is apparently so, we have an amendment to make it clear now. Senator Nettle has drawn that up and I have put it to the committee.

Finally, if a person discloses information which is in the public interest—and obviously a court will have to determine that—ought that not be legitimate? Are we going to trespass into the arena of saying—and this is where Big Brother government comes down the line—that a person acting in the public interest can be jailed? Who but the courts should be the arbiter of that? Is there something inimical about this amendment? I think not. It simply says it is a defence to be acting in the public interest. Does the government

not want such a defence? Does the opposition not want such a defence? I would certainly like to hear what their point of view is on that.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.13 p.m.)—The government opposes this amendment because there is no reason for it, because in proposed section 91.1 of the bill the offences of espionage and similar activities are set out. Proposed section 91.1(1)(b) states that a person should do the act 'intending to prejudice the Commonwealth's security or defence'. That is a crucial part. It is an essential mens rea or state of mind—the intention of the person—so that you cannot be convicted of these offences unless you intend to prejudice the Commonwealth's security or defence. It follows that, if you were doing something in the public interest, you certainly were not doing it with the intention of prejudicing the Commonwealth's security or defence. If, in the course of the evidence, the defence raised the question that the act was done in the public interest, it would necessarily dispel the required intent to prejudice the Commonwealth's security or defence, because the two could never sit together.

What I say to Senator Brown, through the chair, is that really you do not need this. The defence is there. Senator Brown has questioned whether the court would adjudicate on this; of course this would be determined in a court. There is no question of it being determined anywhere else. I stress again that the prosecution has to prove beyond a reasonable doubt that the person who does the act does so with the intention of prejudicing the Commonwealth's security or the Commonwealth's defence. If, in the course of the evidence, the defence raises the issue that it was done in the public interest, that is a counter to that mental requisite in relation to 91.1. There is just no need for this; it is covered already.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.16 p.m.)—I only caught the end of Senator Ellison's contribution, but I think that fundamentally I agree with the point that he was making to the committee. I think we

have to go to division 91 and look at 91.1(1)(b), under the section heading of 'Espionage and similar activities':

... the person does so intending to prejudice the Commonwealth's security or defence ...

Then let us go to 91.1(2)(b)(ii):

(b) the person does so:

... ...

(ii) intending to give an advantage to another country's security or defence ...

This is the problem that you face here, Senator Brown. Given this intent, it seems to me impossible that you could have a public interest defence. I do not understand how you could have a public interest defence. I make this point to Senator Brown: this proposal emanated from other provisions in the bill which, because of political and media pressure, have been removed. If, for example, there were offences relating to whistleblowers—that is, if the Senate and the parliament were to agree to such a course of action—then obviously a public interest defence would improve the situation. Obviously that is the case.

I understand the spirit of this amendment and I understand where it emanated from, but here it is being applied in a different situation in a different case. I would respectfully suggest to the committee that, when we are dealing with offences where a person commits an offence intending to prejudice the Commonwealth's security or defence or intending to give an advantage to another country's security or defence, a proposal that the disclosure of such information the person communicates or makes available is in the public interest almost becomes a nonsense. I think that intent is absolutely crucial here. Not only that; I acknowledge that this issue evolved with other provisions in the original bill which have now been removed. I really do not think that this amendment is supportable.

Senator GREIG (Western Australia) (12.19 p.m.)—The Democrats are strongly supportive certainly of the intent of the amendment. As it happens, earlier today in this chamber the report of the Senate Finance and Public Administration Committee's inquiry into the Democrats' Public Interest

Disclosure Bill was tabled, and my colleague Senator Murray spoke to that. That bill proposes comprehensive whistleblower protection. The fact is, and the committee found, that existing whistleblower protection is inadequate. We Democrats have a long and proud history of advocating better, stronger and more effective whistleblower protection.

I do think that the amendment proposed by Senator Brown could do with some refinement. Common to most whistleblower schemes is the idea that the disclosures must be made to certain authorities or through certain channels. I think that Senator Brown's amendment could benefit from some consideration as to who or what the disclosure is about—national security ought to be made to. Having said that, I am supportive of the intent. I will support Senator Brown in his amendment. Through the chair, I say to the minister that, if what Senator Brown is proposing is redundant or irrelevant, if it does not contribute positively towards the bill—because you believe that what Senator Brown is aiming for is inherently in the bill anyway—then the passage of this amendment is not a negative. It may be redundant but it is not a negative, and therefore I can support it.

Senator BROWN (Tasmania) (12.21 p.m.)—I would like two words to be defined that are not defined by the government in the argument that it is putting. One is 'prejudice' and the other is 'security'. There has been some concentration on the government's adoption of the word 'security' rather than 'safety', which is not what the Gibbs review recommended. It would be helpful to know what the government meant by 'security'. The other point I want to make here, though, concerns the point just put by Senator Faulkner for the opposition that it is almost absurd or redundant to have this amendment. 'Almost' is the very pivotal point. The test should be the public interest.

In the words 'prejudicing the security of the Commonwealth', I presume the word 'Commonwealth' means 'the Commonwealth of Australia' and not 'the Commonwealth government of Australia'. That is one thing we need to understand about this at the outset. But we are a pluralistic country and

we have a very big range of views about what will prejudice this country and what will not prejudice it. That is what the examples given by the New South Wales Council of Civil Liberties, involving Burma possibly passing information to the United States, are about.

It is very complicated to determine whether or not a person had the intention of subverting the security of the country. Even on recollection, people tend to lose track of what they intended at the time. Of course, to get inside somebody's head to find out whether they intended this or that is a very difficult matter. What is not so difficult is to work out whether what happened was in the public interest or was not. That is why this amendment provides for a much better tool than the government's position, which is that a person presumably has to show that they were not intending to prejudice the interests of the Commonwealth.

At worst this amendment is not in conflict with the government's intention. If it is, I would like to hear how. It is a very necessary amendment to the legislation, because it does bring in that very important test, which is well understood by the courts, of the public interest. I think the opposition ought to think again about it, because it is in no way harmful but in my view it is very beneficial to this legislation and even to the government's intent. If you are leaving the public interest out of the equation it tends to weight things in terms of what the government says is in the interests of the Commonwealth. It will be the government in the court, not the people of Australia as a whole. But when the court is considering the public interest it is the people of Australia as a whole who are being looked at. I think it is very important to include this amendment in the absence of the government's being able to say why this amendment would be not redundant but inimical to the national interest. It is way short of being able to argue that.

Senator LUDWIG (Queensland) (12.25 p.m.)—When I was sitting in my office I heard a matter raised in relation to the progression of Senator Brown's amendments to the [Criminal Code Amendment \(Espionage and Related Matters\) Bill 2002](#). I thought it

was incumbent upon me to come down and at least put the committee's position, as I understand it. I assume that you have had the opportunity of examining the report on the bill and have read the committee's view. The committee's view in relation to this part is clearly articulated in 2.37, under 'Public Interest'. This is not a new controversy. As I understand Senator Brown's amendments, this is a controversy that was dealt with in the committee report. I think the committee did look at the submissions by the relevant organisations that Senator Brown mentioned but it also looked at a submission by the International Commission of Jurists, who raised concerns about public interest.

I will try to summarise the whole argument, because the committee had the benefit of having before it the civil liberties group, the International Commission of Jurists and the Attorney-General's Department, and did resolve not to support the inclusion of public interest in the recommendations that it made. Perhaps it is worth while, given that it does not seem to have been alluded to during this committee debate, to mention that the committee was told:

... these provisions may preclude the release, in the public interest, of information that is not in the public domain.

The actual controversy, as I understand it, goes to 2.39, which says:

The explanatory memorandum to the Bill explains that the reasons for the wording used in ss.91.1(2) and ss.91.1(4) is to "[afford] the same protection to foreign sourced information belonging to Australia as Australian-generated information."

It goes on from there and at 2.41 it says:

The Attorney-General's Department has the view that disclosures which constitute offences but which are made in the public interest should remain as offences, in order to require people to use official channels.

It goes on to say:

Formal mechanisms exist for reporting activities that are illegal under international law. Leaking information is not one of those mechanisms.

It then goes a little further at paragraph 2.42. I am not sure whether you have a copy of that report before you, Senator Brown, but it is certainly worth reading those sections to

perhaps get an understanding of how the committee thought about this, the arguments that were run by the civil liberties group and the international jurists, the response by the Attorney-General and the committee's thinking in relation to it. It is summarised best at paragraph 2.42:

The Attorney-General's Department has advised that there are checks and balances in the system which militate against the prosecution of people disclosing information in the public interest.

That was a matter that was raised at page 2 of submission 10, which was from the Attorney-General's Department. I assume that you have already had an opportunity to look at that argument. That was part of the committee's deliberations. One of the persuasive arguments that were put—and I think it is the one that in the end persuaded the committee, although I cannot speak for the committee as a whole—was about the prosecution policy of the Commonwealth and detailed the matters the Director of Public Prosecutions must consider before undertaking a prosecution.

I cannot quite recall, but I am almost sure that the totality of the DPP guidelines were provided to the committee. I have certainly seen them provided before; the Legal and Constitutional Legislation Committee seems to call on them quite regularly. At paragraph 2.8 the guidelines state:

The prosecutor must consider whether the public interest—

and I emphasise that phrase 'the public interest'—

requires a prosecution to be pursued. It is not the rule that all offences brought to the attention of the authorities must be prosecuted.

So we already have a public interest test—the one that is now being sought to be put in the bill itself—in the Director of Public Prosecutions' guidelines. At paragraph 2.10 the guidelines state:

Factors which may arise for consideration in determining whether the public interest—

and I emphasise that phrase 'public interest' again—

requires a prosecution include:

(a) the seriousness or conversely the triviality of the alleged offence;

...

(g) the effect on public order and morale ...

So there are two areas which specifically go to public interest contained in the policy of the Director of Public Prosecutions. Other ancillary matters are included in subparagraph (i):

(i) whether the prosecution would be perceived as counterproductive; for example, by bring the law into disrepute or else whether the alleged offence is of considerable public concern;

In essence, those were the arguments that were put. On the one hand there was the argument for the inclusion of the public interest test while on the other hand there were the answers as to why it would not be necessary for it to be included in it.

I am highlighting that the controversy was a matter that the committee did look at. It was a matter that we took seriously. It was a matter on which we questioned the Attorney-General's Department. We then looked carefully at the answers that they gave, in order to come to a conclusive view. The view that the committee came to in relation to this matter is perhaps summarised best in paragraph 2.43 of the committee's report:

The Attorney-General's Department advised that "an additional safeguard for anyone liable to prosecution for these offences" is the requirement, under s.93.1, for the Attorney-General's consent to be obtained before a prosecution can proceed.

So there is a second gateway. Not only can the DPP, which is independent of government, use their guidelines—which is what they are for—to come to a conclusion about this matter, but also there is that second consent required. Once the DPP have considered the prosecution policy—so the gateway occurs after that point—and, this requirement having been considered, have determined that a prosecution is appropriate, the Attorney-General has a further opportunity to consider whether to proceed with the prosecution. So there are two checks: firstly, the independence of the DPP and the guidelines that they have to look at, which is the prosecution policy; and, secondly, the further opportunity by the Attorney-General to consider the matter.

That was put to us by the Attorney-General. Short of any other argument, that

was the controversial issue put by both parties. We concluded that, because the provision requiring the Attorney-General's consent is also included in other legislation, it is not a new provision. The DPP's normal role, as would be expected, is as a gateway under the existing Crimes Act. They act as a gateway for treason offences and other offences as well, before deciding whether a prosecution should be proceeded with. Of course, that is not in any way to diminish or reduce the DPP's independence.

The committee noted the advice from the Attorney-General's Department and considered, when looking at those two checks and balances and understanding that they are contained in both the DPP guidelines and the fact that the Attorney-General consents to the prosecution, that there were sufficient safeguards for activities carried out in the public interest. Therefore, the committee came to the conclusion that it did not support the inclusion of a public interest defence in the bill. The committee highlighted in paragraph 2.41 of the report:

The Attorney-General's Department has the view that disclosures which constitute offences but which are made in the public interest should remain as offences, in order to require people to use official channels.

So there was an underlying argument that we wanted to encourage formal mechanisms first for existing reporting activities rather than what might generally be regarded as the leaking of information—at least, that was the argument put by the Attorney-General.

I have spoken at some length in order to provide a broader picture. I expect the honourable senator would have had the opportunity to have read that but I think it was worth while stating, from my perspective as a member of that committee, how I viewed that particular area. It was well considered by the committee, at least in my mind. That may assist the debate in relation to these matters.

Senator BROWN (Tasmania) (12.36 p.m.)—I thank Senator Ludwig for that discourse on the deliberations and outcomes of the Legal and Constitutional Legislation Committee, but the central point that was missing from that was an effective explana-

tion as to why the public interest should not be catered for. So the argument for these amendments stands.

I would like to put to the Minister representing the Attorney-General a hypothetical situation, although it contains overtones of reality. I refer to what would happen if I or some other citizen supported the *Tampa* coming to Australia. You might remember, Mr Temporary Chairman, that in that circumstance the government thought that not only was that not in Australia's interests but it posed somewhat of a threat to Australia's security. What would happen if you found out that your phone calls to the captain of the *Tampa* to encourage him not to go away were being tapped by the intelligence agencies? What would happen if you released the information on that because you wanted the *Tampa* to come to Australia and you wanted to know that there was an illegal operation that was inimical to your stand?

Is the government going to say that it can exclude the citizen or the parliamentarian who discloses an operation—albeit an illegal operation—of the intelligence services and makes a public revelation about it from the draconian penalties in this bill? Again, ought not the simple, effective, time-honoured test of the public interest be levied here? In the absence of a definition in this legislation, I take you to the *Macquarie Dictionary* definition of 'prejudice'. I see that the minister has his dictionary, so he will understand that we are looking at the verb. The *Macquarie Dictionary* definition of the verb 'prejudice' is:

5. to affect with the prejudice, favourable or unfavourable ...

It gives the example:

... *these facts prejudiced us in his favour.*

We have here the absurd situation where a citizen who releases information which actually favours the national interest or prejudices the national interest for the good could be caught under this legislative device. The minister will no doubt get up and say, 'That's absurd; that wouldn't happen.' I say it is sloppy legislation. When you bring in jail sentences of up to 25 years, you have to get it right. Before we move on, there has to be a

definition of 'prejudice' in here which says 'inimical to the nation's interest'.

There are very major holes in this particular part of this legislation. I might not push it so hard if we were looking at fines or at the potential for a minor inconvenience to citizens. But we are not; we are looking at five-year and 25-year jail sentences, so it is incumbent on the government to get it right, and it has not got it right. I ask the opposition to look at this again. I am pleased that the Democrats will support this very important amendment. I say to Senator Ludwig and the opposition: please do look at this amendment. It is not an offensive amendment; there is no way it can be offensive. It enhances this legislation, but it looks particularly at guaranteeing time-honoured rights for citizens in this country. There will be time for the opposition to look at this and I plead with the opposition to look at it very carefully. It is a very serious matter.

Senator ELLISON (Western Australia—Minister for Justice and Customs) (12.41 p.m.)—Senator Brown asked a couple of questions about definitions and he referred to 'prejudice', which is one of the elements of the offence that the prosecution would have to make out beyond a reasonable doubt. Of course, the disadvantage resulting from the action of another is something which would disadvantage the security or defence of the Commonwealth. Senator Brown also asked what 'security or defence' means. In section 90.1, the 'Definitions' section, 'security or defence' is defined as follows:

security or defence of a country includes the operations, capabilities and technologies of, and methods and sources used by, the country's intelligence or security agencies.

That deals with the definition of 'security or defence'. They are questions of fact; they are aspects which have to be made out by the prosecution beyond a reasonable doubt, and there are all the usual safeguards that apply in Australian criminal law. Questions of fact are to be determined by the jury beyond a reasonable doubt. That is quite clear.

Senator Brown also asked me a hypothetical question about the *Tampa*. Certainly, the government is not normally in the business of answering hypothetical questions. Senator

Brown gave us an example of where he, I think, had made calls to the *Tampa*. I am sure, knowing Senator Brown, that he would be beyond question, because, to found a prosecution to begin with, under this bill the person would have acted intending to prejudice the Commonwealth's security or defence. I am sure Senator Brown never intended that, nor would he. In any hypothetical that Senator Brown puts to me about a person being caught by this bill, he might like to indicate at the outset whether the intention of the person he is talking about was to prejudice the Commonwealth. That is the nub of the question, not simply whether they made a call to the *Tampa* and not simply whether they provided information. There must be the attendant, requisite mental condition of intending to prejudice the Commonwealth's security or defence. Senator Brown did not tell us about that. I am giving him the benefit of the doubt that he did not intend that.

Senator BROWN (Tasmania) (12.44 p.m.)—No, I am using a hypothetical where a person calls the *Tampa* with the intent—

Senator Ellison—You mentioned your own situation. You mentioned it was being tapped.

Senator BROWN—No, I mentioned a situation where I or somebody else would have done this. By the way, I did call the captain of the *Tampa* and congratulated him—that was it. Let me put the situation, because this is a serious matter. Let us move away from the personal to the situation where somebody called the *Tampa* and said, 'We encourage you to bring this ship to Australia, to trespass into Australian waters and, if you can, to get the asylum seekers ashore.' I believe that, in the government's view, is inimical to the Commonwealth. The case that we are looking at is about whether it is revealed that an illegal activity has taken place in a spy agency.

Progress reported.

ACIS ADMINISTRATION AMENDMENT BILL 2002

Second Reading

Debate resumed from 23 September, on motion by **Senator Ellison**:

That this bill be now read a second time.

Senator GEORGE CAMPBELL (*New South Wales*) (12.45 p.m.)—Labor basically support the *ACIS Administration Amendment Bill 2002*. We are happy to give the bill non-controversial status to expedite its passage. The bill is very important to the automotive industry and Australian manufacturing in general. However, we hope the government will be able to release the Productivity Commission's final report on industry assistance and its own response fairly soon so that there can be a proper debate on the directions in which the government intends to take this industry. This will enable decisions to be made early enough so that the industry can have some security about the decisions that it has to take with respect to future investment in the industry.

Labor have already provided an initial response to the commission's position paper released in June. Labor support ongoing assistance to the industry beyond 2005. We are also interested in revamping ACIS to give greater emphasis to research and development, training and investment in the industry. The Productivity Commission has argued that there is no need to amend ACIS. Their view is that it is basically a subsidy regardless of where it is delivered. We disagree strongly with that view of ACIS. Our view is that the revamping of ACIS to give greater assistance to R&D and greater focus on investment and innovation would send a strong positive signal to the industry and provide greater assistance to those activities which are crucial to Australia building its competitive niche in the global automotive sector. Labor also see some merit in the suggestion to have separate pools for the capped component of ACIS, as well as for car makers and their suppliers.

On the issue of tariffs, Labor have called for another review in 2006-07 to determine post-2010 assistance arrangements. The Productivity Commission's own economic modelling has shown that the national gains of reducing automotive tariffs below 10 per cent would be negligible or even, in respect of this industry, negative. We have also argued that future assistance arrangements for the car industry should not be conditional on

supporting the government's industrial relations war. It is our view that it was a cheap political trick for this government to try to link its industrial relations agenda to future support for an industry which is of such critical importance to the Australian economy. To do so brought no merit to the government and created consternation among the leadership of the industry. It could have created some concern among those leaders of the industry who were considering substantial future investment in automotive production in this country. But the leaders of the automotive industry did not fall for that three-card trick and they continued to pursue their argument for support for the industry into the future, separate and distinct from any issues relating to how the industrial relations environment in the industry should be progressed.

Even the Productivity Commission has argued against making a link between industry assistance and the pursuit of the government's workplace relations agenda. Labor's view is that the convening of roundtable discussions involving the auto industry and unions to achieve cooperative solutions to future workplace relations issues, including the forthcoming series of enterprise bargaining, would be the most effective and constructive way of dealing with the industrial relations issues that this industry has to comply with. One should also understand that this is an industry that has complex and fragile supply chains. There is an interrelationship not just with the plant producers but also with the auto component suppliers, who manage production in this industry on a just-in-time basis. If the industry had fallen for the clumsy attempt by the government to use future support for the industry to create an industrial relations environment that would have been confrontationist then the potential damage to this industry and to its markets could have been substantial. As I said, the Labor Party basically support the bill and we are happy to give it non-controversial status.

Senator TROETH (*Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry*) (12.51 p.m.)—I thank Senator George Campbell for his contribution to the debate. However, I

should point out in answer to his comments that the issues of post-2005 assistance arrangements for the automotive industry and the state of industrial relations in that industry have no relevance to this bill. The bill gives full effect to the government's original stated intention to continue the former duty-free allowance. It allows motor vehicle producers to claim uncapped incentives for the production of utilities, panel vans and pickups from the commencement of the Automotive Competitiveness and Investment Scheme, and as a consequence it relieves unintended pressure on the modulated element of this program. I am glad that we have agreement on this bill and I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

DAIRY INDUSTRY LEGISLATION AMENDMENT BILL 2002

Second Reading

Debate resumed from 23 September, on motion by **Senator Ellison**:

That this bill be now read a second time.

Senator O'BRIEN (Tasmania) (12.53 p.m.)—The **Dairy Industry Legislation Amendment Bill 2002** amends the Dairy Produce Act 1986 to give the Australian Dairy Corporation a key role in the planning and facilitation of reform to the delivery of statutory services to the Australian dairy industry. Additionally, the bill provides dairy farmers in receipt of assistance under the Dairy Structural Adjustment Program or the Supplementary Dairy Assistance scheme with access to Farm Help re-establishment grants—access that has been denied since the end of the Dairy Exit Program on 30 June this year.

Senators will be aware of major changes in the Australian dairy industry over the past few years. Full domestic deregulation in July 2000 saw state dairy authorities disappear and forced significant change on the industry. Deregulation was supported by a majority of dairy farmers but it has nevertheless

caused much pain, particularly at the farm level, in quota states such as New South Wales, Queensland and Western Australia. This pain has been ameliorated to some extent by the Dairy Structural Adjustment Program. Nonetheless, dairy farmers have had their fair share of battles in recent times.

Deregulation forced change at farm and company level. Now the industry itself seeks change in the way that dairy industry services—particularly promotion, research and development—are delivered. For over 12 months, the dairy industry has been working on a proposal for a new industry structure. Following extensive consultation, the industry has determined that it is desirable to merge the service activities of the Australian Dairy Corporation and the Dairy Research and Development Corporation into a single industry services body, preferably in the form of a Corporations Law company. The industry has identified the following benefits in its plan: firstly, greater accountability to stakeholders through industry ownership and control; secondly, better coordination of research with trade, promotion and marketing activities; and, thirdly, more efficient service delivery. A dairy industry newsletter, dated September 2001, says of this new levy-funded company:

The increased flexibility will allow the company to easily adapt its roles and structure to changing industry requirements and the commercial and social environment.

The dairy industry's desire for a new industry services structure is the very basis of the bill before the Senate. The bill does not provide for the implementation of the structure but rather gives the Australian Dairy Corporation the capacity to begin the task of investigating options for reform. By providing the Australian Dairy Corporation with this capacity, the bill allows the process of reform to begin in earnest.

It is out of character for the Minister for Agriculture, Fisheries and Forestry to respond to industry requests for assistance and leadership in anything approaching a timely fashion. We all know that the minister, Mr Warren Truss, has had a few other things on his mind over the past few months. It takes no small amount of talent—and, I am sure,

energy—to simultaneously bungle exceptional circumstances reform, administration of the US beef quota and assistance to the sugar industry, but Mr Truss has given it his absolute best shot. Fortunately, the minister has not bungled the dairy industry—at least, not yet. The industry wants a new structure in place by July 2003. Upon passage of this bill, I urge the minister and his department to give the ADC, and the industry, all the assistance it needs to develop a properly considered reform model. There are many complexities involved in transferring functions and funding from statutory bodies to Corporations Law companies, and providing the ADC with the capacity to facilitate investigation of this matter is a prudent action. But the government must not use this action to delay active assistance to the industry to investigate and formulate a final reform model.

The dairy industry is one of Australia's most important rural industries. That is why it is so important for the government to pay serious attention to its responsibilities to assist this industry to prosper. The industry comprises 12,000 dairy farms across all six states. It is a sign of the impact of deregulation that the number of farms declined by almost 1,000 in the period 2000-01. The Australian dairy industry is a major generator of economic wealth, a significant exporter and a key employer—particularly in the primary production, manufacturing and distribution areas. Most dairy jobs are found in regional Australia.

During the winter recess I had the pleasure of visiting King Island, in my electorate. I met with some of the managers and employees of the King Island Dairy company. I do not think it will upset too many other dairy companies in Tasmania if I say that King Island Dairy has a justifiable reputation for producing some of Australia's finest dairy products. King Island Dairy's specialty cheese products are truly world class. That is no surprise to anyone who visits the island and experiences its superb natural conditions and environment. But we all know a good environment is, of itself, not sufficient to produce quality primary produce. The farmers and processors at King Island Dairy share one key characteristic with other members of

the Australian dairy industry: a commitment to securing and building the industry for the future. That is why the industry presented a plan to the government, and that is why it is so important that the government—in particular, Minister Truss—gives the industry the assistance it needs to finalise its reform plan. The opposition will support this legislation because it represents an important step towards the realisation of a better industry framework.

The second aspect of this bill is the provision of access to exit assistance under the Farm Help re-establishment grant scheme. Access is provided to holders of Dairy Structural Adjustment Program and Supplementary Dairy Assistance scheme entitlements on the same basis as that provided under the Dairy Exit Program. This is a sensible move and the opposition supports it. However, we need to ask why it is that the government failed to introduce this measure before the cessation of the Dairy Exit Program on 30 June this year. I fear it is yet another sign of Mr Truss's unwillingness or inability to give his portfolio the attention it deserves. The opposition agrees to the passage of this legislation and will monitor very closely the support the Minister for Agriculture, Fisheries and Forestry provides for the industry once the Australian Dairy Corporation commences its reform work. Dairy farmers, processors and distributors deserve assistance from a minister and a government that have a track record of taking Australia's primary industries for granted. Labor will ensure that the future of the dairy industry remains firmly positioned in the mind of Mr Truss as the reform process proceeds.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (1.01 p.m.)—The purpose of the [Dairy Industry Legislation Amendment Bill 2002](#) is to provide the Australian Dairy Corporation with the additional function of planning, facilitating and participating in the reform of that corporation and the Dairy Research and Development Corporation. While the government has yet to consider a detailed reform proposal, it is essential that such a proposal is rigorously and thoroughly examined. For this reason,

extending the Australian Dairy Corporation's functions to provide for this is critical to any progress on this issue. I must say that the dairy industry remains progressive and successful and is to be commended for its continuing conscientious examination of its future and the structures that will assist it in maintaining its relevance in domestic and world markets.

The bill also provides for farmers with entitlements under the Dairy Structural Adjustment Program or the Supplementary Dairy Assistance scheme to access exit assistance through the Farm Help re-establishment grant scheme following the cessation of the Dairy Exit Program on 30 June this year. This means that eligible dairy farmers will continue to have access to a grant of up to \$45,000 payable when they leave the industry and will also have access to the \$3,500 retraining grant under Farm Help. Currently only those farmers who are not holders of the Dairy Structural Adjustment Program or the Supplementary Dairy Assistance entitlements are able to apply for exit grants under the Farm Help scheme. This inequitable situation will be corrected by removing impediments to the holders of these entitlements to access the Farm Help scheme.

The cost of these changes will be funded out of the Dairy Structural Adjustment Program, from which the Commonwealth dairy industry restructure measures are funded. These amendments will have little or no impact on the term of the dairy adjustment levy as they provide for future DSAP and SDA entitlements to be cancelled as part of receiving a dairy type grant under the Farm Help scheme. The grants under the Farm Help scheme are to be net of any entitlements previously mentioned already received by the applicant. These measures will ensure that those in the dairy industry who make the decision to exit agriculture will be able to do so with dignity and real choices for their futures. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

AUSTRALIAN CRIME COMMISSION ESTABLISHMENT BILL 2002

Referral to Committee

Message received from the House of Representatives transmitting a resolution referring the Australian Crime Commission Establishment Bill 2002 to the Parliamentary Joint Committee on the National Crime Authority for inquiry and report. Copies of the message have been circulated in the chamber.

Sitting suspended from 1.05 p.m. to 2.00 p.m.

MINISTERIAL ARRANGEMENTS

Senator HILL (South Australia—Leader of the Government in the Senate) (2.00 p.m.)—by leave—I inform the Senate that Senator Amanda Vanstone, the Minister for Family and Community Services, will be absent from question time today. She is representing Australia at the APEC Women's Ministerial meeting in Mexico—a very important meeting. During Senator Vanstone's absence, Senator Patterson will take questions relating to family and community services, the status of women, and children and youth affairs.

QUESTIONS WITHOUT NOTICE

Defence: Equipment

Senator CHRIS EVANS (2.01 p.m.)—My question is directed to Senator Hill, the Minister for Defence. Can the minister confirm that Lockheed Martin are proposing that a single support centre be established in the Pacific, possibly in Japan, which would be responsible for servicing all joint strike fighters in the region? Was the minister aware of this proposal when he announced that Australia would join the JSF program? Won't this proposal mean Australia's own joint strike fighters would have to go overseas for their deep maintenance and upgrades? Can the minister guarantee that we will not buy an aircraft that requires its servicing to be done overseas?

Senator HILL—I am certainly not expecting Australia's joint strike fighters, if in the event we purchase them, to be serviced

overseas. It is important that we are able to service and maintain our own aircraft.

Senator CHRIS EVANS—Mr President, I ask a supplementary question. I would appreciate it if the minister could actually take the substance of that on notice and get back to me, because he did not seem to be aware of it. That is certainly a proposal that has been put to me. I would also ask: is the minister aware of recent reports that the JSF may be delayed by two years because of a \$2.5 billion cost blow-out in the budget for the project? What does that mean in respect of the implications for Australia with its current fleet of F111s and F18s struggling to remain in operation until 2012? Doesn't that also raise serious concerns about the cost of the aircraft? Has the minister got any idea what the cost of this project will be to the Australian taxpayer?

Senator HILL—As a matter of interest, Japan is not even a partner in the design and development phase of the JSF, so it is not in a position to tender for work at this time. Apart from that, this is an aircraft that has been costed, I would fairly say, more carefully than others in the past because it is so important to the US Air Force, apart from others. They are going to have to acquire a very large number of these aircraft and they are going to have to acquire them within a very strict time frame. That gives us significant confidence that the pricing will be controlled and also that the aircraft will be available within the delivery period as is currently envisaged.

Australian Labor Party: Centenary House

Senator BRANDIS (2.03 p.m.)—My question is to the Special Minister of State, Senator Abetz. Is the minister aware of any new opportunities for Commonwealth agencies to locate in Barton? Do these new opportunities represent value for money for the Commonwealth?

Senator ABETZ—I thank Senator Brandis for his question. I am advised by the Department of Finance and Administration that the demand for property in the Barton area is always quite strong. Because of this demand, it is invariably the most expensive area for office space in Canberra, generally around

\$280 to \$350 per square metre. According to a recent L. J. Hooker commercial flyer, office space is available for lease in Barton. The space is described as:

A grade with 360-degree views, a quality fit-out and within walking distance of Parliament House—in short, high-quality office space.

Given Labor's unconscionable rent rort of the Centenary House building, also in Barton, where Labor, while they were in power, fixed a lease with a government agency for 15 years with a nine per cent minimum increase per annum, I thought a comparison might be instructive. At the moment, taxpayers fork out \$845 per square metre into Labor's coffers for this lease, so I did a comparison with the rental for this newly available office space. Given Labor charges the taxpayer \$845 per square metre, what do you think this other A-grade office space in Barton is going for—\$850? Wrong! Seven hundred and fifty dollars?

Senator Kemp—\$700.

Senator ABETZ—Senator Kemp, you are wrong. How about \$650, \$550 or \$450? Wrong, wrong and wrong! What about if we were to try \$350 per square metre? You would be wrong again. You can pick this space up for \$320 per square metre, or 38 per cent of Labor's rip-off. Those of us with a forensic mind may well ask: what is the comparison between these two buildings? Closer examination of the L. J. Hooker flyer tells us that the office space is, yes, in Barton and guess what: it is also Centenary House.

Government senators interjecting—

The PRESIDENT—Order! Senators on my right, please observe the standing orders.

Senator ABETZ—Labor's sleazy and unconscionable rent rort will cost taxpayers \$36 million above market rates over the life of the lease. Labor senators opposite can shriek, but the simple fact is that Senators Faulkner, Bolkus, Cook, Ray and others had their feet under the cabinet table at the time that this lease was entered into, and if they deny any knowledge of it let them say so and let them repudiate this dodgy lease. Let them get up after question time and say that they repudiate the lease and its terms, and that they seek that the lease be repudiated.

Opposition senators interjecting—

Senator Conroy—You are a liar.

The PRESIDENT—Order! Senator Conroy, withdraw.

Senator Conroy—Mr President, I withdraw.

Senator ABETZ—Let them disassociate themselves from this \$36 million rip-off of ordinary Australians.

Senator Lightfoot—Mr President, I rise on a point of order. I understood that Senator Bolkus had used an unparliamentary remark directed to Senator Abetz as well.

The PRESIDENT—Senator Lightfoot, I did not hear that, but there were quite a few interjections. I will look at the *Hansard*.

Senator ABETZ—The Labor Party are very sensitive on this issue and quite rightly so. Mr Crean and the Labor Party are confronting a test of leadership. Mr Crean knows what he should do. He needs to stop the rort, and he needs to repay the \$36 million being ripped off from the Australian taxpayers. This is a test of integrity, character and leadership. Mr Crean's ongoing failure to address this issue shows that his leadership is fatally flawed because of his incapacity to address these issues of integrity and character.

Senator Conroy interjecting—

The PRESIDENT—Senator Conroy, whilst I know there is an important game of football on Saturday—and I know what you have under your jacket—could you cease barracking for today and leave it till Saturday. Senator Bolkus, if you did make an improper interjection, I would ask you to withdraw. If not, I will look at the *Hansard*.

Senator Bolkus—Mr President, I thought that all interjections were improper.

The PRESIDENT—An imputation on a minister then.

Senator Bolkus—Mr President, I will withdraw this one but, as I said in my interjection, I never say anything unparliamentary about him anyway.

Defence: Intelligence

Senator BUCKLAND (2.09 p.m.)—My question is directed at the Minister for De-

fence, Senator Hill. What action does the minister propose to take in response to the allegations relating to the Defence Signals Directorate which were published on the front page of the *Daily Telegraph* and the *Adelaide Advertiser* this morning? Will the minister refer these allegations for investigation to the Inspector-General of Intelligence and Security or, alternatively, to the Joint Parliamentary Committee on ASIO, ASIS and DSD?

Senator HILL—There is obviously someone in DSD who is unhappy. It appears that his or her unhappiness goes back a long way. That person has chosen to complain to a journalist who has blown it up into a huge headline 'Spies sex scandal.' If that person had a real complaint, I would have thought that that person would have made the complaint to the head of the department. No such complaint has been made to Dr Hawke during his three years in office. If he or she did not want to make a complaint to Dr Hawke, they would be well aware of the statutory protection that exists—that is, the Inspector-General of Intelligence and Security—and they would have been able to make the complaint to the Inspector-General. He has not made a complaint to the Inspector-General. If he regards the Inspector-General as an insider and for some reason feels uncomfortable about doing that, he could have even complained to the minister—because nobody says that I am an insider—but he has not chosen to do that either. So on the basis of what I have seen to date, I do not see any reason for an independent inquiry.

Senator BUCKLAND—Mr President, I ask a supplementary question. If the minister regards these allegations as gossip, as he stated on the ABC radio this morning, what action does he propose to take to prevent such gossip being leaked to the media from a key part of Australia's intelligence community?

Senator HILL—I am yet to find a way to avoid gossip being leaked to journalists. I have to confess my failure in that regard.

Health: Private Health Insurance

Senator TIERNEY (2.11 p.m.)—My question is to the Minister for Health and

Ageing, Senator Patterson. Will the minister update the Senate on how the Howard government has restored balance and choice in Australia's health care system? Is the minister aware of recent comments or announcements concerning the future of the coalition's 30 per cent private health insurance rebate?

Senator PATTERSON—I thank Senator Tierney for his question. We have restored the balance and choice in Australia's health system, unlike Labor that was letting private health insurance run down to a level which was totally unsustainable. We have pursued policy options and every step along the path the Labor Party, through its blind ideological opposition to private health care, has been unable to acknowledge the success of our policies. The fact is that almost nine million Australians have private cover. Each of them enjoys the benefits of the coalition's 30 per cent rebate. The rebate and lifetime cover have been the cornerstone of our policies and they have taken the pressure off Medicare and taken pressure off our public hospitals.

The latest figures from the Australian Institute of Health and Welfare, based on figures provided by the states, show that in 2000-01, public hospital admissions fell nationally by minus 0.1 per cent, while private hospital admissions rose by a massive 12.1 per cent. This was even before the real impact of lifetime health cover. The figures are even more interesting when broken down by state. New South Wales public hospital admissions fell by 7,370—or minus 0.6 per cent—while private admissions went up by 35,486—or 5.9 per cent. Queensland public admissions fell by minus 2.7 per cent, and private admissions went up by 16.3 per cent. South Australia public admissions fell by minus 0.8 per cent, and private admissions went up by 15.3 per cent.

In the face of this obvious and overwhelming success, the Labor Party maintain their mindless and ideological opposition to private health care. Only two weeks ago, Labor's health spokesman, expressing views held by those on the other side, described the 30 per cent rebate as a public policy crime and a felony. We have the most gross example of political hypocrisy here. Labor governments in Queensland and South Australia

have sought expressions of interest from private health funds to manage their state ambulance services. I am advised by my department that if Queensland were successful in this approach, the additional cost of the 30 per cent rebate will be in the vicinity of \$26 million. The fact that two state Labor governments are unwilling to invest additional funding into their ambulance services and are attempting to bludge off the 30 per cent rebate—a policy that each and every Labor politician has decried at every opportunity—is an example of gross political hypocrisy. It is an example of gross cost shifting.

I can inform the Senate that I am not going to entertain either Queensland or South Australia taking this step. Whether through the health care agreements or regulation, I am not going to allow these states to shirk their responsibilities and avoid their own responsibilities to invest in their ambulance services and pass that on to the Commonwealth. They simply have no excuse.

In the life of the last health care agreement over the past five years we have seen a 24 per cent real increase in payments to the states. There was no clawing back of money after the increase in private health insurance, as was agreed. They have got \$3 billion in additional funding, and here they are trying to pass the buck and cost shift to the Commonwealth because they cannot manage their ambulance services. Queensland and Western Australia owe it. The other states already do it and have been doing it for years—and I have got my eye on them, I can tell you.

I also look forward to hearing views from senators opposite whether they agree that is okay for the states to shift funding from the states to the Commonwealth by using the 30 per cent rebate. On one hand they decry it while on the other hand they are going to abuse it and try to cost shift. It is total hypocrisy. It is totally unacceptable, and the Commonwealth government will not accept that as a means of cost shifting. They ought to get their houses in order and manage their affairs much better and deliver better health outcomes to their states with the money that they have been given, which is significantly more than they were anticipating. (*Time expired*)

Immigration: Border Protection

Senator FAULKNER (2.15 p.m.)—My question is directed to Senator Ellison, the Minister for Justice and Customs. Can the minister confirm that Kevin John Ennis was paid at least \$25,000 by the AFP as an informant on people-smuggling activities? Is the minister aware that Mr Ennis admitted to reporter Ross Coulthart of the *Sunday* program that he had paid Indonesian locals on four or five occasions to scuttle people-smuggling boats with passengers aboard? What action has the minister taken to investigate these specific allegations and what was the outcome of any such investigations?

Senator ELLISON—Of course the answer to Senator Faulkner's question has been answered at Senate estimates in relation to the \$25,000 fee, because the Commissioner of the Federal Police has said that fee was paid and that Mr Ennis was an informant. I make it very clear that the Australian Federal Police have said very clearly that they did not authorise people-smuggling in any way. They did say that Mr Ennis was a person who was endeavouring to gain information in relation to people-smuggling in order to assist the authorities, and that he was doing this in relation to a joint operation by the Indonesian National Police and the Australian Federal Police. It was not a situation where he was authorised to engage in that.

Senator Faulkner touches on the *Sunday* program and the journalist concerned. At the outset let me say that it is well known that the Australian Federal Police have complained to the Australian Broadcasting Authority in relation to the conduct of this whole matter by the *Sunday* program. In fact the *Sunday* program made some outrageous allegations and, shortly thereafter, had to make a partial retraction. On 12 May this year the *Sunday* program was forced to issue a retraction of the allegations that Mr Ennis had landed a number of boatloads of illegal immigrants on the Australian mainland. This was done only after *Sunday* became aware that the Australian Federal Police investigations disclosed that *Sunday's* principal informants, who formed the basis for the first program, had lied.

There were a number of programs. The first program was in February and we saw this retraction on 12 May. After AFP investigations we have a program having to retract a very serious allegation that was made. So we start with the premise that we do not give much credit to the allegations that they have been making.

The other aspect that Senator Faulkner raises is the question of Mr Ennis and what Mr Ennis has told the *Sunday* program and whether we have investigated this. The Australian Federal Police have conducted not one but two investigations into this matter and these investigations have been oversighted by the Ombudsman. I have received a letter from the Ombudsman, dated 3 September 2002, which states:

In summary, I am satisfied that both AFP investigations were thorough and properly undertaken.

That is as a result of the Ombudsman oversighting two investigations into this matter by the Australian Federal Police.

The Australian Federal Police have also received legal advice from the Director of Public Prosecutions, Mr Damien Bugg QC, who has rebutted *Sunday's* claims that the AFP's actions, or those of Mr Ennis, may have been unlawful. We have advice from the DPP, we have the Ombudsman oversighting two investigations by the Australian Federal Police into the matters that have been raised by the *Sunday* program and touched on by Senator Faulkner, and we have questions at the Senate inquiry into a certain maritime incident. We have questions asked of the Australian Federal Police at estimates, which have been highly distorted and misquoted by the opposition and in particular Senator Faulkner. And yesterday we had the outrageous allegation by Senator Faulkner that in some way Australian authorities were involved in endangering life. (*Time expired*)

Senator FAULKNER—Mr President, I ask a supplementary question, and it is a specific supplementary question. Has the minister or, for that matter, the Ombudsman investigated the claim made by the AFP's paid informant, Kevin Ennis, that he, Mr Ennis, paid Indonesian locals on four or five occasions to scuttle people-smuggling boats with

passengers aboard? Has that claim been investigated? If not, Minister, why not? If so, can the minister inform the Senate whether those claims are true or false?

Senator ELLISON—I am obliged to Senator Faulkner for that supplementary question because this matter—because of the distortion by Senator Faulkner—has resulted in absolutely scurrilous statements being made both in this chamber and outside. I challenge Senator Faulkner to make those statements that he made yesterday outside this chamber. The Australian Federal Police are issuing a statement shortly on this very matter and I invite Senator Faulkner to read it. It is being issued now as we speak.

Honourable senators interjecting—

The PRESIDENT—Order! Interjections from both sides are disorderly. Senator Bartlett has the call.

Opposition senators interjecting—

Senator Alston—I wouldn't leave the building, if I were you.

Senator Jacinta Collins—That was a threat. Senator Alston made a threat!

The PRESIDENT—Senator Alston, if you did make a threat, I would ask you to withdraw it.

Senator Alston—I didn't make a threat.

The PRESIDENT—I will review the *Hansard*.

Foreign Affairs: Iraq

Senator BARTLETT (2.23 p.m.)—My question is to Senator Hill, the Minister representing the Prime Minister. I ask the minister if he is aware of statements made by the former Governor-General, three former prime ministers, a former Leader of the Opposition, three former defence chiefs and the National President of the RSL, stating:

... it would constitute a failure of the duty of government to protect the integrity and ensure the security of our nation to commit any Australian forces in support of a United States military offensive against Iraq without the backing of a specific United Nations Security Council resolution.

Does the government accept this statement that Australia's participation in a US-led pre-emptive strike against Iraq would be contrary to the best interests of Australia and its peo-

ple? Will the government finally make a commitment, once and for all, to the Australian people that it will not participate in or support any such pre-emptive military action?

Senator HILL—I appreciate the question from the alternative Leader of the Australian Democrats. At least it is covering an important subject matter. I am a little surprised that I have heard nothing on these important subject matters relating to defence this week from the Labor Party. Instead, they see allegations of sex scandals within DSD as apparently more important. The position has not changed. The government supports the Security Council addressing this issue. We hope that it will address it effectively and bring sufficient influence to bear upon Saddam Hussein so that the weapons of mass destruction program can be brought to an end and the existing weapons of mass destruction can be destroyed. That is our objective, and we would like to see it achieved without the need for military intervention. If there is a need for military intervention, we would prefer it to be under the auspices of the Security Council. Nevertheless, that does not totally answer the threat to an individual party, who is entitled to use self-defence under the Charter of the United Nations.

Senator Chris Evans—Which article is that?

Senator HILL—I think it is article 51. We hope that it does not reach that stage, because we would prefer the Security Council to act effectively. However, if a party that is threatened by a weapons program resorts to self-defence, it is open to that party to seek the support of other states and, if it is the United States, it might seek the support of Australia. If it gets to that stage, it would be considered by Australia according to Australia's national interests. The Prime Minister has made that position absolutely clear. Whilst I have seen the statements in the press to which the honourable senator referred and whilst I understand the sentiment that a preference should exist for these matters to be resolved under the auspices of the Security Council, we cannot, unfortunately, be certain that that will in fact occur.

Senator BARTLETT—Mr President, I ask a supplementary question. Minister, why is the government ignoring the views of the RSL, and people such as experienced former defence chiefs, in relation to a pre-emptive strike? Why will the government not accept that pre-emptive military action is illegal and is likely to contribute to ongoing instability in the Middle East, rather than improving the prospects for stability and peace?

Senator HILL—We are not ignoring any advice at all. We have great respect for the President of the RSL and distinguished former national leaders, and we share their view that a collective response under the Security Council is preferable. But, as I have said to the honourable senator, the right of self-defence is entrenched within the Charter of the United Nations. It is therefore the right of a party that is threatened to defend itself if that is the case. These days, that has to be looked at against a background of weapons of mass destruction and terrorism which is significantly changing the circumstances in which self-defence is necessary.

Foreign Affairs: Australian Secret Intelligence Service

Senator FAULKNER (2.27 p.m.)—My question is directed to Senator Hill, representing the Minister for Foreign Affairs. Can the minister confirm that, by means of section 6(1)(e) and section 6(2) of the Intelligence Services Act 2001, parliament has authorised ASIS to undertake activities other than those set out in the act, provided that these are set out by the Minister for Foreign Affairs in a ministerial direction to ASIS? Can the minister advise the Senate whether the foreign minister has issued a ministerial direction to ASIS in relation to the government's people-smuggling disruption program?

Senator HILL—I am asked that question as representing the Minister for Foreign Affairs. I do not know the answer and, even if I did know the answer, I am not sure whether I would be able to answer, according to the usual constraints upon security matters. But I will seek the advice of the Minister for Foreign Affairs and report back to the Senate in due course.

Senator FAULKNER—Mr President, I ask a supplementary question. I appreciate the minister's commitment to report back to the Senate. I ask him to do so as soon as possible. I also ask him if he would convey to the Minister for Foreign Affairs a request to have the Leader of the Opposition briefed on any such ministerial direction.

Senator HILL—The Minister for Foreign Affairs will no doubt hear, or be told, that you would like the response promptly. In relation to a request from the Leader of the Opposition for a briefing, I think that he is quite able to make that himself.

Immigration: Asylum Seekers

Senator BROWN (2.29 p.m.)—My question is to Senator Ellison, representing the Minister for Immigration and Multicultural and Indigenous Affairs. It comes against the background of the situation on Manus Island where Papua New Guinea has not agreed to extend the asylum seekers remaining beyond 20 October and we have Australian Protective Service agents who do not have, in the main, legal authority under Papua New Guinea law to look after these people. What is the minister doing about the looming crisis on Manus Island where 191 asylum seekers, mostly Iraqis, 120 of whom have had their claims as refugees accepted, are being guarded by Australian Protective Service agents? Is the government considering moving the detainees to Nauru or Christmas Island, and if so how is it going to effect that move?

Senator ELLISON—Senator Brown is referring to an agreement which was reached with Papua New Guinea in relation to Manus Island. That was finalised on 12 October last year. There have been provisions in relation to that for people to remain on Manus Island and, as I understand it, the initial period was extended from six months to 12 months. The current deadline is 21 October. I understand that there have been discussions between the Prime Minister of Papua New Guinea and the Prime Minister of Australia, although there has been a comment by the foreign affairs minister in relation to this matter on New Zealand radio, I understand. I do not believe that is a definitive decision of the Papua New Guinea government and that is a

comment of the Minister for Foreign Affairs. If that is what Senator Brown is relying on then certainly I would say to him that the question of the renegotiation of that time limit is certainly under way between the two countries. That is not a matter which has been decided.

I am advised that a group of 40 rejected asylum seekers are being relocated to Nauru today. This relocation further reduces numbers in the centre and will allow for better management of the centre. I am advised that people moved to the airport and onto the aircraft without incident. On Nauru the International Organisation for Migration will provide ongoing care and management for these people, including the ongoing exploration of return and reintegration opportunities. The relocation has the support of both the Nauru and PNG authorities. As at this morning, the Manus caseload comprised 151 persons, and yesterday saw a further review in relation to 18 people who were determined to have refugee status and 11 who were refused. Sixty-one refugees have come from Manus to Australia, and 87 have been resettled to New Zealand. Refugees on Manus continue to be processed for resettlement and refugees who have close relatives in Australia are currently being processed for resettlement here. That outlines to Senator Brown the movement that is occurring on Manus Island and the fact that there are negotiations with the PNG authorities in relation to the extension of this deadline.

Senator BROWN—Mr President, I ask a supplementary question. Why extend the deadline against the wishes of Papua New Guinea so far if, at most, there are only a couple of dozen refugees who do not have their status ascertained? Why not bring the lot to Australia, particularly in view of the impending hostilities in Iraq? Could the minister outline under what circumstance any of the Iraqi detainees on Manus Island or elsewhere in Australian custody would be returned to Iraq, considering the Howard government's impending support for an invasion of the country?

Senator ELLISON—I cannot comment on the background of the people who are remaining there but I can say that the Prime

Minister of Papua New Guinea, Sir Michael Somare, is on record as saying that the presence of the processing facility on Manus Island has not created any difficulties amongst the people on the island or in PNG as a whole.

Senator Faulkner—That was not the question.

Senator ELLISON—Senator Brown said that it was against the wishes of the PNG authorities. I am saying that we are talking to the PNG authorities and we are negotiating in relation to the extension of that deadline. As for the remaining people there, the government believes that if that deadline can be extended then it is appropriate that they remain there.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the President's gallery of a parliamentary delegation from Malaysia, representing the public accounts committee of the state of Parak, led by the honourable Ahmad Sharifuddin. On behalf of honourable senators, I have pleasure in welcoming you to the Senate and trust that your visit will be both informative and enjoyable.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Immigration: Border Protection

Senator ROBERT RAY (2.35 p.m.)—I direct my question to Senator Ellison, the Minister for Justice and Customs. Why was the protocol between the Australian Federal Police and the Indonesian National Police dealing with the disruption of people-smuggling set aside by the Indonesians in September last year? What reasons did the Indonesian government give for pulling out of this agreement and what was it about the disruption activity which so concerned the ministry of foreign affairs, the DEPLU, that the entire MOU was put on ice for many months? What changes did the Indonesians require to the disruption program before they finally agreed to reinstate the cooperation framework in June this year?

Senator ELLISON—The Commissioner of the Australian Federal Police, Mr Keelty,

answered this question at Senate estimates and it was discussed at great length. He was asked questions in relation to foreign affairs. You are talking about the Commissioner of the Australian Federal Police. All he can speak for is law enforcement.

I can tell you that an MOU was signed between the chief of the Indonesian police and the AFP in Western Australia earlier this year, and I attended that. From a law enforcement point of view, I was not aware of any problems between Indonesian law enforcement and Australian law enforcement. If Senator Ray is talking about foreign affairs and some difficulties with foreign affairs he should ask the Minister for Foreign Affairs. I would remind Senator Ray that the period he is talking about partly involved the caretaker government mode. I specifically was at arms-length from any dealings with the Indonesian government at that stage because of the caretaker mode.

I can tell you that once the government was re-elected, we continued close cooperation with Indonesia, so much so that a few months later we had a people-smuggling and transnational crime conference jointly hosted by the Indonesian government and the Australians. After that we had an MOU signed in Australia between the Indonesian police and the Australian Federal Police. We have always enjoyed close cooperation with the Indonesian police and this has been evidenced by the success that we have had in relation to a number of operations. In relation to law enforcement, we have enjoyed close cooperation with the Indonesians. If there is some foreign affairs aspect to the question, Senator Ray should address that to the Minister for Foreign Affairs.

Senator ROBERT RAY—Mr President, I ask a supplementary question. What I am asking about is relations between the Indonesian police and the Australian Federal Police, which I would have thought came within the minister's portfolio. Notwithstanding that you were in caretaker mode in September, did it ever occur to you from then until June that there must be a problem if the MOU had been suspended? I am not asking about the police commissioner. I am asking you, as

minister, what you did to find out what the problem was and how to rectify it.

Senator ELLISON—Over the last 12 months or more, we have not had a boat land on the mainland of Australia. That has been because of our strategies, which have largely involved cooperation with the Indonesian police. I have to tell you right now that I do not have any trouble with that. It has advanced the interests of this country. The Indonesian police have cooperated with this country, and as minister I have ensured that. I do not know what else Senator Ray thinks I should do, but everything we have done is in the interests of this country and it has succeeded.

Superannuation: Fund Choice

Senator LIGHTFOOT (2.39 p.m.)—My question is addressed to the Minister for Revenue and Assistant Treasurer, Senator the Hon. Helen Coonan. What steps are the Howard government taking to assist employees to consolidate their superannuation accounts and give them the freedom to decide where their superannuation is invested? Further, is the minister aware of any alternative policies?

Senator COONAN—I thank Senator Lightfoot for the question and for his long-standing interest in these very important issues of choice and portability of superannuation. These are issues that affect all Australians—at least those who are able to save for their retirement. As senators on this side of the chamber would be well aware, Australia does have a world-class superannuation system and the government is currently working to implement a significant package of superannuation reforms to make further enhancements.

The package is designed to encourage a culture of savings among all Australians. It includes measures which will assist those with the greatest capacity to save for their own future and those who are able to do so. It proposes that employees should be able to determine where their superannuation contributions are paid. Letting individuals choose where their retirement savings are invested is a fundamental plank in the government's plan for the future of superannua-

tion. The Howard government's policy of choice and portability, if the Senate passes it, will deliver control into the hands of those with the greatest stake in superannuation—that is, employees.

Senator Sherry—You haven't got a policy on portability. You have a discussion paper that says nothing.

Senator COONAN—Recently, I released for public comment a consultation paper on the implementation of the government's portability of superannuation policy. Portability will give members of accumulation funds the right to transfer benefits from their current superannuation funds to a fund of their choice.

Senator Abetz—That is a very important measure.

Senator COONAN—It is important, because APRA figures from March this year indicated that there are just over 24 million superannuation accounts in Australia, which means that there are approximately two to three accounts for every person who can have an account. This means that many Australians could be paying fees and charges on three or more superannuation accounts which will eat away at their savings and reduce their standard of living in retirement.

Senator Sherry—And they can't get out because you won't ban the exit fees.

Senator COONAN—To complement choice of funds, portability will allow members to consolidate their superannuation benefits in one account reducing the impact of fees and charges.

Senator Sherry—How can they do that if there are exit fees, Helen?

The PRESIDENT—Order! Senator Nick Sherry, come to order. Stop shouting across the chamber.

Senator COONAN—I am asked if I am aware of any alternative policies. Choice has been introduced into the parliament and it has been opposed both times by the Labor Party and the minor parties in the Senate. It is a patronising action. We do not choose which shares or securities employees invest in. It is a matter of choice. So why would you restrict superannuation?

Those on the other side, in particular Senator Sherry, try to argue that Australian adults who buy homes, who invest in shares, who raise their families and who run businesses somehow lack the wit or the where-withal to choose where their superannuation should be invested. The government has allocated \$28.7 million to the Australian Taxation Office over four years to conduct an education campaign and to administer choice. The Labor Party seems to think that \$28.7 million is small beer and that it is not enough. The Labor Party spends like there is no tomorrow—what comes to mind is the \$8 billion that Labor wasted in interest payments on Labor's debt, and the enormous deficits that Labor favours. I think \$28.7 million is quite a lot of money. It is, of course, possible to take an intelligent and targeted approach to education, to work with industry and to be efficient. We know employees deserve freedom to choose. Their superannuation is not their employers' money. It is not the government's money. It is the employees' money and they should be able to choose. (*Time expired*)

Defence: Border Protection

Senator COOK (2.44 p.m.)—My question is to Senator Hill as Minister representing the Prime Minister and Minister representing the Minister for Foreign Affairs. Did the new Secretary of the Department of Defence, Mr Ric Smith, as Australian Ambassador to Indonesia, chair a meeting of the embassy's interagency coordination group on people-smuggling on 13 June 2001? Along with representatives of DFAT, DIMIA, the AFP and Defence, was the meeting also attended by the Minister for Immigration and Multicultural and Indigenous Affairs, Mr Ruddock? What advice, requests or directions did the minister give this coordination group in terms of the nature or scope of disruption activities to be directed at people-smuggling operations?

Senator HILL—Not surprisingly, I do not know the answer to that question. To determine whether Mr Smith attended the meeting, I guess I should refer that to the Minister for Foreign Affairs. Senator Cook has also asked whether Mr Ruddock was present at the meeting and made certain

comments, and I will refer that to Mr Ruddock.

Senator COOK—Mr President, I ask a supplementary question. I point out that this question is to the minister as Minister representing the Prime Minister. What was the nature of the discussions Minister Ruddock had during this June 2001 visit when he met with the Indonesian Minister of Justice and Human Rights and the Indonesian Minister of Foreign Affairs? What requests did Minister Ruddock make of these Indonesian ministers in regard to people-smuggling disruption activities? Was the content of this meeting one of the issues of concern which led to the Indonesian suspension of the cooperation protocol?

Senator HILL—A question asking Mr Ruddock what discussions he might have had with an Indonesian minister is hardly one to be asking the Prime Minister, but, to short-cut the process, I will pass that message on to Mr Ruddock as well.

Foreign Affairs: Iraq

Senator HARRIS (2.46 p.m.)—My question is to Senator Robert Hill, Minister for Defence and Minister representing the Minister for Foreign Affairs. Minister, are you aware that some of America's wealthiest industrialists, with annual turnovers of over \$US35 billion, have as their core businesses the purchasing of oil and gas? Is the minister also aware that, through donations to political parties and through charities, their corporations have spent \$US100 million to influence the outcome of the American election? As a result, is the decision to attack Iraq's weapon base or is it to gain control of oil?

Senator HILL—No decision has been made by the United States to attack Iraq. The United States has expressed its grave concern at the threat posed by the program of weapons of mass destruction of Saddam Hussein in Iraq and has demanded that that program end. It has in fact gone further and warned Iraq that it is not going to tolerate that threat indefinitely. That has, of course, nothing to do with oil at all. It is the right of self-defence, under the Charter of the United Nations. I would respectfully suggest to the honourable minister that the best way that he

could help in this matter would be to add his influence to get Saddam Hussein to end that program of weapons of mass destruction.

Senator HARRIS—Mr President, I ask a supplementary question. Minister, has the Howard government considered that any commitment of Australian troops to Iraq could be designed to remove Saddam Hussein, who has entered into agreements with Russia, China, India and France, and to influence the replacement of Saddam Hussein with an American-user-friendly leader who would reallocate Iraq's oil to American interests?

Senator HILL—It is difficult to take the supplementary question seriously, but I will repeat the fact that the United States wants to see an end to the weapons program because it sees the weapons program as a threat.

Science: Commonwealth Scientific and Industrial Research Organisation

Senator CARR (2.49 p.m.)—My question is to Senator Alston, the Minister representing the Minister for Education, Science and Training. Has the minister been advised of plans, to be announced in detail tomorrow, to sack up to 26 scientists and technicians at the CSIRO's division of Land and Water? What consultation has there been with affected staff or the relevant union, the CSIRO Staff Association? On what basis have staff been selected for removal? What was the involvement of the minister in effecting these forced redundancies? Can the minister confirm that the redundancies of up to 100 staff will have been announced between June and December this year?

Senator ALSTON—I am afraid that the Trades Hall Council must have passed it on directly to you and not relayed their concerns to the government. Certainly, I do not have any information on it. The CSIRO are presumably capable of handling their own affairs and consulting with whomever they think might be helpful, even if that includes unions. To my knowledge, they are handling matters in a very efficient way. Certainly Dr Geoff Garrett is very much wanting to ensure that the CSIRO have world's best practices and a high-level commitment to innovation. I would very much hope that Senator Carr will

recant from all of his past stances and ideologies and finally embrace the commitment to world's best practice and innovation, and I hope that that is therefore consistent with the approach that he will adopt to the CSIRO.

Senator CARR—Mr President, I ask a supplementary question. Minister, I would ask you to take this seriously. The sacking of some of this country's most important scientists, and compulsory redundancies without consultation, should be taken as a serious matter by this government. Minister, will the government seek from the CSIRO a commitment to a moratorium on the sacking of senior scientists at the CSIRO until there has been sufficient and proper consultation with the staff affected and their association? I further ask: can the minister assure the Senate that the restructure proposals in the CSIRO will protect the CSIRO's traditional commitment to core public good research? Further, in the search for external revenues, what assurances have been given to the government about protecting the core strategic research functions of the CSIRO?

Senator ALSTON—If that means that Senator Carr is finally interested in core strategic research and what he describes as 'common public good commitments', then that is a very big sea change. Previously, of course, all he was interested in was lifetime employment guarantees. That is about the last place in Australia where you get them, irrespective of merit. As long as you have a few people's arms twisted behind their backs, you can keep coming back here for years on end.

Senator Carr—Answer the question!

Honourable senators interjecting—

Senator ALSTON—I am sure that the CSIRO has precisely the same commitment to those very important values that are enshrined in its charter and that it will take action to ensure that all that it seeks to achieve is achieved at the highest level by pursuing quality outcomes and not by simply guaranteeing that there will never ever be any job reductions. That is your approach, not ours. *(Time expired)*

Drugs: Strategies

Senator COLBECK (2.53 p.m.)—My question is directed to the Minister for Justice and Customs, Senator Ellison. Will the minister advise the Senate of actions the Howard government is taking to combat the growth in the illicit manufacture and supply of amphetamines and precursor chemicals?

Senator Hill—Finally, a serious question!

Senator ELLISON—That is a very serious question from Senator Colbeck and one which is of great concern to both law enforcement authorities and health authorities across Australia. The strategy of the Howard government in fighting drugs has been to fight on three fronts: health, education and law enforcement. Of course, we have seen success in relation to heroin in the shortage of heroin which this country has experienced since December 2000. But, of course, we cannot afford to stand still. The ABCI's *Australian illicit drug report* of 2000-01 states that the use of illicit amphetamines or speed in Australia is probably the most concerning trend in the illicit drug environment.

This is an issue which I addressed today at the chemical diversion conference held by the ABCI and attended by a variety of stakeholders from the states, territories, the Commonwealth, and health and law enforcement bodies. The problem we face is that amphetamine type substances are a potent drug. They are not only imported but can be manufactured locally. In fact, with the box labs that we have available, you can manufacture them in a motel room. The dangerous thing is that the precursors, which include pseudoephedrine, can be obtained from cold and flu medications which can be purchased over the counter at any chemist. Recently, we saw one bust where some 27,000 tablets of Sudafed were discovered. We are very concerned that pseudoephedrine can be extracted from legally obtainable drugs.

The problem we face is that this is a domestic situation. We have organised criminal gangs such as outlaw motorcycle gangs involved in the distribution of this. Today I have announced that the minister for health, Senator Patterson, and I will work together in a working group to bring together people

such as the Therapeutic Goods Administration, the pharmacy sector, the private sector, the medicines people, the law enforcement people and, very importantly, the states and territories. We cannot afford to have a state or territory approach to this problem; we need a national approach to the situation so that we have in place a code of practice which applies across Australia.

As well as that, I will be raising this at the Australian Police Ministers Council in November and looking at ways that we can deal with this from a law enforcement angle across Australia. But this is unusual, because it is not just the normal situation where you have the importation of heroin. It is not like the situation where you have cocaine coming from South America. This is a situation where organised criminal gangs are extracting a precursor such as pseudoephedrine from a medication which up to 80 per cent of Australians take, especially during the winter months. It is not something that we can ban and it is not something that we can put on prescription, so we do have to put in place controls.

I acknowledge the cooperation that we have had from the private sector. In June this year we saw a code of practice introduced in relation to chemical diversion, but we need to do more. With my colleague the minister for health, we will work together in a working group to make sure that we move this issue forward very quickly. It is of great concern, particularly when you remember that the people who take up this sort of drug the most are young Australians.

Immigration: Border Protection

Senator FAULKNER (2.57 p.m.)—My question is directed to Senator Ellison, the Minister for Justice and Customs. Can the minister confirm that, on 27 September 2000, he issued a ministerial direction to the AFP to give special emphasis to countering and otherwise investigating organised people-smuggling? Can the minister inform the Senate how this ministerial direction was put into operation?

Senator ELLISON—Upstream disturbance has been a key strategy of the Howard government in dealing with people-

smuggling, as well as a whole raft of other initiatives such as the introduction of severe penalties. People-smuggling, you must remember, involves organised criminals who have absolutely no regard for the people that they deal with. In fact, we have seen ruthless criminals operating in an environment with absolutely no regard for the safety of their human cargo. It was a pressing initiative. With the authority that I have, I can issue directions to the Australian Federal Police in relation to matters of priority in areas of law enforcement that the government wants pursued. We followed this up with our people-smuggling conference, which I mentioned earlier.

The police commissioner mentioned at estimates that the range of upstream disturbance activities can be engaged in a number of ways. There is education, which has been touched on by the Minister for Immigration and Multicultural and Indigenous Affairs. I have seen first-hand the dissemination of T-shirts and other means of education. There is the question of dissuading people from embarking on a vessel, deterring them from becoming involved with people-smugglers. There is, most importantly, working with overseas law enforcement bodies such as the Indonesian police to make sure that people smugglers are apprehended. At the moment, we have in custody three people of interest, two of whom are the subject of extradition proceedings from this country. So that is another aspect of dealing with this issue—that is, to flush out the people smugglers and to deal with them.

There are other initiatives in relation to intelligence gathering. We have a People Smuggling Task Force which brings in the department of immigration as well as the Australian Federal Police. These are all appropriate methods of disruption. I make it very clear to the Senate, and in particular to Senator Faulkner, that disruption and deterrence do not equate to sabotage. The Australian Federal Police has not been involved in sabotaging vessels but it has been involved in upstream disturbance—that is, disturbing and disrupting the activities of ruthless people smugglers. What is more, I now have the statement by the Australian Federal Police

that I referred to earlier. It is a release, and I table it.

Senator FAULKNER—Mr President, I ask a supplementary question. I appreciate the minister's tabling of that document. I look forward to reading it. In that circumstance, Minister, will you also please table a copy of the direction that you issued on 27 September 2000?

Senator ELLISON—That issue has been canvassed in estimates and I see no reason why we cannot—

Opposition senators interjecting—

Senator ELLISON—Mr President, this issue has been trawled over by the opposition at length. There have been Senate estimates hearings, the maritime incident inquiry, two AFP inquiries oversighted by the Ombudsman—and still they are calling for a judicial inquiry. But I will table the directions.

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

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Immigration: Border Protection

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (3.01 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Justice and Customs (Senator Ellison) to questions without notice asked by Senator Faulkner today relating to people smuggling.

I have been asking questions for months about Australia's involvement in disrupting and dismantling people-smuggling syndicates in Indonesia. I am still not satisfied by the answers I have received. The disruption policy is undertaken by the Australian government and funded by the Australian taxpayer, yet the Howard government has so far avoided parliamentary scrutiny of this policy.

The government claims that its policy of disruption has had a significant influence on the decline in the numbers of people trying to get to Australia illegally. In March this year the Minister for Immigration and Multicultural and Indigenous Affairs, Mr Rudock, cited the government's policy of

physically disrupting the work of people smugglers as one of the main reasons for the decline in asylum seeker boats coming to Australia. We know disruption includes physically disrupting the people-smuggling syndicates and the asylum seekers who seek assistance. We know from the *Sunday* program and from evidence given by the AFP that an Australian by the name of Kevin Enniss was involved in the people-smuggling disruption program. We know that Enniss worked for the AFP and that he was paid over \$25,000 by the AFP. We know Kevin Enniss admitted to reporter Ross Coulthart from the *Sunday* program that he had paid Indonesian locals on four or five occasions to scuttle people-smuggling boats with passengers aboard.

When these claims were made on the *Sunday* program, I called at the time for a full, independent judicial inquiry into those serious matters. The government have dismissed the calls. They still are ignoring the calls for a proper inquiry. But the denials of the government on these issues are not sufficient. It is not enough to say, as Senator Ellison and Mr Downer have said publicly today, that it has never been the policy of the Australian government to sabotage people-smuggling vessels. It is not enough to say that the Australian government has never sabotaged vessels or directed that they be sabotaged. There was the usual huff and puff—they denounced the opposition and criticised us for daring to ask what they described as 'outrageous questions'.

I say that asking these sorts of questions and demanding answers is the responsibility of the opposition. It is the responsibility of the government to answer those questions. I want to know, and I intend to keep asking until I find out, about a number of things. How far does disruption go? What are the limits, if any? I want to ask, and I want an answer to, precisely what disruption activities are undertaken at the behest of, with the knowledge of or broadly authorised by the Australian government. I want to know, and I think the parliament and the Australian public are entitled to know, what directions or authorisations ministers have issued in relation to disruption. I want to know how the

policy of disruption is funded. We would like to know who funds the policy of disruption. How much does it cost to fund the policy of disruption? Who actually receives those taxpayers' moneys for the disruption program? Who tasks the Indonesian officials or others to disrupt people smugglers or the clients of people smugglers?

We also want to know whether Australians are involved in disruption activities in Indonesia. And it is perfectly reasonable for us to ask about the accountability mechanisms that are in place in relation to these activities, particularly when the MOU governing these particular matters collapses: the commissioner for the AFP and the minister cannot say why; the commissioner cannot even say he asked why that occurred. We want to know whether Kevin Enniss was actually involved in the sabotage of vessels, as Kevin Enniss has claimed. We want to know if others were involved in the sabotage of vessels and we want to know why the government is avoiding an independent inquiry into these very important issues. Nothing else will suffice in these circumstances.

Senator MASON (Queensland) (3.07 p.m.)—This is another desperate attempt at catch-up politics. The Select Committee on a Certain Maritime Incident has been a disaster for the Labor Party. There has been inquiry upon inquiry and Senate estimates hearings as well, all examining these same issues, and the Labor Party has failed to gain any political purchase or traction at all. I will get to that in a minute. Senator Faulkner's questions rely on the SIEVX incident, but he has had an opportunity, as have all the opposition members, during the inquiry to ask questions about this. These questions could have been asked of the Australian Federal Police, Coastwatch, the Royal Australian Navy and others, but now that the inquiry has finished it seems just too opportune for Senator Faulkner to raise further issues regarding the inquiry. We have been doing this for month upon month. We have heard from Mr Kevin. He gave evidence and believes there is some big conspiracy about SIEVX, and we are still searching for the smoking gun or perhaps the

grassy knoll. It is becoming more and more pathetic and more and more desperate.

Senator Brandis—Mr Kevin is now a Labor Party staffer, of course.

Senator MASON—Is that right? Well, perhaps even that.

Senator Jacinta Collins interjecting—

Senator MASON—We heard evidence at length from the Royal Australian Navy, Coastwatch and the AFP. The AFP evidence is pretty simple with respect to SIEVX. They say:

The AFP did not know the identity of SIEV X, nor its time and place of departure, until after it had sunk, and it had no involvement in its sinking.

That is the evidence from Commissioner Keelty. I note that recently he has also said:

The AFP are doing an outstanding job in working with the Indonesian National Police to combat the very serious crime of people-smuggling. Their joint efforts have prevented well over 3,000 people coming into Australia since February 2000.

I accept there may be an argument from Senator Faulkner and Labor that perhaps the intelligence should have been passed on more quickly or more should have been made from the intelligence among the agencies I mentioned. That is an argument that I accept. But to say there is some conspiracy about this evidence or about the conduct of Mr Enniss is ridiculous, particularly at this stage, when we have had Senate estimates hearings, the select committee inquiry, a Privileges Committee meeting and also a senior council examining the evidence. There have been about four inquiries into this same matter and still Senator Faulkner is not satisfied. I will tell you why. It is because Labor are embarrassed by the whole process. They started this off many months ago, saying that the Prime Minister knew about 'children overboard' and that he failed to correct his statements to the public. Now, of course, the Labor Party say the Prime Minister should have been told and he was not. They have moved from saying, 'He was told,' to saying, 'He should have been told.' The Labor Party has gained virtually nothing in this whole inquiry and it has become an entire embarrassment.

Also, having failed to skewer the Prime Minister's credibility on this entire inquiry, now the Labor Party are focusing on certain middle-level public servants. Again, it is pathetic, because of their failure to muster any political traction. What is behind all this from Senator Faulkner today is the Labor Party's embarrassment about their failure to gain any political advantage from the 'children overboard' inquiry. What this inquiry has established is that people smugglers bring people into this country if they pay thousands of US dollars to get here. What we also know is that people smugglers have been engaged in a pattern of conduct which involves bringing people into Australian territorial waters, scuttling boats, sabotaging navigational equipment and, if necessary, threatening Royal Australian Navy staff. That is the pattern of conduct that has been established over the course of this inquiry. This is political catch-up of the most pathetic sort, because the Labor Party thought they were on a winner. And what happened? They went down very badly on this entire issue. Four or five inquiries later they are still playing catch-up, and it is absolutely pathetic. For Senator Faulkner to raise these allegations now after the inquiry has wound down is pathetic and bordering on dishonesty.

Senator ROBERT RAY (Victoria) (3.11 p.m.)—I do not know whether the last speaker is proud of the fact that the public were misled over the 'children overboard' affair or whether he is proud of the way the government handled the photos of the kids in the water. If he is, let him get up and say so. What we heard today from Senator Ellison—quite properly in one sense—was an attack on people smugglers. I agree with that. Why in heaven's name are the AFP employing them at \$25,000 a pop if they are so loathsome? That is exactly what the situation is.

Earlier Senator Hill was asked a question about the role of ASIS. These are matters we cannot probe too far—we understand that. He said he would have to go away and check. We are entitled to know whether ASIS has been tasked in the generality of these matters. This parliament laid down the legislative basis for ASIS and put in an extra

clause that furthers ASIS's scope, because we cannot anticipate everything, and we should be told if it is used. But we should only be told about the generality of its application, not the specifics. In other words, if ASIS is tasked to involve itself in the disruption of people-smuggling, we should know. If one individual or several individuals involved in people-smuggling are targeted by that directive, we should not be told. That is simply the role of this parliament and the way the legislation is, but we should have an answer to the general question, not the specific question.

Senator Ellison tried to give the impression today that the Ombudsman's report clears the Federal Police. It goes to process matters; it does not go to the third *Sunday* program, where the key allegation is made. So the Ombudsman has not cleared the Federal Police. Today I read the tirade from the commissioner of police, who cannot understand the subtlety of what Senator Faulkner said in the last three speeches; he just completely misinterpreted it for his own purposes. If ever I have seen an evasive witness, it was him at the estimates hearings and at the certain maritime incident inquiry. Why doesn't he front up and give straightforward evidence? Why have all these officials got such selective memories or a lack of intellectual rigour that would force them to probe certain issues that they should be pursuing if they hold responsible jobs? I cannot understand that.

The nub of this issue is that we know that the government admits to disruption in Indonesia. We do not have a problem with that in the generality. Of course that is part of deterring people smugglers and illegal asylum seekers from coming to this country. We have stressed all along the importance of our bilateral relationship with Indonesia, because the more it prospers the more chance we have of deterring people smugglers operating out of that area. It is only because this government allowed that bilateral relationship to so badly deteriorate that problems have arisen.

The nub of the problem is: where do you stop in terms of deterrents? Can you be sure that the agents that you have employed to do

(a) and (b)—that is the T-shirts and the information campaigns and the rumours—have not gone the extra step? We do not get an answer to that. We hear Mr Enniss, as he would claim, being verballed on Channel 9 but Mr Coulthard would say that he is telling the truth. He has told Mr Coulthard that he has been involved in sabotaging four or five ships. Do not get carried away about the sabotage; it is not meant to sink the ships—no-one alleges that. To sabotage the ships means that they go out to sea, something breaks down, they come back and that is the end of the journey. But the big what if is that, if you have sabotaged a boat and it does get 60 or 70 miles out into rough seas, it may well go to the bottom with major loss of life.

Mr Enniss claims, and this is what we want checked, that on four or five occasions he used part of the money supplied to him—and he may not have reported up the line, I do not know—to help sabotage boats. Now if he was doing it 1,300 miles away from where SIEVX left—we want to know whether anyone else was doing it. This is what we want to know. We are not saying that the government are involved in a policy that says go out and sink boats, but if you have been funding some lousy stinking people smuggler to the tune of 25 grand I would want to know what he was doing. This government should want to know but they do not want to know. They do not want to investigate this. They simply want to abuse the Leader of the Opposition in this place, who has got the ticker to raise these issues. It is not easy to raise them and no operational matter has been—(*Time expired*)

Senator BRANDIS (Queensland) (3.16 p.m.)—For the last three nights, Senator Faulkner has tried to set up a diversion by delivering a series of speeches—a trilogy of trivia—in which he has sought to cast doubts upon the integrity, the professionalism and the honour of the Australian Federal Police, the Australian security services and their role in SIEVX. This morning he scored the hit that he was looking for because he scored page 1 in the *Australian*. Notwithstanding what we have just heard from Senator Ray, we know precisely what Senator Faulkner has been up to when you see the page 1 story

in this morning's *Australian* under the headline 'Labor asks: was SIEV X sabotaged?' By innuendo—

Senator Jacinta Collins interjecting—

Senator BRANDIS—Senator Collins interjects, good question. Senator Collins, do you adopt the allegation by innuendo that SIEVX was sabotaged and that the Australian government was responsible for it? Do you make that allegation, Senator Collins—do you or don't you?

Senator Cook—That's out of order.

The DEPUTY PRESIDENT—Order! Senator Brandis, your remarks should be directed to the chair.

Senator BRANDIS—One of the most dishonest things a person can do is to cast innuendos and say, 'I am not really making allegations; I am merely asking questions.' I remember very well when Mr Tony Kevin, who was the source originally of the allegations about SIEVX, said that. He is now, I might say, a Labor Party staffer, as I understand it.

Senator Jacinta Collins—You know that is not true.

Senator BRANDIS—I believe that it is true. He was a consultant with Mr Rudd, the shadow minister for foreign affairs. When Mr Tony Kevin, the disgraced former ambassador to Cambodia, first raised these allegations at the 'children overboard' inquiry, I said, 'Mr Kevin, what allegation do you make?' He said, 'I am not making any allegations; I am merely asking questions.' This is precisely the same—raising doubt, casting innuendo and besmirching the good name of the Australian Federal Police and Australian security organisations in the process. In his cowardly way, Mr Kevin said to me, 'I am not making any allegations; I am merely asking questions.' It reminded me of that remark by William Shakespeare—the definition of a coward is someone who is willing to wound but afraid to strike. That is the cowardly behaviour that we saw from the disgraced former ambassador who was recalled from the embassy in Cambodia under circumstances of great discredit. That is the same behaviour that we have seen today and

over the last three evenings from Senator Faulkner.

Let us get the record straight. As Senator Mason has pointed out, these issues were trawled over ad nauseam by Senator Faulkner in his examination of Commissioner Keelty in the 'children overboard' inquiry. I do not want to anticipate the findings of that inquiry—it would not be proper to do so—and I will not. The transcript will reveal that Senator Faulkner got precisely nowhere with Commissioner Keelty. Today, Commissioner Keelty issued a press statement, which was ridiculed in a disappointing way by Senator Ray, who is usually, I might say, very responsible on these matters. The points that Commissioner Keelty makes in his press release are these: firstly, that Mr Kevin Enniss was operating from a location, Kupang, 1,300 kilometres from the departure point of SIEVX at the relevant time and had absolutely nothing to do with it or its passengers; and, secondly, that Mr Enniss ceased his operations with the Indonesian National Police two to three weeks prior to the departure of SIEVX. But the most important point of the lot is that Mr Enniss has been interviewed by the Australian Federal Police and he has categorically denied making the statement to the journalist Ross Coulthard which is the entire basis of the innuendo and the slander that Senator Faulkner and the Labor Party are now seeking to raise.

People who put their lives in harm's way like the officers of the Australian Federal Police deserve to be treated better and they certainly deserve to be treated better by two senior senators, both of whom have held defence portfolios in the previous Labor government. The behaviour of Senator Faulkner and, I am sorry to say, Senator Ray today in giving fresh life to this innuendo is a disgrace.

Senator Jacinta Collins—Mr Deputy President, it was an adverse reflection and I ask him to withdraw it.

The DEPUTY PRESIDENT—My advice from the Clerk is that that is unparliamentary. I seek that you withdraw that, Senator Brandis.

Senator Brandis—What?

The DEPUTY PRESIDENT—I am not going to repeat it, Senator Brandis. Please withdraw the remark.

Senator Brandis—I am not sure what I am being asked to withdraw, Mr Deputy President. Which comment?

The DEPUTY PRESIDENT—It related to the conduct of the senators that you referred to.

Senator Brandis—If it is unparliamentary to describe that conduct as a disgrace, I withdraw the unparliamentary remark.

Senator COOK (Western Australia) (3.22 p.m.)—I must say I am extremely disappointed this afternoon to hear Senator Mason and Senator Brandis. I am extremely disappointed because it was Senator Mason who moved in this chamber to expand the terms of reference of the certain maritime incident inquiry to be able to investigate what happened in the case of safety of life at sea in incidents other than SIEV4. The inquiry was to look at SIEV4. Senator Mason, with the enthusiastic support of Senator Brandis and others, asked to look at all such incidents. Some cynics may think that was because they wanted to trawl through every one in order to try to find in some case an allegation that children were thrown overboard. If those cynics were right, that was a dry well; they never found any such thing at all.

What did come forward was SIEVX. SIEVX was a boat in which 353 people drowned—142 of whom were women and 146 of whom were children. That is a major catastrophe in human terms and a major maritime tragedy in the international waters bordering on our littorals. It is something that ought to be properly investigated. These two senators were instrumental in ensuring our terms of reference enabled us as a committee to investigate those things. Now that the investigation is coming down to some very hard questions that require frank answers which so far we have not got, they are defending the position and attacking those who are asking the questions. Not only that, but the last contribution was one that sullied the reputation and attacked the standing of an individual who of course cannot defend himself in this place. The louder the shouting

down of reputation, the louder the attack on individuals and the louder the ad hominem attack to try to divert the issues that these individuals are asking questions about, the more curious we become about the questions and the answers to those questions. So I want to say now—and I want to make it very clear—that the more this behaviour goes on, the more these questions will be asked and the more determined we will become to pursue the answers to them.

There is a lot of information in the public domain that the Australian government has devoted very considerable resources to its program to disrupt people-smuggling in Indonesia. What do we know about the nature and deployment of these resources? We know that the program is based in the Australian Embassy in Jakarta. We know, for example, that there are three DIMIA compliance officers working out of the Jakarta embassy. Two of these positions were created in the last two years. Their major priority is to work on people-smuggling matters. Two Australian Federal Police agents also work from the embassy in Jakarta. These agents work closely with the Indonesian National Police, Indonesian Immigration and Indonesian navy, army and marines. They report directly to the Director of International Operations, Mr Dick Moses, and the General Manager of International Operations, Mr Shane Castles, both of the AFP. Both Mr Moses and Mr Castles were regular attendees at the Prime Minister's People Smuggling Task Force last year. They would inform the task force of criminal aspects of people-smuggling and involvement with the people-smuggling teams and, importantly, with the disruption activities that have been the subject of this debate.

At the Australian Embassy in Jakarta, an interagency coordination group on people-smuggling has also been established. The portfolios represented at these meetings are DFAT, DIMIA, AFP and Defence. The purpose is to share information and assessments and to represent the agencies' view in relation to the people-smuggling matters. Dr Geoff Raby from DFAT has indicated in evidence that disruption activities are a key focus of this group. On 13 June last year, the

Minister for Immigration and Multicultural and Indigenous Affairs, Mr Ruddock, travelled to Jakarta. He had meetings with the Australian ambassador, Ric Smith, and the interagency people-smuggling group. He also met with the Indonesian Minister of Justice and Human Rights and the Indonesian Minister of Foreign Affairs.

We would like to know from Mr Ruddock if he raised certain disruption activities during meetings at the embassy either in June last year or during his visit in September. We know that Australian disruption activities in Indonesia were conducted under a specific protocol under the MOU to target people-smuggling syndicates operating out of Indonesia which was agreed by the AFP and their counterparts, the Indonesian National Police, on 15 September. Commissioner Keelty revealed that the protocol under the MOU was set aside by the Indonesian government in September last year due to concerns the Indonesian foreign affairs department had in relation to disruption. We still do not know what those concerns were. We have asked the AFP for a copy of the protocol and MOU but so far it has not been released. Despite the concerns the Indonesian foreign affairs department had about the protocol, the AFP says it continued to cooperate with the Indonesian National Police until June this year. (*Time expired*)

Senator FERGUSON (South Australia) (3.27 p.m.)—At the outset of the certain maritime incident inquiry and the formation of the select committee, I remember saying that it was only going to be a political witch-hunt. I was howled down by members of the opposition for stating the obvious—that it was going to be a political witch-hunt—and in fact that is what it has proved to be as we have gone week after week after week hearing evidence. We got to the stage where Tony Kevin, who has been spoken about already today, came in and delivered his first version of his fairy story to our committee. Tony Kevin was the first to raise the issue, and, as the inquiry at that time did not seem to be gaining very much publicity, it was immediately latched onto by journalists who were trying very hard to make something out of nothing. In relation to Tony Kevin, whom I

must say could hardly be called an independent witness, immediately he had given evidence to our committee, he started work for the opposition. I understand that he is no longer working for the opposition—or that was the information that was supplied by way of interjection from Senator Collins. I think the fact that he did not last very long contracted to the shadow minister for foreign affairs can only reinforce how unreliable he really is.

It was only at that stage that the journalists involved in following the progress of this certain maritime incident inquiry started to give his fairy story some legs and it got to the stage where, certainly in the *Canberra Times* and in some other newspapers, it was the main play of the day. Only the week before last, I was listening to the radio in my home state of South Australia and I heard Moira Rayner, who could hardly be described as someone with conservative viewpoints, saying that the certain maritime incident inquiry had concluded without any doubt that the Australian government was responsible for the loss of over 340 lives. So here is somebody in Perth who, having read what the journalists have put into the papers, has now made it a fact: there was 'no doubt' that the Australian government was responsible for the loss of life on the so-called SIEVX.

For month after month, this inquiry has taken as much evidence as I think any committee in recent times has taken over such an issue, and then Senator Cook today accuses Senator Brandis of trawling through some of the things that have happened. I would say Senator Cook is the last person who should be talking about trawling through evidence and, indeed, that could equally be applied to Senator Faulkner. They trawled for days, repeating questions. The same questions were asked time and time again of the same witnesses while trying to get different answers, something that they could hang their hat on in relation to this inquiry. Much of the so-called evidence that Senator Faulkner has brought before the Senate in adjournment speeches over the past three nights has come from selectively looking at quotations from within that inquiry, selectively using infor-

mation that was provided by the Australian Federal Police and selectively presenting that to this Senate to try to suit another story that he wishes to put to the Australian public.

I say to those members opposite that it does not matter how often they go over the same stuff or how often they present it to the Australian Senate or how often they get journalists to try to prolong the fairy stories that they have tried to invent, to try to somehow or other provide some excuse as to why they lost the last election. That is the key to it all. 'We were robbed'—that is the cry of the Labor Party. They say: 'We were robbed because the way that you portrayed yourselves in the pre-election period meant that the Australian public did not know what they were doing.' The Australian public did know what they were doing, and there was no more sure evidence of that than the way they voted at the last election to put this government back in, to make sure that we would continue to do the job that we promised to do. We have continued to do that, and no end of inquiries, political witch-hunts or defaming the names of people within the Public Service when they are unfairly treated where you say they have no right of reply—think of all the people whose reputations have been damaged in the course of this inquiry and you might see that, from the time of the very beginning, from the outset— (*Time expired*)

Question agreed to.

PERSONAL EXPLANATIONS

Senator FAULKNER (*New South Wales—Leader of the Opposition in the Senate*) (3.33 p.m.)—I seek leave to make a personal explanation on the grounds that I have been misrepresented.

Leave granted.

Senator FAULKNER—I have now had an opportunity to look at the AFP's media release which was referred to by the Minister for Justice and Customs in question time in the Senate today and which goes under the heading 'Senator Faulkner has got it wrong'. On examination of this media release let me make a couple of points about where I have been misrepresented in the media release, which appears as a statement authorised by Commissioner Keelty. In that media release

Commissioner Keelty makes a number of assertions. I will respond to them individually. The first is this:

The facts available to but apparently ignored by Senator Faulkner are:

I will go to these facts and deal with them. Dot point 1 is:

Kevin Enniss was operating out of Kupang some 1,300km from the departure point of SIEV X, and had nothing to do with either the vessel or its passengers.

So what? I have never alleged that Enniss was involved in sabotaging SIEVX. In fact, I have never alleged that SIEVX was sabotaged. I find it extraordinary that that statement appears in the commissioner's press release.

Senator Hill—So who briefed the *Australian*?

Senator FAULKNER—How would I know?

The DEPUTY PRESIDENT—Senator Hill, if you want to seek leave to speak, you can do so later.

Senator FAULKNER—Dot point 2 is:

Kevin Enniss ceased his operations with the Indonesian National Police at least two or three weeks prior to the departure of SIEV X.

Again, so what? I have never drawn any link between Enniss and SIEVX, and I do not know at this stage what other Australian agencies Kevin Enniss may have been working for. I do not understand why that dot point has been included by the commissioner in this release. Dot point 3 is:

Kevin Enniss has been formally interviewed since the Nine Network's *Sunday* Program alleged his involvement in the sabotaging of vessels. He emphatically denies any such involvement

All I can say is I am not aware of the content of any interviews of Kevin Enniss by the AFP. I am not aware of his denials. I can say this: Enniss's claims have not been contradicted on the public record.

Senator Brandis—They have now.

Senator FAULKNER—Let us deal with that. Let us go to the final two dot points, which go to the AFP and its concerns or complaints with the Nine Network and the

Australian Broadcasting Authority. The first of these is:

There appears to be no recording of this allegation only the recall of the journalists who have refused to be formally interviewed as part of the AFP investigation.

I simply do not know the details of this. I have absolutely no intention of involving myself in some barney between the AFP and the Nine Network. However, I think a reasonable question to ask is: is Ross Coulthart of the *Sunday* program to be regarded as a less credible witness than Kevin Enniss? I think senators may care to ponder on that. Commissioner Keelty appears not to understand the seriousness of the allegations that have been made on the *Sunday* program.

Senator Hill—Mr Deputy President, I rise on a point of order. I submit to you that this is now going beyond a personal explanation.

Senator FAULKNER—You haven't even heard a sentence yet—

Senator Hill—No, the right to give a personal explanation is strictly limited. It is not supposed to be an opportunity for a debate. Senator Faulkner is entitled to say where the misrepresentation has occurred, which he has done. He now wants to get into a debate in relation to the police commissioner.

Senator FAULKNER—You have not listened—

Senator Hill—I was listening to what you were saying and you were clearly going beyond making a personal explanation, which followed a claim that you had been misrepresented. I therefore respectfully suggest, Mr Deputy President, that you use the standing orders to bring Senator Faulkner to task.

Senator Brandis—Mr Deputy President, can I speak to the point of order?

The DEPUTY PRESIDENT—Senator Brandis, please resume your seat. At this stage I will just make a comment in respect of the point of order that has been taken by Senator Hill. Senator Faulkner should confine his remarks to the matter of the personal explanation, and I think it would be in the interests of this matter now if, having advised the chamber of that, Senator Faulkner continued his personal explanation.

Senator FAULKNER—As I was about to indicate, part of the reason that these inaccuracies are contained in the media release from the AFP today, which so badly misrepresents what I have said, is that the concerns that I have aired go well beyond the AFP.

Senator Hill—Your ruling is simply being abused, Mr Deputy President.

The DEPUTY PRESIDENT—You need to take a point of order rather than call out from your chair, Senator Hill. Senator Faulkner, I remind you that it is a matter of personal explanation. I draw your attention to that and I ask you to confine your remarks to that.

Senator FAULKNER—As I have said, this press release says:

Senator Faulkner's choice to ignore the facts is regrettable.

It goes on:

The AFP has never been involved in the sabotaging of vessels either directly or indirectly.

Those sentences are in the one paragraph. I indicate very clearly that I have said that these matters should be thoroughly investigated by a full independent judicial inquiry. These are matters of public concern—

Senator Hill—Mr Deputy President, I rise on a point of order. Senator Faulkner is clearly debating the issue. He is going well beyond the usual bounds of making a personal explanation, having claimed to have been misrepresented. There are times, under our rules, for debate. This is not the time.

The DEPUTY PRESIDENT—On that point of order: Senator Faulkner, I remind you that you should confine your remarks to the matter of personal explanation.

Senator FAULKNER—The commissioner has indicated that I could have clarified his position at a meeting of the Senate Legal and Constitutional Committee. He does indicate in his press release that he has offered a further private briefing. The fact is that these are matters of public concern. They ought to be dealt with in an open way.

MINISTERIAL STATEMENTS

Building Industry

Senator IAN CAMPBELL (*Western Australia—Manager of Government Business in the Senate*) (3.42 p.m.)—On behalf of the Minister for Employment and Workplace Relations, Mr Abbott, I table a statement entitled 'Interim Taskforce for the Building Industry—Open for Business'.

COMMITTEES

Legal and Constitutional References Committee

Report: Government Response

Senator IAN CAMPBELL (*Western Australia—Manager of Government Business in the Senate*) (3.42 p.m.)—I present the government's response to the report of the Legal and Constitutional References Committee entitled *Humanity diminished: the crime of genocide—inquiry into the Anti-Genocide Bill 1999*, and I seek leave to incorporate the document in *Hansard*.

Leave granted.

The document read as follows—

SENATE LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE INQUIRY INTO THE ANTI-GENOCIDE BILL 1999: HUMANITY DIMINISHED: THE CRIME OF GENOCIDE GOVERNMENT RESPONSE

Recommendation 1

The Committee recommends that the Parliament formally recognise the need for anti-genocide laws

Response

Noted. On 27 June 2002 the Parliament passed and assent was given to the International Criminal Court (Consequential Amendments) Act 2002. This Act inserts Division 268 into the Criminal Code. Subdivision B of Division 268 (sections 268.3 to 268.7) creates five offences of genocide, which effectively criminalise in Australian law the acts characterised as genocide in the Convention for the Prevention and Punishment of the Crime of Genocide ('the Genocide Convention').

Recommendation 2

The Committee recommends that the Bill be referred to the Attorney-General for consideration of the matters identified by the Committee in respect of its contents, and that the Attorney-General report his findings to the Parliament by 5 October 2000

Response

Noted. The Government has considered the matters identified in the Committee's report, and

makes comments on the following specific matters.

The Government notes that the Anti-Genocide Bill 1999 ('the Bill') would depart from the definition of genocide in the Genocide Convention. The Government believes that the definition in Australian legislation should accord with that contained in the Genocide Convention. The definition of genocide from the Genocide Convention has been included in Subdivision B of Division 268 of the Criminal Code. Accordingly, the Government does not support the varied definition of genocide contained in the Bill.

It is also questionable whether the enactment of the varied definition would be a lawful exercise of the external affairs power under section 51 (xxix) of the Constitution.

The Government notes that, although some variations in the manner of implementation of the Genocide Convention in the domestic laws of other countries are evident, the Committee received no evidence of the adoption by any country of the varied definition of genocide proposed in the Bill.

The Bill does not provide for its retrospective operation. However, the Government notes that the Committee was required by its terms of reference to consider the appropriateness of the retrospective application of the Bill. The Government also notes that, in his additional comments in the Committee's report, Senator Greig states that the Australian Democrats support the retrospective application of anti-genocide legislation.

Legislation creating criminal offences does not normally apply retrospectively. It is well established that criminal liability should not be imposed on a person for an act or omission that was committed at a time when such conduct did not constitute a criminal offence.

There is no justification for departing from normal principles in this case.

Practical difficulties can also be encountered in applying legislation retrospectively. For example, it can be difficult to adduce evidence in prosecutions for offences which occurred many years ago.

Accordingly, the Government does not support the retrospective operation of an offence of genocide in Australian law. Subdivision B of Division 268 of the Criminal Code has no retrospective application.

Senator GREIG (Western Australia)
(3.43 p.m.)—I move:

That the Senate take note of the document.

I acknowledge and welcome the report tabled today by the government, although I express some disappointment in it. As it happens, the inquiry which led to *Humanity diminished: the crime of genocide—inquiry into the Anti-Genocide Bill 1999* was based on a private member's bill which I tabled in that year and which went through a long and exhaustive process in the Senate's Legal and Constitutional References Committee. The committee held hearings in a number of cities around the country. I would like to pay tribute to now retired Senators McKiernan and Cooney, who also played a key role in the investigation and reporting of this.

In recent weeks we have seen the government acknowledge and sign on to the International Criminal Court. I welcome that. I spoke on it yesterday, as did other senators, in a different context. I think it is fair to say that part of the momentum towards that and towards the Australian government being comfortable with it came about through early discussions we had, as a chamber and as a parliament, on the [Anti-Genocide Bill 1999 \[2002\]](#). The time of its introduction, although this was not intended, coincided with the incidents involving Mr Konrad Kalejs. Those events showed how we as a country were—or, more importantly, were not—dealing with that.

As it happened there was considerable community and international discussion and debate around the question of Mr Kalejs, who was alleged to have been involved in war crimes in Eastern Europe during the Second World War but who was then living in Melbourne. It came to light through the Simon Wiesenthal Foundation, amongst others, that there was the allegation that some 70 Nazi war criminals may have been continuing to live in the country. My concern and the concern of the Australian Democrats was: how do we respond to that in terms of appropriate natural justice and the investigation and potential prosecution of those people who are alleged to have been involved in war crimes?

What we learnt in part was that the existing War Crimes Act was ineffective in dealing with, and responding to, those allegations because it was quarantined not just to the

years 1939-1945 but also to European theatres of war. It also came to light during the investigation into this issue that, as we now understand, potentially there are war criminals or—to use better phraseology—people allegedly involved in crimes against humanity from different theatres of war or, indeed, places that were not theatres of war but places of conflict. We are talking about Rwanda, Cambodia and the former Yugoslavia. In one instance we saw evidence of a Cambodian woman now living in Melbourne, I think, who came face to face with a former member of the military from her country who, she believes, slaughtered her family. Yet we as a country until very recently had absolutely no mechanism to deal with that because of the narrowness of scope of the War Crimes Act.

In framing and presenting my private member's bill, I explored the option, amongst other things, of expanding the definitions of those categories of people who might be subject to genocide simply in recognition of the fact that the definitions contained within the 1949 convention were framed at a time when not all factors were taken into account. We know subsequently that through war crimes, crimes against humanity and genocide there have been other sectors of the community that have been subject to these kinds of atrocities. They include women, they include people with disabilities, they include gay and lesbian people and they include people on the basis of their political or union affiliation in some cases. So I was very keen to explore that in the scope of the bill.

I note from the government's response tabled today that it does not agree with that and argues against it, saying that the original definitions ought to be adhered to. I argued through the committee process, as I do again today, that the expanded definitions are appropriate. We heard evidence from legal bodies and legal individuals who argued that, given the evolutionary nature of the process of international law, under current circumstances the expanded definitions would indeed fit within the appropriate models that would be needed to address these issues. Of course since then we have seen the govern-

ment sign on to the International Criminal Court, which in many ways has superseded what I was trying to achieve in 1999 with the anti-genocide legislation. I would express again, though, my concern about the possibility of the government entering into an article 98 agreement to ensure that under American insistence—so it seems—American citizens would be exempt from investigation and prosecution under that process.

I would again express my disappointment, as I did in my minority report, at the way in which the Attorney-General's Department engaged with this committee or, more importantly, did not engage. We sought input repeatedly from the Attorney-General's Department, and on the only occasion that it did engage with the committee it sent the wrong officers to the hearing in Melbourne. That was very disappointing. One of the majority recommendations, which I did not agree with, in the report was that a period of some three months be offered to the Attorney-General's Department for its input. Here it is today, two years later!

I would like to thank the many people and organisations who came before the references committee and who presented both written and oral evidence. There was extraordinary community debate generated around Australia, particularly on the issue of retrospectivity. The bill, as I drafted it, was not retrospective; it would only be prospective and its jurisdiction would only be progressive. There was fear from some individuals and some sections of the community that it might be retrospective, although we made it very clear that it was not. I note in the tabling of the government's report today that it agrees that it ought not be retrospective. Part of the fear of retrospectivity came from people who felt that if the bill had been implemented it may have been accessed by Indigenous people to make claims of genocide against the government or previous governments for issues such as the stolen generations. That clearly was not the case or the intention but it generated some necessary and, I think in some cases, cathartic debate around that issue.

Two years after the introduction of the private member's bill, after thorough com-

mittee discussion and debate around it, and after the bill has been superseded by the International Criminal Court—which I welcome—we now have today the government's response. It continues to argue against the expanded definitions, which I do not agree with. It continues to endorse the notion of non-retrospectivity, which I do agree with. If nothing else, what I take some pride in is the discussion and debate we had around this—not here in the chamber, because we did not have that debate in the chamber, but through the committee process—in the community. The discussion teased out some terrific issues, some wonderful debate, particularly exposing the inadequacies of the War Crimes Act. We also heard about the aspirations of the community in terms of what they wanted to see in better legislation. In many ways that has now been brought about through our adherence to the International Criminal Court.

I acknowledge the government's report today. I express again my disappointment of its opposition to expanded definitions. I think we can fairly say that the bill, as it stands and as it was originally intended, was a catalyst for what has been ultimately international law reform in this area. I acknowledge and compliment Minister Downer and the government for bringing the International Criminal Court to fruition and final ratification.

Question agreed to.

DOCUMENTS

Department of the Senate Annual Report

The DEPUTY PRESIDENT—I present the annual report of the Department of the Senate for 2001-02.

Ordered that the report be printed.

Australian National Audit Office Annual Report

The DEPUTY PRESIDENT—In accordance with the provisions of the Auditor-General Act 1997, I present the annual report of the Australian National Audit Office for 2001-02.

COMMITTEES

Rural and Regional Affairs and Transport References Committee

Membership

The DEPUTY PRESIDENT—The President has received a letter from a party leader seeking to vary the membership of a committee.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.53 p.m.)—by leave—I move:

That Senator Eggleston replace Senator Hefernan on the Rural and Regional Affairs and Transport References Committee for the committee's inquiry into forestry plantations on 11 October 2002.

Question agreed to.

SUPERANNUATION: POLICY

Senator SHERRY (Tasmania) (3.53 p.m.)—I move:

That the Senate notes the Howard Government's third term failures on superannuation, including:

- (a) the failure to provide for a contributions tax cut for all Australians who pay it, rather than a tax cut only to those earning more than \$90,500 a year;
- (b) the failure to adequately compensate victims of superannuation theft or fraud;
- (c) the failure to accurately assess the administrative burden on small business of the Government's third attempt at superannuation choice and deregulation;
- (d) the failure to support strong consumer protections for superannuation fund members through capping ongoing fees and banning entry and exit fees;
- (e) the failure to provide consumers with a meaningful, comprehensive and comprehensible regime for fee disclosure; and
- (f) the failure to cover unpaid superannuation contributions in the case of corporate collapse as part of a workers' entitlements scheme.

On behalf of the Australian Labor Party I have moved a motion pertaining to a number of policy failures by the current Liberal government. The superannuation system in Australia is very important to the vast majority of Australians who have superannua-

tion. Approximately eight million Australians have superannuation. For employees, it is compulsory. It was a Labor government—and a very proud Labor government—that made superannuation compulsory in this country in order to ensure that the vast majority of Australians, particularly lower middle income earners who had no superannuation, were and are able to receive a higher retirement income, over and above the basic age pension, which is currently approximately \$11,000 per year.

The issues that I wish to deal with in this debate relate to the taxation of superannuation and the Liberal government's proposal to cut the tax on superannuation—which is a tax cut that is confined to those who earn more than \$90,527 a year. In Australia, contributions into superannuation are taxed at a rate of between 15 and 30 per cent, depending on your income level. On taking office, the Liberal government collected approximately \$2 billion in tax from superannuation. In the last financial year, they collected approximately \$5 billion from superannuation. In the year 2005, they will collect approximately \$6 billion in taxation from superannuation. Of course, a tax on contributions into superannuation has the impact of reducing the final retirement income of those Australians who are taxed in that way. What is interesting is that the Liberal Party is proposing a tax cut on the contributions tax payable by Australians on their superannuation, but one that is confined to those who earn more than \$90,527 a year. Approximately four per cent of Australia's working population will benefit from the Liberal Party's proposed tax cut which is confined to those on a surchargeable tax income of \$90,527 or more a year.

What needs to be remembered about the so-called surcharge, or tax, on superannuation is that it is the Liberal government's very own tax. They introduced it in 1996. At that time, they broke the promise that was made by the Prime Minister, Mr Howard, coming into the 1996 election, when he said, on 1 February 1996:

We are not going to increase existing taxes and we're not going to introduce new ones.

That was the specific promise made by the Prime Minister, Mr Howard. It was a very clear promise, so when they introduced a new tax on superannuation they called it a 'surcharge'. The Treasurer, Mr Costello, in his budget speech on 20 August 1996, said, in reference to the new tax on superannuation:

The measures I am announcing tonight are designed to make superannuation fairer.

A major deficiency of the current system is that tax benefits for superannuation are overwhelmingly biased in favour of high income earners. For a person on the top tax rate, superannuation is a 33 percentage point tax concession while a person earning \$20 000 receives a 5 percentage point tax concession. High income earners can take added advantage through salary sacrifice arrangements that are not available to lower income earners.

The Government is remedying this situation.

... ..

For high income earners the superannuation contributions will still be highly concessional but are more in line with concessions to middle and low income earners.

One of the other major problems that the Liberal government had, in addition to trying to hide the fact that the surcharge was a tax, was the extreme difficulty that superannuation funds had in collecting and administering the new tax. The administrative costs of the surcharge are unacceptably expensive. I have pointed this out over many years. In the first year of the operation of the surcharge, superannuation funds incurred administrative overheads of as much as 30 per cent of the revenue paid. Whilst that estimate reflects implementation as well as ongoing costs, which are still onerous, added to this must be the collection costs incurred by the Australian Taxation Office and, of course, the administrative burden on employers.

The administrative burden of the tax which the Liberal government proposes to reduce is paid by all fund members, not just those earning more than \$90,527 a year. Regardless of their income, all fund members bear the cost of the so-called surcharge tax. I point out to the Senate that the Liberal government's proposed reduction in the rate, confined to those earning more than \$90,527 a year, does not solve the basic administra-

tive and compliance burden of that surcharge tax. If anything, the Liberal government's proposal to reduce the tax rate for higher income earners will add to the administrative costs rather than solve the basic problem.

Where do we find ourselves today? We have the highest taxing treasurer outside wartime since Federation, Mr Costello, who in 2001-02 produced a budget deficit of \$3 billion. We know we cannot rely on this government to come up with decent policies to help fund the retirement of anyone except a relative few. It is the Liberal government that refused in 1997, again after having made a specific promise, to make a three per cent government co-contribution, in addition to the current level of compulsory superannuation contributions, into superannuation.

I am not going to be negative and criticise the government for proposing a cut to the tax on superannuation just for high-income earners. The Labor Party has advanced an alternative proposition. The Labor Party has said that, rather than confining a tax cut on superannuation to high-income earners, it is much fairer and more equitable to apply a contributions tax cut to all Australians who are taxed on their superannuation contributions—and there are many millions of them. The Labor Party has proposed two fairer options. It has urged the Liberal government to redirect the Treasurer's exclusive superannuation tax cut for high-income earners away from the relative few to all superannuation fund members who pay the contributions tax. We know that the Treasurer, Mr Costello, believes that it is impossible to cut the contributions tax cut burden. In a radio interview on 22 October 2001 he said:

It's pretty complicated. The taxing of contributions on the way in started back in the mid eighties ... and I think now that it's started that's going to always be with us ... it's still better to put money into superannuation, than to take it as income. But that system having commenced 15 years ago would be incredibly complicated to unravel now.

In effect, the Treasurer, Mr Costello, has given up on reducing the contributions tax burden on Australian superannuation. He has given up, except they are proposing to reduce the contributions tax cut burden—

which he said is impossible to reduce—just for those Australians earning more than \$90,527. The Labor Party do not agree with the claim made by the Treasurer. We know that cutting the contributions tax for most Australians who pay it can be done with a minimum of fuss, and that has been confirmed by the many industry representatives we have spoken to over the last few months. Labor have suggested a fairer proposal which will improve the budget and boost retirement savings. As I said earlier, a reduction in the contributions tax paid by most Australians on their superannuation will increase their retirement incomes.

Labor has proposed two options. The first option is to cut the superannuation contributions tax for all Australians who pay it from the present 15 per cent to 13 per cent. The second option is to cut the tax to 11.5 per cent for people aged 40 and over. Either option would add many thousands of dollars to retirement incomes and both are economically responsible. Contrast Labor's options to the Liberal Party's proposal to simply cut the contributions tax surcharge to high income earners, to those Australians who earn more than \$90,527 a year.

Let me give a couple of examples of the impact of Labor's options. An individual aged 20 who earns \$40,000 a year over his lifetime would receive an extra \$7,128 under option 1—reducing the 15 per cent tax to 13 per cent—or an extra \$4,748 under option 2. Under the Liberal government's proposal this individual would receive nothing. Another example: someone well into their working life who is currently aged 40 and earning \$60,000 a year until they retire would, under the Liberal Party, get absolutely nothing. Under the Labor Party's option 1 they would receive \$4,069 and under option 2 they would receive \$7,122 in additional retirement income.

These examples—in present value so they reflect the value in today's terms—show the substantial benefits to be gained by Labor's approach. Let me emphasise again: under the Liberal Party's approach to the tax cuts, no-one earning under \$90,527 a year in surchargeable tax income will receive a tax cut from this government—no-one. Labor has

proposed as an alternative a fairer and more equitable approach to the taxation of the superannuation system. And it is revenue neutral. Labor achieves this revenue neutrality by opposing the unfair reduction in the superannuation tax that is proposed for higher income earners and by opposing the Liberal government's very expensive proposal to shut down the Public Service superannuation funds.

The Liberal government's response to the ALP plan was almost immediate. They did not like it because it meant they had to start arguing that a tax cut to people earning more than \$90,527 a year was better than a tax cut to millions of working Australians. They chose a different route. They went with what they thought would be much easier: they alleged that Labor had got its figures wrong. The Prime Minister on 17 May said:

You save about \$50 million a year out of the surcharge if you lock that back, but I am told it is about seven times more than that, about \$350 million, in order to fund a cut of two per cent in the contributions tax.

What he forgot to say was that his surcharge reduction would quickly climb to a cost of \$200 million a year and that Labor was offering other cost savings to fund the Labor proposals. Then the Treasurer released Treasury costings later that afternoon—all done on an accruals basis. That was rather hypocritical given that the Treasurer constantly refuses to refer to the budget for this financial year as being \$3 billion in the red on an accruals basis.

But the figure for cutting the contributions tax had also suddenly jumped from the one the Prime Minister had given earlier in the day, the \$50 million, to \$350 million. One might think the Prime Minister had access to some of the best advice that the government could muster, but apparently not. While it took all day, the Treasurer was able to get a figure for a two per cent tax cut that was \$150 million more than the Prime Minister had suggested that morning. The Treasury had ignored the full cost savings of the ALP alternatives and the fact that our tax cuts were to be phased in from 1 July 2003. The Labor Party had never said that they were going to start the entire tax cut on 1 July

2002, as the Treasurer had alleged. We were proposing to phase in a fairer tax cut over the same length of time that the Liberal Party have proposed to phase in their unfair tax cut that only applies to Australians who earn taxable surcharge incomes of more than \$90,527 a year.

My contribution to this debate is to highlight the unfair proposal of the Liberal government to reduce the tax burden on superannuation but to only reduce that tax burden to the four per cent of Australians who earn more than \$90,527 a year. Of course, the government will argue that they are offering a voluntary co-contribution for Australians earning \$20,000 a year. The government will contribute \$1,000 if a person earning \$20,000 a year voluntarily contributes \$1,000 into superannuation. I contrast that with the fact that Treasury have said that only 75,000 Australians who earn \$20,000, out of many millions of Australians, can actually afford to put \$1,000 into superannuation.

So high-income earners get a guaranteed tax cut. Lower- to middle-income earners, at least earning just over \$32,000, get a voluntary co-contribution, the vast majority of whom, on Treasury figures, cannot contribute anything because they do not have the financial means to make that voluntary contribution. That is a guaranteed tax reduction for high-income earners that they all benefit from, a benefit to only one in 10 Australians who earn up to \$32,000 and, of course, nothing to those who earn between \$32,000 and the taxable surcharge income of \$90,527. It is a very unfair approach compared to the positive alternatives advanced by the Australian Labor Party.

Senator IAN CAMPBELL (*Western Australia—Parliamentary Secretary to the Treasurer*) (4.10 p.m.)—For fairly obvious reasons, the government finds significant fault in the proposal and the motion put forward by Senator Sherry. I will seek to convince the Senate why Senator Sherry's proposals and assertions about the government's policy in relation to superannuation are flawed. I would not accuse Senator Sherry of deliberately doing so but they are in fact quite misleading.

For example, it is a fact that in relation to taxation the government's proposals, which we have sought to implement, have given significant tax advantages to people on lower incomes. I sought to take a lead on this in relation to financial planning advice. Senator Sherry chose to ignore the fact that I suggested that it would be very good for Australia for people on very low incomes and for the profession of financial planners if financial planners provided services and advice to those people. I suggested that it would be particularly good for people who rely solely on welfare benefits to avail themselves of good quality advice on how to manage what are often very limited incomes and, although I know it would be a struggle for many low-income earners, for them to have a savings program, where possible.

For superannuation contributions made by those low-income earners, as part of its package on superannuation taxes, the government has agreed to create a co-contribution of up to \$1,000 per annum in place of a \$100 rebate. This is a 100 per cent return on contributions made by people who earn less than \$20,000. So for people on very low incomes, the government is effectively going to match them dollar for dollar. To seek to pass off as fact that the government does not seek to help anyone other than those earning more than \$90,000 a year, who are a very tiny minority of the income spectrum in Australia, is entirely unfair because it is untrue.

As part of our proposals, we will be allowing couples to split their superannuation contributions, which will enable couples to access two tax-free thresholds and reasonable benefits limits. This is a very significant benefit for couples. We will also allow superannuation contributions to be made on behalf of children. This will provide children with a head start in financing their own retirement. Reducing the superannuation and termination payment surcharge rates by one-tenth of their current level over each of the next three years is a significant benefit.

It is always amusing to hear Labor talk about cutting taxes. If we look back through Australia's economic history, we see that they were the greatest increasers of taxes in

Australian history. They put up spending to historically high levels as a proportion of GDP and in real terms and, of course, borrowed and taxed at historically high levels. The Keating and Hawke governments increased taxes at a greater rate than even the Whitlam government, which was world renowned as one of the great spending and taxing governments in the history of the free world. Mr Keating's government even beat Mr Whitlam's record, and the people of Australia should never forget that. So when you hear Labor talking about taxes, do not read their lips, look at their actions.

In relation to superannuation choice, Labor have got themselves into an incredible pickle because of the massive domination of the Australian Labor Party by the union movement. The union movement has a significant hold over a number of the super funds. As part of the creation of compulsory superannuation in Australia, the then Labor government, who were controlled by the union movement, set up a structure which ensured that unions would dominate a large section of the super industry. What is happening now, when investment returns have gone down due to significant reductions in the value of equity markets—reductions of over 50 per cent in many of the European marketplaces in the past year or so and reductions in the Australian market of nowhere near that size—is that people are getting their superannuation statements. I think that you, Mr Acting Deputy President, would have spoken to people during your travels and in consultations. People these days are saying, 'Gee, I got my superannuation statement recently and I've gone backwards this year. The thousands of dollars that I had there on 30 June last year are now thousands of dollars minus X this year.' For many Australians that will be an alarming thing.

People are able to look around when they are, say, buying a house or investing in shares. If they want to invest in Telstra, the Commonwealth Bank, BHP or other shares, they can look at the performance of the company, they can make an assessment about its corporate governance and its investment return—the quality of the return and the security of the return—and they can make an in-

vestment decision. They can look at what suburb they buy a house in; they can decide to buy a house in the inner suburbs of Brisbane, where you live, Mr Acting Deputy President Bartlett, or in the outer suburbs or out in the country. They can make decisions on investment property and how much money they put into it. They can make all of those decisions and make assessments about these issues. They can analyse the quality of the return they get and make investment decisions about whether to divest, reinvest or whatever.

But when it comes to superannuation under the Labor Party's model, we do not give people those sorts of choices. They are locked into a superannuation fund, often against their will. It is a requirement to be in it and the fund is chosen for them. Regardless of the investment return or the level of fees and charges that are charged by that fund, regardless of the quality of the administration of that fund, the citizen has no right to choose. The Australian Labor Party—in the past, with the support of the Australian Democrats—have locked people into superannuation funds. More and more Australians are asking themselves this question every day: 'Why are we being locked into this fund; why can't we choose a fund which performs better, which has better management, which has lower fees, which has better disclosure, which has better corporate governance or which invests in the sorts of investments—for example, ethical investments—we want to invest in?' It is a very good question.

Why is it that we trust people to make investments in the stock market or in property or to make other forms of investment but, when it comes to superannuation, we say, 'We'll treat you like a bunch of ning-nongs; we won't let you choose; and if you're in a fund that is performing badly and is losing you money, sorry, but you can't leave'? There are many Australians who have lost thousands of dollars off their net worth because they have been locked into a particular fund. The Australian Labor Party, with the support of the Australian Democrats, have said, 'We're not going to give you that choice, even if you are stuck in a fund that

has your investment returns heading south. We won't let you out. We'll lock you in for life.' Labor have themselves in a serious quandary on this. They went to the IFSA conference recently and announced that they had done a backflip on choice, that they would support choice. It lasted about a day. When you read the fine print, you saw that they had come up with a policy on choice that basically was a joke. Even ASFA, the Association of Superannuation Funds, came out and slammed it as a very silly, stupid and unworkable policy.

It is very important that people do have these choices. If you have no choice, if investors cannot make a choice about superannuation, the process of democracy that should occur in our economic system, allowing people to vote with their feet in relation to investments, will diminish the quality of the governance of those funds. If the managers of the super funds know that the investors are locked in regardless of their performance, what incentive is there for the super fund managers to actually do their job? Virtually none. But it suits the Australian Labor Party to support their friends in the union funds and to lock people in. That is the Achilles heel of Labor on superannuation policy. At a time when many rank and file members of the Australian Labor Party are getting their super statements, they need to ask themselves: 'Why are our parliamentary members of the Labor Party'—most of whom come from a strong union background, including former secretaries of unions and so forth—'favouring the interests of their friends in the union funds ahead of my interests as a rank and file member of the Labor Party?' The question they are asking is about the governance of the Labor Party. I say to the Australian Labor Party: look at the way you govern yourselves and fix that before you start getting too serious about telling the rest of the world how to run corporations.

That takes me to the issue of disclosure, and Senator Sherry has referred to the disclosure regime in part 5. Disclosure is absolutely vital to having a good savings and investment environment in Australia. A quality savings and investment policy must ensure

that superannuation policies and the policies behind other investments, such as managed investments and equities and even bank products, have high-quality, reliable disclosure. This government has brought in a very high-quality disclosure regime under the Financial Services Reform Act and under the regulations that flow from that act.

You only need to look once again not at Labor's rhetoric on disclosure but at their actions in this parliament. What did they do in these very sittings? They disallowed one of the most internationally recognised comprehensive and sound regulations in relation to disclosure. It was a regulation which would require industry funds and other super funds to comply with a range of very important disclosure measures, ensuring that the superannuation investors had displayed to them in very clear terms all the fees, charges and the ongoing management charge that related to their investment so that they had a quality set of information to make their decisions on. What was Labor's action? It was to come in here and knock that regulation out. It was an act of vandalism against quality disclosure.

Labor said that this ongoing management charge was some sort of bogeyman, that it was no good, that it did not work and that it should have entry and exit fees in it. What happened yesterday? The Australian Securities and Investment Commission, a world renowned quality securities and investments regulator, issued a report by Professor Ian Ramsay that supported the ongoing management charge and made it absolutely clear that the ongoing management charge should not include entry and exit fees. That totally contradicts the Australian Labor Party's flawed policy and reinforces the point that I made at the beginning of my contribution to this debate—that is, that Senator Sherry's motion is flawed, it is contradictory and it is wrong.

This is a true reflection of the state of policy within the Australian Labor Party. It is very unusual for them to have any policies. They usually bring out policies just after elections rather than just before them. But they do have a number of policies in the superannuation area. They have three spokes-

men who go around making statements on it: Senator Sherry comes up with policies which usually get belted around by just about everybody; Senator Conroy comes into the debate from time to time and usually contradicts Senator Sherry, and from time to time former Senator Bob McMullan—now the spokesman on Treasury issues—comes into the debate and further confuses the matter. They are all over the place on superannuation. The cause of that is quite clear. The cause is that they are controlled and dominated by union influences and, until that union influence over their policies is cut off and extinguished, you will not get a sensible policy on super out of this mob opposite.

The government believes that it has a very sound savings and investment policy to ensure that Australian citizens are able to save in a secure, economic environment for their retirement. By contrast, Labor has nothing to offer but cheap political shots and opportunism, usually on behalf of their mates in the trade union movement.

Senator CHERRY (Queensland) (4.25 p.m.)—I rise to speak on the motion moved by Senator Sherry today dealing with failures of the Howard government on superannuation. I want to speak about not so much the failures of the Howard government but the failures of the Keating government which preceded it, because a lot of what passes for superannuation policy of the Howard government was inherited from the previous government. And a lot of the problems we are still dealing with are problems that not just this government has failed to adequately deal with but the previous government failed to adequately deal with.

If you take Senator Sherry's first point which deals with the issue of the contributions tax, it is interesting to note that that tax was introduced in 1987 by the then Hawke government as a flat tax on contributions. It provides essentially a tax cut for high-income earners of 32c in the dollar. It provides low-income earners with a tax cut of essentially 5c in the dollar. It provides middle-income earners with a tax cut essentially of around 15c in the dollar. By introducing a flat tax on contributions in 1987, the Labor Party ensured that the tax concessions that

would be flowing through to people on their superannuation would always be larger for high-income earners as opposed to low-income earners.

The Howard government should be commended for its introduction of a surcharge on high-income earners based on the notion of evening out those concessions over time. The Democrats supported that bill in 1996, which was at the time opposed by the Labor Party. Of course, the difficulty was that the collection mechanism chosen by the Howard government of having that tax collected at the fund level has proved to be administratively complex and administratively difficult. It has added enormous costs to the funds and, because of its complexity, it has also reduced the attractiveness of superannuation for high-income earners.

The Democrats have certainly said that we are not excited about a tax cut—or any cut—in surcharge. But what the government put forward in its most recent election policy was a proposal to introduce a co-contribution for low-income earners. That is a very important development. Essentially it means that a low-income earner who is making voluntary contributions to superannuation will get a dollar for dollar contribution for the first \$1,000. It is a measure which is only ever going to benefit a small number of people because only a small number of low-income earners will ever be able to afford to make contributions to superannuation.

But certainly the evidence coming forward from savings experts like Dr Vince FitzGerald—who was, of course, deputy secretary to the Department of Treasury under the Hawke government—shows that it will encourage people to save. For every dollar that the government provides by way of cost of a new contribution, there will be an extra \$1.34 which will be contributed as additional contributions to superannuation by low- and middle-income earners. That suggests to me that there is some real merit in pursuing the government's proposal for a co-contribution for low-income earners. That is why the Democrats have suggested that at least half, and possibly even more, of the government's proposed cut in surcharge should be redirected to low-income earners to encourage

them to increase that co-contribution. We would like to see all of the government money that is set aside for surcharge redirected towards encouraging co-contributions. But the government has made it clear that it wants to ensure that the surcharge is dealt with at the same time as the co-contribution. That is a political reality we have to deal with, and we will deal with it at the appropriate time.

Moving forward to some of the other issues which Senator Sherry raised, he talked about the failure to provide adequate consumer protection through the capping of on-going fees and the banning of entry and exit fees. I remember raising these issues with the previous government when I was an adviser to the then Democrat superannuation spokesperson, Senator Kernot. I remember that at that point in time we received fierce resistance from government to any notion that there should be anything other than disclosure of fees, rather than regulation of fees. I find it to some extent amusing that we are now seeing proposals coming forward from the Labor Party in this regard. It is something we need to work through. The government deserves at least some credit for bringing forward, through the CLERP reform process, proposals on disclosure in terms of key feature statements and so forth, which is a significant improvement on the disclosure that we had probably five or 10 years ago.

In terms of disallowance of the financial services regulations, the concern from the Democrats' point of view has been that the government has not yet gone far enough. The ongoing management charge approach is simply not providing sufficient information to consumers about superannuation. Whilst we are concerned that the government has not done enough, we acknowledge that it has made some moves in this regard, and further moves should be encouraged. The other point which amused me somewhat was (f):

... the failure to cover unpaid superannuation contributions in the case of corporate collapse as part of a workers' entitlements scheme.

It is of great concern that there has not been enough done to protect workers entitlements in the course of the Howard government, although we do acknowledge the govern-

ment's scheme introduced by former Minister Reith which allows for payment of some of those benefits. A 1987 Law Reform Commission report recommended that employee entitlements should come before other secured creditors. That was ignored by the previous Labor government for six years, despite the fact that we raised that issue time and time again in terms of trying to ensure that workers get some reasonable compensation in the case of corporate collapse. So after 'the failure' I would have preferred to have seen added to point (f) 'of the Howard government and the Keating and the Hawke governments' to ensure that we got the full measure of how workers entitlements have not been adequately protected over a very long period of time by successive governments in this country.

The other thing I would have liked to have seen in this motion, probably at (g), is 'the failure of the Hawke government, the Keating government and the Howard government to adequately do anything to ensure that the rights of same sex couples and other households in this country are adequately accommodated in terms of superannuation arrangements'. We have had situations where people have wanted to leave their superannuation when they die to a person who is in their household—whether it be their same sex partner, a son who wants to leave his superannuation to his mother or two sisters living together who might want to leave their superannuation to each other. Under the current rules in the Superannuation Industry (Supervision) Act and the tax acts they cannot. There is great difficulty in these sorts of areas, and this is something which the government does need to address.

Unfortunately, this issue has become little more than talking about the issue of same sex couples. Whilst the Democrats are fundamentally concerned about the fact that same sex couples should have the recognition of their rights as a couple, as a family, as a household, this goes beyond that to a whole range of interpersonal relationships. Only last week we had the situation where the Tasmanian government introduced leading legislation dealing with progressive laws for same sex couples and just about every other

variety of significant personal relationship. Under the proposed Tasmanian reforms not only gay and lesbian couples but elderly couples in carer relationships, Indigenous or ethnic customary partnerships—all of these groups—will be granted the same rights as married or de facto heterosexual partners. This will cover a range of rights, including property transfers, child maintenance, organ donations, guardianship, access to a partner in hospital, superannuation, funerals, wills and various partnering, family and carer leave entitlements. This puts Tasmania ahead of the rest of Australia.

We now have laws which recognise the notion of different types of families in terms of same sex, de facto or other interpersonal relationships. We now have these laws in Queensland, in New South Wales, in Victoria and in Western Australia. Also, we have now had a law passed in the lower house of the South Australian parliament. The Commonwealth is now lagging behind all of the states in ensuring that our superannuation and our tax laws adequately pick up all types of households that are represented in the modern Australian society. I really hope that when we get to deal with superannuation legislation later this year we will finally address this wrong and ensure that the Commonwealth, rather than lagging behind the other states, catches up with them and that the Commonwealth, rather than lagging behind other countries, catches up with Canada, New Zealand, Britain and South Africa in having such laws in place.

Discrimination against same sex couples continues in superannuation, social security, immigration, taxation and the defence forces. It is there in property settlements and marriage laws. The fact is that the only way we can achieve comprehensive and uniform national antidiscrimination laws on the grounds of sexuality recognised at the Commonwealth level is by amending the legislation before the parliament and by supporting a comprehensive bill. I would have liked to have seen the Labor Party bringing this sort of thing forward when they tabled their paper on choice of funds legislation only last month. I was disappointed to see that the issue of ensuring choice not just on what

happens to your superannuation when you are alive but on what happens to your superannuation when you are dead was not included in that paper. That reflects the Labor Party's itsy-bitsy approach to the whole issue of recognition and equality for same sex couples in this country.

In summary, in looking at this motion today I acknowledge that there are issues which Senator Sherry is trying to raise which do need to be raised. I am pleased to see that this parliament has continued to have a Senate Select Committee on Superannuation. I am pleased to see the chair of that committee, Senator Watson, in the chamber today. That committee continues to ensure that there is a focus on these very important issues about what we do about fees and charges, about investment, about compliance, about choice, about administrative burdens, about superannuation contributions in terms of collapses. These are fundamental issues, and they are issues which I am pleased to say the superannuation committee—an initiative of the Democrats way back in 1991—continues to work on. We need to ensure that workers entitlements are protected, enhanced and allowed to grow. We need to ensure that as our population ages we avoid having future generations of Australians slipping into poverty due to lack of national savings. With those very short comments I conclude my comments on this motion.

Senator BUCKLAND (South Australia) (4.36 p.m.)—I rise to speak in support of the motion standing in the name of Senator Sherry and relating to superannuation. I want to speak on the Howard government's failure to adequately compensate victims of superannuation theft and fraud. The issue of fraudulent losses of superannuation funds is a highly emotive one, as you can well imagine. Primarily, if you are one of the many people whose retirement savings have vanished due to someone else's dishonesty and you are close to retirement age with barely any chance of making up the losses, you must be seen as a hard case and as being unprotected by this government. That says much about the minister's idea of choice. The minister's dorothea dixer today was on

the question of choice, and I have to say that I do not think she convinced anyone in the chamber that it is the way to go.

But it is the question of fraud and theft through these funds that particularly interests me today, because we are talking about the largest sum of money in one pot that most Australian workers and their families will ever have at one time. It is something they should be able to rely on having when they leave employment upon retirement—a nest egg for the future. It is fortunate that the majority of Australians' super nest eggs are safe. However, recent occurrences have verified that the super industry has more than its share of underhanded individuals. Such was the case with the scandal of Commercial Nominees. This particular case clearly revealed significant failings on the part of Peter Costello's world's best practice regulator, APRA, and the mean-spirited response of the government.

The Senate inquiry revealed that APRA was very slow to respond to signs of trouble with Commercial Nominees and was too willing to take the directors at their word when making commitments they had no intention of keeping. Commercial Nominees were engaged in systematic fraud and mismanagement involving the investment of superannuation in secondary vehicles with reassuring names like the Enhanced Cash Management Trust, which suggested a conservative and highly liquid choice of assets when, in reality, the money was invested in disastrous projects with close links to the directors of Commercial Nominees. An article in the *Business Review Weekly* quotes the Director of Policy and Research for ASFA, Michaela Anderson, as saying:

We found it amazing that the regulators hadn't been keeping a close watch on Commercial Nominees. Without too much trouble, we found a lot of publicly available information [such as from ASIC company searches] that should have been sounding warning bells to APRA before its collapse.

The most disturbing news yet to eventuate from this disgraceful saga is that the government's response has been a refusal to provide full compensation for losses incurred,

including the significant fees levied by the replacement trustee.

For the past six or seven months, Minister Coonan has had a copy of a report by the government's working group on the safety of superannuation chaired by Don Mercer, former Chief Executive Officer of the ANZ Banking Group. The committee's draft report, drafted on 4 March, recommends that all superannuation trustees be licensed by APRA and that the regulator be given powers to set prudential standards. In March, the Productivity Commission recommended that the superannuation industry be made more accountable in relation to its operational investment and governance risks. Where is the report and where is the action taken by the minister? In actuality, the compensation regime in the superannuation legislation provides for up to 100 per cent compensation. Labor does not accept the government's response.

Senator Watson—It was only 80 per cent under Labor.

Senator BUCKLAND—Senator Watson is saying it was only 80 per cent under Labor and now it is 100 per cent, but what did these people who lost their money through this fraud of Commercial Nominees get? They were not fully compensated. It is no good waving the banner now. It is a bit late for that.

On 27 June, Labor moved amendments to the SI(S) Act to ensure full compensation for eligible losses. This gave the government and the Democrats the opportunity to support full compensation but they rejected these amendments. The government should take advice from its own regulator, APRA, who says:

The amount of the grant should equal the amount you determine to be the eligible loss suffered by the fund.

Labor remains determined to guarantee 100 per cent compensation in the event of theft and fraud. Michaela Anderson from ASFA was also quoted in the *Business Review Weekly* as saying:

APRA should be following the links [between directors and companies]. Commercial Nominees has provided some real lessons.

But what has the government learnt? The government has learnt nothing. It is sitting on its hands while decent working people are losing their money because of fraudulent operators.

It is startling to note that no-one has been charged for any of the offences arising from the Commercial Nominees affair. In disbelief we also find that these people are still free to work as APRA approved trustees. Extensive searches by BRW of ASIC's records and other inquiries show that at least five members of the board and management of Commercial Nominees for some or all the period of the 'theft or fraud' remain in the superannuation industry. They are still there; they are still waiting for the gullible. And here we have a government promoting the idea of choice. That will only expose people to the dangers of the rogues of the world, but the government is supporting that idea.

A former director of Commercial Nominees, Anthony Hall, is doing consultancy work for another APRA approved trustee, Australian Superannuation Nominees. He was a director of Commercial Nominees from July 1997 until December 1999. Anthony Hall's father, Ernest Hall, is listed in ASIC's records as a shareholder in Australian Superannuation Nominees. Ernest Hall has also been a director of Combined Mushroom Farms, a venture that received large financial support from the Enhanced Cash Management Trust—a part of Commercial Nominees. Anthony Hall was one of those directors who fraudulently took money from workers. The people who had entrusted their money to them have nothing left. They did not get their money fully restored. So the banner waving by the government earlier on does not do them any good at all—these people did not get their money. It is imperative that the government not only compensate the victims 100 per cent but also ensure that there is a system in place to prevent this from happening again. This is a classic case, but there are others recorded.

The government says that now we should have choice of superannuation fund and the minister—I think I am correct in saying—indicated in her remarks, 'Well, people can buy a house; they know how to fill out a

form to buy a house.' That is true. But when you are confronted with a raft of folders and glossy brochures each telling you how good the fund is and each containing 50 or 60 pages that you have to read through, fill out the 30 or 40 pages of forms so that you can join the fund and then pay your exit and entry fees, what choice at all in superannuation is there for workers? It is a simple way of getting people to take their money from sound funds and put it into those funds which want to take the best deal from them. There is no choice in superannuation if it is left to the individual to find their own market.

The individual should be in funds that are industry based or are proper corporate funds. That is where the money should be placed, not in those funds run by fly-by-nights who are there to line their own pockets and then, as we saw with Commercial Nominees, commit fraud, divert the money into areas of their own operations—toward their own families, as we saw in the case of Commercial Nominees and the mushroom farm. Workers are not compensated for that loss. They got nothing out of that; they lost. Fraud has to be attacked; it has to be taken care of by this government. But the minister is sitting on her hands and doing nothing at all to address the question.

Senator WATSON (Tasmania) (4.49 p.m.)—Senator Sherry's motion on superannuation alleges a series of failures by the coalition, but in reality it highlights the Labor Party's own ineptitude at developing a coherent superannuation policy or series of superannuation policies. Recall the last election: there was no ALP superannuation policy. They have still not rectified the matter, although they continue to nitpick at the edges—and that is what this motion is doing today.

Regrettably, as I said, the Labor Party has chosen to politic on superannuation—an approach that is despised right across the nation, irrespective of people's party beliefs. What Australians want is a bipartisan approach to superannuation, and the Labor Party has failed to deliver. Superannuation is for the long term, requiring stable long-term policies. The coalition has delivered. What

the motion before the chamber does not tell the Senate is the remarkable achievements that this government has delivered in terms of retirement incomes—for example, allowing working individuals who are aged 70 but less than 75 to make contributions to superannuation. That, in a sense, has removed some of the age discrimination that was there previously. This follows from the government's earlier initiative that increased the age limit from 65 to 70 for voluntary contributions and for employer contributions.

Other initiatives include allowing for recipients of the baby bonus to contribute to superannuation even though they have never worked before and for parents, relatives and friends to make superannuation contributions up to \$3,000 per child over a three-year period. From July 2002, the attractiveness of superannuation was enhanced by the government's initiative to increase the limit on full deductibility of superannuation contributions by the self-employed from \$3,000 to \$5,000 per annum, while retaining 75 per cent deductibility on any amounts above this threshold, subject, of course, to the age based limitations. Another initiative already implemented by the government includes requiring all employers to make at least quarterly superannuation contributions on behalf of their employees—a great enhancement and, I must say, one that was recommended by our superannuation committee.

Amendments to the Family Law Act allow superannuation benefits to be split between married couples that separate—a great initiative. There is the introduction of the superannuation spouse rebate, which allows individuals to make superannuation contributions on behalf of their low-income spouses. There are also the capital gains tax reforms that amend the tax arrangements so that the nominal capital gains of superannuation funds are taxed at the concessional rate of 10 per cent.

There will be a twice annual indexation of Commonwealth civilian superannuation pensions to the CPI from January 2002, increasing in real terms the benefits of some 100,000 superannuation pensioners—a great reform. New investment rules ensure that superannuation savings are not a put at risk

through investments with employers, trustees and their associates. Another initiative of this government is that there are now higher tax rebates for senior Australians. The Commonwealth has also increased access to the age pension and the Commonwealth seniors health card, and the pensioner bonus scheme entitles Australians who defer claiming the age pension and instead remain in the work force to a tax-free lump sum bonus—a great initiative.

I need to remind the Senate that the tax concessions provided to superannuation make it the largest single tax expenditure item, amounting to \$9.5 billion in 2001-02—and wouldn't Senator Patterson like some of that concession in health? For the first time in many years, the Senate is faced with the opportunity to reduce certain superannuation taxes and the Labor Party has failed at the first hurdle, at the first challenge—that of supporting a small reduction in that notorious surcharge. Having spent so much time railing right across Australia about all the inherent problems associated with the surcharge, at the first opportunity the Senate has to ameliorate some of these problems the Labor Party has failed to stand up and be counted—so much for the ranting and railing!

Senator Sherry, the mover of this motion, knows only too well that it is not only the high-income earners who have to pay the surcharge but also many working women who are in the work force for only a short period of time with short periods of high income, as well as others with broken working patterns, who pay the surcharge in some years when attempting to catch up their contributions so that they can make a dignified living in retirement. The surcharge may also inappropriately impact on some of our older Australian workers who have superannuation within the RBLs and who are attempting to make additional contributions to fund their retirements. It is interesting to note that Superpartners, an administrator of some of Australia's largest industry superannuation funds, supports the government's reduction in the surcharge. I have to say that at the same time they are also seeking a reduction in, or abolition of, the contributions tax. But

at least they are in favour of the measure before the parliament at the present time.

To remove the surcharge in one budget would be a massive exercise, and the approach of gradually reducing the surcharge over an acceptable term appears to most people to be sensible. I point out to the Senate that every measure that moves towards a reduction in the surcharge should be adopted by the Senate. I remind the Senate that the administration of the surcharge affects all members of a super fund, not only the high-income earners. The surcharge has some very unfortunate outcomes for defined benefit members. Do not forget that, at the present time, it is the defined benefit funds that are standing up; they do not have negative returns because the risk is with the employer not with the employee. The industry generally recognises that the equity measures that were behind the original concept of the surcharge—something that the government had to do to rein in that terrible deficit when it came into office—are better dealt with through existing limitations such as contribution limits, reasonable benefit limits and the low-income co-contribution, which has the same effect of very substantially lowering the contributions tax.

Let us look at these existing limitations, which can be used very effectively: under 35 years of age, the amount is \$12,651; from 35-39, \$35,138; and for people aged 50 and over, \$87,141. So why do we need the surcharge? Let us get rid of it; let us use this first opportunity in this place to reduce it, so that we will set in train a pattern for its eventual abolition.

While the motion attempts to criticise the government on compensation for theft and fraud, I really need to remind the Senate that Senator Coonan has increased the proportion of the losses that would be paid in financial assistance under the previous ALP policy, which reigned until 1997, from 80 per cent of any losses under part 23 to 90 per cent of eligible losses. In addition, Senator Coonan is generously also moving quickly to finalise the determinations under section 229 and, in addition to recouping the 90 per cent, is adding other expenses such as administrators charges. One of the strong pillars of commu-

nity acceptance of superannuation is section 229 of the Superannuation Industry (Supervision) Act. It is almost as good as the Reserve Bank standing behind the deposits of trading banks. Section 229 provides for the government to compensate where there is theft or fraud and, to Senator Coonan's credit, since she came to office she has implemented those provisions very expeditiously, and that has been very much appreciated. If the mover of this motion paid more attention to supporting all the outcomes of the Senate Select Committee on Superannuation, Australia would be far better off and so would the ALP.

I will give you an example of something that came about as a result of our work that I learnt of only today. The Reserve Bank of Australia have changed their superannuation arrangements to bring them into line with the recommendations in the committee's report, *A 'reasonable and secure' retirement? The benefit design of Commonwealth public sector and Defence Force unfunded superannuation schemes*, of April 2001. It just shows what a bipartisan approach can produce. The RBA are now moving to a wage based indexation arrangement—what we recommended. So I say to the ALP, come aboard. Get behind us and see the sorts of impacts you can make when you have a unanimous report.

This week Australian Securities and Investments Commission Chairman, Dr David Knott, released a major report into fees. The report was commissioned by ASIC and prepared by Professor Alan Ramsay. I ask the Labor Party to pay particular note to a number of key recommendations, which include adopting an ongoing management charge, commonly referred to as an OMC, as a key measure across all consumer products, not just superannuation related products. The report also recommended a number of other things: disclosure in dollar terms, not percentage, to the maximum extent possible and disclosure of fees paid to advisers, including trailing commissions and soft commissions. This report must be a great embarrassment to the Australian Labor Party because it was the Australian Labor Party that so criticised the OMC that it was led to the conclusion that it

had to knock off the government regulations—and what a tragedy that was! In other words, the ALP so criticised the ongoing management charge that it disallowed the regulations in the Senate. This independent report issued by ASIC and prepared by the respected Professor Ramsay, who, incidentally, also gave the government the report on the independence of auditors—a very good report too—has shown how out of touch the Labor Party is in the Senate in relation to superannuation and, more especially, the ongoing management charge.

It is interesting to observe that the Labor Party is now calling for a cut in contributions tax for all Australians. I remind the Senate that it was the Labor Party itself that introduced the concept of a contributions tax—a tax that effectively reduces the potential capital of an employee through the superannuation guarantee charge. For example, a \$100 contribution is reduced to \$85 for actual investment. This tax over a lifetime of compounding and continued investment would have significantly reduced people's standards of living in retirement, but it was cut back. It was not until the superannuation funds started reporting some negative returns in about 2002 that the focus really moved to the impact of fees and charges et cetera. This in itself is not surprising, but it was ignored by the Labor Party of the day—all of these arguments were ignored—when it decided to bring forward the collection tax through this concept of a contributions tax. Now the Labor Party says, 'We got it wrong.' But it brought forward the contributions tax to pay for its extravagant spending during its last days of office when it rang up huge budget deficits and borrowed so massively in terms of the federal debt, which we have now reduced by something like 60 per cent. It was the government that had to rein in this excessive expenditure which the Labor Party often financed by imposing new taxes and increasing debt.

We now have the situation that the Labor Party motion before the Senate absolutely fails. It fails because it does not demonstrate a commitment to bipartisanship. The Labor Party must get on board if it is going to have credibility in the general population for pro-

viding a bipartisan approach to superannuation for the long term. As I said previously, people rant and rail at this concept of nit-picking. They want stability for their savings; they want security for their savings. And what is the Labor Party doing? This motion does nothing to provide confidence in superannuation for people. It is an appalling motion. It is a motion the Labor Party should be very ashamed of putting forward in this environment, particularly as it has no alternative policy. It is time the Labor Party woke up to itself. It is time the Labor Party recognised the achievements of the coalition in the massive improvements that the coalition have made. While we continue to provide reform, while we continue to provide progress and while we continue to provide hope, I believe the Australian electorate will stand behind this coalition government. In the coalition we have nothing to be ashamed of. I thank the Senate.

Senator WONG (South Australia) (5.06 p.m.)—It is interesting that Senator Watson speaks of the need for bipartisanship on the issue of superannuation when one recalls that the coalition parties opposed the introduction of compulsory superannuation in this country when it was first introduced by Labor governments. They seem to have changed their tune now. The government says that it seeks to bring choice to the superannuation sector. I think it would be more accurate to say it seeks to bring confusion and potentially consumer exploitation to that sector with the regime that it is seeking to put before the parliament and which it has issued plenty of material on. As was seen in the Senate's recent disallowance of regulations, this government has failed to put in place adequate disclosure requirements in relation to this industry and it has failed to support stronger and appropriate consumer protections for members of superannuation funds, particularly in the area of ongoing fees, entry fees and exit fees. As I said, it really is a government that is not about workable choice in superannuation. If it were particularly concerned about that issue, it would look to the issue of investment choice within existing super funds as a policy priority. Instead, it looks to putting in place a system which would enable funds potentially to exploit

consumers who may not be adequately informed about the benefits, charges and fees associated with different fund options.

In relation to consumer protection regarding ongoing fees, entry fees and exit fees, the minister conceded at a press conference on 19 September that some funds might increase exit fees to stop people withdrawing their money under a choice regime. That is a pretty obvious possibility in a so-called choice environment. We can see that already in the unregulated retail funds, a number of which do impose quite significant, and in some cases massive, exit fees to operate as a disincentive to leaving the fund. How can the minister seriously expect people to consolidate their superannuation when they are faced with exit fees such as \$11,500 on savings of \$65,500, \$4,000 on savings of \$33,000 and over \$3,300 worth of fees on savings of \$3,300—in which case the member was left owing the provider \$24?

The minister has stated that 'the government will reserve the right to regulate exit fees.' But it seems that that right is being reserved without action. There has so far been no action by this government to prevent the massive impost that exit fees sometimes represent. Frankly, this government's failure to act on this issue and to state a clear policy position on this issue in the context of its attempt to introduce choice is a failure of good public policy. The government now seems to be trying to run a line justifying high fees and charges on the basis that higher-cost products in fact deliver higher returns. On 18 September, Senator Chapman said in this chamber:

... the Labor Party are ignoring the fact that it is the final return that counts for people who are investing in superannuation and generally saving for their retirement—not the fees. They are ignoring that it is quite often those funds that charge fees that provide the higher overall return. So, at the end of the day, the retirees will be much better off because of the higher earning power demonstrated by those particular funds than by the union-run industry funds that may not have fees.

This is simply a case of Senator Chapman not looking at the material. Rainmaker Research, which monitors fees and charges, reports that for the year 2001-02 retail superannuation products lost, on average, 4.7 per

cent—and that is the sector which has significantly higher fees and charges. However, nonprofit super funds such as the industry funds and corporate funds lost only 2.3 per cent. The hopeful position of the government that higher fees necessarily correlate to higher returns is not borne out by the statistics and is simply an attempt by the government to justify its refusal to act to protect the interests of working Australians by regulating exit fees and the like.

An enormous disparity already exists in superannuation funds in Australia in relation to fees. A report last year by ASFA—the Association of Superannuation Funds of Australia—found a very wide disparity in costs. The cheapest were public sector funds, where the administration and investment costs averaged 0.49 per cent. At the other end of the scale were retail funds, with costs averaging 2.4 per cent. The most expensively administered fund cost 30 times as much per member as the lowest-cost fund. If you were charging fees which were 30 times those of another fund, you would have to be pretty lucky to make 30 times the investment return of other funds given that, at the end of the day, most superannuation funds are investing, in differing proportions, in the same sectors. One does tire of hearing the government harp on in this chamber about union-run industry funds. One wonders whether they do not actually know who runs the industry funds or whether this is simply a cheap political shot that they continue to parrot. Industry funds are not union funds; they are governed by trustees representing employers and employees in that industry in equal numbers. There are no union-only industry funds in Australia.

Another concern we have regarding the government's approach to the area of superannuation is its lack of commitment to genuine education in this area. Answers to questions on notice received by Labor this week revealed that the government plans to spend less than \$1.15 on education and communication resources for each fund member and business that will be affected. In the 2002-03 financial year the ATO will spend \$10 million in trying to educate over 8 million fund members and 650,000 employ-

ers on what choice will mean to them. However, over four years the ATO will spend a total of \$14.5 million on changes to its own infrastructure and other administrative costs—half a million dollars more than it will spend in total on the vital education and communication role. Not to resource the education of consumers sufficiently would seem to fly in the face of the government's argument that choice is a good thing and that consumers can be educated.

That is only one part of the argument; the other part is to what extent, and how much, education will actually work in this sector. Around 15 per cent of Australians are functionally illiterate, and one wonders how the government proposes to equip these Australians for a choice environment. One wonders how the government proposes to equip Australians from non-English-speaking backgrounds who may have a limited grasp of English—or at least a limited grasp of some of the financial product disclosure jargon that would be required to make informed choices. The potential for exploitation, in the absence of clear regulation of fees and other charges and a sensible policy approach to this industry, is obvious.

The government know that the amount that they are proposing to spend on education is not enough to ensure that consumers can make informed decisions, nor is it enough to ensure that businesses are able to comply with their obligations. They have been told repeatedly by representative groups such as ASFA, the Australian Consumers Association, the National Farmers Federation—and one would have thought they might have actually listened to the NFF, given their avowed constituency—and other groups that much more needs to be done on the education and communication front. The National Farmers Federation, in their submission to the Senate committee inquiry on choice, said:

Informed choice is critical. Informed choice will not occur unless Government undertakes an effective education campaign for both employers and employees.

NFF believes that the (Government's) reference to pamphlets and a help-line ... is inadequate.

ASFA, in their submission, stated:

ASFA strongly suggests that this campaign be focussed on raising financial literacy among individuals, including enabling individuals to genuinely compare funds. We would caution against either a “feel good about reform” campaign (along the lines of the “Unchain My Heart” campaign for tax reform)—

who can forget that?—

or a campaign chiefly focussed on employer compliance.

CBus’s submission—and of course CBus is one of the major industry funds—said:

For the superannuation industry to be competitive in a choice of funds regime it is not acceptable that some consumers, who may have made decisions that they are not happy with in the past, are locked out of making a choice because of the exorbitant fees they would incur if they transferred their superannuation to a new fund. It is not acceptable for some retail superannuation funds to argue for choice on the one hand, but prevent their own clients from exercising choice.

That is a very important point in this area. If the government are serious about choice, why are they not moving to regulate exit fees which, by dint of their financial disincentive, work against a genuine choice by consumers in the area of superannuation?

I want to turn briefly to the issue of fee disclosure and this government’s failure to provide consumers with a meaningful, comprehensive and comprehensible regime for fee disclosure. This comes on the heels of the disallowance of the regulations by the Senate, which included, amongst other things, regulations in relation to product disclosure statements and the ongoing management charge. This government does not have a commitment to ensuring a regime for fee disclosure which is readily comprehensible to consumers. If it did, it would not have attempted to push on with the ongoing management charge in the form that it was in in the regulations. The previous speaker tried to suggest that the recent report by Professor Ramsay lent some weight to the government’s position. For reasons I will discuss later, if I have time, we say it does not. The most damning thing about the government’s proposed OMC was its failure to meet any basic consumer testing standards, and the fact that, frankly, it was incomprehensible to most consumers. I want to quote a number of

extracts from an article which appeared in the *Australian Financial Review* earlier this week in relation to the issue of the disallowance of the regulations and in particular the ongoing management charge. The article said:

However, the Opposition might have done the government a favour by knocking out a disclosure system which not only was less than perfect but which, according to the second survey involving consumer testing, probably could have made things worse.

Association of Superannuation Funds of Australia chief executive, Philippa Smith, last week told an investment conference that initial consumer testing of the new regulations involving the Operating Management Charges (or OMC) had produced “devastating” results.

While the final details are still being completed, she said that comprehension testing among consumers had shown that 80 per cent of them thought that the OMC showed additional charges. In fact, she said, the level of comprehension based on the new disclosure system “went backwards” on the old Key Features Statement.

A second count on which the superannuation industry was critical of the OMC was the fact that it did not include entry and exit fees. Again, it seems that the government not only does not want to regulate those but does not want those to be included in a comprehensible way in any disclosure regime. It seems extraordinary, doesn’t it, that the government would put before the Senate a model which is supposedly aimed at consumer protection but that it did not test in terms of consumer response to it and, in relation to which, independent testing shows an 80 per cent lack of understanding of what the model actually means? Surely, any government would have made sure that, if it were seeking to move to a choice environment, it would have a disclosure regime which enables consumers to make informed choices, not a regime which 80 per cent of consumers in this survey could not understand. The government did not conduct and it has not conducted any market testing of the OMC or of its own disclosure measures. As I said, the ASFA results were described as damning. People just do not understand what it all means. The alternatives to the government options include proposals from Rainmaker

Research, the Australian Consumers Association and the University of New South Wales researcher Dr Hazel Bateman. All of these models would provide a more meaningful fee metric than the OMC.

I want to briefly discuss the report on disclosure which was conducted by Professor Ramsay and which was released yesterday. We say it provides a useful starting point for a discussion about what should be included in any reasonable disclosure regime. Although Professor Ramsay appears to remain wedded to the OMC, albeit a modified version, he moves significantly beyond the government's flawed disclosure model, proposing a number of improvements along the lines of what Labor has been advocating. These include a long-term measure of the impact of fees, consistent with the ACA's proposal, subject to industry consultation; and a fee calculator on the ASIC web site. Publicly available and unbiased assistance in understanding fees is essential to any disclosure model and was absent from the government's proposed regulations. There is considerable positive overseas experience with fee calculators. There is merit in the United Kingdom's model. Labor would also like to see full public disclosure of fees for all super funds placed on the ASIC web site. If you want choice, let us have proper disclosure. Let consumers really see whether they are getting value for money. Let them really see who is charging the higher fees and who is not and what the relevant rates of return are for those funds.

Consistent with Labor's approach, Professor Ramsay also suggested that the PDS should show, where applicable, how fees are paid to advisers. Currently, a consumer would need to read the PDS together with a financial service guide provided by the adviser to understand how they are paid. The importance of enforcing better disclosure of the commissions paid to advisers is underlined by RMIT research conducted on behalf of the Financial Planning Association which showed that almost 40 per cent of the clients of financial advisers did not know how they paid for advice or thought it was free. These are pretty extraordinary and disturbing statistics. Given that financial advisers are often

the group to whom people go for advice on issues such as investing their superannuation, one would have thought that it would be appropriate to have in place a disclosure regime which would enable the clients of financial advisers to know precisely how they are paid. It is, as I said, a pretty extraordinary and disturbing statistic that 40 per cent of their clients did not know how they were paid or thought that the advice was being provided for free. This is particularly disturbing in the context of the government's choice proposals.

Professor Ramsay advocates a further proposal for the disclosure of fee rebate arrangements. Again, that is consistent with the policies and positions that the Labor Party has been calling for. Many consumers do not know that they can negotiate fees lower than the disclosed schedule, and many stand to miss out, because if they do not know a rebate applies then they cannot ask for it. Finally, and perhaps most importantly of all, Professor Ramsay believes in the consumer testing of recommendations. It is apparently a pretty novel idea, on the government side of this chamber, that we should consumer test a measure which is supposed to assist consumers to make sure it actually works. Improved fee disclosure is not generated in a vacuum, nor can it be solely the product of the bureaucracy or the political hierarchy. Research must be undertaken with the people that it is intended to benefit—the consumers.

The government have two choices on fee disclosure. They can carry on as they have, ignoring legitimate concerns raised by consumer groups and a number of industry representatives and pandering to the top end of town, or they can undertake a process of consultation with all interested bodies, including other parliamentary representatives, aimed at providing better disclosure for working Australians. I am sure the ALP would be more than happy to do that if the government were to choose to take that path.

Senator COLBECK (Tasmania) (5.25 p.m.)—With this motion Senator Sherry attempts to paint the government as inactive on superannuation, but a wander through history checking Labor's record on superannuation

over the years paints quite a dismal tale. Going to the Labor web site today to find a Labor policy on superannuation, I was led to a statement from their leader which essentially says, 'We have no policies. We do not have a clue, but if you have any ideas we would love to hear from you. Please help us fill the gaps'—the gaping hole—'in our policy portfolio.' Senator Sherry today presented some arguments which could essentially form part of a discussion paper but certainly not a policy. As Senator Watson said earlier, they had no policy at the last federal election either. There is absolutely nothing available with respect to their policy there, and there is actually evidence to suggest that they went to the 1998 federal election without a policy. You would have to question the way the Labor Party are lecturing the government at this point in time about its level of activity on superannuation. They have been sitting there since at least 1998 without having done a jot of work. Senator Sherry rushes out every now and again from committee hearings and makes an announcement in the media, but apart from that he has really nothing to suggest.

The government's record on superannuation since 1996 shows that a significant amount has been achieved. The initiative announced by the government, *A better superannuation system*, will enhance the overall attractiveness, accessibility and security of superannuation. The policy builds on the government's outstanding record of achievement in retirement income policy and further demonstrates its commitment to assisting Australians to build financial self-reliance. The government put tax concessions in place which amounted to approximately \$9.5 billion in 2001-02, and it has also moved quickly to deal with its election commitments. It allows working individuals aged 70 but less than 75 to make personal contributions to superannuation. This followed on from the government's earlier initiative that increased the age for voluntary contributions from 65 to 70 and increased the age for employer contributions to 70 years. It is allowing beneficiaries of the baby bonus to contribute to superannuation even if they have never worked before and parents, relatives and friends to make superannuation

contributions on behalf of children of up to \$3,000 per child over a three-year period.

The government has been extremely active in enhancing superannuation policy since it came to office in 1996. From July 2002, the attractiveness of superannuation was further enhanced by the government's initiative to increase the limit of full deductibility of superannuation contributions by self-employed persons from \$3,000 to \$5,000 while retaining 75 per cent deductibility on any amounts above this threshold. Other initiatives already implemented by the government will require employees, from 1 July 2003, to make at least quarterly superannuation contributions on behalf of their employees, further enhancing the security of superannuation, and from 1 July 2002 temporary residents will be allowed the option of accessing their superannuation benefits after they have permanently departed from Australia, subject to withholding tax arrangements. Progress is also well advanced on a number of measures contained in *A Better Superannuation System* to increase the attractiveness of superannuation. A discussion paper has been issued on the commitment to allow couples to split their superannuation contributions, ensuring that single income families have better access to ETP tax-free thresholds and two reasonable benefit limits in the same way that dual income families do.

Other elements of the announced package include committing the government to examining whether market linked income streams should be afforded concessional tax and social security treatment, reducing the tax on the excessive component of ETPs from superannuation funds to lower the tax-effective rate to no more than 48.5 per cent and reaffirming the government's policy of portability of superannuation benefits, which gives workers the right to move superannuation benefits from one fund to another. I really question why the Labor Party is so opposed to portability of superannuation. Why can't some of these thousands of funds that are lying around idle be gathered together to provide a decent benefit for workers? I would have thought that that would have been a fundamental staple of what the

Labor Party would have been trying to protect.

It is very important to note the new measures that build on the government's previous achievements in superannuation and retirement income policy. These include: amendments to the Family Law Act 1975 to allow superannuation benefits to be split between couples who separate; the introduction of the superannuation spouse rebate, which allows individuals to make superannuation contributions on behalf of their low-income spouses; capital gains tax relief to allow the proceeds of a sale of a small business to be used for retirement income purposes; the removing of anomalies in the means testing arrangements for retirement income streams for pension purposes and encouraging the take-up of new life expectancy products which promote the prudent use of superannuation savings for retirement; capital gains tax reforms which amend the tax arrangements so that the nominal capital gains of superannuation funds are taxed at the concessional rate of 10 per cent when the assets are held for at least one year; strengthened preservation arrangements to help people accumulate larger superannuation benefits for retirement; the introduction of a retirement savings account—the government legislated to allow banks, credit unions, building societies and life offices to directly offer low-cost superannuation accounts; the establishment of the Australian Prudential Regulation Authority, in line with the Wallis committee recommendations; improved regulation for small superannuation funds—self-managed superannuation funds are now regulated by the ATO and are no longer subject to the full prudential requirements faced by larger funds; twice annual indexation of Commonwealth civilian superannuation pensions to the CPI from January 2002, increasing in real terms the benefits of some 100,000 superannuation pensioners; new investment rules to ensure that superannuation savings are not put at risk through investments with employers, trustees and their associates; higher tax rebates for senior Australians; and increased access to the aged pension and Commonwealth seniors health care card.

With respect to cuts to superannuation taxes, as part of its election commitments, the government announced a broad range of measures to improve the attractiveness of superannuation. These include: allowing couples, as I have said, to split their superannuation contributions; allowing superannuation contributions to be made on behalf of children; reducing the superannuation and termination payment surcharge rates by a tenth of their current level each year over the next three years—a maximum of 1.5 percentage points each year; increasing the deduction allowable for superannuation contributions made by self-employed persons; and allowing the people who receive the baby bonus to make contributions to a superannuation fund.

In relation to compensation to victims of theft and fraud, the government in section 229 of the Superannuation Industry (Supervision) Act 1993 has provided a framework for the grant of financial assistance to superannuation funds regulated by APRA which suffer losses as a result of fraudulent conduct or theft. Grants of financial assistance are subject to a number of conditions including: the loss must have led to a substantial diminution in the fund leading to the difficulty in payment of benefits; the appropriate minister must decide that public interest requires that a grant be made and must consult APRA on this issue; if it is determined that a grant be paid, it may be funded either from consolidated revenue or from a levy on certain superannuation funds.

The Labor Party continues to claim that the government has been inactive in relation to superannuation during the term of its government. It is quite clear that the government has made significant improvements to superannuation. In this respect, the Labor Party's motion fails.

Senator HOGG (Queensland) (5.37 p.m.)—I rise in the debate today to address this most important issue for many people in Australia. My recollection of superannuation goes back to the 1980s, when superannuation became the battle of the eighties. It was the battle for the money that workers were rightfully claiming to be theirs to be put aside for their retirement. When that claim was made

it was resisted in a very rigorous manner by employers throughout Australia. It was claimed by means of award superannuation and it saw its way through a number of processes in the courts before it finally became a matter that was arbitrated by the Australian Conciliation and Arbitration Commission.

Superannuation had always been a privilege for executives—it had never been available to the average worker, with the exception of those in the Public Service. The vast mass of people had been excluded from superannuation. They had been excluded from a benefit that would ease the pain of retirement and give them an adequate and reasonable retirement benefit to live on. The people excluded particularly were low-income people and, of course, women—that is one group who were severely disadvantaged by the lack of superannuation. Superannuation had, reasonably, been made available to a wide range of males, but had not been made available to a wide range of females—they were excluded from superannuation. The superannuation they had been excluded from would have formed an important part of their retirement income. They were not able to access it—it was not even something that they were entitled to—yet there were people in privileged positions receiving the benefits of superannuation and living in reasonable retirement with the rest condemned to live on the age pension.

In my first speech in this place I spoke about three important aspects of security in people's lives: security in youth, security in work and security in retirement. That last aspect has been achieved to some extent—but not a great extent—by superannuation. Of course, those who have accessed superannuation since the 1980s are not going to reap the full benefit. It will only be over the full working life of a person that they will accumulate the benefit that comes from superannuation; until that happens, people will only receive a part-benefit.

As a member of the Senate Select Committee on Superannuation it has been interesting to participate—and I have always been a very strong participant in that committee—in a hearing on the adequacy of superannuation. The adequacy hearing trav-

ersed a wide range of issues: whether the current nine per cent is adequate or whether it should be 15 per cent, whether the tax should be up-front or at the back end, what effect moving the tax from the front end to the back end would have, the issue of the surcharge and so on. A range of issues have been canvassed, including how much will superannuation, if it remains at the level it is at now, contribute to the retirement of people further down the track.

A wide range of evidence has been given to the committee, including that by, say, 2032, a person having some 30 years in the work force and in receipt of twice the average weekly ordinary-time earnings—approximately \$85,000 per year—will still be relying on some contribution from the pension. As one goes back further towards less than average weekly ordinary-time earnings, one finds that there is still going to be a fair degree of dependency on the age pension to supply an adequate retirement benefit for those people to live on. That is, of course, a most unfortunate thing. One hopes that we are heading down the path, through the compulsory superannuation that we have, of contributing in a significant way to the retirement benefit that people will enjoy in their later life. That is not necessarily going to be the case, and that is an issue that will confront not only this government but a Labor government when it is in power at some time in the future. Regardless of their political persuasion or ideologies, governments will have to look at proper retirement policies that deliver to people dignity in retirement. At this stage this government has not adequately done that.

Going back to the first three per cent award super, that was bitterly fought by the employers, whether they were large or small. They drew the battle lines and they resisted in every way that was humanly possible to stop the advance of superannuation to the vast majority of the work force who had no access to it whatsoever. It was arbitrated at length in both federal and state tribunals. I have a vivid memory of being involved in a number of those arbitration processes where the matters were canvassed over a lengthy period. It was not as if the industrial tribunals

made a rushed decision, nor did they make a rash decision, in determining the funds that would operate within a particular award. As a matter of fact, some of the hearings were very protracted indeed. But of course, at that time, the life insurance companies and the banks saw the new honey pot emerging and realised that they wanted to be in for their share of the honey pot.

They were both vigorous and active in the marketplace in trying to secure what they saw as a share for themselves, which they saw as serving their own purposes rather than necessarily the people who needed to benefit from the ultimate retirement benefit that would be paid from the superannuation. The employers saw the super as their money and, at that stage, tried to malign and taint the industry funds that were emerging as being union funds. They wanted the employee entitlements to be put to use for their financial purposes rather than the employee's best interests—that is, the retirement benefit for the employees. Some awards that I worked with did have a range of funds arbitrated or put into those awards by agreement, so there was a choice of funds in some sense there for employees.

Senator Ferguson—Yes, industry funds.

Senator HOGG—No, they were not industry funds. Some of those funds were there at the behest of the employers, and people found themselves in those funds because of the wishes of the employer rather than because of the wishes of the employee. I know this to be a fact, because I had great trouble with one particular company in Queensland, where they had basically railroaded the employees into a particular fund. This was a retailer that ultimately went bankrupt. We were lucky at the end of the day that we were able to extricate those people out of the fund early enough to have their funds placed into a reliable, legitimate fund and their retirement benefit was ultimately protected. But the struggle was there.

There were some single funds in some awards and, of course, where they were industry funds, there were equal employer and employee representatives. They were not union funds, as they were often characterised. That was just part of the rhetoric that

was thrown around at the time and, unfortunately, persists today. The government policy today is to claw back the situation that emerged in the 1980s. They want to claw it back so that friends in the life insurance area and friends in the banks can get their fingers into what they see as a very lucrative money pot and honey pot indeed.

Senator Ferguson—Are you suggesting the life funds are no good, John?

Senator HOGG—I am not suggesting that at all, Senator, if you listen to what I say. On the super committee, we have been faced with the issue of choice of fund. I have been present at all the various hearings of the superannuation committee. I have heard the witnesses and have had a chance to listen to some of the difficulties that have been raised. It would be fair to say that there are witnesses that have supported the government's position; that is natural. But, equally, there have been people concerned about the options that the government are putting forward. In particular, I want to look today at paragraph (c) of Senator Sherry's notice of motion that is being debated. This refers to the government's:

... failure to accurately assess the administrative burden on small business of the Government's third attempt at superannuation choice and deregulation ...

Senator Ferguson—You voted against the first two. There has to be a third because you voted against the first two. You are voting against choice.

Senator HOGG—You are right on top of it today, Senator Ferguson, and I am pleased to see you are. The facts that have come out in the hearings thus far are that small business is going to be affected adversely by the government's decision on choice. The government, once again, have ignored small business. I want to go to some of the facts that have been brought out in the particular hearings. There has been a complaint about the government's move to choice of fund with regard to the model that is being adopted. Let us say now that the previous models have been flawed.

Senator Ferguson—They have not been flawed. You were against choice in principle. It was not to do with the flaws.

Senator HOGG—The previous models have just been no good, Senator Ferguson. You have just got to answer the problem that faces you: the models were flawed.

Senator Ferguson—And you were against it in principle.

Senator HOGG—The models were flawed. Small business people have clearly indicated that the model that is currently floating around will create excessive paperwork for the employers. It would be excessive because the immediately previous model advocated a limited number of funds.

Senator Ferguson—Five.

Senator HOGG—That is right. The current model, however, does not limit the number of funds. So one could quite imagine that in a business where there are 20 employees, if choice prevails, there could be 20 different funds. That is the simple fact that has come out in the hearings.

Senator Ferguson—They only have to offer five.

Senator HOGG—Senator Ferguson, you can get up after me if you have such wonderful words to say. I know you realise we are running out of time.

Senator Ferguson—I have got to get it in there.

Senator HOGG—Do not get it in now. I know you want to have a say. Small businesses realise that there will be real difficulty in terms of the paperwork that is going to be generated out of this whole process. They say that there would obviously be some resistance from employers to the increased administrative obligations, as one of their spokesmen has said. It is interesting that the Motor Traders Association, the National Farmers Federation, the Australian Industry Group and the Queensland Retail Traders and Shopkeepers Association have expressed similar concerns. I happen to have some real experience—

Senator Ferguson—With the shoppers.

Senator HOGG—That is right, with the Queensland Retailers and Shopkeepers Association—a whole host of small businessmen. They are small businesspeople who abhor red tape and the interference of gov-

ernment in their businesses, where they devote more of their time to the red tape that has been created by government than they do to the running of their businesses. They expressed their views quite strongly.

Then, of course, major consultants such as Mercer Investment Consulting, Corporate Super Association and the CPA of Australia have their doubts about it. The CPA have stated:

The additional responsibilities will most certainly place a further compliance burden on employers. This is in addition to other burdens employers currently face, for example, compliance costs associated with the New Tax System and The New Tax Business System.

So we have the CPA expressing their concern. Then we go to Mercers, who say:

... the introduction of Choice as set out in the Bill will result in:

- Significant compliance costs for employers;
- Increased difficulties in meeting payment deadlines for SG contributions resulting in more late payment breaches ...

... the advantages to the member of being able to exercise choice would need to be weighed against potential disadvantages which may include:

- An increase in expenses due to higher distribution costs as well as the loss of employer subsidies that apply in many existing corporate funds;
- A reduced willingness of employers to contribute more than the minimum contribution ...

The implementation of Choice in the proposed form will not only result in considerably greater costs than the estimates in the EM but in addition, many small business operators will be diverted from their business activity for many hours.

Mercers are a respectable group of consultants who have appeared before the committee over a long period of time.

Treasury evidence was given to the committee as well. They said that the slug to small business of the government's latest attempt at choice deregulation would far exceed the estimate of \$36 a year ongoing in the explanatory memorandum. The officials confirmed that the cost to a small business with 20 employees, 18 of whom want a different fund of a known clearing house product—touted by the minister as the panacea to the administrative nightmare of choice—will

cost a minimum of \$128 per year. On top of that, if employers want to pay their superannuation contributions monthly, it will soar to \$384. So there are additional and increased costs associated with the model of choice that is being promoted by the government. They are costs to small business that small business does not have the capacity to bear.

Then, of course, one only has to look at the regime of penalties that exist if employers get choice wrong. They face fines of \$6,600 per offence on a strict liability basis for each employee. That could be an impost of \$264,000 on a small business with 20 employees. So we see that this grab for the honey pot—or the money pot—is going to see many small businesses forking out to pay for the ideology of this government.

Senator Ferguson—This is the first time you've ever shown any concern for employers!

Senator HOGG—The government cannot get it through their head, Senator Ferguson; I thought that you would understand that by now. Come along to a couple of Superannuation Committee meetings and you will find out how concerned these people really are. They are upset that this is going to be foisted upon them and that they are going to have to bear the brunt of the expense associated with offering choice to their employees. Choice is already available through choice of investment. (*Time expired*)

Senator FERGUSON (South Australia) (5.57 p.m.)—Before I make my brief contribution I must declare an interest. I worked in the superannuation industry for seven years prior to coming to this place and then I worked on the superannuation committee, so I got it from both sides. What I would really like to know from Senator Hogg and the Labor Party is, if they were so concerned about making sure that workers had plenty of money in retirement, why did they take away the \$3,000 tax deductibility for workers who were contributing on their own behalf to their own retirement fund along with the levy that was being put in at that time? They took away the tax deduction of \$3,000 and many contracts fell over, because the workers said, 'If I can't get an incentive by way of tax deduction, I am no longer going to contribute.'

So all of those amounts that had just started over a few years were frittered away because of your policy.

If you want transparency in superannuation and you want to talk about showing everybody the exit fees and charges, why do you not tell us how much Bernie Fraser is being paid to do his ads for Cbus? Where does that appear on the balance sheet—or is he being very generous in his retirement and saying, 'I'm prepared to do all of these ads for the industry fund for nothing.' Where is the transparency in what Bernie Fraser gets paid? You have never, ever answered that question at any time. If you are talking about choice, why is it that twice you have rejected choice on principle? You have rejected choice not because of any difficulty of the arrangements and not because you thought it was not the appropriate way to use choice; you opposed choice on principle. Senator Sherry, who moved this motion, was the chief architect of opposing superannuation choice because he opposed it on principle. If Senator Sherry is going to come in here as the new champion of choice, saying, 'I've brought out a new policy,' what he has forgotten to tell people is, 'Until this time I have opposed choice every inch of the way, because we as a party have opposed choice on principle.'

So there are three messages that the Labor Party really needs to make sure that they get in this chamber. Why do they do their own working mates in by taking away tax deductibility for their own contributions—for the money that they were prepared to put in? Why don't they come clean, be transparent and tell us what Bernie Fraser does get paid and what it costs the unions to run their funds? When their workers get a sheet of paper when they get a new job and they are told, 'Look at this bundle of papers, then go home, fill them in and bring them back,' why is there no sitting down and talking to anybody about things such as, 'What are your requirements by way of death and disability? How large is your family? Are you married?' or any of the questions that would identify the needs of the worker? Instead of that, it is, 'Take the information home and sign it with all the other forms.'

The ACTING DEPUTY PRESIDENT (Senator Bartlett)—Order! The time allotted for the consideration of general business notices of motion has expired.

DOCUMENTS

Workplace Relations Act 1996

Report for 2000 and 2001

Debate resumed from 19 September, on motion by **Senator Ludwig**:

That the Senate take note of the document.

Senator CROSSIN (Northern Territory) (6.00 p.m.)—I rise this evening to speak to the report for 2000 and 2001 on agreement making in Australia under the Workplace Relations Act. This report is prepared by the Department of Employment and Workplace Relations and the Office of the Employment Advocate. In particular, I want to draw the Senate's attention to two specific areas in this document. Comprehensive as it may seem, a number of questions still need to be asked not only about this government's policies on industrial relations but about how those policies are then translated into reality in the workplace and what that means for families in this country, particularly in relation to the casualisation of the work force in this country and the lack of family friendly work practices within enterprise agreements and Australian workplace agreements.

This report reveals that the proportion of enterprise agreements which provide for the use of casual labour has increased from 33 per cent to 71 per cent in the past two years. The figures in this document strongly suggest that the newly casualised workers enjoy fewer protections. The proportion of agreements that protect workers by regulating hours, wages and the numbers of casual employees has dropped from 16 per cent to six per cent. The proportion of agreements that provide for a casual loading—that is, the extra hourly pay to compensate casual employees for having no leave entitlements and no guarantee of work—has barely risen, from 25 per cent to only 29 per cent.

We have here a government that talks a lot about how it intends to help families in this country, but these figures show that families are under even more pressure with the new laws, as these laws prevent the award safety

net restricting the use of casual labour. Casual workers have no access to paid leave or holidays to look after their families and, with no guarantee of continuing work, many find it impossible to secure a loan in order to buy a car or a family home. These figures show that under this federal government a secure, full-time, permanent job is becoming a distant memory for many families.

Under this government there is not an increase but a significant decrease in family friendly measures within the workplace and within workplace agreement entitlements. There is a decrease in the percentage of workplace agreements, according to this document, that contain flexible starting and finishing times for ordinary hours of work. In fact, that number has gone from four per cent in 1998-99 down to three per cent in 2000-01. There has been a decrease in the percentage of agreements providing for family and carers leave from 28 per cent in 1998-99 down to 27 per cent. There has been a decrease in the percentage of agreements that provide paid maternity leave or primary carers leave from 10 per cent down to seven per cent. There has been no growth in the percentage of agreements containing flexible annual leave. That has remained static at six per cent. Paid family leave remains at three per cent. Regular part-time work has not increased or decreased; it remains at seven per cent. Provisions for family responsibilities remain at three per cent, and child-care provisions remain at one per cent.

What we see here is a federal government that, when the figures are presented in a report like this and are tabled in federal parliament, really does not have any family friendly policies—they are not being translated into reality for families in Australia and they certainly are not the reality for workers and employees. (*Time expired*) I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Consideration

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

Productivity Commission—Report—No. 17—Review of the national access regime, 28 September 2001. Motion of Senator Ludwig to take note of document agreed to.

Australian Government Solicitor—Statement of corporate intent 2002-03. Motion of Senator Mackay to take note of document agreed to.

COMMITTEES

Consideration

The following orders of the day relating to committee reports and government responses were considered:

Community Affairs References Committee—Report—Participation requirements and penalties in the social security system [Family and Community Services Legislation Amendment (Australians Working Together and other 2001 Budget Measures) Bill 2002 and related issues]. Motion of the Chair of the Community Affairs References Committee (Senator Hutchins) to take note of report called on. On the motion of Senator Ludwig debate was adjourned till the next day of sitting.

Foreign Affairs, Defence and Trade—Joint Standing Committee—Report—Australia's relations with the Middle East—Government response. Motion of Senator Ludwig to take note of document agreed to.

Public Accounts and Audit—Joint Statutory Committee—386th report—Review of the *Auditor-General Act 1997*—Government response. Motion of Senator Ludwig to take note of document agreed to.

Public Accounts and Audit—Joint Statutory Committee—384th report—Review of Coastwatch—Government response. Motion of Senator Ludwig to take note of document agreed to.

Legal and Constitutional References Committee—Report—Order in the law: Management arrangements and adequacy of funding of the Australian Federal Police and the National Crime Authority—Government response. Motion of Senator Ludwig to take note of document agreed to.

Treaties—Joint Standing Committee—Report—Privileges and immunities of the International Tribunal on the Law of the Sea; and the treaties tabled on 27 February and 6 March 2001—Government response. Motion of Senator Ludwig to take note of document agreed to.

Treaties—Joint Standing Committee—Report—Who's afraid of the WTO? Australia and the World Trade Organization—Government response. Motion of Senator Ludwig to take note of document agreed to.

Environment, Communications, Information Technology and the Arts References Committee—Report—Above board? Methods of appointment to the ABC Board—Government response. Motion of Senator Cherry to take note of document agreed to.

DOCUMENTS

Consideration

The following orders of the day relating to reports of the Auditor-General were considered:

Auditor-General—Audit report No. 6 of 2002-03—Performance audit—Fraud control arrangements in the Department of Veterans' Affairs. Motion of Senator Ludwig to take note of document agreed to.

Auditor-General—Audit report No. 7 of 2002-03—Performance audit—Client service in the Child Support Agency follow-up audit: Department of Family and Community Services. Motion of Senator Mackay to take note of document agreed to.

Auditor-General—Audit report No. 8 of 2002-03—Business support process audit—The Senate order for department and agency contracts (September 2002). Motion of Senator Mackay to take note of document called on. On the motion of Senator Ludwig debate was adjourned till the next day of sitting.

ADJOURNMENT

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

That the Senate do now adjourn.

Fred Hollows Foundation

Senator PAYNE (New South Wales) (6.10 p.m.)—I rise tonight to comment upon and commend the work of an important Australian non-government organisation, the Fred Hollows Foundation, as this month it celebrates its 10-year anniversary in operation. I am sure many senators know of the work of the foundation in assisting Indigenous communities in Australia and in its program of work around the world in restoring sight to the blind and the sight impaired.

This is an appropriate time to draw attention to the work of the foundation. This week we saw the tabling of the 11th annual statement on Australia's development coopera-

tion program on Australian aid entitled *Investing in growth, stability and prosperity*. That document referred to tackling health problems, such as problems with sight, as one of five key areas. There has been a focus on good governance and environmental management, which I strongly support, but it is important that we also maintain a strong commitment to the basics, such as tackling substantial health problems.

In terms of this week's statement, I cannot agree with some of Senator Nettle's comments against the increasing support being given to NGOs. I think many NGOs have proven to be highly successful in the work they do. Bodies such as the Fred Hollows Foundation and CARE Australia, for example, enhance the image of Australia throughout the world and justify their funding by meeting very high standards. They deliver very important services to highly marginalised communities.

As a fully accredited agency participating in the aid program, the Fred Hollows Foundation receives a three to one subsidy to the funds that it can raise from the community through the AusAID NGO Cooperation Program, known as the ANCP. In the 2001-02 financial year, the foundation received almost half a million dollars under the scheme, and in 2002-03 it will receive over half a million dollars. In addition, the foundation can bid for funding through bilateral programs, and in the last financial year it received in excess of \$180,000 for a cataract blindness prevention program in Cambodia. These are vital services provided to communities where Australia's support can make a real difference, and I think it is very important for the Senate to bear that in mind. The foundation is an NGO that makes a very strong impact, and I endorse moves—to use Mr Downer's words—to strengthen relationships with the Australian NGO community and with individuals and firms that deliver aid so that our assistance yields better outcomes. The end goal of this, of course, is to allow recipient states to stand on their own two feet.

For over a decade the foundation have tackled avoidable blindness. They have helped to train and equip, to some degree,

around 750 local surgeons in over 26 developing countries, who in turn have helped to restore sight to nearly one million people in Asia and Africa and treated many disadvantaged people for potentially blinding conditions. Locally run intraocular laboratories were established in Eritrea and Nepal to produce high-quality, low-cost perspex intraocular lenses to replace the cloudy, natural lenses of individuals. They have special equipment, such as portable microscopes, which they have developed to allow treatment to be conducted in the most extraordinary remote areas where eye care services are otherwise absolutely nonexistent.

Before his death, I saw operations being conducted in Vietnam by Fred Hollows himself as part of the foundation's work. I had the privilege to see at first-hand the work that the foundation does in Nepal when I was there on a study visit last year. I observed Dr Ruit, who was trained by Professor Hollows, treating patients and undertaking work at the Tilganga eye hospital and lens production facility. I saw the technology; I met the staff and the teams but, more importantly, I met the individual Nepalese who were benefiting from this foundation's work. It is hard to describe how moving an experience like this can be. It is hard to describe the sophistication of the technology that I saw in Kathmandu last year, which is helping so many people suffering such great disadvantage regain their sight.

The Hollows legacy is working its magic not only in Kathmandu but also in more remote parts of Nepal. Dr Ruit and Australia's current Ambassador to Nepal, His Excellency Crispin Conroy, have spent some time trying to visit some of the more remote areas with these services to ensure that they are delivering the most important magic of all—the return of vision to so many of these people. I am very grateful to the Tilganga Eye Centre for the opportunity to see those operations. The foundation owes much of its success, of course, to Dr Hollows himself. But on this 10-year anniversary I think it is important to acknowledge the work of people internationally in places such as Nepal, where people like Dr Ruit and Rabindra Shrestha maintain their very efficient and

effective operations. They deserve enormous credit for the strength of the organisation.

The foundation has had the same CEO for nine years—Mike Lynskey. He has rightly identified the need for the foundation not to become too reliant on government funding to operate. Under his leadership, the foundation has forged a good working relationship with the federal government and has contributed to policy, most notably in terms of Indigenous eye care in Australia. The new chairman, Nigel Milan, will, I am sure, work with the CEO and the other important players in the foundation to ensure that those relationships continue.

The work in the area of Indigenous eye care is strongly supported by the Minister for Health and Ageing, Senator Patterson, through the National Aboriginal and Torres Strait Islander Eye Health Program, which began in 1998. That is underpinned by the 1997 review *Eye health in Aboriginal and Torres Strait Islander communities* by Professor Hugh Taylor, which was commissioned by the former Minister for Health and Aged Care, Michael Wooldridge, in 1996. It is a program which seeks to address the main eye care priorities for Aboriginal and Torres Strait Islander people in a holistic way. Its major components focus on improving access to eye health in the primary health eye care context. Its emphasis is on a regional approach to eye health, and it is embedded in a philosophy of community control. Its major component includes the establishment of 29 eye health coordinator positions nationally, within Aboriginal primary health care settings. The Department of Health and Ageing has also ensured that the ATSI eye health program has been implemented through effective partnerships with stakeholders at regional, state and national levels.

I also want to talk briefly about Vision 2020—another example of where the foundation and the federal government engagement pays dividends domestically. It is a very important partnership. Vision 2020: The Right to Sight—Australia was established in 2000 as the Australian arm of Vision 2020. I recall launching that in Sydney on behalf of the health minister at the time. Its partnership comprises the majority of Australian organi-

sations involved in eye care service delivery, eye research, education and development. The foundation is a principal partner in Vision 2020 Australia. It is a global initiative from the International Agency for the Prevention of Blindness, which runs in conjunction with the World Health Organisation to eliminate avoidable blindness by the year 2020. The program is designed to enable all parties and individuals involved to work in a much more focused and coordinated way to achieve a common goal—for example, to increase awareness of blindness as a major public health issue, to control the major causes of blindness, to train ophthalmologists and other personnel to provide eye care, to create an infrastructure to manage the problem, and to develop appropriate technology.

In our region, in Africa and more broadly internationally, the awareness of preventable blindness as a key health issue sometimes slides off the radar. It is not always something to which we pay attention at the same time as we talk about, for example, in our region the HIV-AIDS pandemic. There are other important health issues in which our aid contribution makes an important advance, and the prevention of blindness and sight impairment is one of those. It does not happen without the involvement of individuals. It does not happen without the involvement of people like Mike Lynskey, the ongoing work of Gabbi Hollows in the Fred Hollows Foundation and the hundreds of administrators and medical professionals who make such a difference in the lives of so many people. Blindness and vision impairment are a huge global problem. In developing countries world wide there are 45 million people affected by blindness and 135 million more people with low vision. As we think about the fact that about seven million people go blind every year—one every five seconds and a child every minute—the work and the policy input of the foundation will be indispensable in decades to come.

I well remember one year ago this month standing in the rain outside the Tilganga Eye Centre in Kathmandu, watching the queue of Nepalese people waiting to take advantage of the very simple but very important technol-

ogy that the work of the Fred Hollows Foundation was taking to their community. To meet with individuals who have received the intraocular lens and to see the extraordinary change that it has brought to their lives and to their wellbeing is the best testament that you could possibly have to the effective work of the foundation.

Fisheries: Illegal Operators

Senator JOHNSTON (Western Australia) (6.20 p.m.)—The Australian commercial fishing industry has a long and very proud history of management of fisheries and fish resource stocks. Quite outstanding levels of sustainability and conservation have been achieved by this industry. I make special mention of the western rock lobster industry in my home state of Western Australia. This internationally acclaimed and envied record is unfortunately under very serious and continuing attack.

Australia's response to recent illegal fishing operations in our fishing zones and exclusive economic zones in the Southern Ocean has been a swift strengthening of our surveillance and apprehension efforts, with the defence forces, the Australian Fisheries Management Authority and licensed commercial fishing operations cooperating to protect our pristine sub-Antarctic territories from both wanton overfishing and permanent environmental damage. The prize sought by these highly sophisticated and very well equipped illegal fishing operations is the remarkable patagonian toothfish. The toothfish can grow to over a metre in length and can weigh almost 100 kilograms, with a life span of some 50 years. The patagonian toothfish, often marketed as Chilean or Antarctic sea bass, is highly sought after, particularly in the United States and Japan, where one sashimi-grade fish can fetch as much as \$US1,000.

In searching for the patagonian toothfish, illegal fishing vessels first targeted oceans around the Falkland Islands and the Antarctic Peninsula but, as these plundered stocks dwindled and local patrols increased, these pirates then slowly moved east through the waters around South Georgia to the French-held Kerguelen Island and on to Australian fishing grounds in the vicinity of Heard and

McDonald Islands. Some estimates put the illegal catch of patagonian toothfish at two to three times the size of the legitimate, regulated catch. Other estimates suggest that the illegal catch may be closer to 10 times the size. In a press release on 8 April 2002, Senator Ian Macdonald, the Minister for Forestry and Conservation, stated:

... over the past four years, the estimated illegal take of Patagonian Toothfish from our sub-Antarctic fisheries is 21,500 tonnes. The value of this catch on the market is in the order of \$279.5 million.

By avoiding regulations imposing catch limits to protect fish stocks and wider environmental protection measures as adhered to by Australian commercial fishermen, the costs to poachers to catch patagonian toothfish are significantly less than the operations of law-abiding Australian fishermen in this industry. With such extensive poaching, market prices are dropping and the commercial viability of the patagonian toothfish is at risk. To make matters worse, many environmental groups, concerned over the amount of illegal take being offered in the market, are urging a total boycott of the purchase of any patagonian toothfish. In other words, legitimate and environmentally responsible Australian fishermen are to be further punished as a result of the nefarious activities of these poachers.

Apart from the degradation of fish stocks, the use of long-lines in this context is one of the most concerning aspects of illegal fishing in sub-Antarctic waters. According to an article in the *Geographical Journal* in April 2001, some illegal fishing vessels are using lines up to 100 kilometres long with some 50,000 baited hooks; birds are attracted to the bait and are inadvertently caught. Many species of bird in the sub-Antarctic are already endangered, with albatross populations in particular being decimated by long-line fishing. The Antarctic and Southern Ocean Coalition believes that over 100,000 albatrosses and petrels are killed every year by pirate fishers in the sub-Antarctic.

The remote location of these Southern Ocean fisheries near McDonald and Heard Islands makes it difficult for poachers to be caught. However, difficulty alone should not deter us from maintaining a very high level

of protection of these significant environmental and economic assets. Indeed, difficulty has not deterred the Howard government from taking very necessary steps to pursue and punish those who seek to devastate our Southern Ocean fisheries.

The Australian Fisheries Management Authority has an unarmed patrol vessel, the *Southern Supporter*, which makes regular sweeps of our sub-Antarctic fisheries. Indeed, intelligence gathered by the *Southern Supporter* resulted in the arrest and detention of two Russian-flagged illegal fishing vessels, the *Lena* and the *Volga*, earlier this year. On 6 and 7 February this year, in an operation involving AFMA and the Royal Australian Navy, the two vessels were apprehended and returned to Fremantle. The combined illegal catch was some 197 tonnes of patagonian toothfish, with an estimated value of more than \$2.5 million. Under Australian law, the penalties for illegal fishing include forfeiture of the vessels, a fine of up to \$550,000 per offence and jail.

The international body responsible for the management of fisheries in the Antarctic region, the Commission for the Conservation of Antarctic Marine Living Resources, is based in Tasmania and is heavily supported by the Australian government. The total allowable catch of our licensed fishing operations is set by the commission and our commercial fishing operations are controlled directly by that commission. Australia has taken a leading role in putting pressure on flag of convenience countries in an effort to reduce poachers' access to ports at which they can unload their illegal but very valuable cargo.

The Australian government has worked closely and very successfully with the French and South African governments to improve surveillance and enforcement arrangements in the Southern Ocean fisheries. It is important to also acknowledge the efforts of the Australian fishing industry itself in counteracting the insidious threat of illegal fishing operations to these precious fishing grounds. In fact, Austral Fisheries, a commercial fishing operation in Perth and the sole Australian operator in far southern waters, spends more than \$1 million every year

complying with government regulations to protect both the sustainability of the fisheries and the environment generally. Rather than using long-lines, which in these waters pose a significant threat to birds and dolphins, as I have explained, particularly the already fragile albatross populations in the area, Austral Fishing uses the far less destructive trawl fishing methods. Austral Fishing also plays its part in the surveillance of our sub-Antarctic regions and in the apprehension of illegal fishing vessels. In November 2001, an Austral Fishing vessel chased another vessel, a poacher, the *Mila*, which had been observed fishing illegally in Australian waters. After instructions from Australian fisheries officials, Austral Fishing recovered the illegal vessel's long-lines and the *Mila* and its crew were then taken into custody by Falkland Islands authorities.

Austral Fisheries is also working with other governments to stop poaching. In June this year, Austral located and chased an illegal fishing vessel, the *Eternal*. By working with the French navy, the *Eternal* was apprehended. It had been fishing illegally in the French zone around Kerguelen Island. The *Eternal* was taken to Reunion, where the officers were fined the equivalent of \$A450,000, the fish were sold and the boat impounded—another successful blow to the illegals.

While our licensed commercial fishing vessels and the AFMA patrol boats can certainly serve a surveillance function by identifying and even tracking illegal fishing vessels, it requires the response of the Royal Australian Navy to protect our territory by seizing illegal vessels and apprehending offenders. It is vitally important that the Royal Australian Navy maintains a presence in our sub-Antarctic territories as an effective deterrent to pirate fishing operations. Let me stress that a strong deterrent is required to protect our fish stocks and threatened species. It is not enough to simply catch a few illegal fishing vessels and then auction their cargo—the damage has already been done by that time. We must demonstrate to these poachers that they will be caught should they attempt to pillage our territorial waters. Our actions must be consistent and visible; any

sense that our response is a one-off occurrence will not deter these criminals from attempting to gather their multimillion dollar hauls.

I commend the government on the apprehension of the *Volga* and the *Lena* this year, but we must not sit back and think the problem has been solved. Clearly it is not feasible or appropriate for commercial fishing vessels to play a policing role in the fight against illegal fishing. However, continued cooperation between commercial fishing operations, the Australian Fisheries Management Authority and our defence forces will allow us to retain a sustainable fishing industry and to protect the fragile environment of our Southern Ocean territories.

Ethanol

Senator McLUCAS (Queensland) (6.28 p.m.)—There has been much talk in recent weeks about ethanol, particularly in the context of the crisis facing the sugar industry. It is important that any discussion and debate about an issue as important as the future of the sugar industry and its associated communities is based on sound information. I therefore want to spend some time tonight putting on the record some facts about ethanol. Ethanol has been around for a while. It was first produced in Australia in substantial volumes by CSR way back in 1901. In fact, Henry Ford's original T-model Ford was designed to run on ethanol, according to the Australian Biofuels Association. Today it is important to note that most of the fuel ethanol produced in Australia is from wheat. That is why Labor has correctly pointed out that there is limited benefit to the sugar industry from the ethanol rebate announced by the government.

CSR produce ethanol from molasses at their distillery in Sarina. About half of this is exported in bulk. Most of the rest is used industrially in Australia. Ethanol is used industrially as a solvent and a chemical intermediary and is also blended with other solvents to meet market needs, particularly in the printing industry. The sugar industry is not currently a major supplier of ethanol for blending in petrol. However, sugar communities are in crisis following four bad years of production and record low world sugar

prices due mainly to a corrupt world market for sugar. Ethanol could provide the industry with an opportunity to diversify so that income is not from just one major market. We therefore need to look seriously at the longer-term benefits of supporting the development of ethanol plants in North Queensland. We also need to recognise that a significant amount of work has already been done by groups like the Mossman Mill, the Johnstone Shire Council and CSR, but we still do not have a substantial sugar based ethanol for fuel industry in the north.

So how do the economics of ethanol stack up? The Johnstone Shire Council undertook a scoping study to assess the potential for ethanol in Far North Queensland. Its report was finalised in February of this year. The study found that, assuming molasses cost \$45 a tonne, a 10 million litre plant could produce ethanol at 79c per litre, a 30 million litre plant could produce it at 51c per litre and a 100 million litre plant could produce it at 37c per litre. There are obviously significant economies of scale to be had in building bigger ethanol distilleries. Based on 1999 estimates and a 10 per cent blend of ethanol in diesel and petrol, the far north regional market for ethanol would be 43 megalitres. If all the molasses were used for ethanol production in the far north, potential production would be approximately 50 million litres. So the far north could produce locally the total requirement for a 10 per cent blend. However, molasses today is not selling for \$45 a tonne; it sells for \$70 a tonne. This is because of decreased sugar production in recent years combined with the drought increasing the demand for ethanol by livestock producers.

The price of molasses obviously has a significant impact on the economics of ethanol. Clearly, diverting molasses to ethanol production is going to have an effect on the livestock industry and will in all likelihood significantly increase demand and the price of molasses, affecting the economics of ethanol. It is no use investing \$35 million to \$40 million in an ethanol plant at Mossman or anywhere else in North Queensland without a secure supply of molasses and a secure long-term market. I welcome the research

being conducted at the Mackay Sugar Research Institute to test a US ethanol production process called ZeaChem. ZeaChem has the potential to produce 60 to 70 per cent more ethanol from molasses and will significantly reduce costs of production. It could change the whole economics of ethanol production, which obviously at the moment are still marginal. However, there is an increasing recognition that we need to look beyond simple economics in making decisions. We need to focus not only on the short-term economics of a proposal but on the social and environmental costs and benefits. Simple economics based on the unit price of an item does not take into account the longer-term social and environmental costs. In assessing the role of government in investing in the development of an ethanol industry based around sugar we must therefore consider not only the simple economics but also the social and environmental costs and benefits.

Currently almost all motor vehicle fuel consumed in Australia is from fossil fuels: either crude oil or LPG gas. Global warming and greenhouse have highlighted the external costs associated with burning fossil fuels. The Kyoto agreement on climate change is primarily an attempt to bring under control global warming but is also an attempt to provide a market mechanism for trading carbon. Given that ethanol at a minimum is greenhouse neutral, there could be tradeable environmental credits produced through ethanol production. However, the failure of the Howard government and the US government to ratify the Kyoto agreement is limiting any benefits Australian companies wanting to develop ethanol plants could gain through carbon trading. The environmental benefits of a product like ethanol produced from sugar cane must also be looked at within a full life cycle context. You cannot just assess the greenhouse benefits of ethanol based on how much carbon and other products are produced when it is burned in fuel. We need to look at the inputs that go into growing the cane and the carbon produced in this process. That includes the production of fertilisers, use of tractor fuel and a range of other things. This assessment is not straightforward as ethanol is produced from molasses, a by-product of the sugar making process. The

broader environmental question of sugar cane growing must also be considered.

Sugar is grown in areas containing some of Australia's most valuable natural assets: the Great Barrier Reef coastal region and the Wet Tropics World Heritage area. The area used for growing sugar cane in Queensland has increased by over 40 per cent since 1988. The area of cane harvested in the 2000-01 season was 424,350 hectares. This expansion has not solved the problems facing the industry, has fuelled considerable environmental concerns and has, sadly, added to the debt pressures facing many farming families. Expanding the industry in the past has been a simple solution to a complex problem and, from an environmental perspective, has produced more problems than benefits. Governments must work with and support growers as they move to more sustainable farming systems. Ethanol, combined with programs like Compass and the revegetation of riparian areas, could provide a catalyst for improving the environmental credentials of the entire sugar industry.

We must also look at the potential social benefits of an ethanol industry in North Queensland. Do we really want everyone to live in major cities and towns? Do we know the real costs of the social dislocation associated with the decline in rural and regional Australia? When people fall through the gaps government pays in the end through increased health, social security or law enforcement costs. Developing an ethanol industry in North Queensland could create many needed jobs. The Johnstone Shire Council's ethanol scoping study found that 18 to 20 people would be employed directly in a facility producing 30 million to 40 million litres of ethanol. There would be more direct jobs in the construction phase and downstream operations as well as the indirect jobs produced through increased business activity in the local community.

However, when looking at the employment benefits of ethanol we need to note that farmers gain no direct financial benefit from molasses sales. They will, therefore, not directly benefit from the development of an ethanol industry without changes to the cane payments system. Millers looking to develop

ethanol plants fairly argue that molasses is a by-product of their sugar manufacturing process and should not be the property of the farmer. The millers argue that if farmers want to share in the benefits of a new ethanol plant they should invest financially in some of the risks. We need to look at ways in which this could be achieved, and work needs to be done to evaluate the range of potential business models. In looking at ethanol we need to consider not only the current economics of production but also the social and environmental costs and benefits. As I have explained, these issues are not straightforward. However, Australia's fossil fuel supplies are rapidly declining and we need to develop alternative sources of energy. Renewable sources of energy like ethanol must obviously be considered as part of that process. Labor have established an energy task force to develop policy in this area, and I will be working with that group to ensure that ethanol is seriously considered as part of the mix in meeting Australia's future energy needs.

University of Canberra: Student Elections

Senator ABETZ (Tasmania—Special Minister of State) (6.38 p.m.)—We have had three interesting contributions to the adjournment debate this evening. That of Senator McLucas is particularly interesting, given that she is a Labor senator from the state of Queensland, when one knows her Premier's stance in relation to Kyoto and carbon trading. But that is just an aside. I get to my feet this evening to report to the Senate further on a news item that was on ABC radio in Canberra this morning, stating that the annual general meeting of the University of Canberra Students Association yesterday rejected the report from the returning officer which sought to assert that the elections held from 3 September to 5 September 2002 were free and fair.

A lot of information about this has been provided to my office—I assume in my capacity as Special Minister of State with responsibility for electoral matters. I should indicate of course that I do not have responsibility for electoral matters in relation to student unions. More importantly, this matter highlights once again the unfortunate situa-

tion whereby university councils insist on compulsory student unionism. People cannot graduate unless they pay their student union fee—the only up-front fee that students have to pay to gain their tertiary education—but all that these students confront are the professional student politicians who seek to rot the system.

Allow me to put some examples on the record. I am advised that one Matthew Lawrence was the deputy returning officer for these student elections at the University of Canberra Students Association. This Matthew Lawrence may well be known to Senator Ludwig. I do not know if it is true, but the assertion is that he worked for the ALP in Queensland on a number of campaigns, including one for Jim Elder—the former Deputy Premier of Queensland who was required to resign for electoral roll rotting. I understand that Mr Lawrence was living with Daniel Jenkins during the ballot paper stealing incident at the Australian National University student association elections in 1996.

A number of issues arise. Firstly, numbered security tags purchased from the Australian Electoral Commission—for which I do have responsibility—had been used for a number of years to seal the ballot box to ensure its sanctity, as well as a pair of padlocks which had been kept with the ballot box for a number of years. This year, security tags were not used. Under a combined decision which involved both Matthew Lawrence and the returning officer—who, I am advised, is also a member of the ALP—Mr Lawrence provided new padlocks that he claims had been purchased on the first morning of the election. No justification for the change in procedure was ever given. Secondly, I am advised that in past elections ballot papers had been numbered to ensure that the number distributed was the same as the number of ballots cast. However, this was not required on this occasion, and it appears that a number of ballot papers were removed prior to the count. Thirdly, when the ballot box was opened it was found that a number of ballot papers had not been signed—and of course ballot papers are required to be signed

by the electoral officials prior to being distributed to students.

Guess what? For the presidential ballot, these votes were distributed on a ratio of six to one in favour of—and this is the biggest oxymoron ever—the Integrity ticket, which was the Young Labor ticket. How Young Labor and integrity go together I do not know, but I dare say that false advertising is not an offence on campus. Interestingly, Matthew Lawrence also counted the ballot on the second day of counting. The counting place was moved without any of the scrutineers being informed. The Young Labor ticket took 50 per cent of the positions elected on this day of counting. In the final count, only seven votes separated the top two candidates in the presidential undergraduate member of council election and, miraculously, the Integrity—or Young Labor—candidate won. Keep in mind that it was a very close ballot, only separated by seven votes, yet the person in charge could see no pattern of correlation over the range of votes that saw the uninitialled ballot papers going six to one in favour of the so-called Integrity ticket of Young Labor. Here we have a very evenly balanced result of fifty-fifty after the alleged rorts, but the returning officer who saw all the uninitialled ballot papers going six to one in favour of so-called Integrity could not see that this was against the flow of the ballot papers.

I have in front of me a letter from Sneddon, Hall and Gallop lawyers which sets out a litany of abuses and breaches of the rules of the student union election. Whilst each of these breaches may not of themselves necessarily be sufficient to warrant the overturning of the election, when one goes through them—and I simply will not have time to go through all 11 of them—together with a history of this rorting, one can understand why a democratic vote of students at the University of Canberra overturned the returning officer's report that the student elections were fair and free.

I will give you just some of the examples. The nomination box was locked away during Students Association opening hours, so that all nominations had to pass through—you've guessed it, once again—Mr Matthew Law-

rence, instead of going straight into the nomination box. I am advised that that is in breach of regulation 4.14. I am also advised that not all ballot papers were numbered. I am also advised that the returning officer did not allow certain people to be present during the drawing of lots. They were refused the opportunity, and this refusal amounted to a breach of regulation 4.12. It is well known at the University of Canberra that Mr Lawrence is an open and active member of the ALP and Young Labor, yet he was allowed to be the returning officer. Mr Lawrence had openly been seen within the Students Association office assisting Integrity candidates—and once again 'Integrity' should be in inverted commas—in producing election posters and providing advice on issues relating to various candidates, which matter was of a political nature.

That is akin to returning officers or the Chief Electoral Officer or the state electoral officers helping either the Labor Party or the Liberal Party in their campaign and then seeking to hold themselves out to the population at large as being persons disinterested in the outcome, with a fair and objective approach to any disputes that might arise. It is laughable, it is inconceivable and it is an absolute disgrace. I call on the University Council at the University of Canberra to take action. What is really serious about this is that here we have a culture of roll rorting, of election rorting, being developed within the Young Labor movement. When they graduate into this place, is it any wonder that Labor Party members oppose every electoral reform that we put forward to ensure the integrity of the electoral roll? Indeed, that is why they sit there on the other side unblushing when we expose the \$36 million Centenary House rort which is ripping off the Australian taxpayer. These young people unfortunately are being schooled in the school of Jim Elder, the former Labor Deputy Premier of Queensland. The University Council of the University of Canberra has to clean up this mess, and the Australian Labor Party ought to discipline its members that have been involved in this rort.

Senate adjourned at 6.49 p.m.

DOCUMENTS**Tabling**

The following documents were tabled by the Clerk:

Christmas Island Act—List of applied Western Australian Acts for the period 16 March to 20 September 2002.

Civil Aviation Act—Civil Aviation Regulations—

Exemptions Nos CASA EX21/2002 and CASA EX24/2002.

Instruments Nos CASA 524/02 and CASA 525/02.

Cocos (Keeling) Islands Act—List of applied Western Australian Acts for the period 16 March to 20 September 2002.

Dairy Produce Act—Supplementary Dairy Assistance Scheme 2002 Variation (No. 4).

Sydney Airport Curfew Act—Dispensations granted under section 20—Dispensation No. 7/02.

QUESTIONS ON NOTICE

The following answers to questions were circulated:

President: Expenses of Office

(Question No. 213) additional response

Senator Conroy asked the President of the Senate, upon notice, on 22 March:

Since the President of the Senate was appointed on 20 August 1996:

- (1) (a) How many overseas trips has the President been on and when; (b) what has been the total cost of each of those trips, including airfare, travel allowance and any other expense incurred by her, or on her behalf, in relation to those trips and paid by the Commonwealth; and (c) if costs other than airfare and travel allowance have been incurred, what were each of those expenses.
- (2) Has the President ever been accompanied on any overseas trip by a spouse or partner; if so: (a) on how many trips; (b) when and where has the President been accompanied by a spouse or partner; and (c) what has been the total cost incurred by the Commonwealth due to the President being accompanied by that person for each trip.
- (3) Has the President ever been accompanied on any overseas trip by one of her children; if so: (a) on how many trips; (b) when and where has the President been accompanied by one of her children; and (c) what has been the total cost incurred by the Commonwealth due to the President being accompanied by that person for each trip.
- (4) Has the President ever been accompanied on any overseas trip by a staff member; if so: (a) on how many trips; (b) when and where has the President been accompanied by a staff member; and (c) what has been the total cost incurred by the Commonwealth due to the President being accompanied by that person for each trip.
- (5) (a) How many functions and other entertainment has the President held in Parliament House which have been at the cost of the Commonwealth; (b) who has attended those functions; (c) when were they held; and (d) what has been the total cost of each of those functions and other entertainment to the Commonwealth.
- (6) Has the President been provided with a credit card by the Commonwealth; if so, what costs have been incurred by the President on that credit card and paid by the Commonwealth.

The President (Senator Calvert)—The answer to the honourable senator's question is as follows:

PRESIDENT OF THE SENATE

PARLIAMENT HOUSE CANBERRA

Questions Officer

Table Office

SENATE

QUESTION ON NOTICE NO. 213 - PRESIDENT OF THE SENATE - TRAVEL AND OFFICIAL HOSPITALITY

On 26 March 2002 the then President, Senator Reid, lodged an interim answer relating to a Question on Notice placed by Senator Conroy on 22 March 2002.

That interim answer included copies of letters Senator Reid sent to the Special Minister of State, the heads of the Parliamentary departments, and the Department of the Prime Minister and Cabinet.

Advice has now been received from those departments, and it is attached for the information of honourable senators.

(Paul Calvert)

23 September 2002

SENATOR THE HON ERIC ABETZ

Special Minister of State

Liberal Senator for Tasmania

Senator the Hon Margaret Reid
 President of the Senate
 Parliament House
 CANBERRA ACT 2600
 13 MAY 2002

Dear Madam President

Thank you for your letter of 26 March 2002 asking for assistance to enable you to respond to a Question on Notice asked by Senator Stephen Conroy on 22 March 2002 relating to overseas travel costs incurred by you, and including costs for your staff and Mr Thomas Reid.

I note that your letter asks for assistance with parts 1, 2 and 4 of Senator Conroy's Question. Ministerial and Parliamentary Services Group (M&PS) has compiled detailed accounts of each overseas trip that you have taken as President of the Senate, together with an overall summary sheet.

I have been advised by M&PS that where a 'nil' cost is recorded for Mr Thomas Reid, this indicates that he did not travel on that particular trip at Commonwealth expense. Records indicate that since you have been President of the Senate, no costs have been incurred for overseas travel undertaken by any of your staff members whose entitlements are administered by M&PS.

Your letter also asked that I inform you as to the costs borne by the Commonwealth in providing this information. I have been advised that M&PS' direct inputs into the exercise have been costed at approximately \$1,800.

Yours sincerely

ERIC ABETZ

Senator the Hon Margaret Reid and Mr. Thomas Reid

| Dates | Description | Total for Senator the Hon Margaret Reid \$ | Total Mr T Reid \$ |
|-----------------------------|-----------------------------------|---|--------------------------|
| 20 Sept-5 October 1996 | Poland, Hungary and Germany | 12,391.50 | 10,050.00 |
| 13-19 April 1997 | British Virgin Islands | 9,464.10 | 10,262.70 |
| 16-25 May 1997 | Japan | 6,118.01 | 5,097.40 |
| 25 June-16 July 1997 | France, Belgium and the UK | 16,573.07 | 9,399.40 |
| 6-20 September 1997 | Mauritius and South Africa | 8,923.37 | 4,511.50 |
| 1-25 January 1998 | Trinidad and New Delhi | 11,637.99 | 6,717.80 |
| 24 April-9 May 1998 | Swaziland and China | 7,449.94 | 12,485.00 |
| 5-21 June 1998 | The United Kingdom and Germany | 11,065.84 | 11,240.47 |
| 13-28 October 1998 | New Zealand, Samoa and Fiji | 8,952.61 | 4,505.19 |
| 9-24 January 1999 | Peru and Argentina | 14,415.34 | 10,951.90 |
| 20 February-6 March 1999 | UK and Ireland | 15,182.62 | 11,386.13 |
| 17 April 1999 | Tonga | 29,580.00 | Nil |
| 1-8 May 1999 | Singapore | 3,012.51 | 5,522.60 |
| 16-24 July 1999 | Fiji | 4,511.08 | 2,050.40 |
| 9-26 September 1999 | Trinidad and Tobago | 7,639.14 | 12,115.98 |
| 22 October-8 November 1999 | Canada and USA | 37,414.30 | 15,651.30 |
| 7-18 April 2000 | Gibraltar and Singapore | 8,041.16 | 11,166.90 |
| 26 April-4 May 2000 | PNG and The Solomon Islands | 3,781.55 | Nil |
| 2-21 July 2000 | United Kingdom, Germany and China | 33,785.80 | 13,778.92 |
| 27 August-3 September 2000 | The USA | 19,105.40 | Nil |
| 15 September-1 October 2000 | The United Kingdom | 14,016.26 | 14,554.15 |

| Dates | Description | Total for Senator the Hon Margaret Reid \$ | Total Mr T Reid \$ |
|---------------------|------------------------------|---|--------------------------|
| 26 April-6 May 2001 | Barbados | 21,910.41 | Nil |
| 30 June-6 July 2001 | New Zealand | 4,763.86 | 2,832.58 |
| 10-22 January 2002 | The UK, Portugal and Spain | 19,620.00 | 14,649.58 |
| 7-17 March 2002 | The United Kingdom | 14,848.62 | Nil |
| 2-21 April 2002 | Austria, Finland and Germany | 1,071.00 | Nil |
| | Total | 345,275.48 | 188,929.90 |

Senator the Hon Margaret Reid and Mr Thomas Reid

Poland, Hungary and Germany

20 September to 5 October 1996

| Details | Amount | Total Mr T Reid | Total |
|---|------------|-----------------|-------------|
| Airfares | | | |
| Senator the Hon Margaret Reid | \$9,990.00 | | |
| Mr Tom Reid | | \$9,990.00 | |
| Insurance | | | |
| Senator the Hon Margaret Reid | \$60.00 | | |
| Mr Tom Reid | | \$60.00 | |
| Allowance | | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance | \$945.00 | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance - Returned Unused portion | -\$107.00 | | |
| Accounts paid by overseas posts | | | |
| Bonn | | | |
| Maritim Hotel - Accommodation | \$804.00 | | |
| Steigenberger Frankfurter Hof, Frankfurt - Accommodation | \$249.50 | | |
| Schlosshotel Cecilienhof, Potsdam - Accommodation | \$450.00 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$12,391.50 |
| Total Costs for Mr Thomas Reid | | | \$10,050.00 |

Senator The Hon Margaret Reid - Overseas Official Trips

British Virgin Islands

13-19 April 1997

| Details | Amount | Total Mr T Reid | Total |
|--|-------------|-----------------|-------|
| Minor Official Expenses Advance | \$441.00 | | |
| Minor Official Expenses Advance - Refunded | -\$441.00 | | |
| Airfare - Sen the Hon M Reid | \$10,210.70 | | |
| Airfare - Mr T Reid | | \$10,210.70 | |
| Airfare Refund - Delta Airlines | -\$798.60 | | |

| Details | Amount | Total Mr T Reid | Total |
|---|---------|-----------------|-------------|
| Sun Alliance and Royal Insurance Sen the Hon M Reid Mr T Reid | \$52.00 | \$52.00 | |
| Total Costs for Senator the Hon Margaret Reid | | | \$9,464.10 |
| Total Costs for Mr Thomas Reid | | | \$10,262.70 |

Senator the Hon Margaret Reid and Mr Thomas Reid

Japan

16-25 May 1997

| Details | Amount | Total Mr T Reid | Total |
|---|----------------------|-----------------|------------|
| Airfares Senator the Hon Margaret Reid Mr Tom Reid | \$5,045.40 | \$5,045.40 | |
| Insurance Senator the Hon Margaret Reid Mr Tom Reid | \$52.00 | \$52.00 | |
| Allowance Senator the Hon Margaret Reid Minor Official Expenses Advance Minor Official Expenses Advance - Returned Unused | \$504.00 -\$95.00 | | |
| Accounts paid by overseas posts Hosted by the Japanese House of Councillors | \$0.00 | | |
| Reimbursement for official rest day | \$611.61 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$6,118.01 |
| Total Costs for Mr Thomas Reid | | | \$5,097.40 |

Senator The Hon Margaret Reid - Overseas Official Trips

France, Belguim and the United Kingdom

25 June to 16 July 1997

| Details | Amount | Total Mr T Reid | Total |
|--|---------------------------------------|-----------------|-------|
| Minor Official Expenses Advance Meal Advance Minor Official Expenses Advance - Return of Unused Portion | \$1,197.00 \$1,500.00 -\$190.00 | | |
| Paris - Groupe Senatorial France - Australie Charges for Mr T Reid | | \$1,005.10 | |
| Brussels - Hotel Amigo - Sen the Hon M Reid Accommodation | \$2,629.75 | | |
| London - S Westbury - Gratuities, Admission Fees, Theatre Tickets and Postage Return of Personal Expenses incurred | \$161.45 -\$96.55 | | |

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| Details | Amount | Total Mr T Reid | Total |
|---|------------|-----------------|-------------|
| London - Hyatt Carlton Tower - Sen the Hon M Reid - Accommodation Charges | \$1,583.97 | | |
| London - London Car Hire Ltd - Car Transport Costs | \$1,083.15 | | |
| Qantas - Land Travel (Bus/Rail) | \$310.00 | | |
| Qantas - Airfares - Sen the Hon M Reid | \$8,334.30 | | |
| Qantas - Airfares - Mr T Reid | | \$8,334.30 | |
| Sun Alliance and Royal Insurance Sen the Hon M Reid Mr T Reid | \$60.00 | \$60.00 | |
| Total Costs for Senator the Hon Margaret Reid | | | \$16,573.07 |
| Total Costs for Mr Thomas Reid | | | \$9,399.40 |

Senator the Hon Margaret Reid and Mr Thomas Reid
Mauritius and Sth Africa
6-20 September 1997

| Details | Amount | Total Mr T Reid | Total |
|---|--------------------------|-----------------|------------|
| Airfares Senator the Hon Margaret Reid Mr Tom Reid | \$4,456.50 | \$4,456.50 | |
| Insurance Senator the Hon Margaret Reid Mr Thomas Reid | \$55.00 | \$55.00 | |
| Allowance Senator the Hon Margaret Reid Minor Official Expenses Advance Sen Reid's refund of meal costs on 11/9/97 | \$882.00 -\$134.00 | | |
| Accounts paid by overseas posts Pretoria - Hospitality Costs Port Louis - Accommodation 14-20/09/1997 | \$2,252.70 \$1,351.35 | | |
| Reimbursement to Senate for hospitality on 13/9/97 | \$59.82 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$8,923.37 |
| Total Costs for Mr Thomas Reid | | | \$4,511.50 |

Senator The Hon Margaret Reid - Overseas Official Trips
Trinidad and New Delhi
1-25 January 1998

| Details | Amount | Total Mr T Reid | Total |
|---|------------|-----------------|-------|
| Minor Official Expenses Advance | \$630.00 | | |
| Minor Official Expense Advance - Returned Unused Portion | -\$100.00 | | |
| Accommodation | \$4,390.19 | | |

| Details | Amount | Total Mr T Reid | Total |
|---|------------|-----------------|-------------|
| Airfares - Sen the Hon Margaret Reid | \$6,575.80 | | |
| Airfares - Mr T Reid | | \$6,575.80 | |
| Vaccinations - Sen the Hon M Reid and Mr T Reid | \$80.00 | \$80.00 | |
| Sun Alliance and Royal Insurance Senator the Hon M Reid Mr T Reid | \$62.00 | \$62.00 | |
| Total Costs for Senator the Hon Margaret Reid | | | \$11,637.99 |
| Total Costs for Mr Thomas Reid | | | \$6,717.80 |

Senator The Hon Margaret Reid - Overseas Official Trips
Swaziland and China
24 April to 9 May 1998

| Details | Amount | Total Mr T Reid | Total |
|--|-------------|-----------------|-------------|
| Minor Official Expenses Advance | \$882.00 | | |
| Minor Official Expenses Advance - Return | -\$564.00 | | |
| Air Fares - First Class | \$12,431.00 | \$12,431.00 | |
| CPA Portion of Airfares returned | -\$5,697.72 | | |
| Hong Kong - Regal Airport Hotel - Sen the Hon M Reid and Mr T Reid - Accommodation Charges | \$343.66 | | |
| Sun Alliance and Royal Insurance Sen the Hon M Reid Mr T Reid | \$55.00 | \$54.00 | |
| Total Costs for Senator the Hon Margaret Reid | | | \$7,449.94 |
| Total Costs for Mr Thomas Reid | | | \$12,485.00 |

Senator the Hon Margaret Reid and Mr Thomas Reid
The United Kingdom and Germany
5-21 June 1998

| Details | Amount | Total Mr T Reid | Total |
|---|-------------|-----------------|-------|
| Airfares | | | |
| Senator the Hon Margaret Reid | \$10,278.10 | | |
| Mr Thomas Reid | | \$10,278.10 | |
| Senator the Hon Margaret Reid - Refund | -\$220.00 | | |
| Mr Thomas Reid - Refund | | -\$220.00 | |
| Insurance | | | |
| Senator the Hon Margaret Reid | \$56.00 | | |
| Mr Thomas Reid | | \$56.00 | |
| Allowance | | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance | \$882.00 | | |

| Details | Amount | Total Mr T Reid | Total |
|---|---------|-----------------|-------------|
| Accounts paid by overseas posts | | | |
| London | | | |
| Commonwealth Parliamentary Association | | \$1,126.37 | |
| Spouse contribution for Mr Thomas Reid | | | |
| Gratuities | \$69.74 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$11,065.84 |
| Total Costs for Mr Thomas Reid | | | \$11,240.47 |

Senator the Hon Margaret Reid and Mr Tom Reid
New Zealand, Samoa and Fiji
13-28 October 1998

| Details | Amount | Total Mr T Reid | Total |
|---|------------|-----------------|------------|
| Airfares | | | |
| Senator the Hon Margaret Reid | \$3,352.40 | | |
| Mr Thomas Reid | | \$3,352.40 | |
| Insurance | | | |
| Senator the Hon Margaret Reid | \$55.00 | | |
| Mr Thomas Reid | | \$55.00 | |
| Allowance | | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance | \$945.00 | | |
| Accounts paid by overseas posts | | | |
| Wellington | | | |
| 44th Commonwealth Parliamentary Assoc. Conference contribution for Mr Thomas Reid | | \$1,097.79 | |
| Apia | | | |
| Hua Mei Restaurant - Hospitality | \$113.09 | | |
| Aggie Grey's Hotel - Accommodation | \$619.15 | | |
| Le Moana Holdings Ltd. - Hospitality | \$480.10 | | |
| Apia Jazz Association - Hospitality - Entertainment Costs | \$155.88 | | |
| Motor Distributors Wines - Hospitality | \$197.82 | | |
| Sava | | | |
| Quality Print Ltd - Hospitality - Invitation Cards | \$98.98 | | |
| Transport - Car driver's Costs | \$330.94 | | |
| Hospitality - Drinks | \$709.34 | | |
| Sheraton Royal Denarau, Nadi - Accommodation | \$271.13 | | |
| Centra Sava - Accommodation | \$1,128.42 | | |
| Tiko's Restaurant - Hospitality | \$495.36 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$8,952.61 |
| Total Costs for Mr Thomas Reid | | | \$4,505.19 |

Senator the Hon Margaret Reid and Mr Thomas Reid

Peru and Argentina

9-24 January 1999

| Details | Amount | Total Mr T Reid | Total |
|---|-------------|-----------------|-------------|
| Airfares | | | |
| Senator the Hon Margaret Reid | \$10,886.90 | | |
| Mr Thomas Reid | | \$10,886.90 | |
| Insurance | | | |
| Senator the Hon Margaret Reid | \$65.00 | | |
| Mr Thomas Reid | | \$65.00 | |
| Allowance | | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance | \$882.00 | | |
| Accounts paid by overseas posts | | | |
| Santiago De Chile | | | |
| Hotel Los Delfines, Accommodation | \$2,433.67 | | |
| Meal Cost | \$123.79 | | |
| Taxi Fares | \$23.98 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$14,415.34 |
| Total Costs for Mr Thomas Reid | | | \$10,951.90 |

Senator the Hon Margaret Reid and Mr Thomas Reid

The United Kingdom and Ireland

20 February to 6 March 1999

| Details | Amount | Total Mr T Reid | Total |
|---|-------------|-----------------|-------|
| Airfares | | | |
| Senator the Hon Margaret Reid | \$10,540.90 | | |
| Mr Thomas Reid | | \$10,540.90 | |
| Insurance | | | |
| Senator the Hon Margaret Reid | \$65.00 | | |
| Mr Thomas Reid | | \$65.00 | |
| Allowance | | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance | \$756.00 | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance - Returned Unused portion | -\$492.00 | | |
| London | | | |
| Wilton Park Executive Agency - Conference fee for Mr Tom Reid | | \$780.23 | |
| Gratuities | \$25.87 | | |
| Hyatt Carlton Tower - Accommodation | \$3,335.81 | | |
| Gratuities | \$12.75 | | |
| Dublin | | | |
| Conrad Hotel - Accommodation | \$183.22 | | |
| Car Transport Costs | \$755.07 | | |

Thursday, 26 September 2002

SENATE

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| Details | Amount | Total Mr T Reid | Total |
|---|--------|-----------------|-------------|
| Total Costs for Senator the Hon Margaret Reid | | | \$15,182.62 |
| Total Costs for Mr Thomas Reid | | | \$11,386.13 |

Senator The Hon Margaret Reid - Overseas Official Trips

Tonga

17-Apr-99

| Details | Amount | Total Mr T Reid | Total |
|---|-------------|-----------------|-------------|
| Special Purpose Aircraft | \$29,580.00 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$29,580.00 |
| Total Costs for Mr Thomas Reid | | | \$0.00 |

Senator the Hon Margaret Reid and Mr Thomas Reid

Singapore

1-8 May 1999

| Details | Amount | Total Mr T Reid | Total |
|--|-------------|-----------------|------------|
| Airfares | | | |
| Senator the Hon Margaret Reid | \$5,462.60 | | |
| Mr Thomas Reid | | \$5,462.60 | |
| CPA Secretariat - reimbursement of airfares | -\$3,449.88 | | |
| Insurance | | | |
| Senator the Hon Margaret Reid | \$60.00 | | |
| Mr Thomas Reid | | \$60.00 | |
| Allowance | | | |
| Senator the Hon Margaret Reid | | | |
| Minor Official Expenses Advance | \$441.00 | | |
| Reimbursement for additional expenses | \$478.85 | | |
| Palms Food International - Refreshments 1 & 7 May 1999 | \$19.94 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$3,012.51 |
| Total Costs for Mr Thomas Reid | | | \$5,522.60 |

Senator the Hon Margaret Reid and Mr Tom Reid

Fiji

16-24 July 1999

| Details | Amount | Total Mr T Reid | Total |
|-------------------------------|------------|-----------------|-------|
| Airfares | | | |
| Senator the Hon Margaret Reid | \$1,992.40 | | |
| Mr Thomas Reid | | \$1,992.40 | |
| Insurance | | | |
| Senator the Hon Margaret Reid | \$58.00 | | |
| Mr Thomas Reid | | \$58.00 | |

| Details | Amount | Total Mr T Reid | Total |
|---|-----------|-----------------|------------|
| Allowance | | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance | \$567.00 | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance - Returned Unused portion | -\$284.25 | | |
| Accounts paid by overseas posts | | | |
| Suva | | | |
| Hospitality Function | \$786.35 | | |
| Hospitality Function - Drinks | \$101.36 | | |
| The Warwick Fiji - Accommodation | \$958.09 | | |
| Sheraton Royal Denarua Resort | \$332.13 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$4,511.08 |
| Total Costs for Mr Thomas Reid | | | \$2,050.40 |

Senator the Hon Margaret Reid and Mr Thomas Reid

Trinidad and Tobago

9-26 September 1999

| Details | Amount | Total Mr T Reid | Total |
|---|-------------|-----------------|-------------|
| Airfares | | | |
| Senator the Hon Margaret Reid | \$10,737.40 | | |
| Reimbursement of Airfares for Senator Reid's attendance at the 45th Commonwealth Parliamentary Conference in Trinidad and Tobago September 1999 | -\$7,238.12 | | |
| Mr Thomas Reid | | \$10,737.60 | |
| Insurance | | | |
| Senator the Hon Margaret Reid | \$80.00 | | |
| Mr Thomas Reid | | \$80.00 | |
| Allowance | | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance | \$945.00 | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance - Returned Unused portion | -\$618.00 | | |
| Accounts paid by overseas posts | | | |
| London | | | |
| Hyatt Carlton Tower - Accommodation | \$3,732.86 | | |
| Conference Fee for Mr Thomas Reid | | \$1,298.38 | |
| Total Costs for Senator the Hon Margaret Reid | | | \$7,639.14 |
| Total Costs for Mr Thomas Reid | | | \$12,115.98 |

Senator the Hon Margaret Reid and Mr Thomas Reid

Canada and the United States of America

22 October to 8 November 1999

| Details | Amount | Total Mr T Reid | Total |
|---|-------------|-----------------|-------------|
| Airfares | | | |
| Senator the Hon Margaret Reid | \$15,573.30 | | |
| Mr Thomas Reid | | \$15,573.30 | |
| Insurance | | | |
| Senator the Hon Margaret Reid | \$80.00 | | |
| Mr Thomas Reid | | \$78.00 | |
| Allowance | | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance | \$1,008.00 | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance - Returned Unused portion | -\$292.65 | | |
| Accounts paid by overseas posts | | | |
| New York | | | |
| The Waldorf Astoria - Accommodation | \$3,725.47 | | |
| Washington | | | |
| Porterage | \$7.82 | | |
| Petty Cash - Miscellaneous item for Parl Delegation | \$94.40 | | |
| Petty Cash - Miscellaneous item for Parl Delegation | \$37.29 | | |
| International Limousine Services - Car Transport | \$9,792.42 | | |
| Hilton Harrisberg - Accommodation | \$498.34 | | |
| The Willard Inter-Continental Hotel - Accommodation | \$4,469.83 | | |
| Function 4 November 1999 - Violinist's Fee - Hospitality | \$197.32 | | |
| Function 4 November 1999 - Catering Costs - Hospitality | \$1,785.32 | | |
| Function 4 November 1999 - Parking Costs | \$125.88 | | |
| Function 4 November 1999 - Beverages - Hospitality | \$311.56 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$37,414.30 |
| Total Costs for Mr Thomas Reid | | | \$15,651.30 |

Senator the Hon Margaret Reid and Mr Thomas Reid

Gibraltar and Singapore

7-18 April 2000

| Details | Amount | Total Mr T Reid | Total |
|-------------------------------|-------------|-----------------|-------|
| Airfares | | | |
| Senator the Hon Margaret Reid | \$11,106.90 | | |
| Mr Thomas Reid | | \$11,106.90 | |
| Reimbursement of Airfares | -\$5,115.26 | | |

| Details | Amount | Total Mr T Reid | Total |
|--|-------------|-----------------|-------------|
| Insurance | | | |
| Senator the Hon Margaret Reid | \$60.00 | | |
| Mr Thomas Reid | | \$60.00 | |
| Allowance | | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance | \$693.00 | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance - Returned Unused portion | -\$600.50 | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance - Additional Returned Unused portion | -\$48.95 | | |
| London | | | |
| Porterage and Gratuities | \$66.60 | | |
| Langshott Manor - Accommodation | \$1,319.29 | | |
| Madrid | | | |
| The Elliott Hotel - Accommodation | \$298.93 | | |
| Singapore | | | |
| Cocktail Reception 17 April 2000 - Hospitality | \$261.15 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$8,041.16 |
| Total Costs for Mr Thomas Reid | | | \$11,166.90 |
| Senator the Hon Margaret Reid and Mr Thomas Reid | | | |
| PNG and The Solomon Islands | | | |
| 26 April to 4 May 2000 | | | |
| Details | Amount | Total Mr T Reid | Total |
| Minor Official Expenses Advance | \$567.00 | | |
| PNG and The Solomon Islands - International Telephone Calls and Accommodation | \$822.75 | | |
| Airfares - Senator the Hon Margaret Reid | \$2,391.80 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$3,781.55 |
| Total Costs for Mr Thomas Reid | | | \$0.00 |
| Senator the Hon Margaret Reid and Mr Thomas Reid | | | |
| The United Kingdom, Germany and China | | | |
| 2-21 July 2000 | | | |
| Details | Amount | Total Mr T Reid | Total |
| Airfares | | | |
| Senator the Hon Margaret Reid | \$13,179.30 | | |
| Mr Thomas Reid | | \$13,179.30 | |
| Insurance | | | |
| Senator the Hon Margaret Reid | \$90.00 | | |
| Mr Thomas Reid | | \$90.00 | |

Thursday, 26 September 2002

SENATE

5065

| Details | Amount | Total Mr T Reid | Total |
|---|-------------|-----------------|-------------|
| Allowance | | | |
| Senator the Hon Margaret Reid | | | |
| Minor Official Expenses Advance | \$1,134.00 | | |
| Minor Official Expenses Advance - Returned Unused | -\$251.00 | | |
| Medical | | | |
| Vaccination charges | \$90.00 | | |
| Accounts paid by overseas posts | | | |
| London | | | |
| Porterage and Gratuities | \$102.06 | | |
| Hyatt Carlton Tower - Accommodation | \$12,813.91 | | |
| Abie Hostorian Lunch | \$285.49 | | |
| London Chauffeur Drive Ltd, Car Transport | \$4,749.65 | | |
| Berlin | | | |
| Radisson SAS Hotel - Accommodation | \$1,467.19 | | |
| Beijing | | | |
| Airline ticket fee - Mr Thomas Reid | | \$509.62 | |
| Hong Kong | | | |
| Regal Airport Hotel - Accommodation | \$125.20 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$33,785.80 |
| Total Costs for Mr Thomas Reid | | | \$13,778.92 |

Senator the Hon Margaret Reid
The United States of America
27 August - 3 September 2000

| Details | Amount | Total Mr T Reid | Total |
|---|-------------|-----------------|-------------|
| Airfares | | | |
| Senator the Hon Margaret Reid | \$14,455.40 | | |
| Insurance | | | |
| Senator the Hon Margaret Reid | \$45.00 | | |
| Allowance | | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance | \$378.00 | | |
| Senator the Hon Margaret Reid - Minor Official Expenses Advance - Returned Unused portion | -\$174.00 | | |
| Accounts paid by overseas posts | | | |
| New York | | | |
| Car Hire | \$3,245.15 | | |
| Lunch Function - Hospitality | \$1,155.85 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$19,105.40 |
| Total Costs for Mr Thomas Reid | | | \$0.00 |

Senator the Hon Margaret Reid and Mr Thomas Reid

The United Kingdom

15 September to 1 October 2000

| Details | Amount | Total Mr T Reid | Total |
|---|-------------|-----------------|-------------|
| Minor Official Expenses Advance | \$882.00 | | |
| Minor Official Expenses Advance - Returned | -\$99.90 | | |
| Airfare - Senator the Hon Margaret Reid | \$12,626.90 | | |
| Airfare - Mr Thomas Reid | | \$12,626.90 | |
| Insurance - Senator the Hon Margaret Reid | \$70.00 | | |
| Insurance - Mr Thomas Reid | | \$70.00 | |
| London - CPA UK Branch - Spouse Contribution - 46th CPA Conference | | \$1,857.25 | |
| Australian High Commission Social Club Hospitality Function - Beverages | \$23.23 | | |
| Australian Diplomatic Staff Fund - Beverages | \$32.49 | | |
| International Diplomatic Supplies Hospitality Function - Beverages | \$290.92 | | |
| Liz Lindores - Gratuities | \$70.07 | | |
| Liz Lindores - Gratuities | \$120.55 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$14,016.26 |
| Total Costs for Mr Thomas Reid | | | \$14,554.15 |

Senator the Hon Margaret Reid and Mr Thomas Reid

Barbados

26 April to 6 May 2001

| Details | Amount | Total Mr T Reid | Total |
|--|-------------|-----------------|-------------|
| Airfares - Sen the Hon M Reid | \$18,154.00 | | |
| Minor Official Expenses Advance | \$567.00 | | |
| Insurance | \$64.00 | | |
| Miami International Airport Hotel - Accommodation | \$581.04 | | |
| The Ritz-Carlton - Accommodation | \$1,238.80 | | |
| Hospitality Lunch - 4 May 2001 | \$478.29 | | |
| Carey Worldwide Chauffeured Services - Ground Transport - 5 May 2001 | \$827.28 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$21,910.41 |
| Total Costs for Mr Thomas Reid | | | \$0.00 |

Senator the Hon Margaret Reid and Mr Thomas Reid

New Zealand

30 June to 6 July 2001

| Details | Amount | Total Mr T Reid | Total |
|---|------------|-----------------|------------|
| Minor Official Expenses Advance | \$378.00 | | |
| Minor Official Expenses Advance - Returned | -\$267.40 | | |
| Airfare - Sen the Hon Margaret Reid | \$2,762.40 | | |
| Airfare - Mr Thomas Reid | | \$2,762.40 | |
| Insurance - Senator the Hon Margaret Reid | \$70.18 | | |
| Insurance - Mr Thomas Reid | | \$70.18 | |
| Official Hospitality Reception on 4 July 2001 | \$275.23 | | |
| Departure Tax | \$20.03 | | |
| Hotel Raffaele - Senator the Hon M Reid - Accommodation | \$179.79 | | |
| Hotel Grand Chancellor - Senator the Hon M Reid - Accommodation | \$1,345.63 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$4,763.86 |
| Total Costs for Mr Thomas Reid | | | \$2,832.58 |

Senator the Hon Margaret Reid and Mr Thomas Reid

The United Kingdom, Portugal and Spain

10-22 January 2002

| Details | Amount | Total Mr T Reid | Total |
|---|-------------|-----------------|-------------|
| Minor Official Expenses Advance | \$945.00 | | |
| Minor Official Expenses Advance - Returned | -\$332.61 | | |
| Airfares - Senator the Hon Margaret Reid | \$14,649.58 | | |
| Airfares - Mr Thomas Reid | | \$14,649.58 | |
| London - Royal Horseguards Hotel - Sen the Hon M Reid - Accommodation | \$1,864.50 | | |
| London - Gratuities | \$77.61 | | |
| Madrid - Ritz Hotel - Sen the Hon M Reid - Accommodation | \$1,978.68 | | |
| Madrid - Emy Ballesteros - Flowers | \$437.24 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$19,620.00 |
| Total Costs for Mr Thomas Reid | | | \$14,649.58 |

Senator The Hon Margaret Reid - Overseas Official Trips

The United Kingdom

7-17 March 2002

| Details | Amount | Total Mr T Reid | Total |
|---|-------------|-----------------|-------------|
| Minor Official Expenses Advance | \$504.00 | | |
| Minor Official Expenses Advance - Returned | -\$343.00 | | |
| Airfare - Sen the Hon M Reid | \$14,687.62 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$14,848.62 |
| Total Costs for Mr Thomas Reid | | | \$0.00 |

Senator The Hon Margaret Reid

Austria, Finland and Germany

2-21 April 2002

| Details | Amount | Total Mr T Reid | Total |
|---|------------|-----------------|------------|
| Minor Official Expenses Advance | \$1,071.00 | | |
| Total Costs for Senator the Hon Margaret Reid | | | \$1,071.00 |
| Total Costs for Mr Thomas Reid | | | \$0.00 |

Staff Costs Associated with Overseas Travel By the President of the Senate

| Ser# | Dates | Countries | Delegation Member | Accompanying Staff | Travel Allowance (AUD) | Airfares (AUD) | Total Cost (AUD) |
|------|-----------|----------------|---|---------------------|------------------------|----------------|------------------|
| 259 | 2/4/02 - | Austria | Senator the Hon. Margaret Reid | Mr Don Morris | | | |
| | 21/4/02 | Germany | (President of the Senate) | (President's Staff) | 378.55 | 10,142.00 | 10,520.55 |
| | | Finland | Delegation Leader | | | | |
| 253 | 7/3/02 - | United Kingdom | Senator the Hon. Margaret Reid | | | | |
| | 17/3/02 | | (President of the Senate) | Nil | 0.00 | 0.00 | 0.00 |
| | | | Delegation Leader | | | | |
| 248 | 10/1/02 - | United Kingdom | Senator the Hon. Margaret Reid | Mr Don Morris | | | |
| | 22/1/02 | Portugal | (President of the Senate) | (President's Staff) | 6,446.87 | 9,713.00 | 16,159.87 |
| | | Spain | | | | | |
| 237 | 1/7/01 - | New Zealand | Senator the Hon. Margaret Reid | Mr Don Morris | | | |
| | 6/7/01 | | (President of the Senate) Delegation Leader | (President's Staff) | 675.08 | 2,236.00 | 2,911.08 |
| 220 | 29/4/01 - | Barbados | Senator the Hon. Margaret Reid | Mr Brendan Egan | 351.10 | 12,526.20 | 12,877.30 |
| | 4/5/01 | | (President of the Senate) | (Parliament Staff) | | | |
| 230 | 20/9/00 - | United Kingdom | Senator the Hon. Margaret Reid | Ms Christine Faulks | | | |
| | 29/9/00 | | (President of the Senate) Delegation Leader | (President's Staff) | 7,698.23 | 10,103.00 | 17,801.23 |

| Ser# | Dates | Countries | Delegation Member | Accompanying Staff | Travel Allowance (AUD) | Airfares (AUD) | Total Cost (AUD) |
|------|------------|-------------------|---|---------------------|------------------------|----------------|------------------|
| 190 | 3/7/00 - | China | Senator the Hon. Margaret Reid | Ms Christine Faulks | | | |
| | 14/7/00 | Ireland | (President of the Senate) | (President's Staff) | 5,830.40 | 10,211.00 | 16,041.40 |
| | | Germany | Delegation Leader | | | | |
| 185 | 26/4/00 - | Papua New Guinea | Senator the Hon. Margaret Reid | Ms Danielle Hyndes | | | |
| | 4/5/00 | Solomon Islands | (President of the Senate) | (President's Staff) | 1,160.50 | 2,889.00 | 4,049.50 |
| | | | Delegation Leader | | | | |
| 184 | 7/4/00 - | Gibraltar | Senator the Hon. Margaret Reid | Mr Brendan Egan | | | |
| | 18/4/00 | Singapore | (President of the Senate) | (Parliament Staff) | 6,182.26 | 9,230.00 | 15,412.26 |
| | | | Delegation Leader | | | | |
| 175 | 25/10/99 - | Canada | Senator the Hon. Margaret Reid | Ms Christine Faulks | | | |
| | 5/11/99 | USA | (President of the Senate) Delegation Leader | (President's Staff) | 6,343.82 | 15,586.00 | 21,929.82 |
| 168 | 13/9/99 - | Trinidad & Tobago | Senator the Hon. Margaret Reid | Ms Christine Faulks | | | |
| | 23/9/99 | | (President of the Senate) | (President's Staff) | 5,456.18 | 6,791.30 | 12,247.48 |
| | | | Delegation Leader | | | | |
| 160 | 16/7/99 - | Fiji | Senator the Hon. Margaret Reid | Ms Christine Faulks | 2,929.61 | 2,178.40 | 5,108.01 |
| | 24/7/99 | | (President of the Senate) | (President's Staff) | | | |
| 154 | 1/5/99 - | Singapore | Senator the Hon. Margaret Reid | Mr Brendan Egan | 2,368.60 | 3,430.60 | 5,799.20 |
| | 8/5/99 | | (President of the Senate) | (Parliament Staff) | | | |
| 153 | 17/4/99 - | Tonga | Senator the Hon. Margaret Reid | Nil | 0.00 | 0.00 | 0.00 |
| | 17/4/99 | | (President of the Senate) | | | | |
| 150 | 20/2/99 - | Ireland | Senator the Hon. Margaret Reid | Nil | 0.00 | 0.00 | 0.00 |
| | 4/3/99 | United Kingdom | (President of the Senate) | | | | |
| 149 | 5/1/99 - | | Senator the Hon. Margaret Reid | Nil | 0.00 | 0.00 | 0.00 |
| | 14/1/99 | Peru | (President of the Senate) | | | | |
| 147 | 13/10/98 - | Fiji | Senator the Hon. Margaret Reid | Ms Anne Hazelton | | | |
| | 28/10/98 | Samoa | (President of the Senate) | (Parliament Staff) | 1,263.75 | 1,968.40 | 3,232.15 |
| | | New Zealand | Delegation Leader | | | | |
| 217 | 21/7/98 - | Australia -Vic | Senator the Hon. Margaret Reid | Nil | 0.00 | 0.00 | 0.00 |
| | 30/7/98 | Kiribati | (President of the Senate) | | | | |

| Ser# | Dates | Countries | Delegation Member | Accompanying Staff | Travel Allowance (AUD) | Airfares (AUD) | Total Cost (AUD) |
|-------|----------------------|---|--|---|------------------------|----------------|------------------|
| 139 | 6/6/98 - 19/6/98 | United Kingdom Germany | Senator the Hon. Margaret Reid (President of the Senate) Delegation Leader | Mr Fred Peppinck (President's Staff) | 2,007.14 | 9,918.10 | 11,925.24 |
| 136 | 26/4/98 - 4/5/98 | China Swaziland | Senator the Hon. Margaret Reid (President of the Senate) | Ms Anne Hazelton (Parliament Staff) | 878.76 | 6,413.90 | 7,292.66 |
| 133 | 5/1/98 - 11/1/98 | India Singapore Trinidad & Tobago | Senator the Hon. Margaret Reid (President of the Senate) Delegation Leader | Nil | 0.00 | 0.00 | 0.00 |
| 126 | 14/9/97 - 25/9/97 | Mauritius South Africa | Senator the Hon. Margaret Reid (President of the Senate) Delegation Leader | Mr Fred Peppinck (President's Staff) | 1,854.79 | 8,892.00 | 10,746.79 |
| 122 | 24/6/97 - 10/7/97 | Belgium France | Senator the Hon. Margaret Reid (President of the Senate) Delegation Leader | Mr Fred Peppinck (President's Staff) | 8,342.61 | 7,433.00 | 15,775.61 |
| 111 | 20/9/96 - 6/10/96 | Germany Hungary Poland | Senator the Hon. Margaret Reid (President of the Senate) Delegation Leader | Mr Fred Peppinck (President's Staff) | 2,628.08 | 10,154.00 | 12,782.08 |
| TOTAL | | | | | 62,796.33 | 139,815.90 | 202,612.23 |

DEPARTMENT OF THE SENATE

Part 5 of Senator Conroy's question on notice (No. 213) related to:

- How many functions and other entertainment has the President held in Parliament House which have been at the cost of the Commonwealth;
- Who has attended those functions;
- When were they held; and
- What has been the total cost of each of those functions and other entertainment to the Commonwealth?

The following financial information has been compiled from the electronic records of the Department of the Senate from 20 August 1996 to date.

There is sufficient information to answer part (d) of the question in full, but insufficient information to provide a complete answer in relation to the other parts.

All the functions outlined in the attached list were for official hospitality. It is known that the former President paid for any private functions held in the President's Suite as a personal cost.

Further details from departmental records are not available without recourse to archived accounts, which is both a costly and time-consuming process and may not provide sufficient extra detail to answer those questions fully.

As requested by the former President, the estimated cost of preparation of this material to date is approximately \$2,150.00.

Question 213 from Senator Conroy re President's hospitality.

| Period | Function Date or Period ending | Cost \$ | Attendees and/or Comments | Consec/regist Reference |
|---------|--------------------------------------|----------|-----------------------------------|----------------------------|
| 1996/97 | 23 Aug | 1566.50 | Function charges | 911reg |
| | August '96 | 80.00 | Period ending assorted charges | 853 |
| | 12 Sep 18 Sep | 1757.20 | Total 3 Function charges | 1193 |
| | 19 Sep | | | |
| | September '96 | 597.50 | Period ending assorted charges | 1285 |
| | 17 Oct | 480.50 | Cocktail reception | 1267 |
| | 23 Oct | 638.50 | BBQ for NT Speaker | 1512 |
| | 30 Oct | 956.60 | Function Dinner | 1537 |
| | October '96 | 20.25 | Period ending assorted charges | 1621 |
| | 30 Nov | 556.50 | Cocktail reception | 1627 |
| | 19 Dec | 990.10 | End of session drinks | 2104 |
| | 10 Feb | 591.50 | Function charges | 2597 |
| | 20 Mar | 609.44 | Joint Function Presiding Officers | 3132 |
| | 23 Mar | 640.80 | Function Dinner | 2946 |
| | 13 Jun | 625.00 | Joint Function Presiding Officers | 3509/rt960490 |
| | Total 1996/97 | 10110.39 | | |
| | July 1997 | 76.00 | Period ending assorted charges | 359 |
| 1997/98 | 25 Aug | 64.00 | Function charges | 727 |
| | 28 Aug | | | |
| | 04 Sep | 2766.70 | Total 2 Function charges | 781 |
| | 22 Sep | 471.00 | Function charges | 862 |
| | 25 Sep | 785.77 | Joint Function Presiding Officers | 1080 |
| | 25 Sep | | | |
| | 26 Sep | 90.68 | Total 2 Function charges | 936 |
| | 24 Sep | | | |
| | 30 Sep | 1302.75 | Total 2 Function charges | 951 |
| | 20 Oct | 766.00 | Function charges | 977 |
| | 19 Nov | 560.25 | Function charges | 1399 |
| | 20 Nov | 394.88 | Cocktail reception | 1312 |
| | 25 Nov | 1586.00 | Function charges | 1338 |
| | December 1997 | 544.00 | Period ending assorted charges | 1525 |
| | 01 Dec | 20.00 | Function charges | 1582 |
| | 16 Dec | 2850.50 | Function charges | 1528 |
| | March 1998 | 97.00 | Period ending assorted charges | 2231 |
| | April 1998 | 829.50 | Period ending assorted charges | 2460 |
| | 13 May | 2233.15 | Function Charges | 2482 |
| 1998/99 | 20 May | 140.00 | Morning Tea | 2549 |
| | 20 May | 405.00 | Function Charges | 2834 |
| | Total 1997/98 | 15983.18 | | |
| | 13 Jul | 171.25 | Period ending assorted charges | 97 |
| | 19 Aug 98 | 3282.20 | Period ending assorted charges | 342 |
| | 20 Aug | 28.75 | Function charges | 418 |

| Period | Function Date or Period ending | Cost \$ | Attendees and/or Comments | Consec/regist Reference |
|-----------|--------------------------------------|----------|---|----------------------------|
| | 01 Oct | 3741.75 | Function charges | 780 |
| | 17 Nov 1998 | 168.00 | Period ending assorted charges | 1063 |
| | 18 Nov 1998 | 934.00 | Function charges | 1247 |
| | 18 Dec 1998 | 123.00 | Period ending assorted charges | 1318 |
| | Dec 1998 | 1765.75 | Period ending assorted charges | 1608 |
| | 28 Feb 1999 | 2101.30 | Period ending assorted charges | 2077 |
| | 27 April 1999 | 1198.40 | Period ending assorted charges | 2249 |
| | April 1999 | 900.10 | Period ending assorted charges | 2424 |
| | 06 May 99 | 103.50 | Function charges | 2386 |
| | 12 May 99 | 1931.25 | Joint Function Presiding Of- ficers | 2571/rt980456 |
| | 12 May 99 | 40.00 | Function charges | 2444 |
| | 21 Jun 99 | 910.05 | Joint Function Presiding Of- ficers | 2732 |
| | Total 1998/99 | 17399.30 | | |
| 1999/2000 | Aug 1999 | 59.00 | Period ending assorted charges | 879 |
| | June 1999 | | Period ending assorted charges | 1355 |
| | Sept 1999 | 484.00 | Total 2 Period ending as- sorted charges | 1355 |
| | Oct 1999 | 514.25 | Period ending assorted charges | 1384 |
| | December 1999 | 1222.75 | Period ending assorted charges | 1927 |
| | January 2000 | 44.00 | Period ending assorted charges | 1949 |
| | 8 Feb 2000 | 2517.90 | Function charges | 1956 |
| | 16 Feb 2000 | 428.00 | Function charges | 2019 |
| | 23 Feb 2000 | 339.00 | Period ending assorted charges | 2034 |
| | 15 Feb 2000 | 1678.20 | Function charges | 2237 |
| | 11 April 2000 | 31.25 | Function charges | 2627 |
| | 12 April 2000 | 345.00 | Period ending assorted charges | 2628 |
| | 17 May 2000 | 198.00 | Period ending assorted charges | 2866 |
| | June 2000 | 1547.95 | Period ending assorted charges | 3176 |
| | Total 1999/2000 | 9409.30 | | |
| 2000/2001 | 3 July 2000 | | | |
| | 7 July 2000 | 2250.00 | Total 2 Function charges | 273 |
| | 9 March 2000 | 1492.50 | Function charges (prior year) | j27 |
| | 13 Sept 2000 | 149.03 | Function charges | 782 |
| | 24 October 2000 | 1218.91 | Period ending assorted charges | 1110 |

| Period | Function Date or Period ending | Cost \$ | Attendees and/or Comments | Consec/regist Reference |
|---------|--------------------------------------|----------|---|----------------------------|
| | 31 October 2000 | 1926.33 | Joint function Presiding Of- ficers | 1287 |
| | 27 November 2000 | 1422.51 | Function charges | 1531 |
| | 13 December 2000 | 1096.19 | Period ending assorted charges | 1652 |
| | 29 January 2001 | 418.63 | Function charges | 1884 |
| | 13 February 2001 | 874.98 | Period ending assorted charges | 1967 |
| | 19 March 2001 | 102.67 | Function charges | 2224 |
| | March 2001 | 1714.91 | Period ending assorted charges | 2460 |
| | March 2001 | 220.81 | Period ending assorted charges | 2489 |
| 2001/02 | Total 2000/01 | 12887.47 | | |
| | 27 Aug 01 | 60.21 | Function charges | 447 |
| | 20 Sep 01 | 254.23 | Period ending assorted charges | 593 |
| | 04 Oct 01 | 976.36 | Period ending assorted charges | 670 |
| | 24 Oct 01 | 251.32 | Function charges | 854 |
| | 05 Feb 02 | 2827.27 | Period ending assorted charges | 1408 |
| | 23 Apr 02 | 424.27 | Period ending Function charge (10 bbq's) | 1965 |
| | 21 Feb 02 | 1377.00 | Function charges | 1966 |
| 2002/03 | Total 2001/02 | 6170.66 | | |
| | 16 Jul 02 | 56.82 | Period ending assorted charges | |
| | 05 Aug 02 | 1198.73 | Function charges | 199 |
| | 13 Aug 02 | 786.59 | Function charges | 249 |
| | Total 2002/03 | 2042.14 | | |

JOINT HOUSE DEPARTMENT

Functions Hosted By President Alone Or With Speaker For JHD-1996-2002

| Year | Date | Function | Total Cost | No. attending |
|------|---------|---|--|---------------|
| 1996 | 16.9.96 | POs' Exhibition Area 'The Hidden Heart of Australia'—Cocktail Party and exhibition opening. | These records in hard copy, along with thousands of other payment records, are in storage—substantial cost to re-search and recover information. | |
| 1997 | 13.2.97 | President's Suite—ACT Tourism Awards—Cocktail party. | | |
| | 27.2.97 | Morning Tea—President's Suite—Presentation of Australian Quality Award certification to JHD Works area. | | |
| | 29.9.97 | POs' Exhibition Area—Women's Work in Parliament House Art Collection—Cocktail Party and exhibition opening. | | |
| | 8.12.97 | President's Courtyard—Christmas drinks for Parliament House service contractors, licencees and JHD staff representatives. | | |

| Year | Date | Function | Total Cost | No. attending |
|------|----------|--|------------|---------------|
| 1998 | 22.4.98 | Dinner in President's Suite for presentation to Directors of the National Institutions on the to-be-constructed Museum of Australia. | | |
| | 1.6.98 | Farewell Morning Tea for Mr M Thompson, outgoing Hyatt Hotel Manager and Parliamentary Catering Service contractor. | | |
| | 3.7.98 | PO's Exhibition Area—Cocktail Function—Parliament House Art Exhibition Opening. Attended by Members of Parliament, artists exhibited and representative of Canberra cultural community. | \$2520 | 90 |
| | 18.12.98 | Speaker's Courtyard—Christmas drinks for Parliament House service contractors, licencees and JHD staff representatives. | \$1939.50 | 100 |
| 1999 | 8.3.99 | POs Exhibition Area—Craft prize Launch—Attended by Members of Parliament, artists exhibited and representatives of Canberra cultural community. | \$988 | 120 |
| | 8.6.99 | POs Exhibition Area—Cocktail Function—Parliament House Art Exhibition Opening—Attended by Members of Parliament, artists exhibited and representatives of Canberra cultural community. | \$4350 | 145 |
| | 14.12.99 | President's Courtyard—Christmas drinks for Parliament House service contractors, licencees and JHD staff representatives. | \$2000 | 80 |
| 2000 | 3.4.00 | Dinner and discussions in President's Suite for Directors of the National Institutions (eg National Museum of Australia, Old Parliament House, National Library of Australia, National Gallery of Australia, etc.) | \$1670.75 | 19 |
| | 15.8.00 | POs Exhibition Area—Cocktail Function—parliament House Art Exhibition Opening—Attended by Members of Parliament, artists exhibited and representatives of Canberra cultural community. | \$2182.82 | 100 |
| | 7.9.00 | Morning Tea—President's Suite—to recognise JHD apprentice being awarded ACT Apprentice of the Year Award. Attended by senior JHD staff, the apprentice, family representatives and his workmates. | \$274.50 | 20 |
| | 19.12.00 | Speaker's Courtyard—Christmas drinks for Parliament House service contractors, licencees and JHD staff representatives. | \$1291.50 | 100 |

| Year | Date | Function | Total Cost | No. attending |
|------|----------|---|------------|---------------|
| 2001 | 7.2.01 | Drinks in Speaker's Suite to farewell long-term JHD Executive staff person with over 20 years' service to the Parliament. Attended by representatives from all parliamentary departments. | \$1009.05 | 31 |
| | 27.9.01 | POs Exhibition Area—Cocktail Function—parliament House Art Exhibition Opening—Attended by Members of Parliament, artists exhibited and representatives of Canberra cultural community. | \$992.80 | 60 |
| | 3.12.01 | President's Courtyard—Christmas drinks for Parliament House service contractors, licencees and JHD staff representatives. | \$2612.50 | 95 |
| | 10.12.01 | Farewell morning tea for Mr M Koopman, outgoing Hyatt Hotel Manager and Parliamentary Catering Service contractor. Attended by JHD senior management and Hyatt representatives. | \$75.45 | 8 |
| 2002 | | Nil to date. | | |

Estimate of Costs to Gather Information Senator Conroy Question

| Officer | Cost | \$ |
|--------------|---------------------------------|-----------------|
| Secretary | 1 hour @ \$73.39115 per hour | 73.39115 |
| EL (Support) | 1.5 hours @ \$50.68475 per hour | 76.03 |
| Ms Willis | 2 hours @ \$21.87859 per hour | 43.76 |
| Mr Laugesen | 1 hour @ \$43.34616 per hour | 43.34616 |
| Mr Venn | 5 hours @ \$37.07687 per hour | 185.38 |
| Ms Collins | 5 hours @ \$22.97398 per hour | 114.87 |
| | | <u>\$536.77</u> |

PARLIAMENT OF AUSTRALIA

Department of the Department of the Parliamentary Reporting Staff

Parliamentary Library

MADAM PRESIDENT

This Minute provides advice of costs incurred by the Department of the Parliamentary Reporting Staff (DPRS) and the Department of the Parliamentary Library (DPL) for functions held in your name or jointly with the Speaker.

Background

- On 26 March 2002 you asked for information to answer a Question on Notice lodged by Senator Conroy.
- The attached table details the relevant functions and their costs held since your election as President on 20 August 1996, for both departments.
- The total cost for both departments is \$30,850:60.
- The estimated cost of complying with this request is \$200 for each department.

Recommendation

- I recommend that you note this Minute.

J.W. Templeton

Secretary

16 April 2002

NOTED

MARGARET REID

President of the Senate

Department of Parliamentary Reporting Staff

| Date | Function | Attendees | Cost |
|-----------|--------------------|------------------------|-------------|
| 09-Dec-97 | Christmas Function | 130 Departmental Staff | \$2,535:00 |
| 17-Dec-98 | Christmas Function | 150 Departmental Staff | \$3,363:60 |
| 09-Dec-99 | Christmas Function | 134 Departmental Staff | \$3,871:25 |
| 10-Dec-00 | Christmas Function | 150 Departmental Staff | \$3,832:50 |
| 05-Dec-01 | Christmas Function | 130 Departmental Staff | \$3,575:00 |
| | | Total Cost | \$17,177:35 |

Department of Parliamentary Library

| Date | Function | Attendees | Cost |
|-----------|--------------------|------------------------|-------------|
| 10-Dec-97 | Christmas Function | 140 Departmental Staff | \$2,730:00 |
| 16-Dec-98 | Christmas Function | 110 Departmental Staff | \$2,619:00 |
| 15-Dec-99 | Christmas Function | 101 Departmental Staff | \$2,754:00 |
| 19-Dec-00 | Christmas Function | 105 Departmental Staff | \$2,682:75 |
| 03-Dec-01 | Christmas Function | 105 Departmental Staff | \$2,887:50 |
| | | Total Cost | \$13,673:25 |

DEPARTMENT OF THE HOUSE OF REPRESENTATIVES

Parliamentary Relations Office

QUESTION ON NOTICE - SENATOR CONROY, 22 MARCH 2002

The Parliamentary Relations Office has closely examined all incoming parliamentary delegations in the calendar year 2000 in response to part 5 of Senator Conroy's question in order to obtain a sample of information. There were 35 incoming delegations in 2000, 11 official delegations and 24 unofficial delegations.

The following seven functions were hosted by the President of the Senate or co-hosted by the President of the Senate and the Speaker of the House:

1. Official visit by a parliamentary delegation from the People's Republic of China, 12 - 27 Feb 2000, details of which are—
 - a cocktail reception was hosted in honour of the delegation;
 - 40 people attended the function;
 - the function was held on 16 February in the Speaker's suite; and
 - the total cost for the function was \$1088. 00
2. Official visit by a parliamentary delegation from France, 6 -13 March 2000, details of which are—
 - a BBQ dinner was hosted in honour of the delegation;
 - unable to confirm the number of the guests;
 - the function was held on 8 March in the President's courtyard; and
 - the total cost for the function was \$1641.50.
3. Official visit by a parliamentary delegation from the Kingdom of Nepal, 6 -13 March 2000, details of which are—
 - a BBQ dinner was hosted in honour of the delegation;
 - 19 people attended the function;
 - the function was held on 7 March in the Speaker's suite; and
 - the total cost for the function was \$1191.65.
4. Official visit by a parliamentary delegation from Indonesia, 8-12 May 2000, details of which are—

- a dinner was hosted in honour of the delegation;
 - 48 people attended the function;
 - the function was held on 10 May in the Senate Alcove; and
 - the total cost for the function was \$3304.45.
5. Official visit by a parliamentary delegation from Papua New Guinea, 4-9 September 2000, details of which are—
- a reception was hosted in honour of the delegation;
 - 30 people attended the function;
 - the function was held on 6 September in the President's suite; and
 - the total cost for the function was \$774.45.
6. Official visit by a parliamentary delegation from the CPA United Kingdom Branch, 8-12 September 2000, details of which are—
- a reception was hosted in honour of the delegation;
 - 30 people attended the function;
 - the function was held on 11 September in the President's suite; and
 - the total cost for the function was \$789.30.
7. Official visit by a parliamentary delegation from the Cook Islands, 5-11 December 2000, details of which are—
- a BBQ dinner was hosted in honour of the delegation;
 - 26 people attended the function;
 - the function was held on 6 December in the President's suite; and
 - the total cost for the function was \$999.15.

Madam President did not host any function for any unofficial parliamentary delegations. In addition to excluding functions hosted solely by the Speaker, we have also excluded functions jointly hosted by the Speaker and the Acting President of the Senate.

While lists of those guests invited to the functions are available for most functions, it is not possible to provide details of those who actually attended—this is because not all Senators and Members who accept invitations always attend, and some who have not accepted may attend. It is however possible to specify the number catered for.

Information is collected and expenditure is recorded against visits, not by activity ie output oriented. Consequently, in preparing the above information it has been necessary to examine the documentation for each of the 35 incoming visits.

The President asked for an estimate of the cost of preparing this answer. Within PRO, where the substantive work was done, the cost of work done is estimated at \$996.34—5 hours work by Director and 37 hours by PSL 4 officer. No estimate has been made for the time of Finance staff, Mr Colin Christian or the Clerk or Deputy Clerk.

The Department would be happy to provide more details if necessary.

THE DEPARTMENT OF THE PRIME MINISTER AND CABINET

TELEPHONE: (02) 6271 5350

FACSIMILE: (02) 6271 5796

3-5 NATIONAL CIRCUIT CANBERRA, A.C.T. 2600

Senator the Honourable Paul Calvert

President of the Senate

Parliament House

CANBERRA ACT 2600

Dear Mr President

I refer to correspondence from the then President, Senator Reid, dated 13 August 2002 and 26 March 2002 in relation to question on notice (No-213), paragraph 5. I apologise for the delay in responding. After a thorough search of our records I am able to provide the following information.

A Reception honouring the Australian Cricket Team for their 1999 Cricket World Cup Victory on Monday, 28 June 1999 and a Reception honouring the Wallabies for their 1999 Rugby World Cup Victory on Wednesday, 24 November 1999 were jointly hosted by the Prime Minister and Mrs Howard, the President of the Senate and the Speaker of the House of Representatives during the period in question. Both functions were held in the Members' Hall and this led to the joint hosting of the receptions.

The costs of both functions (\$14,800 for the Cricket reception and \$11,900 for the Wallabies reception) were met by the Department of the Prime Minister and Cabinet. These were the only functions relevant to Senator Conroy's question during the period in question.

350 guests attended the Cricket reception comprising Senators and Members, members of the Diplomatic Corps, the Australian Cricket Team, representatives of the Australian, State and Territory Cricket Boards and Associations, business, media, departmental and office staff.

335 guests attended the Wallabies reception comprising Senators and Members, members of the Diplomatic Corps, the Wallabies, Rugby association and other sporting representatives, media, departmental and office staff.

Yours sincerely

Julie Yeend LVO

Assistant Secretary

Ceremonial and Hospitality Branch

21 August 2002

**Exercise Minotaur
(Question No. 594)**

Senator O'Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 28 August 2002:

- (1) What is the total Commonwealth expenditure on the exercise.
- (2) How many international observers will observe the exercise.
- (3) What countries have expressed interest in observing the exercise.
- (4) What countries will be permitted to have observers present.
- (5) How was the decision in respect to observation conveyed to each country that expressed interest in observing the exercise.
- (6) On what basis was it determined whether a country would be permitted to have observers present.
- (7) What arrangements are in place, by country, for those countries that expressed interest in observing the exercise but will not be permitted to be present.
- (8) Was the Minister, or his office, involved in the decision to permit or deny observation status.

Senator Ian Macdonald—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator's question:

- (1) As Exercise Minotaur has only recently been completed, with the reporting phase now commenced, the total actual cost to the Department of Agriculture, Fisheries and Forestry (AFFA) is yet to be finalised. However, the indicative budget over two years (2001/2002 and 2002/2003) is \$503,000. This budget includes the costs of overseas observers, information technology support, communications etc.; it does not include the ongoing salary costs of AFFA personnel.

We are not in a position to comment on the costs to other Commonwealth agencies.

- (2) Five international observers participated in the Exercise.
- (3) Many countries asked to observe the Exercise including Japan, the Netherlands, Korea, Taiwan, Argentina and Uruguay.

- (4) The United States, Canada, Office Internationale des Epizooties/Asia, New Zealand and the United Kingdom.
- (5) An explanation of the nature of the Exercise was given to those countries that expressed an interest in observing, including possible limitations of observing given the communications focus of the exercise. However, it was suggested that greater value would be gained during post-exercise briefing on Australia's overall FMD response arrangements including lessons learned from Minotaur. This would follow consideration of the issues by industry and governments in Australia.
- (6) Individuals with particular expertise were invited to participate in the Exercise. These were:
 - two participants from North America are simulation planning experts who had worked with AFFA in the initial stages of Minotaur planning. They were also involved in the planning of the North American Tripartite exercise conducted in 1999;
 - a senior officer in the United Kingdom during the FMD outbreak brought broad policy and whole of government experience and participated to provide advice on that aspect of the exercise;
 - Office Internationale des Epizooties (OIE)—world organization for animal health—was represented through the Deputy President of the OIE Regional Commission for Asia, the Far East and Oceania (representing the Director General of the OIE) and considered matters on a broad animal health perspective; and
 - a senior official representing New Zealand participated to provide advice on whole of government arrangements as well as the common interests between Australia and New Zealand.
- (7) For those countries that expressed an interest in participating in post-exercise briefing, a draft schedule has been developed and will be implemented over 2002/2003.
- (8) The decision to permit or deny observers was made by AFFA, following consultation with the Minister for Agriculture, Fisheries and Forestry.

Defence: Superannuation

(Question No. 607)

Senator Sherry asked the Minister for Defence, upon notice, on 30 August 2002:

- (1) For each department within the Minister's portfolio, how is superannuation calculated (ie. is the superannuation entitlement calculated on base salary and other income payments, such as overtime allowance or performance bonuses, or base salary alone).
- (2) If the department calculates superannuation on a broader basis, by incorporating all income payments in the calculation of superannuation entitlements, but allows employees to opt out of this arrangement so as to reduce the base upon which superannuation is calculated, what proportion of employees do this.

Senator Hill—The answer to the honourable senator's question is as follows:

- (1) For members of the Commonwealth Superannuation Scheme (CSS) and the Public Sector Superannuation (PSS) scheme their superannuation entitlements are calculated in accordance with the rules of those schemes. The schemes are the portfolio responsibility of the Minister for Finance and Administration.

For non-ongoing employees who are not eligible to be members of the CSS or PSS, a superannuation guarantee contribution is paid into the superannuation scheme of their choice and their superannuation entitlement is calculated in accordance with the rules of that scheme.

Members of the Australian Defence Force belong to either the closed Defence Force Retirement and Death Benefits (DFRDB) scheme or the Military Superannuation and Benefits Scheme (MSBS).

Retirement pay for an eligible DFRDB member is calculated as a percentage of their annual rate of pay. Annual rate of pay is defined to be the highest increment for the rank held by the member plus service allowance.

For an MSBS member their scheme benefit is a member benefit and an employer benefit. The member benefit is the member's own contributions and earnings. The employer benefit is calculated on the final average salary times a multiple based on length of service. For the purpose of the

final average salary, salary is defined as the member's rate of salary (over the last 1095 days, taken as if the member had been on full pay) plus service allowance and higher duties allowance.

- (2) There is no discretion to vary the basis of calculation.

Communications, Information Technology and the Arts: Superannuation

(Question No. 608)

Senator Sherry asked the Minister for Communications, Information Technology and the Arts, upon notice, on 30 August 2002:

- (1) For each department within the Minister's portfolio, how is superannuation calculated (ie. is the superannuation entitlement calculated on base salary and other income payments, such as overtime allowance or performance bonuses, or on base salary alone).
- (2) If the department calculates superannuation on a broader basis, by incorporating all income payments in the calculation of superannuation entitlements, but allows employees to opt out of this arrangement so as to reduce the base upon which superannuation is calculated, what proportion of employees do this.

Senator Alston—The answer to the honourable senator's question is as follows:

- (1) For employees of the Department of Communications, Information Technology and the Arts, superannuation entitlement is generally calculated on base salary. The only allowances that are recognised for superannuation purposes are:
 - the allowance payable to Departmental Liaison Officers working in the Minister's office;
 - the allowance payable to qualified employees undertaking the role of First Aid Officers within the Department; and
 - Higher Duties Allowance, where that allowance has been payable for a continuous period in excess of twelve (12) months or is certified by the delegate as expected to be payable for a continuous period in excess of twelve months.
- (2) There is no provision for employees to opt out of this arrangement.

Education, Science and Training: Superannuation

(Question No. 617)

Senator Sherry asked the Minister representing the Minister for Education, Science and Training, upon notice, on 30 August 2002:

- (1) For each department within the Minister's portfolio, how is superannuation calculated (ie. is the superannuation entitlement calculated on base salary and other income payments, such as overtime allowance or performance bonuses, or on base salary alone).
- (2) If the department calculates superannuation on a broader basis, by incorporating all income payments in the calculation of superannuation entitlements, but allows employees to opt out of this arrangement so as to reduce the base upon which superannuation is calculated, what proportion of employees do this.

Senator Alston—The Minister for Education, Science and Training has provided the following answer to the honourable senator's question:

- (1) Superannuation is calculated on the basis of salary and allowances that are in the nature of salary, in accordance with the rules of the relevant superannuation fund. This would include overtime allowance but not performance bonuses.
- (2) The Department does not incorporate all income payments in the calculation of superannuation entitlements.