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CONDOLENCES

McIntosh, Dr Malcolm, AC Kt

Motion (by Senator Minchin) agreed to:
That the Senate expresses its deep regret at the death, on 7 February 2000, of Dr Malcolm McIntosh, AC, Kt, Chief Executive of the Commonwealth Scientific and Industrial Research Organisation from 1996 to 2000, and tenders its profound sympathy to his family in their bereavement.

AUSTRALIAN FEDERAL POLICE
LEGISLATION AMENDMENT BILL
1999

In Committee

Consideration resumed from 15 February.

Senator BOLKUS (South Australia) (9.32 a.m.)—by leave—I move:
(1) Page 1 (after line 4), insert:
Part 1—Preliminary
(2) Page 2 (after line 18), insert:
Part 2—Establishment of Commonwealth Law Enforcement Committee

4 Establishment and membership
(1) As soon as practicable after the commencement of this Act and after the commencement of the first session of each Parliament, a joint committee of members of the Parliament, to be known as the Parliamentary Joint Committee on Commonwealth Law Enforcement, must be appointed.

(2) The Parliamentary Joint Committee must consist of 10 members, of whom:
(a) 5 must be senators appointed by the Senate; and
(b) 5 must be members of the House of Representatives appointed by that House.

(3) The appointment of members by a House must be in accordance with that House’s practice relating to the appointment of members of that House to serve on joint committees of both Houses.

(4) A person is not eligible for appointment as a member if he or she is:
(a) a Minister; or
(b) a Parliamentary Secretary; or
(c) the President of the Senate; or
(d) the Speaker of the House of Representatives; or
(e) the Deputy President and Chairman of Committees of the Senate; or
(f) the Deputy Speaker of the House of Representatives.

(5) A member ceases to hold office:
(a) when the House of Representatives expires or is dissolved; or
(b) if he or she becomes the holder of an office referred to in a paragraph of subsection (4); or
(c) if he or she ceases to be a member of the House by which he or she was appointed; or
(d) if he or she resigns his or her office as provided by subsection (6) or (7), as the case requires.

(6) A member appointed by the Senate may resign his or her office by writing signed and delivered to the President of the Senate.

(7) A member appointed by the House of Representatives may resign his or her office by writing signed and delivered to the Speaker of that House.

(8) A House may appoint one of its members to fill a vacancy among the members of that Parliamentary Joint Committee appointed by that House.

5 Powers and proceedings
(1) Subject to this Part, matters not covered in this Act relating to the Parliamentary Joint Committee’s powers and proceedings must be determined by resolution of both Houses.

(2) The Committee and any subcommittee thereof established pursuant to resolution of both Houses, shall have power to send for persons, papers and records.

(3) Individuals and agencies requested to provide information under subsection (2) or any other provision of this Act shall comply with the terms of such a request save that individuals and agencies requested to provide such information shall not be required to disclose information on current operational matters if, in the opinion of the individual or the agency head, such disclosure would be likely to prejudice the conduct of a current operation or investigation.

(4) The Committee and any subcommittee thereof shall have power to acquire, consider and make use of the evidence and records of the Joint Committee on the National Crime Authority ap-
pointed during the thirty-ninth and previous Par-

liament.

(5) Any inquiry being conducted by the Joint
Committee on the National Crime Authority at the
time of the commencement of this Act shall stand
referred to the Committee, and the Committee
shall report the findings of the inquiry to the Par-
liament.

6 Duties

The Parliamentary Joint Committee’s duties are:

(a) to consult with Commonwealth law en-
forcement agencies which exist or which may be
established including the Australian Federal Po-
lice, the Director of Public Prosecutions, the Aus-
tralian Customs Service, the National Crime
Authority, the Office of National Assessments, the
Australian Bureau of Criminal Intelligence, the
Australian Transaction Reports and Analysis
Centre, and the Australian Securities and Invest-
ments Commission; and

(b) to consult with other Commonwealth agen-
cies having a law enforcement function which
exist or which may be established, including the
Australian Defence Force, the Australian Taxation
Office, the Australian Quarantine and Inspection
Service, the Department of Immigration and Mul-
ticultural Affairs, and the Department of Family
and Community Services; and

(c) to assess:

(i) the strategic environment of the Common-
wealth’s law enforcement agencies and the re-
sources needed to meet identified threats; and

(ii) the cooperative environment in which those
agencies operate; and

(iii) the mechanisms needed to ensure that
those agencies are accountable to the Parliament
and the public; and

(d) to report from time to time to both Houses
on the assessments in (c); and

(e) from time to time, to inquire into and, as
soon as practicable after the inquiry has been
completed, to report to both Houses on Common-
wealth law enforcement issues and on the coop-
ervative arrangements between Commonwealth and
States law enforcement agencies.

(8) Schedule 2, page 51 (after line 27), after
item 35, insert:

National Crime Authority Act 1984
35A Sections 52, 53, 54 and 55

Repeal the sections.

In so moving, I would indicate that there has
been a fair degree of discussion between the
government, the opposition and, I am sure,
other parties over the last few days in par-
ticular with respect to this legislation. Our
starting point is that we support, in principle,
reform of the AFP legislation, particularly
any reforms which mean that the AFP has an
increased capacity to address the criminal
environment as it is today. In fact, it should
be noted that it was the Labor Party in gov-
ernment which started the reform process
within the AFP and, accordingly, we are sup-
portive of the general direction of that re-
form.

However, the AFP cannot be expected,
through changes to the industrial regime
alone, to be capable of operating to the level
of efficiency which should be, and is, de-
manded from a frontline law enforcement
agency of the Commonwealth. In addition to
admin reform, we believe that the AFP must
be adequately guided and funded by a gov-
ernment—a government which is capable of
thinking about long-term strategic impor-
tance and implications of law enforcement.

As a result of our concerns about the leg-
islation, it was referred to the Senate Legal
and Constitutional Legislation Committee.
Following that committee’s inquiry, we have
identified a number of provisions which we
believe require amendment so as to guarantee
the rights of AFP members. At this particular
time, I would acknowledge the work done by
shadow ministers and their staff, together
with officers of the A-G’s department. That
work, we believe, had led to some substantial
agreement with respect to at least three of the
amendments that are before us this morning.
In terms of those discussions, as of 7 a.m.
this morning our understanding was that the
government was in a position where it could
accept the three opposition amendments. As I
was walking into the chamber this morning, I
was told that this may now not be the case. It
may be now that the government is finding
difficulties with the three amendments—
amendments Nos 3, 6 and 7. If that is to be
the case, then we will be enormously
concerned because there have been, as I say,
extensive consultation and discussion in
trying to get some agreement in respect of
these amendments. At the end of my
contribution I would appreciate a reply from
the minister as to what the government’s
what the government’s position is in respect of those later amendments.

In respect of amendments Nos 1, 2 and 8, which are currently before us, we believe that the restructuring of the AFP which is proposed by the bill raises a very important issue of organisational accountability. Commonwealth law enforcement generally does need improved provisions for parliamentary oversight and the development of integrated strategic and technical directions. We have to acknowledge that Australian society is increasingly facing threats to its national security—threats which come from organised crime rather than from other nation states. In order to combat what is becoming a highly professional business of criminal activity, we must recognise that Australia must have a sophisticated, cooperative, integrated national and international approach. So communication and cooperation are essential to ensure that Australia is capable of analysing what is happening today and, in particular, in predicting what will happen tomorrow. This sophisticated, cooperative approach I talk about needs to be, in a sense, mirrored in our parliamentary processes; we believe that currently it is not. Currently the parliament has one joint committee on the NCA and one joint committee on the Australian Security and Intelligence Organisation. There is no one parliamentary committee capable of taking a coherent overview of law enforcement matters.

As such, debate about law enforcement matters, including current debate about the restructuring of the Australian Federal Police, tends to be ad hoc, narrowly focused and focused upon the issue at hand. We believe there is a need for a broader perspective. That need is no less than a matter of national security.

The amendments before us at this stage propose a joint parliamentary committee on law enforcement—a committee which we believe will rectify this deficiency in parliamentary oversight. The proposal is that a joint parliamentary committee will be tasked with the following duties: consultation with Commonwealth law enforcement agencies; consultation with Commonwealth agencies which have law enforcement functions; assessment of the strategic environment of the Commonwealth law enforcement agencies; assessment of the resources required to meet and identify threats; assessment of the cooperative environment in which those agencies operate; assessment of the mechanisms needed to ensure that those agencies are accountable to the parliament and to the public; and, finally, reporting to both houses of parliament in respect of assessments.

The agencies which we envisage will be consulted by the committee would include: the AFP, the DPP, the Australian Customs Service, the National Crime Authority, the Office of National Assessments, the Australian Bureau of Criminal Intelligence, AUSTRAC and the Australian Securities and Investments Commission. We envisage the Australian Defence Force, the Australian Taxation Office, Australian Quarantine and Inspection Service, the Department of Immigration and Multicultural Affairs and the Department of Family and Community Services will also have something to say to and information to get from the proposed joint parliamentary committee. We believe such a committee will have a valuable focus and will be able to give the parliament and, through the parliament, the public the perspective necessary to ensure that Australia is capable of and is, indeed, combating the criminal threats which exist in the 21st century.

We believe the government had an opportunity, in bringing on the bill, to reform the AFP employment regime, to widen its vision a little and to support the establishment of an oversight committee. Unfortunately, the government was not prepared to take such a forward thinking strategic perspective. Therefore, at this late stage, can I once again ask the government to reconsider its position in respect of this in the interests of long-term strategic planning and oversight by the parliament. Can I also ask the minister to give us an update on the government’s current position in respect of amendments 3, 6 and 7.

Senator GREIG (Western Australia) (9.40 a.m.)—There were some slight administrative difficulties yesterday, so I seek leave of the committee to incorporate my speech on the second reading of this bill.
The CHAIRMAN—Is leave granted to incorporate Senator Greig’s speech on the second reading?

Senator Vanstone—I understood Senator Greig’s office was advised that, from my understanding, this is not normal practice. We did indicate that we would like to see the speech before it was incorporated, if that is the case. I am not aware that I have been given that.

Senator GREIG—The minister is correct and I apologise for that. If there is some mechanism by which I can do that I am happy to do so, otherwise I can speak to it.

The CHAIRMAN—If you wish to delay your seeking leave and have the speech approved by both major parties who have to give you leave, then that is the way for you to go. Otherwise, you have the time within the debate in the committee stage where you may wish to incorporate parts of your speech.

Senator GREIG—I will take the opportunity to do the latter, thank you, Madam Chairman.

Senator VANSTONE (South Australia—Minister for Justice and Customs) (9.41 a.m.)—I will respond to Senator Bolkus. Senator Bolkus wanted some indication of the government’s view with respect to opposition amendments 3, 6 and 7. He is right in indicating that there has been significant discussion about these matters. We have been trying to come to a range of agreements. I realise you want us to talk about other amendments formally at this moment, Madam Chairman, but this does help clear up the issues. Opposition amendment 3 would be opposed as it is now, but not if the consequential amendments that were provided to the opposition following from this—

Senator Bolkus—We still have not got that.

Senator VANSTONE—That is not my advice. My advice is that consequential amendments were provided and that this amendment, with all the appropriate amendments attached, would be acceptable.

I think that amendment 6 is acceptable. There has not been any change in relation to that. Amendment 7, which relates to reviews, would be acceptable if, under your proposed paragraph (l), it stopped at ‘employment decision’. In other words, we agreed to a review, but we did not agree that it would be outside persons or bodies. We agreed that there would be a proper review mechanism. We were happy to have that embedded in the legislation, but there was not an agreement to the latter part. If that were deleted, then we would agree to amendment 7. The summary is: yes to No. 3 with the consequential amendments that flow from it but not without them; yes to No. 6; and yes to No. 7 if it is restored to what we believe we agreed on. Perhaps if Senator Greig could help out by reading parts of his contribution to the second reading debate, it would give Senator Bolkus the time to address these matters and we can efficiently proceed. Would you be so kind, Senator?

Senator GREIG (Western Australia) (9.44 a.m.)—I apologise to the minister for any confusion. The position of the Democrats—and I am not entirely clear as to whether the amendments proposed by the opposition as of yesterday are still those of today—is that if the opposition intends to proceed with the amendments it proposed in the last 24 to 48 hours then we will be supportive of those, with the possible exception of the proposal by the opposition to establish its overarching committee to which we are still awaiting arguments from both sides of the chamber before coming to any conclusion.

Senator VANSTONE (South Australia—Minister for Justice and Customs) (9.45 a.m.)—I will give Senator Bolkus a little more time. I do understand that the amendments he is seeking were actually sent to the adviser who is in the advisers’ box. As I understand it, they were emailed yesterday and someone has gone to check that they are being sent again. We can keep this going until you can resolve that.

Senator VANSTONE—That is my advice. My advice is that consequential amendments were provided and that this amendment, with all the appropriate amendments attached, would be acceptable.

Perhaps while those matters are being resolved, it would help if I addressed amendment Nos 1, 2 and 8 because they all relate to the establishment of the Commonwealth Law Enforcement Committee. The government opposes this in two respects. Firstly, we are opposed to dealing with it now attached to a bill which relates to the Australian Federal Police that reflects a certified agreement
made by the Federal Police as an agency with the federal agents and employees. We believe that that it therefore deserves to be dealt with on its own as expeditiously as possible and not be delayed by the wish of any other party or senator to have another separate law enforcement issue considered. We think it is ungracious—to say the very least—to the Federal Police, who have worked very hard to come up with this certified agreement, get agreement on it and are waiting for this bill to be passed so that the changes can start to flow in the Australian Federal Police.

I will just give one example of the changes. I will not go into a debate on the bill as a whole. To give an example of what we are seeking to do here, the previous government, probably believing it to be in the interests of the Federal Police at the time, set up a scheme called AFPAS. What it really meant was that, if you were an Australian Federal Police officer and you were good and there were no problems, when you wanted to retire you would get a percentage of your salary for each year, but you could only get it if you retired. A large number of Federal Police were taken on under a 10-year contract, which happens to expire in July this year. What do you think happens to young men who may be married, have kids and responsibilities 10 years down the track? They have got 10 years of AFPAS entitlement and they can only get it if they leave. What seemed to be a good idea at the time turns out not to be. In addition, different governments have had different ways of treating the AFPAS liability, that is, the capacity to pay this money out when people leave and that has put pressures on the Australian Federal Police. Clearly that system has to go. It is an incentive for good police officers who do not get into trouble to leave at the end of their contract to get money. It did not appear to be so at the time when it was created. I understand that, but that is what it has turned into.

This agreement gives the police who stay the capacity to access that money now. That is what a lot of them want to do. It is a more efficient system for the Federal Police and a more efficient system of funding for the government. That is the sort of thing that will happen if we hold up this bill, and I will come to them during the proper debate on the bill. I argue that this bill should not be held up because one or other party here wants their particular issue that is related to the AFP, but not specifically targeted to be AFP, discussed. I say it should be dealt with separately in the first instance.

Secondly, the government says that there is no need for such a committee. We have a legal and constitutional affairs committee of the Senate and the House of Representatives and each chamber has the fullest capacity to refer any matter it wants to those committees to have them properly looked at—any matter it wants in relation to the Australian Federal Police and any other aspect of law enforcement. We already have a parliamentary joint committee that oversees the National Crime Authority. That was established because the National Crime Authority has powers which are different to and in excess of those of the Australian Federal Police. That committee was established as an acknowledgment of particular powers that the then Labor government gave to the National Crime Authority. Not all law enforcement is in that category. We say it is unnecessary. We already have a committee for the National Crime Authority and each chamber has committees to which any matter whatsoever can properly be referred. So there is no need.

The third point I would raise is that law enforcement, given the days of new technology, e-commerce, etc., is not regarded as the sexy end of funding federally. Law enforcement has always had to battle with difficulties in relation to funding. They have operational requirements that you and I cannot even dream of, yet there is this concept, without proper thought, of adding a regular requirement of servicing a parliamentary committee where no need has yet been demonstrated. Every police force has its problems. We know that. Certainly senators from New South Wales know that, but where is the demonstrated need that the committee arrangements we have at this time are not satisfactory? We would be setting up a committee for the sake of setting up a committee; for heaven’s sake, I thought we could do better than that.
For those reasons we oppose this. I would happily have a long and serious debate with anybody on this issue. I do not want to have it now and hold up this Australian Federal Police Legislation Amendment Bill 1999 and the benefits that flow to the men and women in the Australian Federal Police force. I am not convinced at this stage, and have been given no good reason why we should add yet another committee to a set of committee structures of which I think we can all be proud and which have the capacity to deal with these matters already.

Senator COONEY (Victoria) (9.51 a.m.)—The minister has said that it is important to pass this legislation because the members of the force have entitlements that they want to access. I think it is proper and right that they should be able to access them. The minister has painted a picture of the Federal Police, the agents, management and command, and I would like to know how far the government and the command are willing to allow the agents and the police themselves to have knowledge of what legislation and regulations are brought through in this place. Also, how far and to what extent are the command and government willing to have agents understand what is going on in the force itself?

Senator VANSTONE (South Australia—Minister for Justice and Customs) (9.54 a.m.)—From the limited time I have had in this job as the minister responsible for the Federal Police, which is two and a bit years—it might be a bit more now—I can assure you that bureaucrats in Canberra do not know everything; they know that. We as politicians do not know everything; we are constantly reminded of that, lest we forget it. Nor do police agents know everything about the best way to conduct law enforcement. I am sure that, if they do not know that, they know that we all believe that. I am confident that the three working together can always produce a better outcome. There may be circumstances where the government would want to introduce a bill, but I cannot think of them. I do not want to give you carte blanche and say, ‘Yes, every bill will be ticked off,’ but generally speaking the men and women of the Federal Police are a critical part of law enforcement. You need money, technology and international cooperation, but all of that means nothing if you do not have people capable of using the technology and being cooperative. The work force is an integral part of law enforcement; it is a key part of it. I will not rabbit on because the Parliamentary Liaison Officer will get touchy about the flow of legislation. But just let me raise the recent cocaine haul. At 2 o’clock in the morning, in the dark of night, Federal Police agents, with Customs and marine service people, boarded a yacht with 500 kilos of cocaine on board. They were not certain of how the people who appeared to be in possession of the cocaine would react and of what sorts of arms they had. Anybody who does not understand how extremely brave these people are and how committed to their
task they are, and who does not acknowledge that by including them in changed plans, would be crazy.

Senator GREIG (Western Australia) (9.56 a.m.)—Can I clarify that we are speaking at this point only to amendment No. 2 being moved by the opposition?

The TEMPORARY CHAIRMAN (Senator Hogg)—No. As I understand it, the amendments before the Chair are amendments Nos 1, 2 and 8.

Senator GREIG—Is that on sheet 1633?

The TEMPORARY CHAIRMAN—Yes, that is correct.

Senator VANSTONE (South Australia—Minister for Justice and Customs) (9.57 a.m.)—I do apologise, Mr Temporary Chairman. Senator Greig, did you ask something that you want me to respond to? I was just engaged in talking to advisers.

Senator GREIG (Western Australia) (9.57 a.m.)—I was simply seeking a point of clarification. Are we moving amendments Nos 1, 2 and 8 inclusively or individually?

The TEMPORARY CHAIRMAN—They are being moved together.

Senator GREIG—Is Senator Bolkus moving these en masse?

The TEMPORARY CHAIRMAN—Yes. He is moving those together, but they can be separated if that needs to be done.

Senator GREIG—That being the case, could I ask Senator Bolkus if he could deal with No. 2 separately?

The TEMPORARY CHAIRMAN—I can put the questions separately. I can put amendments Nos 1 and 8 together, and then amendment No. 2. There is no problem with that.

Senator BOLKUS (South Australia) (9.58 a.m.)—I am sure you can do that, Mr Temporary Chairman, but can I suggest to Senator Greig that at least amendments Nos 1 and 2 should go together; we may have some problems with amendment No. 8. But I think, if you were setting up a Commonwealth Law Enforcement Committee, you may in fact need a preliminary part to the legislation. Unless you have some problems with that, I suggest we put amendments Nos 1 and 2 together, and see what problems we have with amendment No. 8.

Senator GREIG (Western Australia) (9.59 a.m.)—Thank you. As a point of clarification, Senator Bolkus, the point I am getting at is: do all the amendments which we have before us relate to your proposal for the establishment of this committee or are some of them subsequent to that?

Senator BOLKUS (South Australia) (9.59 a.m.)—My understanding is that they all go to the establishment of the committee. Amendments Nos 1 and 8 are basically the embroidery and No. 2 is the substantive part.

Senator GREIG (Western Australia) (9.59 a.m.)—I thank Senator Bolkus for his explanation. I want to make it clear that in this instance the Democrats will not be supportive of the establishment of such a committee. I am compelled in part by the arguments of the minister. I would agree that the proposal has some merit, but I do wonder whether the bill as a whole, which I consider to be good, ought not be frustrated by the potential of this particular amendment and the proposal for this committee to prevent that from happening. I wonder whether Senator Bolkus might have some other mechanism to approach this in a separate way. I am unclear as to whether this proposal is a Labor Party policy perhaps, in which case they may be able to pursue it in the future. I am not convinced that this matter ought to be dealt with in the context of this bill to the point of frustrating it, and as such we will be opposing it.

Senator BOLKUS (South Australia) (10.00 a.m.)—I find that response frustrating as well. This bill has been around for about five months now. It has been the subject of very intensive consultations between all the different parties. We have had time to look at it. It also has to be said that nowhere in her wildest dreams would the minister have anticipated this legislation coming up so soon in the parliamentary process this year. It is just that other legislation has gone through so quickly. The government was scratching around last night to find legislation.

Senator Vanstone—No, it wasn’t.

Senator BOLKUS—Yes, Minister. It is day one of the parliamentary sitting in the
new millennium and we are scratching for legislation. That is why this legislation came on much earlier than people expected. This is a government that has run out of ideas big time if you cannot get important legislation before the parliament on day one in the sittings. This is why this has come on so early this week. So the minister has had time to focus on the issue.

In a sense, the minister in her contribution to the debate gave reasons for why we should have a committee like this when she said that law enforcement does not attract the minds and attentions of the parliament and of government sufficiently and when she said that we are not on top of some of the aspects of developing law enforcement in this country. Maybe as a responsible parliament we should be. And if we are to be, there is no better way of focusing people's minds than a committee such as the one we have proposed, a committee which in a sense would operate in the same way that other committees have operated in this general area—the NCA committee and the ASIO committee. Those committees have led to a greater appreciation in the parliament of not just funding issues but also strategic issues of law enforcement and security. As I say, the minister, in making the point that there is insufficient understanding here, reinforces the argument that we have put. We have had time to think about this, and I find it very disappointing that the Democrats are not supporting this proposal.

Senator VANSTONE (South Australia—Minister for Justice and Customs) (10.02 a.m.)—I just want to correct the record. With no disrespect to Senator Bolkus, he sometimes has a habit of hearing what someone said and paraphrasing it to give a slightly different meaning. I did not say—I want to make sure people understand—that I think parliament is not on top of law enforcement issues. I said that they are not at the sexy end of issues when you consider things like e-commerce, et cetera. And I indicated that I think the parliamentary committee process, especially the Senate's, provides ample opportunity for any review that is necessary and that I would be happy to have a full debate on this on another occasion, as Senator Greig was indicating he might want to have some way of looking at this. I thank Senator Greig for that and indicate the government's position: amendments Nos 1, 2 and 8 will be opposed.

The TEMPORARY CHAIRMAN (Senator Hogg)—Before we proceed, Senator Greig, I understand from your previous statement in this chamber that you are opposed to Nos 1, 2 and 8. Is that correct?

Senator Greig—Yes, that is the case.

The TEMPORARY CHAIRMAN—In which case you would have no objection to Nos 1, 2 and 8 being put together? Is that correct?

Senator Greig—That is correct.

The TEMPORARY CHAIRMAN—The question before the chair is that opposition amendments Nos 1, 2 and 8 be agreed to.

The Committee divided. [10.08 a.m.]

(The Chairman—Senator S. M. West)

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<td>Majority</td>
<td>25</td>
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</tbody>
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**AYES**

- Bishop, M.
- Brown, B.
- Campbell, G.
- Collins, J. M. A.
- Conroy, S. M.
- Cook, P. F. S.
- Cooney, B.
- Crossin, P. M.
- Denman, K. J.
- Evans, C. V.
- Faulkner, J. P.
- Forshaw, Gibbs,
- Hogg, J.
- Hutchins,
- Ludwig, J.
- Lundy,
- Mackay, S.
- McKiernan, J.
- McLucas, J.
- Murphy, S. M.
- Quirke, J. A *
- Schacht, C.
- Sherry, N.
- West, S. M.

**NOES**

- Abetz, E.
- Allison, L.
- Bartlett, A.
- Boswell, R. L. D.
- Bourne, V. W.
- Brownhill, D. G.
- Calvert, P. H.
- Campbell, I. G.
- Chapman, H. G. P.
- Coonan, H *
- Crane, A. W.
- Eggleston, A.
- Ellison, C. M.
- Ferguson, A. B.
Ferris, J. 
Greig, B. 
Heffernan, W. 
Kemp, C. R. 
Lees, M. H. 
Mason, B. 
Minchin, N. H. 
Newman, J. M. 
Payne, M. A. 
Ridgeway, A. 
Tambling, G. E. 
Tierney, J. W. 
Vanstone, A. E. 
Woodley, J.

Gibson, 
Harris, L. 
Hill, R. 
Knowles, S. C. 
Macdonald, 
McGauran, J. J. 
Murray, A. 
Patterson, K. C. 
Reid, M. E. 
Stott Despoja, N. 
Tchen, T. 
Troeth, J. M. 
Watson, J. O. W.

PAIRS

Bolkus, N. 
Parer, W. R. 
Ray, R. F. 
Lightfoot, P. R. 
O’Brien, K. 
Alston, R. K. R. 
Crowley, R. A. 
Herron, J.

* denotes teller

Question so resolved in the negative.

Senator BOLKUS (South Australia)  
(10.11 a.m.)—I seek leave to move amendment No. 3 together with the amendment circulated on page 1704, which is consequential to amendment No. 3. Referring to the earlier part of the debate this morning, the minister made it clear that the government would be prepared to support opposition amendment No. 3 if in fact the opposition were to accept a consequential amendment that was being discussed between the government and the opposition.

The TEMPORARY CHAIRMAN — The first question will be that schedule 1, item 45, section 29 stand as printed. Then subject to that question being determined, we will determine item 1 on sheet 1704. If that is okay, I will now put those questions. The question is that schedule 1, item 45, section 29 stand as printed.

Question resolved in the negative.

Senator BOLKUS (South Australia)  
(10.13 a.m.)—Minister, there is a matter of procedure. In respect of one, we are supporting an amendment to go into the legislation; in respect of the other, we require opposition to that particular provision. So I think the Chair is suggesting we treat them separately.

The TEMPORARY CHAIRMAN—The question is that amendment No. 1 on sheet 1704 be agreed to.

Question resolved in the affirmative.

Senator BOLKUS (South Australia)  
(10.14 a.m.)—by leave—I now move amendments Nos 4 and 5 together:

(4) Schedule 1, item 46, page 27 (after line 21), add:

“(4) An award, a certified agreement or an Australian workplace agreement prevails over a determination under subsection (2) or (3) to the extent of any inconsistency.”

(5) Schedule 1, item 85, page 42 (line 21), omit “The Workplace Relations Act 1996”, substitute “Except where the contrary intention appears, the Workplace Relations Act 1996”.

I indicate that the consequential amendment which has been circulated in the last 15 minutes or so is one that, as suggested by the government, the opposition is accepting. As a consequence, I anticipate that the government will find opposition amendment No. 3 acceptable.

Senator VANSTONE (South Australia—Minister for Justice and Customs)  
(10.12 a.m.)—Just to confirm what we are talking about here: I think I understood what Senator Bolkus said, but on my sheet 1633, opposition amendment No. 3 was the amendment that required consequential amendments. So if opposition amendment No. 3 on 1633 is moved with opposition amendment No. 1 on 1704, that is what was agreed and we will agree to it.

Senator BOLKUS (South Australia)  
(10.13 a.m.)—Minister, there is a matter of procedure. In respect of one, we are supporting an amendment to go into the legislation; in respect of the other, we require opposition to that particular provision. So I think the Chair is suggesting we treat them separately.

The TEMPORARY CHAIRMAN — The first question will be that schedule 1, item 45, section 29 stand as printed. Then subject to that question being determined, we will determine item 1 on sheet 1704. If that is okay, I will now put those questions. The question is that schedule 1, item 45, section 29 stand as printed.

Question resolved in the negative.

The TEMPORARY CHAIRMAN—The question is that amendment No. 1 on sheet 1704 be agreed to.

Question resolved in the affirmative.

Senator BOLKUS (South Australia)  
(10.14 a.m.)—by leave—I now move amendments Nos 4 and 5 together:

(4) Schedule 1, item 46, page 27 (after line 21), add:

“(4) An award, a certified agreement or an Australian workplace agreement prevails over a determination under subsection (2) or (3) to the extent of any inconsistency.”

(5) Schedule 1, item 85, page 42 (line 21), omit “The Workplace Relations Act 1996”, substitute “Except where the contrary intention appears, the Workplace Relations Act 1996”.

I indicate that the consequential amendment which has been circulated in the last 15 minutes or so is one that, as suggested by the government, the opposition is accepting. As a consequence, I anticipate that the government will find opposition amendment No. 3 acceptable.
In moving these amendments, the opposition has not opposed the prescribed delineation of the commissioner’s command and employment powers by the bill. However, we believe that, due to the special nature of the AFP, the delineation is not always clear-cut in all instances. For instance, during the Senate inquiry into this bill, the AFP Association raised concerns about the possibility of a blurring between command and employment powers, particularly with respect to the proposed section 40H, which deals with deployment in terms of conditions for overseas and special operational needs.

As proposed section 40H is not subject to the Workplace Relations Act 1996, we believe there is always a possibility that the command power given by this section could be used in such a way as to circumvent the unfair dismissal provisions of the Workplace Relations Act. So the amendment we move now will make determinations made pursuant to section 40H(2) and (3) subject to the Workplace Relations Act, therefore removing any possibility that this command power could be misused as an employment power.

Senator VANSTONE (South Australia—Minister for Justice and Customs) (10.16 a.m.)—Can I first address amendment No. 4. The effect of this is to make the commissioner’s determination of terms and conditions for overseas service subject to the certified agreement. The agreement just cannot take into account the enormous range of overseas circumstances which the AFP will be called on to be involved in. Government decisions to deploy the AFP overseas are made in response to national and international needs—not just law enforcement needs but also the national interest.

The certified agreement is specifically made with local operations in mind. In fact, as I am advised, the work force specifically agreed in the certified agreement that it would not apply to overseas postings. So you have a situation here where the Federal Police organisation has agreed with the workers in the Federal Police—those employed by them—that the certified agreement would deal with local issues and not international ones.

So it is not only impractical to fetter the command power in this context; it is inappropriate to a national police service that has an acknowledged international role. I will give you one small example of that. The role that people are playing in Cyprus, which has been a longstanding, long-term AFP CIVPOL commitment, is entirely different from the role that they played in the first instance in Timor, which is again different from the role that they are now playing in Timor. It is just not practical, quite apart from the fact that the workers and management agreed specifically in the agreement that it would relate to their local conditions and exclude overseas ones. For that reason, we oppose No. 4.

No. 5 unnecessarily introduces an element of doubt. There is not a contrary intention in the bill. So to add the words ‘except where a contrary intention appears’ invites someone to go looking, to generate it. Anyone who did first year law classes and sat through statutory interpretation looks at a couple of cases. People who have been here for a few years can soon see that what parliament intends is often interpreted differently, so why in heaven’s name would we put in here an invitation for someone to go looking for something other than what we mean? If at a later stage there is a contrary intention inserted into the act, it will be dealt with at that time. It is just unnecessary and invites difficulty in an act that reflects agreement made between the management and the workers.

Senator COONEY (Victoria) (10.19 a.m.)—As I understand it, as far as the local agents are concerned, a certified agreement will be the basis upon which they are employed. But as I understand what the minister then said, insofar as people are employed overseas, say, in Cyprus—I do not know whether it flows to the 29 who act as liaison officers overseas and whether they have not got a certified agreement to cover them—she said that, because employment is different, you are not going to have a certified agreement applying to them. What does apply to their employment overseas? What do people in Cyprus work under? Just what is a per-
son’s position who is on a certified agreement working locally, say, in Cairns, and then goes over to Cyprus? It does seem very unclear as to the basis upon which members of the Federal Police force are going to be employed.

Senator VANSTONE (South Australia—Minister for Justice and Customs) (10.20 a.m.)—Just to respond to Senator Cooney, these matters were considered, Senator Cooney. The conditions of overseas posting people and liaison people are also not covered by this. Any overseas work is excluded. That is what was discussed between the employees and the management, and that is what was agreed. By raising the liaison posts you only highlight the wide range of terms and conditions. There has been discussion about whether someone would go to Rangoon, for example. The conditions someone lives under there would be entirely different from those of a person who is lucky enough to be the liaison officer in Rome, London or Washington—and equally, as I have covered, in the different CIVPOL commitments. So there is an agreement that this agreement reflects the work in Australia and that when there is overseas work those conditions are to be negotiated separately.

Senator COONEY (Victoria) (10.21 a.m.)—What I am getting at is: insofar as we are now considering this act, does it in any way affect what people’s positions are in Cyprus or overseas? For example, if the certified agreement does not apply to them, can the commissioner of police dismiss them on any particular basis? If so, on what basis? There are a growing number of people going overseas, and I think it is appropriate for this chamber to know what is happening to them and on what basis they are employed. Is it all set out in contract? If it is, what is the problem with having it in a certified agreement?

Senator VANSTONE (South Australia—Minister for Justice and Customs) (10.22 a.m.)—Senator Cooney, perhaps the easiest way to explain the advice I have is this: I should draw your attention to the fact that the explanatory memorandum makes it clear that overseas people will not be worse off under the certified agreement. They are not out of it entirely in the sense that they can just be dismissed. In relation to terminations that you were asking about, for example, they are covered by that under the act, not by the certified agreement. The certified agreement deals with a range of other matters. So in a sense they have a dual aspect: one security blanket; and then if they want to shift from that to overseas service there are additional things to be negotiated.

Senator COONEY (Victoria) (10.23 a.m.)—The impression I have is that if you go overseas you have to work out a contract that is made between you and the commissioner. So issues such as paternity or maternity leave, long service leave, overtime, sick leave and all that are attended to in the contract, are they?

Senator VANSTONE (South Australia—Minister for Justice and Customs) (10.24 a.m.)—Senator Cooney, does this help? When there is a placement available overseas, there is a call for volunteers and there is notification of what the additional entitlements would be. So the overseas entitlements are additional, and people can apply—nominate, volunteer—for the positions, clearly understanding what additional conditions apply to that particular post.

Senator COONEY (Victoria) (10.24 a.m.)—I think I have it clear now. So you have a certified agreement that applies to everybody in the Federal Police force but, if you go overseas, there are some additional conditions which are attended to by agreement?

Senator Vanstone—That is right.

Amendments not agreed to.

Amendment (by Senator Bolkus) agreed to:

(6) Schedule 1, item 92, page 44 (line 33), at the end of section 70, add:

; and (j) the storage, handling and confidentiality of any statement given under section 40L and the use which may be made of any such statement, including any limitations on such use.

Senator BOLKUS (South Australia) (10.25 a.m.)—Opposition amendment No. 7 was discussed earlier in the chamber. The government’s view was that they would accept the amendment were the opposition to delete all the words after ‘decisions’ in sub-
clause (l) of clause 7, that is, delete the words ‘by an independent person or body’. Our position was that we would be prepared to do that if the minister were to give an undertaking as to how such reviews would be conducted. The minister has provided a letter to the opposition which meets the requirements of shadow minister Duncan Kerr. If the minister will agree, I will incorporate that letter in Hansard and then proceed to move the amendment in its amended form, which form would be acceptable to the government.

The TEMPORARY CHAIRMAN (Senator Hogg)—Minister, is leave granted for the incorporation of your letter?

Senator Vanstone—Yes.

The TEMPORARY CHAIRMAN—Leave is so granted.

The letter read as follows—

Minister for Justice and Customs
Senator the Hon Amanda Vanstone
Mr Duncan Kerr MP
Parliament House

Dear Mr Kerr

I refer to your proposals for amendments to the Australian Federal Police Legislation Amendment Bill 1999.

One of these proposals relates to a mechanism for review of “promotion” decisions in the Australian Federal Police (AFP). As you are aware, the employment regime proposed by the bill will no longer include the concept of promotion. Under the AFP certified agreement there is provision for advancement within the AFP.

I would not oppose an amendment to the bill to provide that the regulations under the AFP Act may provide for review of employment decisions. If such an amendment were made, I would ensure that a regulation was made requiring that there be a mechanism established for review of employment decisions, including decisions relating to advancement in the AFP.

There is currently provision in the certified agreement for a Board of Reference which can review such decisions. Should this provision be negotiated out of the agreement at some future time, the regulation I propose would require that some other review mechanism be established. In my view, this would achieve the objectives of the amendments you propose in relation to review of “promotion” decisions.

The regulation would come into effect at the time the current review provisions in the AFP Act are repealed.

Yours sincerely

AMANDA VANSTONE

Amendment (by Senator Bolkus) agreed to:

(7) Schedule 1, item 92, page 44 (line 33), at the end of section 70, add:

; and (k) AFP employment decisions and the values on which such decisions must be based, including:

(i) impartiality and professionalism; and

(ii) merit; and

(iii) freedom from discrimination; and

(iv) openness and accountability; and

(v) fairness; and

(vi) equity in employment; and

(vii) effectiveness; and

(l) the review of AFP employment decisions.

Senator GREIG (Western Australia) (10.28 a.m.)—by leave—On behalf of my colleague Senator Murray, I move Democrat amendments on sheet 1703:

Schedule 1, item 46, page 27 (lines 24 and 25), omit “, with or without remuneration”.

Schedule 1, item 46, page 27 (after line 30), at the end of section 40J, add:

(2) The regulations may not provide for the suspension from duties of AFP employees without remuneration.

(3) For the avoidance of doubt, nothing in this Act permits the Commissioner to suspend an AFP employee from duties without remuneration.

In essence, these amendments seek to ensure that members of the Federal Police are not penalised if they should be under investigation. As it stands, if somebody is being investigated for some allegation of perhaps corruption, misbehaviour or whatever, they may be set aside for a period which may last several months, because the wheels of administration can turn very slowly on such inquiries, to the point where they are deeply financially penalised because they receive no
remuneration during that period. This can be of extraordinary disadvantage to people and could in some cases even go as far as costing them their mortgage.

The Democrats consider this to be unacceptable and believe that all people are innocent until proven guilty and that the financial penalty imposed often by ensuring they are not remunerated during these periods of investigation is a kind of prejudicial punishment. These amendments seek to address that by ensuring that those police officers who are under investigation continue to receive remuneration for the period of that investigation. I see this as a matter of simple equity and justice, and I seek the support of the chamber for these amendments.

Senator VANSTONE (South Australia—Minister for Justice and Customs) (10.29 a.m.)—Briefly, in response, the government will not be supporting the Democrat amendments. The power to suspend appointees without pay is a long-established feature of the employment scheme in the Federal Police. The regulations provide that an appointee who has been suspended will be paid salary unless the commissioner otherwise directs. The power to suspend appointees without pay is a long-established feature of the employment scheme in the Federal Police. The regulations provide that an appointee who has been suspended will be paid salary unless the commissioner otherwise directs. The commissioner has to have the power to keep the police force clean, and I do not think we should take that power away from him.

Senator BOLKUS (South Australia) (10.30 a.m.)—These amendments have come to us basically in the last hour or so. We have not had a chance to analyse them. They have not been through the extensive consultative process that has taken place in respect of this bill. Essentially, as the minister indicated, because there could very well be some unforeseen consequences in respect of these amendments, we are not in a position to support them.

Question put: That the amendments (Senator Greig’s) be agreed to.

The Committee divided. [10.35 a.m.]

(The Chairman—Senator S. M. West)

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AYES

- Allison, L.
- Bourne, V. W *
- Greig, B.
- Lees, M. H.
- Stott Despoja, N

NOES

- Abetz, E.
- Bolkus, N.
- Brownhill, D. G.
- Campbell, G.
- Chapman, H. G. P.
- Cooney, B.
- Crossin, P. M.
- Denman, K. J.
- Evans, C. V.
- Ferris, J.
- Gibbs,
- Hogg, J.
- Kemp, C. R.
- Ludwig, J.
- Macdonald,
- Mason, B.
- McKiernan, J.
- Murphy, S. M.
- Patterson, K. C.
- Quirke, J. A *
- Reid, M. E.
- Sherry, N.

AYES

- Bartlett, A.
- Brown, B.
- Harris, L.
- Murray, A.
- Woodley, J

- Bishop, M.
- Boxwell, R. L. D.
- Calvert, P. H.
- Carr, K.
- Coonan, H.
- Crane, A. W.
- Crowley, R. A.
- Eggleston, A.
- Ferguson, A. B.
- Forshaw,
- Gibson,
- Hutchins,
- Knowles, S. C.
- Lundy,
- Mackay, S.
- McGauran, J. J.
- McClusky, J.
- O'Brien, K.
- Payne, M. A.
- Ray, R. F.
- Schacht, C.
- Tchen, T.
Question so resolved in the negative.
Bill, as amended, agreed to.
Bill reported with amendment; report adopted.

Third Reading
Bill (on motion by Senator Vanstone) read a third time.

CIVIL AVIATION AMENDMENT BILL 1998

Second Reading
Debate resumed from 19 April 1999, on motion by Senator Vanstone:

That the bill be now read a second time.

Senator MACKAY (Tasmania) (10.40 a.m.)—I will not speak for very long in relation to the Civil Aviation Amendment Bill 1998. I just want to indicate formally on behalf of the opposition that we have no major difficulties with this bill. However, we will be using this opportunity to highlight ongoing problems with regard to CASA.

This bill is one element of the ongoing review of Australia’s civil aviation legislation and contains a number of machinery of government amendments. The general aim of the bill is to introduce a new set of regulations which harmonise with international civil aviation laws and which will replace a number of technical terms in the Civil Aviation Act. The bill is designed to provide uniformity of language within the existing act, reinforcing that safety regulation of aviation activities should not be based fundamentally on the commercial nature of the activity itself. This involves replacing the definition in the civil aviation regulations of ‘domestic commercial flight’ with ‘regulated commercial flight’. It will provide new powers in relation to the retention and destruction of goods seized by CASA during the investigation of breaches of the Civil Aviation Act. The amendments will give CASA the power to retain seized goods for more than 60 days and to destroy seized goods after application to the courts.

The bill will give CASA the power to expand the list of key personnel that the holder of an air operators certificate will be required to have and will also replace the current mandatory requirement for applicants for an AOC to supply flight manuals to CASA with a requirement for a manual only where a new type of aircraft is being introduced into Australia for the first time. It also allows CASA to issue design roles for unusual and atypical aircraft for which design standards are not in place.

In addition, the Civil Aviation Amendment Bill 1998 will clarify the ability of authorised safety regulatory service providers external to CASA to charge, and to charge commercial rates, for the provision of service. The main elements proposed in the amendments will allow external service providers to charge fees for providing safety regulatory services and ensure that the external service providers can receive and recover the fees they charge.

The safe regulation of air safety is obviously vital and a critical issue for Australian people—from those employed in the aviation sector to people on holidays, tourists and so on. The opposition believe these technical changes are important to aviation safety regulation. We note that the bill will bring Australia in line with international practice and we support this process of harmonisation. To conclude, the opposition have no difficulties with this bill; however, it does provide an opportunity to highlight a number of ongoing difficulties, which will be covered by other speakers.

Senator GREIG (Western Australia) (10.43 a.m.)—The Democrats support the passage of the Civil Aviation Amendment Bill 1998. It is primarily a machinery bill, and for that reason I do not propose to speak at great length on it. The bill involves some technical changes to the Civil Aviation Act and aims to harmonise it with the international standards of safety regulation. I also understand that one of its aims is to make the act shorter and simpler, and that has to be a good thing.

As a result of reviews of aviation regulation between 1988 and 1991, the Civil Aviation Authority began in 1993 a program of redrafting the legislative structure of safety
regulations. Since the Civil Aviation Safety Authority, CASA, was established in 1995, it has continued the process of rewriting the entire safety regulations and associated advisory documentation. One of the key features of the bill relates to the retention and destruction of goods. The bill provides CASA with new powers in relation to the retention and destruction of goods seized by it in the course of investigating breaches of the Civil Aviation Act 1988. The power to retain seized goods for longer than 60 days and the power to destroy seized goods are vested in the courts, and CASA may apply to the court for orders to retain or destroy, as the case may be.

The second main feature of the bill relates to the regulations. The existing act contains various references to ‘civil aviation regulations’. These references will be changed to ‘the regulations’ or to ‘regulations made under this act’. Other changes of terminology will also need to be made to enable the incorporation of overseas standards and requirements. The Civil Aviation Act is also being amended to permit this subdelegation of power to CASA to make decisions of a legislative nature in a similar manner to the US federal aviation administration. This obviously requires streamlining of the current act in line with overseas developments. The principles underlying the new regulations require that, firstly, they are harmonised internationally with the USA federal aviation regulations and the European joint aviation regulations so there is a coordination between the two key bodies; secondly, they are clear, concise and understandable; thirdly, they have a safety outcome approach; fourthly, they are enforceable; fifthly, they avoid over-regulation; and, sixthly, they are consistent with the role of CASA. The third major feature of the bill is that the fees may be changed by CASA. This part of the bill clarifies CASA’s ability to classify the fees charged by it as a debt due to it. Where regulations made under the act require the payment of a fee and the fee is not paid by the due date, a late fee can be imposed.

The fourth and final aspect that I wish to mention relates to the design standards. The regulatory changes will, by giving CASA the power to design standards, streamline many of the current CASA requirements and assist the manufacture of aircraft in Australia. This should, hopefully, be of significant benefit to the aviation industry. Finally, I would add that I have considered the government amendments, which have been circulated, and indicate that the Democrats are supportive of them.

Senator O’BRIEN (Tasmania) (10.45 a.m.)—This bill was introduced into the House of Representatives on 9 December 1998. The fact that we are only dealing with it today, on 16 February 2000, says a lot about the approach to aviation safety taken by successive Howard government ministers. The bill was introduced as part of a program of reviewing the legislative framework with the aim of replacing the civil aviation regulations and civil aviation orders with new civil aviation safety regulations. The amendments that we are dealing with today are designed to ensure that the principal act is consistent with that new regulatory scheme and structure. According to the Bills Digest, which was released on 4 February last year, these new regulations were to be phased in over the period 1999-2003 but, as with the progress of this bill, the reform process at CASA has been less than satisfactory.

I want to go back now to the period immediately following the election of the Howard government in March 1996. At that time, the new transport minister, Mr Sharp, got off to a flying start. Mr Sharp spelt out to a large gathering of the aviation industry in Sydney on 28 June 1996 his intention of reforming the aviation regulatory regime. He called on the industry to work with the government to progress the program. I wanted to interpose here because there was an article in the Sydney Morning Herald on Saturday, I believe, which dealt with Mr Sharp and one of the matters that was dealt with at estimates. I have been contacted and it would be unfair to say that the unnamed guest at the lunch at Noosa was Mr Sharp’s guest. I understand that the guest was Mr Carlton’s guest. I just wanted to clear that up on the record while I had an opportunity. Going back to the subject at hand, since that time—that is, 28 June 1996—we have seen an endless series of
changes to the management structures, a failed attempt by a minister to sack the CASA board, power struggles within the board and resource misallocation on a grand scale. We have gone from Mr Sharp’s totally hands-on approach to Mr Anderson’s completely hands-off approach. Neither is appropriate, I might say, and the authority and aviation safety have suffered as a result.

Successive CASA annual reports highlight the instability that has been a feature of the authority since June 1995. According to the 1995-96 annual report, the authority’s management structure consisted of 12 separate business units. The following year there were only 11 business units. Then in 1997-98 there was another reorganisation and the authority was back to 15 business units. I pursued this matter with the authority director, Mr Mick Toller, in May last year. He told me that the 15-unit structure—the business unit structure—had also been scrapped and that the authority had yet another management structure. This time there were only three management units: safety compliance, safety standards and safety promotion. He said that there was also a small corporate services area. Mr Toller told me that that model had commenced on 1 July 1998. As senators may well be aware, assistant directors were appointed to those key positions later in that year. Mr Toller said that the new three-unit structure was designed to improve the business efficiency of the authority. I must assume, given the answers that he gave me, that the changes made at that time were considered changes. They certainly were endorsed by the CASA board. But then in September last year we were told that the three-unit management structure had become a four-unit structure. Mr Toller told me that this latest change followed on from an analysis of the work performed by the Safety Compliance Division. There is more. During the last estimates round, Mr Comer, Assistant Manager, Corporate Services, said that the structure of the authority was being reviewed yet again. He said that a functional and resource analysis of the authority would take place in the first half of this year. He told the committee:

At the end of last year, we decided, after a fairly exhaustive corporate plan exercise, to do a functional and resource analysis of our major core business processes.

He said that that would probably start around the middle of February and would continue to June. He said:

We will then do a new structure around June and complete the restructure by the end of the year.

That will be restructure number six. I understand that Mr Comer’s advice to the committee was the first time that a number of senior CASA officers had heard that a further review and restructure of the authority was about to commence. It clearly pays, if you work for CASA, to follow the estimates process.

While this endless restructuring and reorganisation have been going on, the effective administration of safety has not. In fact, from the time of its establishment in June 1995 until yesterday, the authority produced only two corporate plans. The absence of any clear plan has made it extremely difficult, if not impossible, for CASA staff to have any idea of the direction the authority was taking and the role that they would play. The morale problems within the organisation that have been evident for some time are a clear testament to the lack of direction and lack of effective internal communication. The failure to finalise a corporate plan was matched by the absence of a strategic plan and a business plan to guide developments within CASA. Mr Sharp, followed by Mr Vaile and then Mr Anderson all failed to notice, even though—and I stress this—the act requires the minister to table a CASA corporate plan every 12 months. The failure to produce a corporate plan on each occasion was a clear breach of the Civil Aviation Act.

These problems were compounded by the frequent changes not only to the senior management organisation but also to personnel, including the chair of the board, board members and the director of the authority. That is not just my view; it is the view of the ANAO, particularly that of Mr Barrett. CASA’s key safety program, the Aviation Safety Surveillance Program, provides an administrative framework for the effective surveillance of
aviation operations. In a report tabled in the Senate last year the Auditor found that CASA staff did not always follow these procedures. He also found that surveillance plans had not been based on an assessment of operators to identify those presenting the highest safety risks. He concluded that resources were therefore not being used to maximum effect, nor was there effective recording or reporting of surveillance work. A number of non-compliance areas were not acquitted, and aircraft survey reports remained outstanding. The Auditor found that the surveillance of the major airlines had been minimal.

In recent times I have been pursuing the issue of CASA surveillance of pilots operating high performance aircraft. I have had particular concerns about the checking of Qantas pilots. At the estimates hearings earlier this month Mr Toller confirmed that there was a problem. He said that, while he thought there had been no technical breaches of licence conditions—and it is of concern that he did not provide a more definitive answer, given that Qantas pilot checking and training procedures have just been audited by the authority—he found the pilot approval processes to be less than optimal. He said that CASA was looking to tighten up the checking of Qantas pilots.

According to the Auditor-General, airworthiness inspectors have been spending only 15 to 17 per cent of their time on surveillance tasks. In my view that is the number one safety priority. This misallocation of the authority’s resources was also highlighted by the authority’s own Quality and Internal Audit Branch. The Auditor also found that a high proportion of the authority’s time was being spent on lower priority regulatory services, to the detriment of surveillance matters.

This matter is worthy of further comment because, with the establishment of a separate specialist Regulatory Services Division by splitting the old Aviation Safety Compliance Division, there is a contradiction of both the Auditor-General’s findings and the findings of the authority’s own branch. My concern is that this structure is designed to facilitate quick entry control rather than proper entry control. It amounts to turning the priorities of the authority upside down. It appears that CASA has become trapped between its primary role as the national aviation safety regulator and its role as a service provider.

The Auditor made one key point on page 25 of his report. He said that the issues raised and the recommendations made in this report, audit report No. 19, were similar to those raised in previous reports—that is, the organisational and resource allocation problems in CASA are chronic. The BASI report on the Aquatic Air crash which occurred in July 1998 also highlighted the organisational deficiencies within the authority. That report found that surveillance activities were more directed at safety symptoms rather than underlying systemic issues. It found ineffective use of regulatory compliance and enforcement procedures, and it found the ineffective division of regulatory responsibilities among CASA officers.

Amazingly, with management instability, no corporate plans and therefore no strategic direction and a grossly inadequate safety surveillance system, the CASA board then decided to launch into airspace management reform. It took control of the development and trialling of new airspace arrangements in the corridor between Canberra and Ballina, known as the class G airspace trial. That demonstration, as it was described, commenced on 22 October 1998.

According to the Australian Transport Safety Bureau, the timing and location of the demonstration placed significant pressures on the Civil Aviation Safety Authority, which needed to ensure that consultation, safety analysis and educational activities were comprehensively addressed in relation to that trial. Despite the allocation of significant resources to this project, CASA’s overall project management of the demonstration was deficient and was found to be so. According to the ATSB, the purpose of the demonstration was not clearly defined. Safety analysis activities were deficient, there was a lack of appropriate consultation, the design and management of the education program was deficient and last-minute changes to the plan by CASA compromised the trial. It should also be noted that there was no legal basis
upon which CASA could progress such a trial, but it did anyway.

The running of the class G trial also put CASA in a conflict of interest situation. It was both the advocate of changes to airspace management and the safety regulator of those changes. So, rather than focusing on its core business, safety compliance, CASA launched into airspace design—with the support of the minister, I must add. A Christmas message from Mick Toller to his staff on 18 December 1998 said it all. This is after the trial had been abandoned. He said that the reorganisation of the authority plodded on to a timetable agreed by CASA officers, and he continued:

... now that my time is no longer hijacked by Class G Airspace I shall give this vital issue close attention in the new year.

Mr Toller was right: the authority’s resources were hijacked by the class G trial. That should never have happened. It is an interesting admission that he should make to the staff of the authority.

I now want to go to a more recent example of what has clearly been a problem waiting to happen for some time, and that is the issue of fuel quality and the role of CASA. The distribution of contaminated fuel by Mobil and its agents at the end of last year put lives at risk and will result in a cost of tens of millions of dollars, in all likelihood. Much of that cost has been borne by regional Australia.

The role of the authority in overseeing the distribution of aviation fuel has been the subject of considerable debate within CASA—and, before it, the Civil Aviation Authority—from 1991 onwards. In fact, from that date staff at district offices continued to monitor fuel distribution even though it was no longer mandatory to do so. In September 1993 a meeting was held with Sydney, Melbourne and Moorabbin based Civil Aviation Authority staff to discuss the auditing of fuel distributors. The meeting proposed that audits of fuel companies commence immediately and that legislation be introduced to provide for enforcement of the audit trials of the complete fuel distribution chain. At the end of 1995 a number of CASA officers were even involved in a special training program that went to the issue of fuel security, but that training program was prematurely terminated by the authority.

At the same time the then general manager of airworthiness with CAA, Mr Frank Grimshaw, told a regional manager, Mr Alan Frew, not to proceed with a planned ASSP audit of Shell Australia. In an email dated 26 March 1997 Mr Grimshaw said that the CASA Safety Committee had recommended that existing certificates of approval held by oil companies under regulation 30 be cancelled. Mobil was issued with such a certificate of approval under civil aviation regulation 30 as far back as 12 April 1974. That certificate required Mobil to manage its affairs in relation to the distribution of fuel in accordance with, among other things, an effective and CAA audited quality control regime. While the conditions imposed by the certificate and the role of the then CAA did not go to the manufacture of aviation fuel, the audit process imposed on companies was an important discipline on both the production and the distribution of fuel.

On 11 January 1996 Mobil applied for a new certificate of approval from CASA which related to the manufacture and distribution of aviation fuels. A note for file in CASA dated 16 June 1997 says that that application was put on hold until the situation with regard to whether or not oil companies will hold a certificate of approval is resolved. It is still not resolved. In a letter to the Technical Director of the Australian Federation of Air Pilots, Captain Tom Russell, dated September 1997, the acting CASA director, John Pike, said that a review of requirements regarding the control of aviation fuel would be done as part of the Regulatory Framework Program. This debate then continued until 1998, with a number of district offices still continuing to audit fuel distribution systems. We are now looking at a comprehensive inquiry into the whole issue by the Australian Transport Safety Bureau that, I am told, will take up to 10 months. Of course, a review of fuel security by CASA as part of the process that is developing the new civil aviation safety regulations is taking place. It was the Regulatory Framework Program.

According to Mr Toller, there has been yet another organisational change, and this proc-
The debate about the role of CASA in the supply of fuel to the aviation industry has continued within the authority for nearly a decade without resolution. Doesn’t that say a lot about the organisation? The bill before us is designed to facilitate change in the management of aviation safety in this country. I hope, for the sake of both the authority and the Minister for Transport and Regional Services, that the minister takes the opportunity to refocus CASA on its core business. That core business—and I should not need to say this—is aviation safety.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (11.06 a.m.)—I thank senators for their contributions to the debate. Senator O’Brien’s contribution had nothing to do with the Civil Aviation Amendment Bill 1998, although I think he did make reference to it in the final sentence of his speech. Senator O’Brien highlighted a great number of the inefficiencies in civil aviation safety that developed under the previous Labor government. Those of us who have been here for some time remember that Senator Collins’s reign as transport minister in charge of aviation was one series of disasters after another. It is a pity Senator O’Brien was not around the Labor Party in those days. I understand he was in Sydney at the time.

Senator Sherry—That’s not true, you idiot!

Senator IAN MACDONALD—Isn’t it true?

Senator Sherry—That is totally untrue.

Senator IAN MACDONALD—So he was around. Well, if he was around, it is a pity that he did not help Senator Collins and the other Labor transport ministers with the mess they got themselves into with aviation safety.

Senator O’Brien mentioned some problems with fuel distribution. He quite rightly proved the point that I now make: that the changes in fuel distribution—the changes that he now criticises—all seem to have occurred in 1991 and the years following during which time various Labor ministers were in charge. I suppose that one would say the problems were not directly related to the then minister, as they were problems with the manufacture and not the distribution of fuel. Senator O’Brien has talked about distribution. The problems that have been identified recently at great cost to the community have been related to manufacture. I might say in relation to those problems that Mr Anderson, when they arose, was in constant touch with CASA over them, and remedial action was put in place at the very earliest possible time. They are problems which have caused real loss to Australia, and to regional Australia in particular. They are problems that Mobil will have to address. But they are problems that, since becoming known, the government and CASA have attended to in the most expeditious and proper manner.

We all remember the absolute disaster of the Labor Party’s handling of the TAAA TS installation. That resulted in a court case, and I think Senator O’Brien raised a question in the recent estimates about the cost to the Commonwealth of that. From my recollection of those days in the Senate—and I do not have any notes on it—it was a cost that could be directly attributed to the incompetence of the Labor minister at the time. The way the then Labor minister, in his incompetence, dealt with it allowed Hughes Aviation to sue and extract a lot of taxpayers’ money from the Commonwealth. Again I do not have the figure in front of me, but I recollect from estimates that, just in legal fees alone, we were up for a bill of around $50 million—wasn’t it, Senator O’Brien? I think you asked that question, and that is what you would be told in answer. Whatever it was, it was a very large sum of money and it was all directly, I suggest, related to the incompetence of the Labor minister at the time.

Fortunately that has changed. Mr Anderson, a very careful and able minister, is in charge of our aviation policies. His November 1999 statement about a measured approach to air safety reform really sets the direction for air safety and reform of air safety organisations into the future. As Senator Greig and Senator Mackay rightly noted, these particular pieces of legislation are all about making civil aviation safety simpler and more pertinent at all levels and
are aimed at making civil aviation safer for the travelling public and travelling operators, including private operators and companies.

So I thank senators for their contributions. I thank Senator Mackay and Senator Greig for their support for the bill and their indication that there will be no objection to it. I table the supplementary explanatory memorandum to the bill.

Question resolved in the affirmative.

Bill read a second time.

In Committee

The bill.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (11.12 a.m.)—by leave—I move:

(1) Clause 2, page 1 (line 9), after “17,”, insert “17A;”.

(2) Clause 2, page 2 (after line 4), at the end of the clause, add:

(4) Item 26A of Schedule 1 is taken to have commenced on 15 June 1988.

(5) Item 27A of Schedule 1 is taken to have commenced on 6 July 1995.

(3) Clause 4, page 2 (after line 25), after sub-clause (2), insert:

(2A) For the purposes of section 97AB of the Civil Aviation Act 1988, a fee that:

(a) was charged to a person at any time before the commencement of this subsection by an external service provider for a service provided under that Act, under regulations under that Act, or under the Civil Aviation Orders; and

(b) disregarding the amendments made by items 26A and 27A of Schedule 1, was validly charged;

is taken to have been agreed between the external service provider and the person.

(2B) The amendments made by item 27A of Schedule 1 do not affect the validity of any regulation made before the commencement of that item, so far as the regulation prescribed fees other than for services provided by, applications or requests dealt with in any way by, or anything done by, an external service provider (within the meaning of section 97AB of the Civil Aviation Act 1988).

(4) Schedule 1, page 4 (after line 23), after item 17, insert:

17A Paragraph 28(1)(c)

Omit “domestic commercial”, substitute “regulated domestic”.

(5) Schedule 1, page 7 (after line 24), after item 26, insert:

26A After section 97AA

Insert:

97AB Charging of fees by external service providers

(1) An external service provider may charge a person such fee as is agreed between the external service provider and the person for any service provided by the external service provider under this Act, the regulations or the Civil Aviation Orders.

(2) The fee is payable to the external service provider.

(3) The fee must not be such as to amount to taxation.

(4) If the fee is unpaid, it is a debt due to the external service provider and is recoverable in a court of competent jurisdiction.

(5) In this section:

external service provider means a person who is the holder of a delegation under this Act or the regulations, or who is an authorised person within the meaning of the regulations, other than a person in any of the following capacities:

(a) a member;
(b) an officer;
(c) a person who provides services to CASA under a contract with CASA;
(d) a person who, under a contract with CASA, provides services to the public on CASA's behalf;
(e) an employee of a person referred to in paragraph (c) or (d).

provide a service includes deal with an application or request or do anything.

27A At the end of paragraph 98(3)(u)

Add “, other than services provided by, applications or requests dealt with in any way by, or anything done by, an external service provider (within the meaning of section 97AB)”.

Senator O’BRIEN (Tasmania) (11.12 a.m.)—I want to make some comments particularly in relation to the amendment to insert the new section 26A after section 97AA. It appears on sheet EU253, or at least it does on the one I have. Can I ask the minister for some further explanation about the intent of the amendment? Whilst he is seeking that, I
might make some comments as to the general issues that underpin this bill because I would not want the minister’s comments in his second reading speech to be taken on their face. Certainly I can tell him that, in 1991, I was a resident of Tasmania and had been for some time. Perhaps before shooting from the hip, he should get some facts by doing a bit of biographical research. But I do not think that is particularly germane to the subject which is before us.

In relation to the other comments which were made, I must say that I make no apology for seeking to ensure that the focus of the Civil Aviation Authority is properly directed towards aviation safety and is not distracted, as it has been. I might say that the distractions from aviation safety seem to coincide with the election of the Howard government in 1996, the appointment of Mr Smith as chair and the ministerial direction of Mr Sharp. I did outline that in my speech, and I make no apology for doing so. But in terms of the issue it raises, I would appreciate the minister giving us some further information. I would ask him to address particularly the issue which is set out in the new 97AB(3) where it says, ‘The fee must not be such as to amount to taxation.’

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (11.15 a.m.)—The clause means exactly what it says. It is a fee for service. It is quite obviously not a tax, but the clause is included no doubt by the parliamentary draftsman to put that beyond any doubt. I do not think there is any doubt. The clause means what it says and I cannot take that any further.

Amendments agreed to.

Bill, as amended, agreed to.

Bill reported with amendments; report adopted.

Third Reading

Bill (on motion by Senator Ian Macdonald) read a third time.

PETROLEUM (SUBMERGED LANDS) LEGISLATION AMENDMENT BILL 1999

Second Reading

Debate resumed from 1 September 1999, on motion by Senator Heffernan:

That the bill be now read a second time.

Senator GREIG (Western Australia) (11.23 a.m.)—The Petroleum (Submerged Lands) Legislation Amendment Bill 1999 has a rather droll and innocuous title, but the Democrats are concerned that it is in part a Trojan Horse. We Democrats are alarmed by aspects of the government’s Petroleum (Submerged Lands) Legislation Amendment Bill now before the Senate which favours the petroleum industry and may prevent environment groups from lawfully protesting. Parts of this bill will ensure that environment groups such as Greenpeace—and Greenpeace in particular—are prevented from exercising their right to peacefully protest against the fossil fuels industry. We are very concerned that this legislation, supported by the government and the opposition, is targeted in part at trying to stop environmentalists from peacefully protesting against oil and petrol companies by threatening protesters with what I believe are excessive fines and the outrageous notion of imprisonment for such crimes.

This legislation carries with it a penalty of 10 years imprisonment for acts of trespass in connection with petroleum exploration, in addition to the penalties for trespass which already apply under federal law. The legislation includes the provision for a much wider application of criminal penalties and could even mean imprisonment for interfering with operations carried out in connection with petroleum related activities. This means, for example, that people protesting from a wharf about an oil rig near the Great Barrier Reef who may delay or prevent equipment being supplied to that rig or ship at sea could face up to 10 years imprisonment.
The possible wide application of this legislation, combined with the additional penalty of imprisonment, is excessive and goes well beyond what is necessary to protect the safe operation of an offshore structure and its employees. Entry onto a production or exploration facility is already covered by the common law tort of trespass similar to that which applies to trespass onto another person’s property, be it on land or at sea. There is no reason why the law should be weighted so heavily in favour of one particular industry against another’s right to peacefully protest. We see this very much as an anti-Greenpeace bill and for that reason oppose it.

Senator SCHACHT (South Australia) (11.26 a.m.)—The opposition rises to indicate that it will support this legislation. We understand there may be some government amendments. Are there any government amendments?

Senator Abetz—No, they were done in the House.

Senator SCHACHT—They were done in the House of Representatives and incorporated in the bill. In the House my colleague Martyn Evans the shadow minister for resources, indicated support for those amendments, so they are already incorporated in the bill. I will not reiterate the very lengthy, thoughtful and detailed speech made by my colleague Martyn Evans in the House of Representatives on this bill on 26 August last year. While supporting the bill, he made a very thoughtful contribution about the resources industry and a number of the issues in the broader context that the government and the community should deal with. We indicate our support. We notice there is an amendment from the Democrats which Senator Greig has already spoken to in the second reading debate, and I suspect will speak again in the committee stage of the bill.

Senator Abetz—I do not think there is an amendment. They are just opposing it.

Senator SCHACHT—They are opposing the whole bill or the clause?

Senator Abetz—The clause, as I understand it.
obedience is accepted as a legitimate form of protest.

I think this penalty has been increased to 10 years. This is not a mandatory sentence, unlike that dreadful piece of legislation in the Northern Territory and Western Australia, which is at the moment of great debate, where the magistrate has no discretion about the penalty to be imposed, cannot consider the circumstances of the offence and must impose a jail sentence. We saw that dreadful incident last week in the Northern Territory where an orphan boy, jailed 800 miles away from his community, committed suicide. We now see that debate raging in Australia, quite rightly. The opposition has made its position clear on mandatory sentencing, but this does not impose a 10-year mandatory sentence—

Senator Ian Macdonald—What is your position on mandatory sentencing?

Senator SCHACHT—We have made it quite clear from the very beginning, Senator Macdonald. I know rednecks like you would lock everybody up for a parking fine if you thought it would be of advantage to you for political reasons. We have made it clear for a long time that, at a federal level, we do not support mandatory sentencing. The discretion of the judge should be allowed. If you believe the incident last week in the Northern Territory, Senator Macdonald, is one of which Australia can be proud, then you really have a quite different and alien political philosophy to me and most others in the Australian community.

It is not a mandatory 10-year sentence and, if it was, we would oppose it. We point out that, if people interfere and put at risk, for example, the occupational safety of employees, either on a boat or an oil platform, then people have to accept the consequences of a demonstration that has gone beyond making a political point and publicising it. If it has put at risk someone else's life or wellbeing, then a much more severe penalty ought to be imposed, but that is left to the discretion of the judge if the case is brought before the courts. We believe that, on balance, this government proposal can be supported.

I would agree with Senator Greig that if a Greenpeace demonstrator in a rubber boat sailing around an oil tanker in Sydney Harbour got a 10-year jail term—I do not think they would get that, but if those sorts of draconian penalties were imposed—the community outrage would be such that the government of the day would be forced to amend the act if that is how it was implemented and turned out. We do not believe that will happen. Therefore, we support the bill as amended from the House of Representatives and commend it to the Senate.

Senator ABETZ (Tasmania—Parliamentary Secretary to the Minister for Defence) (11.33 a.m.)—I thank the contributors to this debate—in particular the opposition, who have indicated they will not be opposing the legislation. This bill proposes amendments to the Petroleum (Submerged Lands) Act 1967 and a consequential amendment to the Petroleum (Submerged Lands) (Fees) Act 1994. The amendments are intended to improve government administration and the efficiency of industry exploration for, and production of, petroleum resources in offshore areas subject to Commonwealth jurisdiction.

It appears that there is agreement in this chamber in relation to all the provisions in this bill, other than the new provision which will be appearing as section 124A. Senator Greig has made some comments in relation to that particular provision. It might be worth while to read out for the benefit of those listening and for the Hansard record what the clause actually says. Keep in mind the comments of Senator Greig talking about a 'peaceful demonstration'. Section 124A states:

(1) A person must not intentionally or recklessly:

(a) cause damage to—

hardly, with respect, the product of a peaceful demonstration—
or interfere with ...

Once again, a peaceful demonstration should not be interfering with people’s lawful rights to go about their activities within this society. I would have thought that was fully acceptable.

I am sure Senator Greig would not like it if people who disagreed with what he was doing were to block his pathway into his office...
or into Parliament House so he could not make his contribution to the Australian people. Undoubtedly, he would seek the assistance of law enforcement agencies to enable him to go about his rightful duties as a senator in this chamber. Similarly, we believe it appropriate that there be provisions to ensure that people involved in offshore petroleum installations or operations are protected. Sure, the maximum penalties are quite high, but Senator Greig, I am sure, would acknowledge—if not within this chamber, then privately—that the range of activities covered by this can be from a very simple standing in the way of and interfering in that way, right through to risking lives on oil rigs and, as a result of that interference, possibly occasioning an environmental disaster. Those demonstrating and haranguing the workers on the rig could be doing so in such a way that an environmental disaster could in fact occur. I am sure Senator Greig as well would not wish that to happen. It is a question of the range of the type of activity that might be engaged in by the perpetrators as to the range of penalty that might be meted out in relation to any particular incident.

The Democrats put on the public record what their view was in relation to this bill and, in particular, section 124A, in a media release that Senator Greig issued on 28 September 1999. A number of comments were made in that which unfortunately need to be answered. Indeed, Senator Greig repeated in his speech the example of protesting about an oil rig on the Great Barrier Reef. As I understand the law of this country, that will not occur because oil exploration, et cetera, on the Great Barrier Reef is not allowed. So the example that Senator Greig raises is very emotive to those listening and reading the media release until you realise that that is already not allowed within this country. So the example that is being postulated or proffered to us is in fact an example that would be against the law in any event. Those people seeking to drill or dig in the Great Barrier Reef would be subjected themselves to criminal penalties for undertaking that activity.

He then suggests in this media release that entry onto a production or exploration facility is already covered by the common law tort of trespass. Well, my goodness. I suppose to a certain extent home invasions are also covered by the common law tort of trespass, but do you really expect that a home owner should have to take somebody to court to get an injunction to say, ‘This criminal should not be allowed back into my home,’ and to seek a common law order under tort? If that is his argument, then he would have to say that that ought to apply for a home invasion as well. If not—and I would imagine 99.9 per cent of the community would argue that there ought be a criminal type sanction against those people who invade homes—then those who seek to invade exploration facilities or production facilities should similarly be subjected to the criminal law, especially, might I add, on production or exploration facilities where any such interference could place at risk the lives of workers and occasion environmental disasters if workers are distracted from the role that they are to undertake. I think that responds to the matters raised by Senator Greig. I thank honourable senators for their contribution during the second reading debate.

Question resolved in the affirmative.

Bill read a second time, and passed through its remaining stages without amendment or debate.

AUSTRALIAN CAPITAL TERRITORY (PLANNING AND LAND MANAGEMENT) AMENDMENT BILL 1999 [2000]

Second Reading

Debate resumed from 17 February 1999, on motion by Senator Abetz:

That this bill be now read a second time.

Senator MACKAY (Tasmania) (11.42 a.m.)—I wish to make some comments with regard to the Australian Capital Territory (Planning and Land Management) Amendment Bill 1999, which has been considered at great length by various levels of government and also by a number of committees. I think it would be useful to go through some of the history in relation to this. Before I do that, I wish to make some preliminary comments in relation to Canberra, obviously.
As our nation’s capital, Australia’s founders were determined to see, correctly so, that effective planning and land management would ensure that Canberra would be and would remain a national asset to be used for the benefit of the whole nation. This bill, in seeking to extend the maximum term of a lease in the ACT from 99 years to 999 years, we believe, attacks one of the central pillars put in place by the founders to fulfil the intentions with regard to our national capital.

At the time of Federation, land speculation was rampant in Australia. Large tracts of land were alienated and there was much speculation in land in anticipation of unearned gains from its potential use and development. Australia’s founders were determined to see that such rampant speculation of land was not repeated with regard to the development of the national capital. At the time of Federation, public ownership and leasehold tenure was seen as a way of passing on unearned increases in the value of land to the whole community rather than individual land-holders. The principle of public ownership of land was given expression in section 125 of the Constitution, which states:

The seat of Government of the Commonwealth shall be determined by the Parliament, and shall be within territory which shall have been granted to or acquired by the Commonwealth, and shall be vested in and belong to the Commonwealth ...

This constitutional decree, that land for the national capital be vested in and held by the Crown as Crown land, is further enacted by section 9 of the Seat of Government (Administration) Act 1910, which states in part:

No crown lands in the Territory shall be sold or disposed of, for any estate of freehold ...

This captures the essence of what has become subsequently the unique status of the national capital and is what has led to the adoption of fixed term leases of no more than 99 years.

There are three principal reasons behind the adoption of the leasehold system that operates in Canberra currently. Firstly, the leasing of land was seen as a way of ensuring orderly development by placing conditions on the granting of leases. By leasing the land, the Commonwealth government could provide sites at low capital cost for housing and for public and community services as well as for commercial services.

Secondly, leasehold provides a means of planning the city so that it is developed in a predictable fashion. Leasehold could prevent speculation in allotments by requiring building within a specified period, thus establishing stability and predictability of land use. This issue was picked up by one of the plethora of inquiries that have been made into the leasehold system in the ACT—the 1988 Report on the Canberra Leasehold System prepared by a joint subcommittee of the Senate Standing Committee on Transport, Communications and Infrastructure of that time. The joint subcommittee concluded:

Canberra land is a national heritage to be safeguarded and used for the benefit of the nation and its capital. Leasehold tenure ensures that ownership of the land remains in the public domain for the benefit of all Australians. Not only does the leasehold system serve the Territory’s National Capital and Seat of Government characteristics but it serves the interests of the local Canberra community by ensuring orderly development in a predictable fashion and by preventing speculation.

This bill today seeks to extend the maximum term of a lease in the ACT from 99 years to 999 years. This idea has been floated on numerous occasions in the past. In fact in the last 25 years, the leasehold system in the ACT has been reviewed 13 times. Each of these reviews has in some way or another focused on the future of the leasehold system.

Of the four most recent reviews, three rejected a move to leases in perpetuity or freehold, while the most recent review by the Senate Rural and Regional Affairs and Transport Legislation Committee saw government senators on the committee conclude that a change was needed, while Labor senators rejected this idea. The bill that comes before us today, in the wake of so many reviews that have already looked at this issue closely, is less about the real value of the leasehold system in the national capital and, in our view, more about political opportunism by the government.
Before the last election in the territory, the then Deputy Chief Minister, Mr Humphries, made clear his party’s intention to move towards 999-year leases if they returned to office. In the subsequent inquiry into this bill by the Senate Rural and Regional Affairs and Transport Legislation Committee in April 1998, the ACT government submission into the inquiry cited the need to encourage business investment as the driving force behind this bill.

This bill actually, however, from our perspective, is an ill-prepared and ill-understood proposal that was used during the election to take advantage of an apparent perception that business investment in the ACT is discouraged because of the 99-year lease arrangement. However, on questioning by the committee during this most recent Senate inquiry, the ACT government could provide no examples or illustrations to support their argument. In fact, evidence heard by the committee from Ms Gaylor, Assistant Secretary of the ACT Liaison Unit at the time, indicated ‘there is no definitive research that has been used to establish this position’. Evidence provided to the committee by Professor Neutze in fact contradicted this argument. He submitted:

There is ample evidence from my studies of the operation of the leasehold system in Canberra and other places that leases of less than 100 years do not cause insecurity which inhibits investment.

The present relatively low levels [of investment] result from a shortage of demand not from the limited terms of the leases.

What the territory government and its federal counterpart should be concentrating on, if there is a genuine interest in addressing any apparent perception in the community that investment in the territory is suffering, is ideas of substance that will attract business and investment that comes with it to the territory. Yet what we have seen in recent times is the Prime Minister delivering another significant blow to the future of Canberra.

Two years ago the Prime Minister decided that Canberra as the capital of Australia would be the perfect location to host CHOGM during the Centenary of Federation. For the first time, from our perspective, the Prime Minister was showing signs of an attitudinal change to his approach to the ACT. This is the same Prime Minister who refuses to live in the official residence of the Prime Minister, the Lodge, because it is in Canberra, and who prefers to live in Kirribilli. He seemed to have had a rethink. In the weeks before the ACT election, the Prime Minister announced that Canberra was to host CHOGM. Fifty-five heads of state and their entourage would be coming to Canberra. This would obviously provide an ideal opportunity for the ACT to showcase Australia and its capital. Canberra’s hotels and businesses began to prepare, and bookings were made. It was going to be a good event and very important in relation to the economic future and development of the territory. As we all now know, the rest is history: the carpet was pulled out from under the ACT and it was dismissed as an appropriate venue for CHOGM.

Almost two years after the original announcement, after reservations had been made and business had begun gearing up for the event, the Prime Minister decided that Canberra—our capital which has hosted presidential parties and international delegations—would not be able to accommodate the CHOGM meeting. From our perspective, if the Prime Minister believed that, then he really should have made that announcement earlier before these preparations were made, not leaving businesses in Canberra out on a limb with regard to the siting of CHOGM and with regard to an appropriate assessment of facilities that were available for CHOGM.

We know that there are now more accommodation facilities in Canberra than there was two years ago when the announcement was made. In the weeks before and after the announcement, no-one suggested that Canberra would not be able to accommodate the meeting. The point we are trying to make here is that if there was a problem why was it not raised earlier and why were the expectations not put in an appropriate context earlier, rather than after the election in the ACT?

One of the consequences of withdrawing CHOGM from Canberra at this late stage has been that this apparent perception of Canberra as unable to attract business and long-term investment has been reinforced by the
Prime Minister, wittingly or unwittingly. If the federal government and the Carnell government in the ACT are serious about confronting any apparent perception in the community that is affecting Canberra’s business and ability to grow, then really it would be appropriate to stop detracting from this issue by wasting everybody’s time, the time of this chamber and so on with what is really an empty and unsubstantiated proposal relating to the leasehold system in the ACT and to start getting some real action with regard to focusing on events and ways of bringing investment into Canberra.

If the Prime Minister thinks Canberra is inadequate to host such a meeting, if he thinks its airport is too small—as was suggested—and its Convention Centre undersized, then really he should have thought very carefully before he made the commitment to the Canberra community with regard to CHOGM. Many businesses spent time and money in planning and in turning away other business in order to prepare the space and facilities to ensure that Canberra was available for that meeting. These businesses had a vital boost to their industries taken away; and they must be compensated for the further loss resulting from turning away real business in anticipation of and in reliance on the Prime Minister’s public undertaking.

In terms of downgrading Canberra as the nation’s capital, I understand it is the view of the people in Canberra that this is a greater insult than the fact that the Prime Minister refuses to live here and lives instead in Sydney. Their view—and I think correctly so—is that his refusal to live in Canberra is, wittingly or unwittingly, a public display of lack of confidence in the nation’s capital. Further, we now have an indication that—again, wittingly or unwittingly—he has sent a clear message to the international community about Canberra’s ability to hold national meetings and conventions, something which, I suspect, will take the territory some time to recover from.

The bill before us today has in its sights the wrong target. Almost every report that has looked into the leasehold system in the ACT in the past 25 years has concluded that any perceived negative effect on business is unsubstantiated. The Whyte report in 1983 rejected perpetual leasehold as unnecessary, unjustified and inconsistent with the Commonwealth’s ownership of land. The Langmore report of 1998 rejected leases in perpetuity as being fraught with contractual difficulties and as weakening the government’s control over the use of land in the national capital. The Stein report of 1995 rejected conversion to a system of leases in perpetuity or freehold because of the control associated with leasehold in terms of planning and development in the ACT, a central tenet of the management of land in our Capital Territory. The Stein report concluded that there was no evidence that leasehold tenure inhibits investment in the ACT. No evidence was produced for the review that investment was not occurring in the territory as a sole consequence of the leasehold system.

This was also the case in relation to the most recent inquiry by the Senate Rural and Regional Affairs and Transport Legislation Committee in April 1998. No evidence was presented to the committee to support the ACT government’s assertion that the leasehold system in the ACT was having a detrimental effect on business. Paradoxically, the committee in fact had evidence presented to it that a change to leases may cause a reduction in investment and development in the ACT. This would be a result of land values being artificially increased due to the changed lease arrangements. This was the evidence that the committee had before it. This would ultimately represent an increase in cost to new businesses established in Canberra.

Senator Ian Macdonald—Who gave that evidence?

Senator MACKAY—You will have your chance, Senator Macdonald.

Senator Ian Macdonald—I said, ‘Who gave the evidence?’ I am simply asking who gave it.

Senator MACKAY—Nine-hundred and ninety-nine-year leases may facilitate unrealistic increases in land prices giving rise to instability in land management and planning system—and so undermining the unique structures in place in Canberra to ensure that
this public land is to remain a national asset to be used for the benefit of the whole nation.

This federal government and the Carnell government in the ACT should stop wasting the time of the Australian people in pursuing a change for which they have produced no evidence whatsoever that the desired effect will be achieved. Further, this is a change that may indeed have a detrimental effect on businesses coming into Canberra—added to, I might say, by the debacle with regard to CHOGM. More significantly, it undermines and devalues the unique status Canberra has been given as the nation’s capital. It is our national asset. It is there for all Australians to enjoy and for all Australians to be proud of. This is guaranteed through the planning and land management system that operates here.

If the federal government and the ACT government really want to attract business to Canberra, they should focus on the damage that the Prime Minister has recently caused and continually reinforces by the contempt he displays for the national capital. The Carnell government should be channelling its energy into ensuring that events like CHOGM do in fact end up at the nation’s capital and that the Prime Minister’s commitments are worthy of being honoured. The Carnell government should be up here lobbying the Prime Minister instead of wasting this chamber’s time in putting forward an empty proposal that does not address the substantive issues to hand and for which there is no empirical supportive evidence at all. We do not support the bill.

Senator LUNDY (Australian Capital Territory) (11.57 a.m.)—As you have heard from my colleague Senator Mackay, the Australian Capital Territory (Planning and Land Management) Amendment Bill 1997 is about deflecting attention away from the coalition’s neglect of both Canberra, the community, and Canberra, the nation’s capital. I know that Canberrans have very long memories of that sense of withdrawal from the ACT that the coalition government perpetrated through the Commonwealth public sector as well as the symbolic withdrawal that Senator Mackay has spoken about this morning with regard to the Prime Minister refusing to reside here and allowing that decision to be shrouded in very specific references to his antagonism towards Canberra as the seat of government and the public sector per se. So it is worth just reflecting on the environment within which this came forward. At the time, it gave the coalition and the ACT Liberal government something to talk about. It gave them something to put on their agenda that was not in perpetual defence of the damage that they were inflicting on the local community and the local economy.

There is absolutely no evidence that the present system of leasehold in any way constrains or hinders financial investment in the ACT. The ACT Liberals are yet to produce one piece of substantive evidence demonstrating that commercial enterprises are shunning the ACT due to its leasehold system. Interestingly, time has caught up with the ACT government and the federal coalition on this, as the ACT economic outlook is now quite optimistic. There is improving investment in the ACT at the moment, driven primarily by a new technology and information technology services sector. I do not see any complaints emanating from those industries specifically on this issue.

In fact, it raises a query I have about the government’s ushering in of this bill at what was certainly short notice as far as the opposition is concerned. We know it has been languishing on the bills list for quite some time, but where was the urgency last year? Could it be that this has been brought forward because, once again, the coalition’s name stinks in the ACT? Senator Mackay has already spoken at length this morning about CHOGM. Was there ever a more cynical and appalling trick played on a community than to make an announcement to remove such an important event on New Year’s Eve of the year 2000, as the Prime Minister did? So you
will have to excuse me for taking a fairly
cynical view of the presentation of this bill
now, its construct in the first instance and
indeed the way in which the government,
both federally and in the ACT, persists in
trying to hang some sort of argument and
reason for the progression of this matter on
the claim that the present system is hindering
investment in the ACT. The bottom line is
they just need to get it through, even though
the substantive argument about this concern
that commercial enterprises have about in-
vesting in the ACT has actually been blown
out of the water, because things are improv-
ing here. So they thought they had better
usher it through so they do not get red faces
either at the next ACT assembly election or
indeed when Senator Reid faces the voters of
Canberra and they ask her, ‘What have you
done for the ACT in the last three years?’ She
might be able to refer to this piece of useless
legislation as some sort of platform, but I
suspect that the discerning voters of Canberra
will not fall for that.

It is interesting that the ACT government’s
submission to the inquiry into this bill pro-
vided no concrete or empirical evidence to
support their claims. In fact, the ACT gov-
ernment’s submission was poorly presented
and poorly researched. It was deficient in
many respects—but it particularly lacked
evidence to support the issues presented in
this bill. This is now the sixth major inquiry
into the ACT system of land management
and, I repeat, there is no evidence to support
the claim that businesses, commercial enter-
prises, reject investing in the ACT because of
99-year leases.

This legislation will not deliver any tangi-
ble or substantive benefits to ACT residents.
In fact, all the available evidence from the
experts gives weight to the argument that it
may well have a negative impact on the ACT
economy. It starts to look like a pretty comp-
pelling set of facts to warrant the withdrawal
of this bill but, for the reasons I explained
earlier, this government are really committed
to putting it through. They need something to
hang off some pitiful claim in the future that
they have even turned their mind to the ACT
in any way that is other than completely
negative.

Every inquiry into land management in the
ACT indicates that this legislation will result
in a reduction in investment and development
within Canberra. Isn’t that interesting evi-
dence in the light of what I have said about
the economy on the improve here? The last
thing we in the ACT need is anything that
could possibly put a spanner in the works of
the steady growth that we have been experi-
encing. Consequently, land values here may
in fact artificially increase, and it may well be
that new businesses will bear the brunt of
increased fees associated with this.

Another concern is that land speculation
may also increase, which could result in in-
stability and fluctuations in prices. These are
not desirable outcomes, and I have been
around certainly long enough in the ACT to
understand that we need consistency and con-
fidence in the marketplace in terms of in-
vestment. We do not need any sense of cre-
ating a volatile situation either in the property
market or in commercial investment gen-
erally; and land management, like most juris-
dicitions in the country, is a point of great
sensitivity in this regard.

The truth is that a properly administered
leasehold system will deliver more benefits
to ACT residents than will a change to a 999-
year lease. The ACT, as I said, is currently
enjoying an optimistic period, and house
prices have been steadily increasing after
reaching an all time low at the height of the
coalition’s structural and economic damage
to Canberra by their refusal to continue to
retain a presence.

Senator Ian Macdonald—Why is it go-
ing up now then?

Senator LUNDY—I will just acknowl-
edge that interjection. It is certainly not going
up because you are moving to 999-year
leases, Senator. So let us get a grip on why
this legislation is here in the first place. In
fact, you have just reinforced my whole argu-
ment, so I thank you for that interjection.

It is interesting that the urban areas on the
fringe of Canberra that do not operate on the
ACT leasehold system do not necessarily
attract—do not attract, according to evi-
dence—a higher level of investment than
Canberra. Queanbeyan is not experiencing
the same property and development uptake as are the areas inside the actual ACT boundaries. That, in itself, indicates that this legislation will not produce the benefits that the Liberal Party misleadingly claim it will.

It is important to note that other cities operate under leasehold and that they have no problems attracting investment. I would like to mention several international cities that do this. They include Singapore, Stockholm, London and Amsterdam, just to name a few. The four reviews of the land management system in the ACT all found that changing to perpetual leases will not increase the commercial attractiveness of the ACT. In fact, every one of these reports, as I have already mentioned, argued that the capacity to have a renewable lease based on a specific term is advantageous to the ACT.

Commercial enterprises will potentially face a problem of renewal if perpetual leases are granted because businesses will have to give up their existing lease and apply for a new one. I do not hear a lot of commentary or ideas from the government about this transition process and how it will potentially affect current businesses. But I have to say that it is not the habit of the ACT government to concern themselves with existing businesses that are trying to grow in the ACT. They persist, as so many conservative Liberal governments do, on focusing their attention on new people coming into town. They forget about the businesses that have committed themselves and invested in Canberra for a long time. I want to know what will happen to them during the transition process.

That transition will not automatically happen, especially if the nature of those businesses has changed. They will also have to meet, no doubt, some sort of exploitative revenue raising mechanism of administration fees in the midst of that transition process. For the record, the 1976 land tenures inquiry did not recommend perpetual leases for commercial purposes. The 1983 Whyte report found that perpetual leaseholds were not only unnecessary and unjustified but also inconsistent with Commonwealth ownership of land. It found that perpetual leasehold would weaken the leasehold system in the ACT and destroy its effectiveness as a planning tool. The 1998 Langmore report found that contractual differences would exist under perpetual leases and that, again, it would undermine the Commonwealth’s relationship with land in the ACT. The 1995 Stein report also rejected shifting to a freehold system. Not surprisingly, this report could find no direct evidence that the present system of leasehold in the ACT constricts commercial investment in the ACT. That is the core of the argument on which the Liberal government has progressed this legislation.

These four commissioned reports were initiated by both Labor and Liberal governments. They cover the period before and after ACT self-government. Not one of these reports recommended the type of legislation that we are currently debating here in the chamber. So why is it here? I have mentioned some reasons. I have mentioned the fact that it seemed to pop up at a time originally when Canberra was really suffering and the Liberals were desperate to find something that they thought was positive to talk about. So much time has lapsed since 1997. Because we are here in the year 2000—that point should not be lost on anyone who sought to advocate this bill when it was originally mooted back in 1997—the argument that there will be less investment in the ACT has actually passed them by. It is three years too late, if there were any substance to their claim in the first instance. I have just demonstrated specifically that there was not. Three years down the track is just not good enough.

Who is this government trying to kid? I will be so interested to see the type of rhetoric that Kate Carnell seeks to hang off this bill on this issue over the next few days. The people of Canberra are more concerned about the ongoing damage and ignorance displayed by the coalition government towards Canberra as a community. Mr Lieberman in the other place said on 10 March 1999 that the basis for this bill was the ACT Chief Minister’s request, because she obviously wants to see her vision for the ACT fulfilled and enhanced. I am sorry, but Mrs Carnell’s rhetorical vision for Canberra should not be the basis of a federal legislative change of this type.

I do not believe that the mantra of the 999-year leases will do anything to halt the dam-
age that the coalition has done to Canberra. We have been through a period of severe economic hardship and thousands of people losing their jobs in the ACT as a result of the coalition government and the tacit compliance of the ACT government in supporting their agenda. It is not good enough to come here with this bill now and present it as though it were some remedy for a problem that does not exist in the ACT.

As a resident of Canberra and someone with a mortgage, I have a quite specific interest in this issue, as does everyone who has an interest in property in the ACT. The Canberra community will ultimately stand in judgment as to the impact of this bill. The Canberra community look toward their coalition representatives in this place and their Liberal representatives in the ACT assembly to come up with some real solutions and some recognition of Canberra as the nation's capital. They need to pay us the respect of being a regional economic centre suffering from some of the same problems and disadvantages as other economic centres in regional Australia, as many others around the world have done. We have a very special circumstance here, being the nation's capital. Is that licence for the Prime Minister to treat Canberra in the way that he has? Is that licence for him to refuse to live here and allow a connotation to be attached to that attitude that he has no respect for Canberra's place as the nation's capital and does not want to be associated with the place? Is it licence for him to perform one of the most cynical manoeuvres in pulling CHOGM out on the eve of the year 2000 new century celebrations, perhaps hoping that no-one would notice?

The irony, of course, is that he is actually hurting the people he claims to represent. He is hurting those who have invested in this place, who run businesses and who hope to look forward to a more positive future. I think that this legislation will go down in history as just another pitiful attempt by the coalition to make it look like they are even thinking about Canberra, because I do not think they are.

Senator WOODLEY (Queensland) (12.15 p.m.)—I do not want to speak for a long time on the Australian Capital Territory (Planning and Land Management) Amendment Bill 1999. I draw the attention of the Senate to the minority report on this issue given to the Senate Rural and Regional Affairs and Transport Legislation Committee which was signed by the Democrats, along with the Labor Party representatives. Let me indicate that the Democrats have not changed their minds since that report was submitted. I could go into a whole lot of theological analysis of what a 999-year lease represents in terms of human projection of the future, but I will restrain myself.

Senator Ian Macdonald—Spare us.

Senator WOODLEY—I think I should.

Senator Ian Macdonald (Queensland—Minister for Regional Services, Territories and Local Government) (12.16 p.m.)—I must say I expected the sort of response I had from Senator Lundy and Senator Mackay, who have never, ever spoken positively in favour of the Australian Capital Territory. They approach it from a political basis: because there is a Liberal government in the ACT, everything the ACT does is wrong. They are negative and carping on the ACT. Senator Lundy shows her interest in the ACT by leaving the chamber when the debate is on. But I am disappointed that Senator Woodley and the Democrats have not understood the impact of the Australian Capital Territory (Planning and Land Management) Amendment Bill 1999 perhaps as much as they might have, and I appreciate that Senator Woodley is not the regular spokesman for this area.

But, Senator Woodley and members of the chamber, can I indicate to you that this is not about changing the lease system in Canberra today from a 99-year lease to a 999-year
lease. What this federal legislation is about is empowering the ACT assembly, a self-governing body, to make a decision, should it want to. As a result of this legislation passing, not one lease will change in Canberra—not one—because that is not what this legislation is about. This legislation simply says we have enough trust and faith and confidence in the ACT government and the ACT assembly—not the government, the ACT assembly—and the people of Canberra to make a decision. If this legislation is passed, it is then for the proper authority—the government of the Australian Capital Territory—to make the decision. I correct myself again: it is not up to the government of the ACT; it is up to the parliament of the Australian Capital Territory, which of course is comprised of members of very many parties.

So this legislation is simply enabling legislation. Not one lease will change as a result of this bill being passed. This parliament set up the ACT assembly to be representative of the people of the Australian Capital Territory. This parliament had confidence in the people of Canberra to have their own self-governing territory, and what this bill does is further that confidence and say, ‘If you want to do something with the lease times in your territory, then you have the ability to do that. We, Big Brother in the house on the hill, will not stop you from doing that.’

If you are concerned about the national capital aspects of the Australian Capital Territory, then you should understand that this bill does not permit any change in the leases in the national capital parts of the Australian Capital Territory. I just clarify that by saying that, under the arrangement for land management in the Australian Capital Territory, the Commonwealth parliament has responsibility for what is called national land. Without being prescriptive on this, it is generally the land in the parliamentary triangle. So the land in the parliamentary triangle remains the responsibility of this parliament. Leases within the parliamentary triangle on national land will not change; they will remain 99-year leases. Nothing in this bill will interfere with any of the land that this federal parliament controls because it is national land for national capital purposes. What this bill does is give the self-governing assembly of the Australian Capital Territory the right to determine their own future insofar as land management is concerned.

I mentioned I was not surprised at Senator Lundy’s and Senator Mackay’s approach, because it is entirely political. But I wonder how they answer the question of why they do not have confidence in the ACT Legislative Assembly to make its own rules and make its own legislation. Why is it, senators in the Labor Party, that you believe that the electors of Queensland, New South Wales, Victoria, Tasmania, South Australia, Western Australia and even the Northern Territory should have the right to run their own internal affairs, but when it comes to the people of the Australian Capital Territory, Canberrans—the people whom Senator Lundy claims to represent—you have no confidence in them and their ability to make decisions? Of course, the decision by the Australian Labor Party to oppose this is completely inconsistent with its previous policy, which was shared by all other parties in parliament, to advance self-government in the ACT.

Self-government was a long sought after goal by the people of the ACT, and so it should be. They have as much right to be able to elect a state type government giving state type services as any other Australians. But the Labor Party now seem to be saying, ‘We do not believe that the people of Canberra should have that right; we want to treat the people of Canberra as second-class citizens. Other Australians can have the right to elect their state parliaments, but the people in Canberra cannot.’ This is a complete turnaround of the long held ALP policy that supports self-government for the ACT. The Labor Party are saying, ‘We do not believe the people of Canberra; we do not believe the duly elected parliament of the people of Canberra has the right to make these decisions.’ They are following, of course, the old socialist dogma. I thought this went out of favour many years ago. Even the Eastern European countries have now given away the socialist dogma, but you see it in Senator Lundy and Senator Mackay. It is the old socialist dogma that the central government knows best—that Big Brother knows best. They say, ‘Do not
let the duly elected representatives of the people of Canberra dealing with state type land management issues have a say because we, sitting in the big house on the hill, know best—the central government should rule.’ That is the old socialist dogma. It has never been removed from the ALP platform—although they try to hide it—and, of course, with the former Prime Ministers Keating and Hawke one could never quite see where it came in. But the ALP hang by that old socialist dogma, and that is, I think, coming out in the approach of a couple of their people to this particular bill. So that is what the bill is all about.

The Labor Party opposition illustrates a paternal distrust of the ability of ACT assembly members to deliberate on these types of decisions for themselves. Everywhere else in Australia it is state and territory governments that deal with land management issues. Sure, because there is a national capital element in Canberra, the federal government should hold some responsibility, and it does and it will—even after this bill has been passed. We will retain control of national capital land and the 99-year lease there will not—let me repeat, not—change. What this bill does is give the ACT government, the duly elected members of that parliament, the right to deliberate on what is to be their land management system. This parliament’s opposition will send all the wrong messages to business and commerce in the ACT. In other places in Australia—in the states and in the Northern Territory—businesses can invest with the confidence that they can get freehold title to land or, as I think Senator Woodley quite rightly points out, to 999-year leases which, although they are called leases, are akin to a freehold tenure. Everywhere else in Australia businesses wanting to invest can do that, but they cannot do that in Canberra. Senator Lundy says that business like that is not relevant. Senator Lundy’s background is hardly in business. She was a Builders’ Labourers Federation union executive, I understand.

Senator Mackay—Wrong union!

Senator IAN MACDONALD—Okay, it was the wrong union. That does not matter. She was a union executive—hardly a friend of business! She was in the building trades, and you know what the reputation of the union representing the building trades has been over decades. So she was hardly a friend of business. One would doubt Senator Lundy’s capacity or Senator Mackay’s capacity to be able to speak for the business community. But I tell you who does speak for the business community: the ACT Division of the Property Council of Australia, the Canberra Property Owners Association and other business groups in Canberra. They are the people who came along to the Senate committee and supported this. They wanted their parliament to have the right to deal with this. If you look carefully through the report of the committee investigating this, you will see that the business groups in Canberra supported this proposal. That is what business said in support of it. The people in the ACT are entitled not to be classed as second-class citizens but to be able to enjoy the same rights to land as any other Australian can. I should add, and perhaps I should have done this at the beginning, that I do have an interest in this matter—not that it makes much difference to me. My wife is in charge of a company that has a unit in Canberra and I should declare that, I suppose. The people of Canberra who have made this place their home will never have the right to enjoy the same property rights as any other Australian can. Furthermore, and I continue to emphasise this, people in Canberra will be treated as second rate. Their parliament will not be able to deal with this matter because the Labor Party does not have confidence in the people of Canberra and their ability to elect representatives to a parliament.

There was some mention made by opposition speakers of some problems with transition. I must say that I could not quite grasp the point. The suggestion was that it was up to ACT land-holders to decide what they wanted to do, should the ACT government decide to extend it, and that that was a matter for the ACT government. I correct myself again. It is not the ACT government; it is the ACT parliament, which is made up of all parties and in which no one party—certainly not the Liberal Party—has a majority. So it is up to the ACT parliament to decide and, if the ACT parliament should decide to do it, it would then be up to land-holders to decide
whether they wanted to convert from 99-year leases to 999-year leases. I could not understand that argument at all.

I want to use a couple of minutes of the limited time I have available to again refute the negative, carping attitudes of the Labor Party, particularly of their representative in this chamber, about Canberra. I have to tell the chamber, the parliament and the people of Australia that, as far as convention centres go, Canberra is as good as you will get anywhere. It has first-class convention facilities. It has first-class hotels. It has first-class venues. The difficulty with CHOGM was not quality; it was quantity. There will never be any conferences held in Australia in the future that will be as big as CHOGM. The facilities in Canberra are absolutely first-class. While I would like to tell the people of Australia that they should hold conventions in my electorate—because there are a lot of good places where I come from up in North Queensland—I have to say that there are absolutely first-class facilities in Canberra, facilities which you would never get the Labor senator for the Australian Capital Territory promoting or praising.

CHOGM could not be held here, contrary to the Prime Minister’s wishes. He has made it quite clear that he wanted CHOGM here, particularly at the time of our centenary of Federation. The mere facts are these: 3,800 rooms were required, but Canberra accommodation indicated around 2,260 were available. We required 55 five-star suites for heads of government—and those of us in this business will know the reason for that—but only 24 were available. At Durban there were around 20,000 square metres of contiguous convention space. In Canberra, there are 4,732 square metres of usable space available.

I could go on with the factual reasons why this could not happen. It is a great regret to the Prime Minister. It is a great regret to me. It is a great regret to most Australians, who would like to see this international conference in their national capital. But the logistics simply were not there. I repeat: never again will a conference of this size be required in Australia. Anyone wanting to have a conference can look around Australia, but they should be aware that Canberra has the facilities to cater more than adequately for all other conferences that will ever be required in Australia. I promote that as the minister responsible for the national capital. I wish that at least the Labor Party representatives of this region would join in with a bit of positive support for the national capital and for the people whom they claim to represent.

In response to Senator Lundy’s goal of continual, negative, carping denigration of the Australian Capital Territory, I point out that this government has a major commitment to the Australian Capital Territory as our national capital. Any number of programs we are involved in are dedicated to that goal. One of the major goals of the National Capital Authority, which reports to me, is to promote the Australian Capital Territory as the national capital for all Australians. We do that in many ways.

Just the other day I was pleased to be part of a launch with the ACT Chief Minister. She has done more for Canberra, more for tourism, more for business and more for employment in this territory than any previous ACT government on record and, I venture to say, any federal government on record. Kate Carnell has been a fantastic salesman for this area. With her I was pleased the other day to launch the 200,001 students to the ACT in the centenary year program. That is just a little program, but it is indicative of what we are doing. As our centrepiece for the centenary of Federation, $151 million is being spent on the National Museum in our national capital.

Senator Patterson—Which Labor never did.

Senator IAN MACDONALD—Which the Labor Party talked about for 13 years and promised to do every time an election came around and they needed to get votes in the ACT. But they never did one thing for it. Our government initiated the Canberra Region Ministerial Forum, which I chair, which brings together the ACT government and ACT business to look at ways of promoting Canberra, not of denigrating Canberra, as the Labor Party representatives do. I am pleased to announce that the Prime Minister will be speaking at the focus on business project in
Canberra in the very near future as part of his ongoing commitment to Canberra and the ACT. Of course, he spends a substantial amount of his time in Canberra as Prime Minister, as one would expect him to do.

As part of our focus on the national capital for our centenary of Federation, we will be contributing money to the national Centre for Christianity and Culture, which will become another icon establishment appropriately placed in the national capital. It will join the High Court, the National Science and Technology Centre, the National Gallery and all of the national icon buildings here in Canberra. We contribute to that and will continue to do so.

I could go on for a long time saying what this government has done for Canberra, but the clock has beaten me. Could I return to this bill and emphasise that it is all about enabling the Australian Capital Territory parliament to have the right to determine this issue. It is not about changing the leases today by federal government fiat. It is about letting the ACT government have the right to make these decisions, the same as every other state and territory in Australia. It is about saying to the ACT people, ‘We believe in self-government. We believe that you are able to make decisions for yourselves. We believe you are able to elect representatives to your parliament who can make these decisions. We have that confidence in you.’ Regrettably, the Australian Labor Party does not.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (12.36 p.m.)—by leave—I wish to make a brief statement in relation to pecuniary interests and the Australian Capital Territory (Planning and Land Management) Amendment Bill 1999. Though this does not have an effect on me personally, I wish to make a brief statement in relation to pecuniary interests and the Australian Capital Territory (Planning and Land Management) Amendment Bill 1999. Though this does not have an effect on me personally, I would be aware, Mr Acting Deputy President. Even though there is to be a division on the second reading of this bill, I do not believe we need to go through the exercise of each and every senator drawing attention to their pecuniary interests return in relation to this matter. But I think it is appropriate that the matter be at least placed on the Hansard record and that the matter have attention drawn to it—as I have done. I note that, in relation to senators who have declared their pecuniary interests because they do own a property in Canberra, it will be in the register of pecuniary interests that has been lodged with the Senate.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (12.38 p.m.)—by leave—I agree with Senator Faulkner having what I consider to be an appropriate approach to this. I have personally indicated—and I hate to use the words ‘conflict of interest’—a statement of my interest, through my wife, in land in the ACT. I agree with Senator Faulkner’s approach. I wish that approach would apply more regularly in this chamber. The stupidity of getting up and announcing that people have particular shares in companies that might be affected by legislation is obvious. I am grateful for Senator Faulkner having what I consider to be an appropriate approach to this. I have personally indicated—and I hate to use the words ‘conflict of interest’—a statement of my interest, through my wife, in land in the ACT. I agree with Senator Faulkner’s approach. I wish that approach would apply more regularly in this chamber.

Question resolved in the negative.

COMMITTEES

Economics References Committee

Membership

The ACTING DEPUTY PRESIDENT (Senator Chapman)—I have received a letter from a party leader seeking a variation to the membership of a committee.

Motion (by Senator Ian Macdonald)—by leave—agreed to:

That Senator Schacht replace Senator Cook on the Economics References Committee for the committee’s inquiry into the provisions of the Fair Prices and Better Access for All (Petroleum) Bill 1999 and the practice of multi-site franchising by oil companies, and that Senator Schacht be discharged as a participating member for the same inquiry.

MATTERS OF PUBLIC INTEREST

The ACTING DEPUTY PRESIDENT—Order! It being almost 12.45 p.m., by leave of the Senate we will move to matters of public interest.
Senator TIERNEY (New South Wales) (12.41 p.m.)—I rise today to speak on the issue of what is occurring with National Textiles at Rutherford in the Hunter Valley and on the appropriateness of the government’s response to that. In the Senate over the last six months, I have given a number of matters of public interest speeches on the area of regional development. I actually thought I had finished those speeches—I published them and sent them out to quite a few people—but regional issues do not necessarily come to a conclusion at a particular time. The failure of National Textiles on 21 January is a sign of the ongoing problem of the urban-rural divide in Australia and the difficulties secondary industries have in regional Australia.

This is not a new problem, of course. It goes back 60 years, at least, as we have had the ongoing drift of people from the rural areas to the big cities. The PM and the government have been very concerned about this long-term drift, and this is why in January the Prime Minister visited rural and regional Australia to get first-hand information on the problem and to get advice on what strategies should be developed to overcome the problems that he saw. Part of that tour involved a visit to the workers of the Rutherford National Textiles plant, where the Prime Minister met them at Williamtown.

I am telling you the story of this because I was there. A lot of misinformation has been spread, particularly by the ALP, aided and abetted by some journalists. I thought it would be useful to put on the public record of the Senate exactly what happened and why it did happen. This issue has been going on and gaining increased national attention now for about three weeks, and it did culminate yesterday in a censure motion of the Prime Minister in the House of Representatives. After that censure motion—and I have read the transcript of the House of Representatives debate—the Prime Minister must feel like he has been hit with a wet lettuce leaf. If you read the commentators today, particularly people like Michelle Grattan and Malcolm Farr, you will see they saw that the censure motion totally failed to hit what Mr Beazley was trying to hit. Really, the commentary right across the press gave the ALP the thumbs down not only on their attack but also on the reasons for that attack. What has been exposed, particularly in the Hansard record of the House of Representatives, is—

Senator Patterson—Hypocrisy!

Senator TIERNEY—Thank you, Senator Patterson. What has been exposed is the rank hypocrisy of this ALP opposition on this issue. That rank hypocrisy is on two levels: first, when you compare what Mr Beazley said yesterday in the House of Representatives with what he said last week at the National Textiles picket line; and second, when you compare what the ALP is saying should happen in this situation with what the ALP actually did in its 13 years of government. Its rank hypocrisy is exposed because, over that time, it did not lift one finger to help firms in this type of situation; this so-called Labor government did not help the workers who were victims of collapsed companies. And who was the minister for employment for a fair part of that time? None other than Kim Beazley, the alternative Prime Minister, who is now in high dudgeon over this issue, even though he and his then government did nothing for collapsing industries in rural Australia. Indeed, in terms of the textiles industry, the then Labor government accelerated its demise by a particularly sharp reduction in the tariff system—a sharp reduction which has been eased by this government, particularly in the case of National Textiles.

If we look at why this company collapsed at this time, obviously the harsher tariff regime in the last 20 years has been a contributing factor. But one of the most significant factors has been, finally, the loss of contracts. If we look at where contracts were lost and where they were not gained, the finger points very firmly at the New South Wales government. For 20 years at National Textiles, we had a company that was producing New South Wales police uniforms. The company lost that contract last year, and that was one of the final nails in the coffin of the Rutherford plant. Why did it lose that contract? The New South Wales government gave the contract—wait for it—to a Victorian firm at a saving of $7,000. By sending that work out of the state to achieve a saving of
$7,000, the NSW government helped to trigger the collapse of a company employing 340 people.

The Carr government stands condemned and its absolute hypocrisy on the issue of regional development stands exposed. It claims that it is trying to start industries in rural Australia; it is actually helping them to collapse by implementing measures such as the one relating to the police uniform contract. It does not stop there. The Carr government had the opportunity to proactively assist in this area. That proactive assistance could have come through the SOCOG contract; that would have provided work for quite a few of the looms. All that was needed was a change in the criteria making it not just based on price—which obviously, considering the $7,000 difference, was the basis of the police uniform contract, never mind the fact that the company had been producing uniforms for 20 years. So obviously, with the contract, they are working just off a price.

Why don’t we have a more proactive approach in rural and regional Australia and bring in other criteria? Why don’t we bring in things like regional impact statements of government policy on these particular industries? If that had been one of the criteria, if they were looking at regional impacts as a factor, they would have given to National Textiles the police uniform contract and they would have given it the SOCOG contract. That could have provided enough work to help that company through this difficult time until it could get other contracts, and we now would not have a collapsed firm. So here we have a situation where governments now have to come in and try to pick up the pieces, try to provide the benefits and try to provide further training so that people can move through.

The sort of criteria you need to assist these sorts of firms are things such as: it must be a depressed industry, and certainly that is the case with the textiles industry; and it must be regional, and obviously National Textiles is with it being located in Rutherford in the Hunter Valley. The other thing that made this circumstance for assistance especially different is the fact that this was a big national company which, without warning, went belly up. That is why this company has the need for special assistance at this time. The other reason it needs special assistance at this time is because the government is in the process of putting safety net arrangements in place. We had always planned to backdate that to 1 January this year, which would actually cover the National Textiles situation.

We have had a hold up on this because of the way in which industrial relations legislation went through this Senate—or did not go through this Senate—towards the end of last year. There are also some difficulties in working out exactly how you put a safety net arrangement in place. But, unlike the previous Labor government, this government has guaranteed a safety net of entitlements up to $20,000. That is part of the plan. Go back to the Hawke government: when did you ever see anything like that? In addition, what the government is prepared to do on top of that safety net is to look on a case-by-case basis at firms and industries in regional areas that are in difficulty. One that comes into that net immediately is the one that the Prime Minister mentioned yesterday in the House of Representatives, and that is the Scone abattoir. That now is faced with a similar situation where the workers will only get 40c in the dollar, and that all happened on 12 January this year. So it will come into that 1 January cut-off. What I am saying is that, in cases like that, on a case-by-case basis, the government will look at topping up the assistance to those particular companies. We can do that under RAP, the Regional Assistance Program. So we are responding case by case, in a sensitive way, to these companies that have had these difficulties around Australia.

I have given the background to why the government has intervened in this situation. That now has led us to the point where we are going to provide for the Rutherford people up to 100 per cent of the entitlement. The foundation money for that 100 per cent comes from the deed of agreement which will be signed by the company and the unions. This will give the best possible outcome. Mr Beazley yesterday criticised that deed of agreement. He said that that should not be the approach; what the government should be doing is going to a liquidation. He accused
the Prime Minister of favouring his brother by going down the deed of arrangement track compared with going down the liquidation track.

Let us have a look at what would happen if you followed the Beazley line. You would end up with a fire sale and the workers not getting as much as they would have. Tasmanians should listen to this consequence fairly clearly. If they went into liquidation the National Textiles plant in Devonport would also collapse, Senator Calvert. Some 220 people, mainly women, would be out of work in Devonport if the Beazley plan for a liquidation of National Textiles went ahead. That is the consequence. The reason cabinet went ahead with the deed of agreement is that that is going to give the best possible outcome not only in Devonport but also in the Hunter Valley where the workers, with the assistance of the state and federal government top up money, are likely to get 100 per cent of their moneys.

The other thing the Prime Minister was criticised for was that his motive in doing all this was to assist his brother and not the workers. I know what humbug and nonsense that is. Being on the ground at the Williamtown base I saw what happened during that meeting. I saw the reason the Prime Minister made that decision. The Mayor of Maitland, the Deputy Mayor of Maitland, the Prime Minister and I were sitting there when seven workers from National Textiles told us their stories. No-one could fail to be moved by those circumstances. It was a very emotionally charged meeting as people told stories of how they were in work and all of a sudden thrown out of work. They were on low incomes anyway. They told us stories of how they had $2 in the bank and had no way of paying their house or car mortgage at the end of the month. It was that sort of input to the Prime Minister at that time which was the trigger for putting in place this special arrangement.

Mr Beazley also came to the Hunter Valley. He came up and addressed workers at the picket line. This is where he showed absolute humbug and hypocrisy. Mr Beazley was saying at the picket line—and we have the transcript of this; the ABC very helpfully replayed this on radio two days ago—‘The workers should get all their entitlements from National Textiles. The federal government should top up the entitlement so they get their full money.’ That is exactly what we have done. We have done exactly what Mr Beazley asked. His censure motion yesterday shows his absolute rank hypocrisy in criticising the government in undertaking a course of action which he was one of the prime advocates for last week.

Aged Care

Senator CHRIS EVANS (Western Australia) (12.56 p.m.)—I wish to speak today on the issue of the crisis of confidence in aged care in this country. It is a crisis of confidence borne from the Minister for Aged Care’s failure to use her powers to protect those older Australians resident in nursing homes and hostels throughout Australia. What we have seen in recent days is revelations about the lack of action being taken to drive out of the industry rogue providers—those who are not prepared to meet the high standards set by the new accreditation system; those who are not interested in providing quality care.

I say at the outset that these represent the minority of providers, but they have always been there and I guess, to some extent, some will always exist. It is the minister’s responsibility and the responsibility of this parliament to do all we can to drive those people from the industry because they are dealing with some of the most frail and most vulnerable members of our community. They are authorised to provide care to those people. In instances where they are not providing proper care, we have a duty to make sure that those older Australians are protected.

We have evidence in recent days that the minister is not using her powers and not meeting her responsibilities to protect those older Australians. She is not taking the action necessary to ensure that those older Australians are properly protected inside the nursing homes where they are resident. While the majority of providers are striving to do their best, there is a minority of rogue providers not prepared to meet the high standards of the accreditation system. It is those people who we have to deal with and deal with firmly and
it is those people to whom I direct most of my remarks today.

We know that a number of providers have been dragged kicking and screaming into the new accreditation system. They are not willing participants. In the Senate estimates process the department said that it had a number of providers who did not apply for accreditation by the end of December. They clearly were not interested in being in the system. There was at least one who still had not applied. So they were operating a nursing home and providing care but were not prepared to be part of a system that provided for the accreditation of the standard of care, for the monitoring of the standard of care that is provided. Many of these providers have no interest in being in that system because they intend hanging on to the last possible moment, and then selling their licences at considerable profit. They are not interested in playing the game. We have an interest in making sure that they are driven from the industry. These providers are cutting staff to dangerously low levels in order to maximise their profits.

Senator Patterson interjecting—

Senator CHRIS EVANS—You can have a go shortly if you want to speak. You are full of rhetoric, but you do not do anything about it. You are just like the minister, Bronwyn Bishop. She talks tough but she does nothing about it. When complaints are brought to her attention she refuses to take action.

These providers are cutting staff to dangerously low levels in order to maximise their profits. As a result, the quality of care delivered to residents in these nursing homes is well below the standards required and, in some cases, is putting the lives of residents in danger. These are not claims made by the opposition, these are claims made on the basis of reports by the government’s own accreditation agency. They say there is a serious risk to the health of residents posed in more than 20 nursing homes still operating. Most of them are in Victoria. This is the accreditation agency’s view.

Senator Patterson—Yours were fire hazards.

Senator CHRIS EVANS—They were not fire hazards. This is about health, quality of care and quality of food. These are the concerns that the accreditation agency notified the minister of. It is not unusual to hear that only one or two staff are left to care for 60 residents on a weekend. In many cases staff are not trained properly and do not have the medical skills to deliver the medication required. A range of concerns like that are prevalent. Residents have been eating cold meals and have been left in soiled bed linen. All these complaints have been made. All these complaints have been registered, but nothing is happening to deal with them.

We even have reports now of people hiring in personal carers into the nursing homes to provide care for their relatives. They are not satisfied. They know the quality of care, the staffing arrangements, in these places are not sufficient to provide care, so they are hiring agencies to go into the nursing home to provide the level of care required. I think there are endemic questions across the industry about staffing levels and about whether or not we have enough funds and staff to service the needs of older Australians properly. Those concerns are more systemic than some people care to admit, but I am concerned today with the small group of providers who are clearly not interested in meeting the standards.

These are reports not by the opposition, not just by the relatives, although they are a highly important consumer voice in all of this, but by the standards agency itself that has identified serious risks. The minister herself in parliament last year admitted that ‘there are nursing homes that exist today that ought not to be open’. In this context it is not surprising to learn that the number of complaints lodged with the department has been increasing at a rapid rate. In the last financial year more than 1,700 complaints were made by residents. The majority of these complaints concerned staffing, care needs and their own safety. What is disturbing is the lack of government action in the face of those complaints.

One of the indicators we have, some figures released in estimates the other day, that give rise to further concern is on the question of the number of hospital leave days in the
system. This is where residents are admitted to hospital and are excluded from the nursing home for a period of hospital treatment. The department provided an answer to me in supplementary estimates hearings the other day that indicate that, while in nine months in 1997-98 the total number of hospital leave days for nursing home residents was in the order of 488,000, last year that blew out to 702,000 leave days where a nursing home resident was admitted to a hospital because they could not be provided with the appropriate care inside the nursing home. That is an enormous increase from 488,000 to 702,000. There is no doubt that that is partly explained by the increasing level of dependency in our nursing homes in terms of the ageing population, et cetera. These figures tend to confirm all the anecdotal evidence you get that a whole range of nursing homes are not able to provide the basic medical treatment that used to be part and parcel of being in a nursing home, so residents have had to be admitted to hospital.

We have reports that nursing homes do not have the staff to provide the nursing care for minor medical complaints and they have been forced to put the residents into a hospital for that care. These figures certainly support that anecdotal evidence, that the nursing homes are not providing the same level of care, that a whole range of residents have been forced to be admitted to hospitals because the nursing homes, because of the staffing constraints and other constraints on them, are not able to provide that care. Again you hear stories of particular nursing homes where a large number of people are admitted to public hospitals because of bed sores and other ailments consistent with a lack of care in particular nursing homes. There are patterns to this, there are reports about this that need to be dealt with because there is a pattern emerging that people are not getting the care they need in the nursing homes, particularly in a minority of service providers.

While the number of complaints is increasing, government action is drastically falling. The number of visits to nursing homes in response to complaints fell from 366 to just 208 over the last two years. Similarly, the number of sanctions imposed on providers in response to complaints fell from 69 to just 16 over the last two years. Last year less than one in 100 complaints resulted in any action being taken against the provider. There is growing concern that the government’s complaints resolution scheme is a toothless tiger. They are capable of mediating complaints but have no ability to pursue providers over breaches of the care standards. We must remember all the time that we are talking about people in aged care who are in the most vulnerable position. They do not make complaints lightly. They are extremely vulnerable to any sort of discrimination or retribution and they have genuine fears of reprisals by poor providers. We must have a level of accountability and scrutiny of their complaints way beyond the level we might use in another industry.

The government is not only failing to actively pursue the complaints of residents, this week we have reports that confirm there have been no surprise inspections of facilities under the government’s new aged care system—not one surprise visit in two years. Over the last two years, despite the concerns of residents and over 3,200 complaints, not one nursing home has been subject to a surprise inspection. The department tell us there are more than 20 nursing homes that have serious risks to the health of their residents, but they have seen fit not to visit any one of those in a surprise inspection. They put on their own web site their reports which say there are serious risks due to lack of cleanliness, lack of infection control, lack of proper food and safety procedures yet they do not think it is worth having a surprise visit. They negotiate with the provider and give them weeks of notice that they are coming because they want to work in a cooperative manner. That is fine for the providers who are playing the game and are actually looking to meet high standards but it does not deal with the others. It does not deal with the rogues who are not interested in those issues. It means they do not meet the standards, they escape any penalty and the residents in those nursing homes do not get proper care. They are not properly protected because the government is not taking the required action. Without surprise visits, without that sort of attention to poor providers, poor standards continue and
poor treatment of nursing home residents continues. They cannot be protected if we are not prepared to take the action needed.

Last year the minister misled older Australians and parliament on this issue. When questioned about the lack of surprise inspections she said:

The reason we will continue to have spot checks ... is the same reason that we want exposed the fact that we will not tolerate such care.

She also claimed:

... where there is a home where people are at risk the unannounced visits are part of our policy. I repeat what I said a few days ago, that we will use all and any tools at our disposal to ensure that we do not allow individuals to be at risk.

Yesterday she was singing a much different tune, backing away from that commitment. She is now saying that while she has the power to conduct surprise visits, they are a last resort and have not been needed to date. There have been more than 20 reports of nursing homes providing serious risk to the health of residents, but she does not think we need any surprise inspections or any action from her. I think she is wrong and I think the Australian community thinks she is wrong. The statistics prove her wrong because the rising number of complaints reflects the growing concern of the community about the quality of care being delivered to residents.

The minister is failing in her duty by not using all or any tools at her disposal. Last year she blamed problems with her own legislation for not moving against providers that should be thrown from the industry. The legislation was amended in September last year, yet she still failed to move against any providers—not one. When Labor moved amendments to try to increase her powers to protect the rights of residents when we were debating the bill last year, the government voted against those amendments. It said they were not necessary. So they refused to take on the extra powers that would allow us to drive these rogue providers from the industry. But I say the minister has enough powers; she does not have the political will.

At the moment residents are left at the mercy of providers who are closing down the facilities and wishing to leave the industry. Some of them do not want to meet accreditation standards. They will leave the industry, but in the meantime they are not interested in playing the game. They are not interested in meeting high care standards. They are interested in milking the industry for all they can get before fleeing the industry with a nice profit. But who protects the residents in the meantime? Who protects the older Australians who are subject to serious risk, on the accreditation agency’s own analysis, while that occurs? Certainly not this minister. Certainly not this government. We must take action and utilise all the power the minister has. If the minister wants our cooperation to increase her powers, we will be in it tomorrow, but she must take advantage of the power she has now. She must take action, and the sort of performance we have seen over the last two years in terms of driving rogue providers out of the industry and protecting older Australians in nursing homes is totally inadequate.

She just has not performed. She has not met the standards that we expect of a minister responsible for older Australians in this country. I urge her to do her job properly—to get on with protecting older Australians and to use the powers she has to make sure her department protects the rights of older Australians in nursing homes.

Runaway Bay, Queensland: Environmental Pollution

Senator WOODLEY (Queensland) (1.10 p.m.)—I wish to speak today in this matter of public interest about an issue that my colleague Senator Bartlett spoke about last year. He raised concerns then regarding the proposal to build a large sports facility and 500-person residential complex on part of an old waste tip at Runaway Bay on the Gold Coast. Public and scientific concerns have been raised regarding the safety of the waste tip since the early 1980s when residential canal development was allowed right up to the boundary of the waste site. Many professional scientists have declared the area to be potentially dangerous. We described the results obtained by Dr Bob Morris, a very experienced marine scientist, who had found high levels of metals and organic pollutants in oysters and sediments taken from residential canals near the proposed development.
His conclusion was that there must be a local source of contamination and that this source was most likely to be leachate from the old waste tip. His advice was that, until more detailed studies had been carried out, health warnings should be posted regarding the consumption of oysters in the area and that no further disturbance of the site should occur.

Other scientists from Southern Cross University have also independently analysed oysters and sediments from the area for metals. Their results were in agreement with Dr Morris, who in the meantime had presented the results of his findings to the local council in the hope of persuading them not to give final approval to the development. He also presented a critical evaluation of part of a site report prepared by the council’s consultants. This report had been the main source of information available to the council as to the possibility of the old waste tip being a source of pollution to local waterways. Dr Morris was concerned not only at the poor level of science shown by the report but also that the same consultants who had prepared the report for the council had also been used by the developer and the state government in their respective assessments of the waste site. He recommended an independent peer review of the consultant’s complete report. The council ignored the advice and approved that proposal in September.

Just prior to the Premier’s attendance at the official commencement of work, Dr Morris sent him the results of his most recent analysis of suspended material actually flowing off the development site onto a public road following a period of heavy rain. The material contained very high metal levels and had a large content of organic matter of animal origin. The material obviously had originated on the development site and was obviously heavily contaminated. He offered to present his findings directly to the Premier in the hope of halting the development, but his advice again was ignored. For his public concern Dr Morris is now the recipient of a writ from Mr Ron Clarke, an Olympian, Gold Coast patron of the environment and the developer behind the Olympic complex for, we are told, athletes from Norway, Canada, Switzerland and Germany during the forthcoming Olympic Games. Such bookings have apparently been made possible through the many Olympic connections of Mr Clarke.

We also have evidence of the way in which relevant information, which the public should have seen, was withheld by both the Gold Coast City Council and the state government. This is in order to cover up the contamination of local ground waters and residential canals which has been occurring.
for the last 40 years. Finally, we have a sense of the nature of the backroom dealing which led to the department of education land valued in 1996 at $4.2 million, when it was not even zoned residential, being given away to the Department of Sport for $300,000 in 1997, transferred to the Gold Coast City Council in trust, and then leased to Mr Clarke for a pittance for use in connection with a large residential sports complex.

There is a lot of evidence that I would like to place on the record. I know that I will not have time today. I hope in future sittings of the Senate to place more of the evidence which has been obtained through freedom of information and historical research into this matter on the record. But for today, let me just give a couple of comments.

The Runaway Bay local government reserve was chosen in a lovely freshwater coastal wetland site of alternating sand dunes and melaleuca swamps on a sandy peninsula to the north of Southport. At that time it was a remote area well away from public view and in a sandy site where liquid waste could easily percolate into the underlying sand mass and ground water. Sometime during the 1960s a track was opened up which led across the reserve into the middle of a melaleuca swamp some 400 to 500 metres from the site buildings. There the track stopped. The swamp lay along the western boundary of the present residential athletic development. That track was clearly in regular use until at least 1973 and the site is a remarkably good fit with the description given and the photograph which I have in my possession for a grease trap waste dump site in the report to the Premier's Office. We believe that this is good evidence for the likely existence of a completely uncontrolled grease trap dump site for over eight years along the western boundary of the proposed residential athletics complex. At a time when grease trap waste could be expected to contain virtually anything, large amounts of it were being dumped illegally and the Runaway site was the prime suspect for receiving most of it.

There is a lot of other evidence that I need to place on the record but let me simply go to a farce which occurred in 1979. That was the discovery by the Director-General of Health and Medical Services in 1979 that the Runaway Bay local government reserve was not licensed for the disposal of even domestic refuse and that it had therefore been an illegal dump site for the previous 40 years. A flurry of correspondence followed and by the end of 1979 the reserve had at last become legally approved but only for the disposal of refuse and then only if the following conditions were observed: ‘Leachate be prevented from reaching any waters’ and ‘the disposal area on the Runaway dump site be covered to a depth of 600 millimetres’.

Thus the dump site was still an illegal site for the disposal of grease trap waste, sewage and septic wastes and liquid wastes, as it had been for 40 years. It had also been illegally allowing contaminated effluent to get into the ‘waters of the state’, which included melaleuca swamps, the residential canals of Anglers Paradise, Huntington Harbour and Runaway Bay and finally the Broadwater.

This contaminated effluent had also been getting into the regional ground water with the potential of affecting more distant residential areas such as those around Lake Runaway. The illegal disposal of leachate had also been occurring and this clearly continued at least until 1995.

A final piece of information comes from a report on leachate monitoring prepared in 1997 for the Gold Coast City Council. It is acknowledged that in addition to domestic refuse, putrescible waste was also landfilled in the area of the residential athletics development. If we remember the warning given in the Premier’s report regarding the mixing of metal-rich waste with putrescible wastes, it does not take much imagination to suggest that there is a dangerous cocktail of organic compounds and metal wastes underlying the site of this future ‘Olympic village’.

In summary, because of the time I have left to me, aerial photographs show that between 1969 and 1975 illegal dumping of toxic liquid waste took place in sandpits immediately under the present site of the proposed residential athletics complex. The complex is apparently being proposed for use as an ‘Olympic training village’ for visiting Olympic teams from Canada, Norway, Germany and Switzerland. Aerial photographs
also show that an earlier illegal dumping of toxic grease trap and/or liquid waste was apparently occurring from at least 1964 to 1973 directly into a swamp which lay under the present western boundary of the complex.

The Gold Coast City Council, the Queensland government and the developer, Mr Clarke, have consistently stated that only domestic refuse was ever deposited on the site of the proposed complex. They have in the past completely refuted any suggestion that the site could be dangerous. They have gone to great lengths to assure the local community that contaminated, hazardous or toxic wastes have not been disposed of at this site at any time in the past. This is clearly not the case and, if it is not so, independent monitoring would establish the truth of the matter.

I believe that the complex is being built over an old illegal toxic waste dump which has received large amounts of heavily contaminated liquid waste and grease trap waste. The photographs and the FOI documents clearly show this to be the case. The question we must answer is: what do we say as Australians to those countries whose Olympic teams in good faith are coming to stay and train at this site?

Argentina: Australian Owned and Managed Mine

Senator McGAURAN (Victoria) (1.23 p.m.)—I rise at this time of discussing matters of public interest to inform the Senate that Australian ingenuity and adventure is alive and well. On a recent trip to Argentina, I had the privilege of visiting a very large mining site in Argentina, 50 per cent of which is owned by Australians and which is 100 per cent managed by Australians. I see you nodding, Mr Acting Deputy President, because I know only too well you also have visited this particular mine and you will know exactly what I am talking about. The name of the mine is which is part owned by Australia is Minera Alumbrera Ltd. The company is situated in the province of Catamarca in the foothills of the Andes at a height of 2,600 metres above sea level. That might not mean much to Australians so far away but what it does mean is leaving Buenos Aires, a plane flight of several hours, then another hour or so plane flight and then a long bus trip of several hours. That is on a good clear day when you can get a good run.

The mine, as I said, is 50 per cent owned by Australians and 100 per cent managed by Australians but the other 50 per cent is owned by the Argentine government. The mine is one of the world’s major mineral deposits and has 770 million tonnes of reserves and resources. It is a gold and copper mine. One of the most outstanding features and why it is so worthy to note in this Senate is that it is a very impressive, if not exciting, Australian venture because it really shows the know-how Australians have in this particular field. We know it; now we are exporting that know-how. It is a mine that will become a model for the Argentine economy, for future investment and for other companies to follow. Without going into the details, oddly enough, Argentina has never invested in mining. This is the first large-scale mine in Argentina. Somewhere along the way, they have missed the beat. We know that Chile in the 1970s and 1980s took up mining and it has become an important part of their new economy. Argentina, for all sorts of reasons—no doubt most of them governmental—has never undertaken mining. That is the importance Australians are playing on a social and economic side over and above their own investment. So it is a very impressive Australian foreign investment.

The mine started producing in the second half of 1997, so it is a relatively new mine. Many things are still being tested. It is planned to initially go for some 20 years. The bottom of the ore body has not yet been found. It is a very deep open cut, I should add. The mine could go well beyond 20 years. It is estimated that this year the mine will be the ninth largest copper mine and the 14th largest gold mine in the world. As I said, it is an open-cut method. The markets hope to concentrate on the smelters in Europe, Brazil, North America and Asia.

All mines of this nature bring employment, as we see in Australia, particularly in Western Australia. That is one of those endearing features of mining. It is great worth to the local economy, let alone the national economy. This mine, being as large as it is,
employs thousands directly and indirectly, skilled and unskilled. It is an invaluable new asset to Argentina. People are being skilled up who do not have the skills. The locals are being trained in the area of explosives. The large truck drivers and shovel operators are all locals. On site you have the chefs, the caterers, the pilots and the cleaners. Indirectly in the local township you have new infrastructure being built to meet the demands of the mine in regard to office space and, of course, there is workers’ accommodation and every other flow-on effect. Restaurants have even expanded greatly in the local township.

It is not just economic advantage that this mine brings. It is not glossing the issue to say that the priority of the workers and the management is to work together. It is one of those exceptional circumstances—perhaps because they are so far away and stuck at the foot of the Andes they are forced together—where they really do work together. Teamwork is their priority. Safety is their priority. They organise themselves. Productivity is at its highest and, as I say, these are not just tags to put on to exaggerate the situation, this is really happening.

Regrettably, the one downside is, of course, as senators who have an interest in this area know, that gold and copper prices are not doing very well. Therefore the mine has had to cut into its costs and, regrettably, is not employing as many as it could and not producing as greatly as it could, but the infrastructure is there, ready for an upturn in the market.

I make special mention of the president of the Alumbrera mine, Karen Fields, a daughter of Kalgoorlie. She runs the whole operation. Her main characteristic, you cannot help noticing, is that she puts her money where her mouth is. She has come up through the ranks and is not one of those chiefs who operates out of a glass tower. In fact, any cuts she makes, she makes evenly from the top to the bottom and, as I said, she has been putting her money where her mouth is. She is moving her whole head office out of Buenos Aires. Anyone who has been to Buenos Aires knows what a magnificent city it is, yet she is moving the office—lock, stock and barrel—to the local township, including herself. I think this would put to shame many bosses in Australia who seem to like to make cuts from the bottom to the middle, and never to the top; but not this particular boss, Karen Fields.

As I said, Karen Fields is a Kalgoorlie girl who learnt her trade from her father—and he learnt from his father before him—and she learnt it from the bottom up. She is steeped in mining history and it is true to say she has many Western Australian characteristics, if not attitudes. She does not think much of a gold tax—in fact, she hates it. She has a very healthy suspicion of the eastern states’ bureaucracies and she cannot stop espousing the wonders of Western Australia and its contribution to Australia. We have heard that from just about every Western Australian senator who has come into this chamber. It seems to be a Western Australian attitude. She does things with a great deal of skill and a great deal of pride. She and her team—who, as I say, I had the privilege to meet—bring a great deal of honour to Australia. They are fine ambassadors.

It is worth noting in this matter of public interest just how well Australia is doing with regard to its foreign investments and how it helps—socially, culturally and economically—the country of Argentina.

Youth Justice Services

Senator GIBBS (Queensland) (1.32 p.m.)—I would like today to draw the Senate’s attention to an innovative program that has started in Queensland. The Queensland government has set up three Youth Justice Service pilot programs to address the problem of youth crime. These services are in Townsville, Logan and Ipswich. There has been a lot of attention recently on the significant problems with mandatory sentencing laws in the Northern Territory and Western Australia, specifically in relation to how they affect young people in those places. I do not intend to focus on that today, but I note that this Queensland program presents plenty of evidence that there are other ways to address the problems of youth crime. There are ways to tackle this problem in a fair and balanced manner.
In January I attended the opening of the Ipswich Youth Justice Service pilot program and I am extremely pleased to say that I was very impressed with what I saw and heard. In opening the facility, Queensland Families, Youth and Community Care Minister, Anna Bligh, summed up the program by saying that its goal was to hold young offenders accountable, tackle the causes of their crimes, give them a fresh start and increase community safety. One of the main goals of the services is to achieve a balance between encouraging and valuing participation by youth offenders, while also recognising that a certain level of responsibility and accountability must accompany their participation. The youth justice services manage young people subject to community based juvenile justice orders such as probation, community service, immediate release and fixed release. They also supervise young people placed on conditional bail programs and, with youth detention officers, are responsible for the coordination of young people in detention.

Youth offenders may be required to attend for service to comply with the conditions of their court orders. That attendance requires participation in a range of activities, such as assessment and planning of their program needs, counselling, group work, community service, education, employment and training, skills development and victim awareness work. This work is done to help the young person gain an insight into the causes and impacts of their offending. It helps them develop options for meeting their needs without offending. It also helps the young person develop skills, interests and community networks to divert them from future offending.

The services provide specialist case management that assesses the factors contributing to offending behaviour. When a young offender comes to them, they target interventions to meet the needs of that individual. Staff at the Youth Justice Service are responsible for overseeing the young person’s compliance with court imposed orders. They provide counselling in accordance with other requirements. They respond to identified lifestyle issues such as health, education and drug abuse. They also provide services in areas such as accommodation, work, training and education that assist the young person’s integration into the community.

Youth justice services operate within a set of primary objectives. These objectives are closely matched by work practices. They aim to identify the issues contributing to the young person’s offending behaviour. They identify the most appropriate interventions. They implement an intervention strategy targeting the behaviour that caused the offence. They monitor the young person’s participation and compliance with order requirements and they divert the young person from further involvement in the juvenile justice system.

There is a specific rationale for setting up the program. Throughout Australia in the late 1980s and the early 1990s there was a move to specific juvenile justice legislation. This move was a response to higher and higher rates of youth offending. But in addressing this situation, there was also a need for an accountable system capable of providing a balanced response to juvenile offending. In most states, child protection and juvenile justice services were separated. That approach had not been used in Queensland before this project started. Research from Australia and overseas suggests that separating juvenile justice services from child protection services helps authorities better assess and better plan interventions for young offenders.

One of the benefits of splitting the services is that staff can specialise more in the services they provide. Specialisation gives staff the opportunity to develop a more coordinated approach to service delivery. The benefits are passed on to the clients in terms of enhanced assessment and case planning interventions. With more time and focus for assessment, case workers are in a better position to assess the issues underlying offending behaviour and to develop appropriate interventions.

The centres conduct their work on a collaborative basis. Previously service delivery was geared towards establishing a relationship between the young person and a single case worker. The new system turns this system on its head somewhat and focuses on a team approach to case management that includes the youth, their family and relevant community networks and agencies. The col-
laboration is being achieved by including the young person, their family and their extended family. Programs and activities are developed to meet the specific needs and interests of the individual. Workers consider the most appropriate venues and methods for conducting meetings with the young person. Finally, workers will also try to match the young person with a worker from a similar cultural background where possible.

That collaboration is further heightened by establishing partnership with other government and community organisations. This has been achieved by inviting community organisations to deliver services to the young people; planning and delivering programs with other service providers; and establishing local reference groups that oversee the operation of each service. The local reference groups consist of government and community representatives, such as education, health, police, magistrates, employment and training and youth agencies. The local reference groups monitor, guide and assist the progress of the service. They also provide an avenue for securing the involvement and collaboration of relevant stakeholders who are in a position to offer young people access to services, skill development and supports.

Each service has a different staff structure reflecting the particular needs of the clients and the community. This includes case work staff, program staff, specialist workers and administrative staff. A significant number of the young people targeted by the services are from disadvantaged backgrounds. They are quite often people who experience difficulties in areas including social disconnection, substance abuse, literacy and numeracy, family disruption, unemployment and abuse. Part of the primary focus is to address the number of indigenous youth being subject to juvenile justice orders.

In the pilot locations indigenous young people represent a high level of juvenile justice clients. In Ipswich they represent 40 per cent of the clients; in Logan, 33 per cent; and in Townsville, 60 per cent. These statistics highlight the need to guarantee that the services develop interventions that properly meet the needs of indigenous youth. Queensland has also taken an innovative approach to housing for youth justice services. Each of the services has been located in the community independently of other family and youth and community care services. The premises themselves have large program areas and are conducive to the delivery of activity based interventions. The premises set up a less intimidating environment for young people and their families by allowing for greater interaction between young people, staff, the community and other agencies. The premises have been designed to give staff the opportunity to increase the amount of time and space available for direct work with young people. This is based on the principle that the more time staff can devote to individual young people, the greater the opportunity for them to effectively engage and acquire a detailed understanding of their rehabilitative and support needs. Alternatively, the more young people can be engaged and included in coordinating interventions for themselves, the greater the possibility that they will be motivated to participate in a positive fashion.

As I said at the outset, considering recent events surrounding youth justice in some parts of Australia, I find it refreshing that at least one state in Australia is taking a balanced and informed approach to issues of youth crime. I wish the project well and I look forward to reporting on its success in the future.

Commonwealth Heads of Government Meeting: Relocation

Senator LUNDY (Australian Capital Territory) (1.44 p.m.)—I would like to speak about another of the Prime Minister’s broken promises. Earlier today both Senator MacKay and I commented on the bill that the government presented on ACT land management issues. We took the opportunity at that time to comment on an appalling situation—the Prime Minister taking CHOGM away from Canberra. In this case it is his decision to relocate the Commonwealth Heads of Government Meeting in 2001 from Canberra to Brisbane. Mr Howard has once again reneged on a commitment and once again his broken promise is to the people of the ACT.

It is more than a coincidence that the ACT is always at the receiving end of coalition broken promises. Mr Howard’s decision not
to live here is regrettable and unfortunate because Canberra is a truly wonderful place to live as those politicians who choose to make it their home will confirm. However, his dislike of Australia’s national capital has now become so manifest that it is having a serious effect on our economy and our standing in the national and international community.

This is a very difficult issue to present because in presenting it we are actually highlighting the fact that the Prime Minister’s actions do draw Canberra in a negative light. But I feel it is necessary to highlight this circumstance because he continues to do so and he must not be released from the responsibility that his actions do reflect badly on Canberra. I will, however, assert that Canberra is a remarkable place and a most suitable place for investment and for people looking to establish or grow their businesses here or to make Canberra their home. The Prime Minister thinks that Canberra bashing is a vote winner and that by inflicting more damage on this community he will somehow lift his standing in other regional centres also. I might add, devastated or under threat by his government’s policies. Whatever the reasons behind Mr Howard’s avowed dislike for Canberra, his recent decision to take CHOGM from Canberra will have a devastating impact on our economy and our international reputation. The response from local businesses is something that he must bear responsibility for.

With regard to our international reputation, we can actually hold our own. We can stand up proudly as a city and say that we are worthy of your interest. But we are forced to stand up proudly and say that, while we are worthy of your interest, please do not be put off by the immature and irresponsible views expressed by our Prime Minister through his actions. The Prime Minister’s decision to change the CHOGM venue necessitates a detailed explanation to the ACT community. He must explain why he supported Canberra as the host city and why this support, in his view, is no longer warranted. For example, on 27 October 1997 Mr Howard was interviewed at the conclusion of the Edinburgh CHOGM meeting. When asked by a journalist where the 2001 CHOGM would be held, Mr Howard said:

There is some suggestion that it might be held in Canberra ... I can see some merit in having it in Canberra. It’s the national capital. And we are celebrating the nation.

When asked if holding CHOGM in Canberra would make it easier for security operation, Mr Howard said:

Well, that is an argument.

He then berated a journalist for speculating that giving CHOGM to Canberra was a consolation prize for coalition cuts to our local economy. This speculation that Mr Howard never intended for Canberra to host CHOGM has over the past few months gained credibility. In the absence of an adequate explanation it appears that Mr Howard’s announcement at that time was made simply to placate local Liberals concerned by his anti-Canberra policies. If this was his motivation, then I suggest it has backfired spectacularly because his Liberal colleagues in Canberra are equally angered by his backflip. My Liberal counterpart, Senator Reid, even issued a media release on 13 January declaring:

John Howard needs to be aware of the anger of Canberra residents ... Let’s send a clear message to the Prime Minister—Canberra is the National Capital and in this historic year celebrating the Centenary of Federation, we should host CHOGM.

This is from a Liberal senator, a member of the coalition here in the federal parliament. It is not often that you find members of the Labor Party and Liberal Party both attacking the Prime Minister. But the people of Canberra are angry, and Liberal and coalition representatives know that. We are all angry because the Prime Minister has so far refused point-blank to provide any details about his justification for the CHOGM relocation. Our anger is based on the overwhelming support and endorsement Mr Howard gave Canberra—compared with his quickness to dismiss our complaints and questions about being stripped of CHOGM. In fact, it was on 19 February 1998 that Mr Howard issued a statement confirming Canberra would host CHOGM. The Prime Minister’s endorsement left no doubt about his support. He said:
I am pleased to announce today that Canberra is to be the Federal Government’s selection as the host city for the Commonwealth Heads of Government Meeting (CHOGM) 2001. It is appropriate that such a meeting be held in the national capital at the centenary of our Federation. Canberra is a capital city of which all Australians can be proud. CHOGM will give Australia the chance to showcase its capital to leaders from around the world.

How hollow these words seem now. Given Mr Howard’s ringing endorsement of Canberra, we were naturally looking forward to the centenary of Federation and our chance to be the host city to Commonwealth leaders. It was to be an important and significant symbol of Canberra’s international status, not to mention the quite profound benefits to the local industry, providing tourism destinations as well as the international profiling that Canberra so craves as it positions itself as one of the most extraordinary and interesting cities on the international landscape.

Yet on 31 December 1999, when most of us were getting ready to celebrate New Year’s Eve and the coming of the new millennium - I am sure my Senate colleagues would agree it was always going to be a big night - Mr Howard sneakily announced that Canberra would no longer be the host to CHOGM. In a press statement that seemed to be deliberately released at a time when it would attract no media coverage, Mr Howard claimed:

On my advice ... Canberra would not be able to meet the considerable logistical demands for a meeting this size.

And it is this statement that has angered and upset the Canberra community. First Mr Howard gets advice that Canberra can facilitate the Commonwealth leaders meeting and now he tells us of this so-called advice telling him we cannot. If Mr Howard claims he has received advice about Canberra’s inability to meet the logistical demands of CHOGM, then it is fair and reasonable that he make public this advice. The truth is that the Prime Minister knows full well that Canberra is not only fully prepared to host CHOGM but with the planning time between now and then is eminently capable of doing so. The Canberra Convention Bureau and the ACT and Region Chamber of Commerce and Industry both confirm that this city is capable of accommodating the CHOGM delegation.

It is worth noting that, as the national capital, Canberra is the home to the embassies and high commissions of the Commonwealth nations. It is yet to be made clear by the government whether every CHOGM mission requires commercial accommodation or whether some will choose to stay in their embassy or commission. It is also worth noting that amongst the continued speculations about Canberra’s preparedness there is ample opportunity in fact between now and then for a recalculation of the accommodation statistics contained in that original report, because new venues have opened here—things do change over such a long period of time—and there is a significant amount of time between now and the CHOGM event at any rate. The Prime Minister must release the advice he has received.

He must also explain to us why Canberra has been able to successfully host many national and international events over the years without too many logistical problems. In many respects, Canberra is better suited to hosting CHOGM than are many other cities that have previously hosted this event. Previous Commonwealth heads of government meetings have been held in cities far less resourced than Canberra. My office has received many phone calls and emails from people involved in previous CHOGMs, pointing out the shortcomings of other host cities. It is certainly true to say that Limassol, Nassau, Kingston and Harare were not as well serviced as Canberra is. For example, hotel suites were not available to all delegations. At the Lusaka CHOGM the conference venue was a major hotel which was still being constructed when the conference opened. They did not have enough conference vehicles, so cars had to be brought in from South Africa, which was not a CHOGM member back then.

Lusaka was so short of hotel accommodation that the Australian delegation had to lease several houses. Australia’s Prime Minister, then Malcolm Fraser, came to Lusaka from Lagos where the Australian delegation had stayed in a hotel that did not have 24-hour electricity or adequate security. These
logistical problems, albeit some time ago, and these limited resources did not result in CHOGM being relocated. After all, it is about Commonwealth leaders meeting to discuss significant issues—it is not a holiday junket.

Australians who accompanied these delegations did not complain about these logistical problems. I have spoken to people involved in representing Australia at international meetings like CHOGM. They tell me that any so-called logistical problems were in fact secondary considerations. In many respects what the hotel looked like or how much shopping was available were irrelevant issues.

In an attempt to deflect attention away from the issue of Canberra’s accommodation capacity, Mr Howard has since alleged that the ‘greater emphasis on the retreat element of the meeting’ is also a reason for relocating CHOGM. In the first place, it should be noted that Canberra hosted the CHOGM leaders retreat in 1981. Secondly, if the Prime Minister really wanted to host CHOGM here, he would find no shortage of appropriate locations in the ACT and its regions. We are a major regional centre and boast an exquisite array of world-class tourist attractions and accommodation venues. We are entitled to know what justification the Prime Minister has for changing the CHOGM venue.

I challenge Mr Howard to produce his so-called advice showing that Canberra is unable to meet the logistical demands. Unfortunately I think there is another agenda at play. The truth is there is nothing to be gained politically for Mr Howard by hosting CHOGM here. This decision is but another in a long list of broken promises. I call on Mr Howard to reinstate Canberra as the host city for the 2001 Commonwealth Heads of Government Meeting. I call on him to release all the advice he has received on this matter.

I also recognise the efforts of the leader of the Labor Party in the ACT Assembly in seeking to censure the Prime Minister in a motion in the Assembly for this abuse of the ACT community, both business and residents, and once again demand that CHOGM be reinstated to Canberra as the host city in the year 2001.

MINISTERIAL ARRANGEMENTS

Senator HILL (South Australia—Minister for the Environment and Heritage) (2.00 p.m.)—by leave—I inform the Senate that, following the resignation of the Hon. Kathy Sullivan MP as Parliamentary Secretary to the Minister for Foreign Affairs, the duties previously undertaken by Mrs Sullivan will be performed by Senator the Hon. Kay Patterson. Senator Patterson will continue as Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs.

The Hon. Mal Brough MP has been appointed Parliamentary Secretary to the Minister for Employment, Workplace Relations and Small Business and was today sworn in as a member of the Federal Executive Council. I table an updated ministry list this reflecting these changes and seek leave to have the ministry list incorporated in Hansard.

Leave granted.

The document read as follows—
# Commonwealth Government

## SECOND HOWARD MINISTRY

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<td>Prime Minister</td>
<td>The Hon John Howard, MP</td>
<td>Senator the Hon Robert Hill</td>
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<td>Minister for Aboriginal and Torres Strait Islander Affairs</td>
<td>Senator the Hon John Herron</td>
<td>The Hon Philip Ruddock, MP</td>
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<td>Minister Assisting the Prime Minister</td>
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<td>Parliamentary Secretary to Cabinet</td>
<td>The Hon Wilson Tuckey, MP</td>
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<td>Minister for Transport and Regional Services (Deputy Prime Minister)</td>
<td>The Hon John Anderson, MP</td>
<td>Senator the Hon Ian Macdonald</td>
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<td>The Hon Joe Hockey, MP</td>
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<td>The Hon Mark Vaile, MP</td>
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<td>Senator the Hon Kay Patterson *</td>
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<td>The Hon Warren Truss, MP</td>
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<td>Senator the Hon Richard Alston</td>
<td>The Hon Peter McGauran, MP</td>
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<td>The Hon Mal Brough MP *</td>
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Each box represents a portfolio. Cabinet Ministers are shown in bold type. As a general rule, there is one department in each portfolio. Except for the Department of the Prime Minister and Cabinet and the Department of Foreign Affairs and Trade, the title of each department reflects that of the portfolio minister. There is also a Department of Veterans’ Affairs in the Defence portfolio. Asterisks indicate changes from the last published list.
QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Rent

Senator MURPHY (2.00 p.m.)—My question is to the Assistant Treasurer, Senator Kemp. Why is it that private landlords can jack up rents as a result of the GST, but as long as they do not specifically attribute the increase to the GST there is nothing the ACCC can do about it? Why won’t the government act to give the ACCC the power to protect people from unfair rent increases resulting from the Howard-Lees GST?

Senator KEMP—I thank the senator for his question. I am a little surprised to get this question from Senator Murphy because he was in fact at the Senate estimates, I think. I do not know whether he was listening at Senate estimates, but he was at the Senate estimates when these issues were raised. Let me make a number of comments on the general issue and then I will get to the specifics of his question. Residential rents will be input taxed to ensure comparable treatment for renters with owner occupiers. This means that landlords will pay GST on any products or services they purchase for use in providing residential premises, but will not be eligible to claim input tax credits for the GST they have paid. The government has indicated that residential rents should only increase slightly as a result of tax changes. The reduction of other taxes will, of course, work to reduce landlords’ costs. Other factors may be involved. Rents may also change because of other factors such as supply and demand.

Unreasonable price rises may be caught—as was pointed out to you at least five times and maybe more, but certainly a number of times as you pressed this point—by the misleading and deceptive conduct provisions of the Trade Practices Act. The other points I would make in relation to the senator’s question is that other local, state and territory authorities, including state fair trading legislation and rental tribunals, and it is well known that they exist—

Senator Carr—I see, so you rely on the states?

Senator KEMP—No, we do not rely. I mentioned the general issue of rents and the issue of the misleading and deceptive conduct provisions of the Trade Practices Act, and if Senator Carr was listening, he would have heard me say that. The ACCC is monitoring rental price changes. Let me also say that the ACCC is working with state and territory residential tenancy authorities to ensure that landlords do not profiteer from the new tax system.

Senator Cook—When are you going to answer the question?

Senator KEMP—I did.

Senator Cook—You said you would answer the question and you didn’t do it.

The PRESIDENT—Senator Cook, your behaviour is disorderly. Senator Murphy has risen seeking to ask a supplementary question.

Senator MURPHY—Thank you, Madam President. I take note of the answer that the minister has given. The minister was right; I was at the estimates and I listened to what the ACCC had to say. Why is it that they did say that they would have no power to act? I again ask you: why won’t the government act to give them the power to actually deal with unfair rental increases that are GST instigated and that they have said they have no power to actually act upon?

Senator KEMP—What they did say—and this is the problem because there is a bit of selective quoting on your part—was that unreasonable price rises may be caught by the misleading and deceptive conduct provisions of the Trade Practices Act. If you read the transcript, you will see that is exactly what they said.

Senator Cook—That is a disgusting reply.

The PRESIDENT—Order! Senator Cook, you are shouting and you are out of order.

Tax Reform: Economy

Senator FERGUSON (2.05 p.m.)—My question is also to the Assistant Treasurer, Senator Kemp. Can the minister inform the Senate of the details of the latest IMF report
on the Australian economy and the outlook for the economy under the Howard government? Does this review provide any comments about the government’s tax reform proposals?

Senator KEMP—I thank Senator Ferguson for that important question. Senators will recall that yesterday I indicated that Australia was one of the world’s best performing economies. This has been confirmed today by the International Monetary Fund which has released its latest review of the Australian economy. The IMF directors have highlighted the economy’s ‘extended period of non-inflationary growth and the remarkable resilience of the Australian economy in the face of the Asian crisis’. They also make it very clear that this strong performance did not happen by chance. It is the result of the government’s sustained commitment to sound macro-economic policies and ongoing structural reforms.

The IMF indicated that structural reform has played a very important role in Australia’s very impressive productivity growth. The IMF have also made it very clear that economic growth remains very favourable with continuing robust growth, inflation remaining under control and a narrowing of the current account deficit.

Opposition senators interjecting—

The PRESIDENT—Order! There is far too much noise in the chamber. Even I am finding it difficult to hear what the minister is saying.

Senator KEMP—Indeed, amidst all those comments from the other side, the issue of tax reform was raised by Senator Sherry and a few others. I am pleased to report to you, Madam President, that the IMF did make some comments on tax reform. Let me just inform the Labor senators who were so noisy and rude just what the IMF said. The IMF have lauded a landmark tax reform package, noting: ‘It will improve the integrity and fairness of the tax system and reduce its complexity.’ This is not the first report to endorse the government’s handling of the economy. The recent survey of Australia by the OECD strongly supported the government’s policy settings. Labor senators will be interested to hear that this survey by the OECD pointed out: ‘The consistent and comprehensive set of interacting macro-economic and structural policies explain Australia’s strong growth performance.’ Like the IMF, the OECD also noted that the new tax system should help consolidate the productivity gains that are now being seen.

I ask the Senate, Madam President, and, through the Senate, the Australian people: who would you rather believe on the benefits of tax reform—a discredited Labor Party or bodies like the OECD and the IMF? I think there is only one answer to that question. Can I also make the point that, increasingly, we are seeing just how irrelevant the opposition are. The Labor Party have no plans or policies. The Labor Party would in government produce massive debt, falling real wages and record interest rates.

Senator FERGUSON—Madam President, I ask a supplementary question. Will the Assistant Treasurer detail whether there are any comments on Australia’s debt levels in the IMF report?

Senator KEMP—I think that was a very good point. It gives me the opportunity to note that the report says that the Commonwealth net debt has declined from a peak of 19 per cent in 1996 to 12 per cent now. From 19 per cent at the end of the Labor term— thanks to Robert Ray and Senator Cook. They spent up big, they borrowed big and they raised the debt. We have been able to cut that debt from 19 per cent to 12 per cent. The IMF makes the very important point that the decline in debt levels was very important—and I quote—‘facilitating a fall in Australian interest rates towards an international level’. That is what we have been able to achieve. (Time expired)

Goods and Services Tax: Price Rounding

Senator QUIRKE (2.11 p.m.)—My question is also to the Assistant Treasurer, Senator Kemp. Can the minister confirm that neither the Minister for Financial Services and Regulation nor the Treasurer followed up on Mr Hockey’s claim on 15 January that he had directed the ACCC on the issue of GST rounding up? Isn’t it the case that directions to the ACCC must be made under section 29
of the Trade Practices Act and that the ACCC has received no such direction?

**Senator KEMP**—Again, these questions were traversed at some length at Senate estimates, and one wonders why we have to put up with such lengthy questions at Senate estimates when the same questions are asked today.

**Senator Robert Ray interjecting**—

**Senator KEMP**—Senator Ray, you will get an answer if you keep quiet. I am making a general point to the Senate. On this particular issue, Senator Quirke—you were undoubtedly busy elsewhere—when you were given that question by Senator Cook or by Senator Ray, you should have asked, ‘Was this covered extensively in Senate estimates?’ And if it was covered extensively in Senate estimates, you should have asked, ‘Why do I need to ask the question today?’ The ACCC understood that the guidelines were very general and required, in a number of areas, a clarification on issues of government policy. What Mr Hockey did was to reaffirm previously stated government policy, which was only generally expressed in the guidelines and needed to be clarified. I think you will find that it was not a specific written direction by Mr Hockey and, if my memory serves me correctly, I think that was stated at the Senate estimates.

**Senator QUIRKE**—I ask a supplementary question. How does the minister explain the fact that the GST pricing guidelines, which Mr Hockey purported to direct the ACCC about, have yet to be finalised?

**Senator KEMP**—Again, this was very extensively discussed—

**Opposition senators interjecting**—

**The PRESIDENT**—Order! The level of sledging and shouting across the chamber is totally disorderly and unbecoming to the Senate.

**Senator Bolkus interjecting**—

**The PRESIDENT**—Senator Bolkus, I am drawing the attention of senators to their behaviour.

**Senator KEMP**—Thank you, Madam President. I point out to the senator that, again, this was another issue which we probably spent half an hour to an hour on at Senate estimates. The answer that was given at Senate estimates is that there was some consultation occurring on guidelines and it was expected that they would be released in the very near future. That is what was stated at the Senate estimates and that is what I state today.

**Australian Broadcasting Corporation: Media Opportunities**

**Senator CALVERT** (2.15 p.m.)—My question is directed to the Minister for Communications, Information Technology and the Arts, Senator Alston. Minister, how is the government enabling the ABC to take full advantage of the new media opportunities which are rapidly emerging around the world as a result of the information revolution? Is the minister aware of any alternative policy approaches that might compromise the independence of the ABC? Is the government giving these any serious consideration?

**Senator ALSTON**—Yes, we are very concerned to ensure that the ABC is in a position to take full advantage of the new media opportunities. In fact, we have been very supportive of the ABC web site, ABC Online, which is now in the top 10—about No. 5—with something like three million hits a week. We certainly take the view that the ABC from the board down are very conscious of the new opportunities and the fact that, if they do not embrace the on-line world, they could very easily be left behind. We also take the view that everyone from the board down is acutely conscious of the statutory obligations of the board, that the independence of the ABC is protected by law and that the ABC ought to be allowed to get on with its business. It is not our job to second guess. It is not our job to intervene in commercial arrangements.

It was very surprising indeed when we saw that there was effectively a disclosure of a very unremarkable deal that the ABC is negotiating with Telstra which would see some of its content provided on a non-exclusive basis with full editorial control residing in the ABC and in response to that an absolutely furious outburst by the shadow minister, Mr Stephen Smith. It is quite extraordinary because he has kept a remarkably low profile
to date, but all of a sudden he called a doorstop in the middle of estimates committees and said, ‘This deal is red hot. The board should not sign. This is a proposal that is totally unacceptable. I call upon the board to ensure that no such exclusive content proposal or deal with Telstra is permitted prior to a thorough parliamentary investigation.’ In other words, he was vetoing it. He was stepping right into the ring and saying, ‘The ABC is not allowed to go ahead with these things because we don’t want it to. We, the ALP, want to stop the ABC from getting on with its business.’ That is what his proposal was. In fact, he went even further yesterday. He called another doorstop and said that he wanted to have an inquiry into the role of the ABC in the future, the role of the ABC in the digital world. He wanted to know whether the charter was still relevant.

Mansfield recommended some very sensible changes to the ABC charter, wanted to protect news and current affairs, wanted to protect regional Australia, wanted to protect children’s television. The ALP would not have a bar of it. It did not want to touch the charter—nothing wrong with it at all. Has anyone ever suggested anything wrong with this deal? Has anyone ever suggested that we are unclear about the role of the ABC? We are not unclear. The public is not unclear. But all of a sudden the shadow minister is so unclear that he wants to veto a deal and he wants a thorough, comprehensive investigation of all that the ABC has ever done in its life and is likely to do in the future.

It is not surprising that one of the staunchest defenders of ABC independence and impartiality, Mr Johns, should come out and comprehensively refute all that Mr Smith had to say about these matters. He made it clear that he did not understand what coproductions were, that he did not understand that the integrity and independence of the ABC was protected at all times. So in response to that, what we had was Mr Smith putting out another press release saying that all he had done was make an ‘unremarkable suggestion’ that there should be further scrutiny. This is spin doctoring at its best, or worst, because in one breath he said they ought to stop this deal, that it was red hot and they should not sign and now he says, ‘All I was doing was suggesting that there ought to be a little bit of parliamentary scrutiny.’ He ended up saying—this is the ultimate slur—‘People will make their own judgments as to who is right or wrong in respect of this issue, but it is sometimes a helpful guide in making that judgment to look at the company one keeps.’ What is he on about? He is not just taking the political opportunist line that my enemy’s enemy is my friend; what he is saying is that my enemy’s friend is my enemy. (Time expired)

**States: Commonwealth Funding**

Senator CARR (2.20 p.m.)—My question is directed to the Assistant Treasurer, Senator Kemp. I refer the minister to the Prime Minister’s statement on Melbourne radio 3AW last Friday about the Commonwealth funding for hospitals, schools and housing. Is the minister aware that in response to the proposition that the Commonwealth will be providing less funding to the states for these services the Prime Minister said, ‘No ... we’re providing less dollars, but because the cost of operating will fall, the real financial position will remain the same’? I ask the minister: did the Prime Minister really mean that the Commonwealth will be providing less dollars to the states, as this statement clearly implies?

Senator KEMP—Let me make it clear that there are many winners under the GST, but there are probably no greater winners than the states. I say that for the simple reason that the states get the revenues from the GST—Labor states, Liberal states and any other states that are governed by any other party. The states have signed up to this deal. Frankly, what we would expect as a result of the GST is that states will not only be better off—we will have a simpler tax system—but also will have a guaranteed source of a growth revenue, which is very, very important. This will mean that the states themselves will have more money to spend on such things, Senator Carr, as education, health, welfare and other services that state governments provide. I think that is the reason why the states signed up—the states knew that they would be better off as a result of the tax reform process.
So I would say this: the states have got a tremendous deal out of tax reform, a truly tremendous deal. It is a once in a century deal which the states grabbed as quickly as they could for the simple reason that they will be better off and will be able to spend more on those very things which you mentioned.

Senator CARR—Madam President, I ask a supplementary question. Given that the minister has now acknowledged that the Prime Minister has in fact said that they are providing less dollars to the states, doesn’t this statement of the Prime Minister last Friday completely contradict the commitment that the Prime Minister gave to the parliament on 12 November 1998 when he said: ... we have no intention of using the ... specific purpose payments to take away through the back door what we are clearly giving in a very generous fashion through the front door—

Was the Prime Minister dead wrong in his radio comment last Friday, or was he treating a commitment to this parliament as yet another non-core promise?

Senator KEMP—Let me just mention the issue of promises. The one problem we have had with this Senate since the election is that the Labor Party is fighting to prevent us keeping our promises across a whole range of areas. The Labor Party is opposed to this government keeping its promises, and I can quote innumerable examples where the government has gone to the election with specific policies and got a specific mandate and the Labor Party as one has refused to recognise that mandate.

One thing I can say to you, Senator Carr, is that unlike the Labor Party this government takes its promises very seriously and this government seeks to deliver its promises. Frankly, I think it would help if the Senate got out of the way and allowed the government to deliver its promises.

Dairy Industry: Deregulation

Senator WOODLEY (2.24 p.m.)—My question is addressed to the Minister representing the Prime Minister, Senator Hill. Is the minister aware of the Prime Minister’s promise to rural and regional Australia given during his recent visit to regional centres that Commonwealth government services will not be reduced in the future? Is the minister also aware that the Department of Agriculture, Fisheries and Forestry told the Senate estimates committee last week that 4,000 dairy farmers would be vulnerable following deregulation of the dairy industry and that ABARE has predicted that between 4,000 and 5,000 dairy farmers may leave dairying following deregulation? Can the minister tell the Senate how the Prime Minister can fulfil his promise to those dairy based communities which will lose not only people but millions of dollars in income?

Government senators interjecting—

Senator WOODLEY—Won’t such losses guarantee government services will continue to decline? I do not know if the minister heard the end of my question.

The PRESIDENT—Order! There are senators on my right interjecting in a disorderly fashion.

Senator HILL—I did miss the end of the question and I presume the relevance was tied up in the end of the question. The Prime Minister did make a pledge in relation to Commonwealth government services and he has subsequently written to all ministers saying that he expects that to be delivered, and it will be. In relation to dairy farm deregulation, as I understand it, that is being driven by the dairy industry themselves in conjunction with the states, and we have been prepared to be supportive.

Senator Boswell—$1.8 billion worth.

Senator Forshaw—The consumers are paying for it.

The PRESIDENT—Order! There are far too many senators making too much noise. Senators at the end of the chamber are behaving in a disorderly fashion.

Senator HILL—If the industry seeks to restructure to improve efficiency and therefore ensure its long-term economic sustainability, I can understand that as well. It will mean, I understand, fewer dairy farmers but I cannot immediately relate the consequences of that to the promise the Prime Minister gave. Perhaps when Senator Woodley asks the supplementary, he will draw the link and I will then attempt to answer that.
Senator WOODLEY—Madam President, I ask a supplementary question. The point, Minister, is that once you lose people and millions of dollars from rural communities, then obviously government services cannot be supplied to those communities when there are no people to supply them to. Won’t such losses guarantee government services will continue to decline?

Senator HILL—It is a pretty tough ask of the government that Senator Woodley is putting. Having received a brief, I am now pleased to see that I was correct that the package of the government does respond to the dairy industry’s request for an adjustment package to manage the impact of deregulation and the transition to an open market. The brief confirms what I said—that the government is not driving the deregulation; the package will only be available in the event that all states proceed with deregulation of their market milk arrangements. I do understand that means that there will be fewer dairy farmers. It may mean that there need to be fewer services delivered but, notwithstanding that fact, the Prime Minister has said that the Commonwealth government will not be reducing its services and that position will stand.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from China led by the Vice-Chairman of the Standing Committee of the National People’s Congress, Mr Zhou Guangzhao. I welcome you to the chamber. I trust your visit to this country will be both informative and enjoyable.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Spermicides

Senator CROWLEY (2.28 p.m.)—My question is to Senator Herron representing the minister for health. Can the minister explain why both personal lubricants and condoms are GST free but spermicides are not?

Senator HERRON—I certainly can. As I said yesterday in relation to tampons, this is a tax package that carries across the whole spectrum of reform. If Senator Crowley had listened to the report of the International Monetary Fund today, she would know that they specifically instanced the fact that we are attacking fiscal policy and tax reform in this country in addition to the way we have tackled inflation and promoted strong growth, labour market reform, repayment of overseas debt and lowering of interest rates. So it is a package of economic reform. The Labor Party did not do this. In 13 years they dug that hole where we inherited a $10½ billion deficit. By attacking reform, we get down to the detail—

Honourable senators interjecting—

The PRESIDENT—Order! There is far too much noise in the chamber.

Senator HERRON—When we get down to the detail—

The PRESIDENT—Senator Herron, you should not proceed until I bring the Senate to attention.

Senator HERRON—It is all right I am happy to read it to the other side if they wish.

Honourable senators interjecting—

The PRESIDENT—Order! The Senate is not behaving in an orderly fashion. Senator Herron.

Senator HERRON—I was just winding up, Madam President. The economic reforms that we are instituting have turned this country around totally from what we inherited a short four years ago. As part of that, there is fiscal reform. As part of that, there is a new tax package and system—$12 billion of tax cuts that will get into the pockets of ordinary people. As part of it, Senator Crowley should understand there will be a few items that will go up. We are getting rid of the wholesale sales tax that the Labor Party had. I understand that under wholesale sales tax toilet paper had 22 per cent on it, if we are getting down to the fundamentals of these things. I think it is important that we do, because Senator Crowley is picking through items now—

Senator Faulkner—What about answering the question?

Senator HERRON—I am, Senator Faulkner. She is picking through the items and not looking at the big picture. This is the
problem with the Labor Party: they cannot see the big picture. They pick on little items where there is a little bit of a change. I refer Senator Crowley to something that has just been handed to me. For example, was Senator Crowley aware that Pine O Cleen disinfectant will go down 15c? Was she aware that Pal dog food will go down? Was she aware that Mortein fly spray will go down 20c; that Schweppes lemonade will go down 10c? Peters vanilla ice cream will go down 59c, Senator Crowley. Pantene shampoo will go down 36c. A whole basket of goods will go down. I see from the headline ‘Sun-Herald survey shows that GST will cut the shopping bill’—which I am happy to show the other side—that the GST will cut the shopping bill. We could pick over various issues, and I am happy to respond. I will read the rest of the list for Senator Crowley’s benefit. I do not think spermicidal jellies are in it but they may well be. I do not know what their price is, obviously; I have never been a consumer of them. Lipton teabags at $2.13 go down a couple of cents. Berri orange juice goes down 18c. Under the Labor Party, with wholesale sales tax, there was a 22 per cent tax. Senator Crowley did not mention those prices when she went over other items with a fine-tooth comb. This is a bonanza for the taxpayer—$12 billion of tax cuts. If they wish to spend something on spermicidal jellies, which is their right, so be it. I am happy for them to do so. But I must say that, when we have zero population growth and have been through it for the last 25 years, it is hardly something that I would be advocating when we have a rapidly ageing population. Look on your side. It is a pity those products were around; we might have had a younger group of people over the other side. Senator Crowley can pick up all these issues. I am happy to take them aboard. (Time expired)

Senator Faulkner—Oh, sit down, you old goat!
The PRESIDENT—Order! The behaviour in the chamber is totally unacceptable.

Senator Herron—That was a slur by Senator Faulkner on everybody over 65 in this country. That is a generic term, Madam President. I object to it on behalf of everyone else over 65 in this country.

The PRESIDENT—I think it would be better if we got on with question time.

Senator Kemp—I raise a point of order, Madam President. Senator Faulkner made an insulting comment to Senator Crowley, and I suggest he be asked to withdraw that.

Senator Abetz—He called her an old goat.
The PRESIDENT—Order! There are far too many people interjecting. I think that if Senator Faulkner has insulted Senator Crowley, it is perhaps a matter they can discuss after question time.

Senator Faulkner—I addressed no remarks to Senator Crowley.

Senator CROWLEY—Madam President, I ask a supplementary question. For people considering the cost of these items I do not think an IMF report about tax reform is really the first thing on their minds. I ask you again, Minister: can you explain why personal lubricants and condoms are GST free and spermicides are not, and what is the public health benefit in granting a GST exemption for personal lubricants while at the same time imposing a GST on spermicides?

Senator HERRON—I would be happy to draw to Senator Crowley’s notice that beauty products are cheaper under the GST.

The PRESIDENT—Senator Herron, you should not be holding up newspapers

Senator Faulkner—Answer the question.

Senator HERRON—The answer to the question is that there are some products that go up and some that come down. Wholesale sales tax comes off and tax goes up on others. It should be obvious to all those on the other side, particularly in relation to spermicidal jellies.

Videos: Classification

Senator HARRADINE (2.35 p.m.)—This question goes to the integrity of a minister of this government in his statements, and it is addressed to Senator Amanda Vanstone. I ask the question in the context of the push by the government to have its NVE classification replace the X classification. I refer to the Attorney-General’s statement in respect of this matter. He stated that the decision fulfils the government’s commitment to ban X-rated
films and addresses community concerns about the availability of any sexually violent and demeaning sexually explicit material. I ask the simple question of the minister: under the current guidelines, is sexually violent material permitted or not; and, under the current act, is demeaning material proscribed or not? If the answer to those two questions is yes, could the minister explain why the first law officer of the crown made such a deceptive and misleading statement? (Time expired)

Senator VANSTONE—I thank Senator Harradine for this question quite genuinely—literally from the bottom of my heart—because he indicates to me the value of persistence. He has been persisting in this matter with the Attorney for some years, I think, and has raised the matter on a number of occasions at estimates committees. The focus of Senator Harradine’s concern is a press statement put out by the Attorney—unless there is another one, Senator, and I will be happy to take further advice if this is not the one you are referring to—some time ago indicating just as Senator Harradine said.

Senator Harradine has taken exception to the terminology and believes it is a misdescription. The Attorney has responded in relation to that. Senator Harradine has asked numerous questions at a number of estimates committees, although not at the recent supplementary ones, and I forwarded those matters to the Attorney. I am not sure whether a difference of opinion about what two words mean is ever going to be resolved. I believe I understand what the Attorney said and meant, and I do not believe any discredit falls to him on the basis of that press release. But I can see the interpretation that Senator Harradine chooses to put on that, and I think that in this world there are sadly some very large problems that are intractable that we all need to work on as best we can, accepting that we are never going to win, and there are some differences of opinion that perhaps will never be resolved. As I have frequently said before, the voice of dissent is the bell of freedom. I am glad we live in a country that is like that. I think, Senator Harradine, your question falls into that category, but I will happily pass this matter on to the Attorney and ask him if, on this occasion, he has anything further to add.

Senator HARRADINE—Madam President, I ask a supplementary question. It is not my interpretation of the words; I am reading from the act. I simply asked whether the current act precludes demeaning material, the portrayal of certain persons in a demeaning manner. I asked Senator Vanstone whether or not sexually violent material is permitted in the X category now. Your Attorney-General is saying that this NVE switches to exclude both. They are already excluded, are they not? I am asking you: are they not already excluded? If they are not, the people who should be excluding them are not undertaking their duties according to the law, and the first law officer of the crown has deceived and misled the people of Australia, including the cabinet.

Senator VANSTONE—Senator Harradine, you are referring to the press release of 1996 or 1997, as I thought you were. These questions are the same as those that have been put in estimates. My answer remains the same: I will happily take this on notice and ask the Attorney if he has anything to add.

In respect of your desire to have a specific question answered, I simply say to you that it is my understanding, having been the minister at those estimates, that the press release needs to be read as a whole. Looking at one part of the legislation or one part of the press release is not the answer to the difference of opinion that you have. The Attorney has indicated, and members understand, I think, the further refinements and limitations, shall I say, that the NVE category offers and welcomed those further restrictions.

Goods and Services Tax: Compliance Costs

Senator CONROY (2.41 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Where a business incurs compliance costs in order to administer the Howard-Lees GST, will compliance costs be added to the price of the good before or after the GST is applied? On the AM program this morning, Professor Fels of the ACCC stated in answer to a question from Mark Simkin:
That’s a tax question as to whether there is a tax on the compliance costs.

Can the minister, as the person responsible for the detailed implementation of the GST, inform the Senate whether the GST will be applied before or after the addition of compliance costs?

Senator KEMP—I think the answer that Senator Fels has given on compliance—

Senator Newman—Professor Fels.

Senator KEMP—Professor Fels, I correct myself. Professor Fels has made his comments on this. Let me say that it is possible that net additional compliance costs can be taken into account, but the 10 per cent rule applies. The 10 per cent rule applies that no prices will be allowed to go above 10 per cent as a result of the GST. As Professor Fels has said, 10 per cent is 10 per cent is 10 per cent.

Senator CONROY—Madam President, I ask a supplementary question. The minister clearly missed the question that was asked. The question is: where a business incurs compliance costs in order to administer the Howard-Lees GST, will compliance costs be added to the price of the good before or after the GST is applied? Will the minister guarantee that the issue of compliance costs being added to the price of goods or services before or after the GST is applied will also be clearly dealt with in the GST pricing guidelines, which are still to be finalised? Further, will the government issue a formal direction under section 29 of the Trade Practices Act to this effect?

Senator KEMP—Senator, I think you should read exactly what Professor Fels said. I refer you to an earlier part of the interview. Professor Fels stated earlier in the interview, I am advised, that businesses can pass on reasonably incurred compliance costs, provided their prices do not go up by more than 10 per cent.

Senator Cook—That’s not the question.

Senator KEMP—That was the question you asked, and that is the answer that you will be given.

The PRESIDENT—Order! Senator Cook, if you wish to debate this matter, you can do so at the end of question time. You should not be shouting during the minister’s answer. Senator Kemp, do you have anything further?

Senator KEMP—Thank you, Madam President. I think I have answered the question. If anyone in business has any particular concerns about it, they can raise these issues with the ACCC or they can raise them with the government.

Senator Conroy—The ACCC said it’s a tax office issue.

Senator KEMP—I have stated to you clearly what Professor Fels said earlier in the interview. You were, as usual, a little selective in your quoting, which you have rather a habit of.

Drugs: Strategies

Senator PAYNE (2.45 p.m.)—My question is addressed to the Minister for Justice and Customs, Senator Vanstone. The government’s Tough on Drugs strategy is enabling law enforcement agencies to successfully combat the incidence of drugs in the community. Would the minister please inform the Senate of recent successful drug operations against cocaine and ecstasy?

Senator VANSTONE—I thank Senator Payne for the question. The Federal Police and Australian Customs deserve congratulations from the government—they certainly get that—from the parliament and from parents in Australia for the excellent job they are doing in the war against drugs. Every now and then, someone on the opposite side in the Labor Party—which, when they were in government, decimated the Australian Federal Police and left them in a position where they could handle only one major drug investigation at any one time—is silly enough to put out a press release saying that this government has not looked after law enforcement. They ignore the point made by the commissioner of the Federal Police, appointed by the Labor government—he is not someone you could possibly claim owes this government anything—that the Federal Police have never been better funded than under this government. The benefits of better funding—giving them the tools they need to do the job and the people and equipment they need—and the better cooperation between Customs and the
Australian Federal Police and other law enforcement agencies are now clearly to be demonstrated.

Since 1 January this year, federal agencies have seized over 638 kilos of cocaine, which is twice the entire amount seized in 1998-99, including the then record set by law enforcement under this government of 225 kilos off Coffs Harbour in 1998. A record 510 kilos of cocaine was seized north of Sydney this month. Seven people were arrested and a multinational syndicate was dismantled. There were 115 kilos of cocaine seized in airfreight in Sydney this month. It was unsuccessfully disguised with other chemicals to avoid detection. Two people were arrested. A record ecstasy seizure occurred on 17 January in Melbourne. A consignment from the Netherlands of over 56 kilos was seized and four people were arrested. On 29 January in Brisbane, a consignment from Malaysia of 670 kilos of ecstasy tablets, nine kilos of powder and nine kilos of cocaine was seized. Seven people were arrested in Brisbane or Sydney.

Clearly, this indicates that the Tough on Drugs strategy, into which this government has put over $500 million over five years, is getting results. These types of drug seizures are enormously damaging to people at the top of major international and local syndicates. These operations hurt the drug cartels. They have lost tens of millions of dollars of ecstasy and possibly hundreds of millions in relation to cocaine seizures. This is not to mention the 29 operatives that have been arrested. There are 29 people now sitting somewhere in jails who have got information. There are 29 people who might provide, in the future, more information than we already have. This is the kind of thing that is particularly worrying to drug syndicates.

In addition to these very large seizures, on almost a daily basis we are having significant seizures at the airport. There are so many that they have become no longer newsworthy. A Brazilian flew in from London with cocaine suspended in wine casks. There have been a number of internal concealments. That is a very risky business; if the packaging breaks internally, the person may lose their life. An Italian male came in from Frankfurt with ecstasy concealed inside his luggage. A Singaporean male came in with methamphetamine strapped to his body. There are any number of ways in which these people try to hide drugs but, whatever the quantities and the methods, we are catching them.

**Goods and Services Tax: Meat**

Senator O'BRIEN (2.49 p.m.)—My question is addressed to Senator Kemp, the Assistant Treasurer. Can the minister confirm that a beast sent for slaughter becomes food for the purposes of the GST when the carcass is stamped ‘fit for human consumption’? Can the minister also confirm that, if the contract between the farmer and the meatworks transfers ownership of the beast at that point, the transaction is GST free? Can the minister advise the Senate how, for the purposes of applying the GST, the inedible parts of a beast will be treated at the time of its slaughter? Will the processor be required to pay GST on those inedible parts of each animal, or will the whole beast be treated as food at that point?

Senator KEMP—The general principle is that food for human consumption is GST free. You would be aware of that. That is why we have had a number of stories in the press in recent days where people have gone around with their shopping baskets and shown that the prices of many items will fall as a result of the government’s GST. That is a very big plus. In relation to the specifics of the question, I understand that these issues are currently being discussed with the NFF. If I can provide you with some further advice, I will.

Senator O’BRIEN—Madam President, I ask a supplementary question. At least I did not get the excuse that the matter had been traversed at estimates. The question is a serious one. I take it that the matter has not yet been determined. But is it not true that advice has been given to the industry that the GST will be applied in the way that I outlined—that is, when the beast is stamped ‘fit for human consumption’, if the transaction for sale takes place after that point, the GST does not
apply? Can you confirm that or otherwise? Can you confirm that the value of the inedible parts of beasts processed in Australia amounts to hundreds of millions of dollars?

Senator KEMP—As I said, food for human consumption is not subject to the GST. I understand that compliance issues have been raised. These matters are being discussed with the government. I will provide you with advice as soon as I practically can.

Rural and Regional Australia: Austudy

Senator STOTT DESPOJA (2.52 p.m.)—My question is addressed to the minister representing the Minister for Education, Training and Youth Affairs. In light of the Prime Minister’s recent rural listening tour, is the minister concerned that according to 1998 DETYA figures rural Australians participate in higher education at two-thirds the participation rate of urban Australians? Does the minister recall the government’s election promise to increase Austudy access to regional and rural Australians by discounting farm assets from the current 50 per cent to the 75 per cent under the assets test under Austudy? What, if any, action has the government undertaken to implement this 1996 election pledge? Will the minister inform the Senate just how many times the coalition—the Liberal Party and the National Party—have in fact voted against that very election pledge?

Senator ELLISON—Senator Stott Despoja knows only too well what the government have done for education in this country. In fact, we have increased expenditure in schools vastly compared with what the Labor government did when it was in power. In relation to education in regional Australia, the Howard government have placed a high priority on what we have done there. In fact, we recognise that students in remote and regional areas do have special needs. Under the Country Areas Program the government provide $18.7 million in annual funding to state education authorities to enhance the educational outcomes of students in rural and isolated areas. This addresses those inequities in the tertiary sector between the kids in the bush and the kids in the city.

As well as that, we provide additional assistance to rural and isolated families and students as part of the youth allowance through Austudy—in 1999–2000 that is some $132 million—as well as assistance for isolated children under the Isolated Children Scheme, and that involves some $33 million. Senator Stott Despoja should remember that these are initiatives of the Howard government—no other government. We have addressed the needs of those students in isolated Australia. We have increased the funding so that they can share in the same opportunities as other children who live in the cities.

There is also the aspect of IT. IT provides us with a great opportunity for providing a level playing field in relation to education in Australia. The government are currently developing 11 action plans for a strategic framework for an information economy. We are working with the EdNA Reference Committee, which is made up of representatives from around the country and the states, and we are developing a system which will bring those students in regional areas into the education framework using IT. Of course, this is the way of the future. It is something the Howard government recognise and something which the opposition should too. Senator Stott Despoja does not want to hear this, because this is all good news which has been brought about by this government.

Senator Stott Despoja—Madam President, I raise a point of order. I have given the minister a few minutes to elaborate on his answer. I do not believe he has actually mentioned the words ‘assets test’ in relation to Austudy or the common youth allowance in his answer. Could he please direct his answer to the question.

The PRESIDENT—The minister may be coming to that, but I would remind the minister of the question that was asked.

Senator ELLISON—Madam President, what about the rent allowance that we provide via the youth allowance for those students? That is another initiative for those students who want to go to university. That was something this government brought about. It is all very well for Senator Stott Despoja to just pick on one item and say, ‘This is a
problem.’ But you have got to look at the overall picture, which is a good one for education in this country. In fact, the outcome we are experiencing not only in the tertiary sector but also in training is a record number of young people in education. We have 286,000 people in training, most of them young people. That is also good news for young Australians in regional Australia.

Senator STOTT DESPOJA—Madam President, I ask a supplementary question. Firstly, will the minister specifically address what this government intends to do in relation to farming assets and the assets test for Austudy? Will the government keep its 1996 election promise?

Senator ELLISON—Senator Stott Despoja knows full well that we have kept our promises and more in relation to education, with record levels of funding and record numbers of undergraduate students in this country. We have provided increased initiatives for those students living in regional Australia to participate not only in the tertiary sector but in the vocational education and training sector as well.

Goods and Services Tax: Breast Pumps

Senator WEST (2.57 p.m.)—My question is directed to Senator Herron, representing the Minister for Health and Aged Care. I ask the minister: can he confirm that for some women a breast pump is an essential item which enables them either to breastfeed or to provide their child with expressed breast milk for the child to feed upon? It is essential for those women who have mastitis, cracked nipples and particularly for women who have babies in premature nurseries, where expressed breast milk is the feed of choice. Given that it has been a longstanding policy of the Commonwealth government to encourage mothers to breastfeed wherever possible, why is the GST being set up to give preferential treatment to formula over breast milk?

Senator HERRON—There is no question that those items are essential for those people who have a disease process, and that is the whole purpose of the decisions that were made by the advisory committee. The majority of health goods will be GST free under the new tax system. That includes a broad range of pharmaceutical goods and therapeutic goods, such as heat packs and bandages, that are supplied during the course of medical consultations. If you understand that—and I would ask Senator West to understand that—then you see that it is part of a medical consultation, part of a disease process, that they are supplied during that medical consultation. There are over 160 medical aids and appliances designed for people with an illness or a disability.

Obviously, the government recognises that feminine hygiene and breastfeeding products are essential items. However, the government policy is not to tax or exempt items on the basis of whether they are essential. There are many things that are essential; toilet paper is essential, as I mentioned previously to you. So the essential nature of things is not the criterion. I would think that for most of us—I speak for myself anyway—clothing is essential. I think it is absolutely important. I cannot speak for others; I can speak only for myself. But I speak for the government, and it is going to be taxed. There has to be a value judgment.

Every exemption adds to the complexity of the tax system and creates new anomalies. I am sure that Senator West would appreciate that. The benefit of tax reform comes from applying the GST broadly to as many items as possible and cutting income tax, which puts money back in the pockets of taxpayers so that they are better off even after price rises. There is the statement—and the various media reports and submissions to the Department of Health and Aged Care and Treasury have previously suggested—that tampons should be given GST-free status. Preventative health measures in general were not incorporated in the original legislation due to the unclear and unmanageable boundaries this would create. ‘Preventative health’ is a broad-ranging and subjective term that could be applied to many items, even as far as health spa holidays—if you were going to get that far. We agreed as a government, in negotiations with the Democrats, to provide exemptions for a limited number of other health products. They were the ones that were previously mentioned: sunscreen, folate
pills, condoms, femidoms and personal lubricants.

Senator West knows that it has been suggested that GST-free status should be extended to sanitary products under schedule 3 of section 38-45, ‘Medical aids and appliances’, in the new tax system act. This section of the legislation gives GST-free status to those items that are used by people with an illness or a disability that are not commonly used by people without an illness or a disability. I would suggest that a medical condition such as a breast abscess or mastitis that is being treated as a medical condition comes under that category. For sanitary pads, tampons and applicators to be included in this section of the legislation, the normal menstrual cycle would have to be recognised and classified as an illness or disability—and it is just not so. It is a physiological mechanism which fortunately exists in half the community. Where a woman’s menstrual cycle requires prescription medication or hospital treatment, such procedures and products would be GST free.

Senator West—Madam President, I raise a point of order on relevance. I specifically asked about breast pumps; I did not mention tampons or sanitary items. I have had a whole answer that has been very hard to distil but has included a lot of stuff about tampons and very little about breast pumps.

The PRESIDENT—The minister has referred to the matters that you raised. He has canvassed it more widely, I agree, but I do not think you could say that the answer is not relevant to the question.

Senator HERRON—It was in that context that I was leading to the breast pumps situation. As I said, the generic situation is that, if it is a disease process that requires medical treatment, it comes under a medical disability situation. So breast pumps will be available GST free—and there are those in our midst for whom knowing about this particular product may be worth while—to the consumer when they are hired or purchased on the premises as part of a GST-free medical consultation. I think that answers the specific question. This would include such circumstances as the hire of breast pumps within a hospital—(Time expired)
who is responsible for the detailed implementation of the GST would have had some sort of idea of the regimes that were being put in place for one of the most important industries in the rural sector, because there are so many farmers involved in the production of animals for the food chain. The issue of the collection of GST for those people has been of critical importance, to the extent that people from the industry have come to me and other members of the opposition to raise the issue of just what is happening. It appears to them that processors of the animals have the ear of government and that arrangements are being put in place so that the GST will not be applied to a beast once it has been stamped 'fit for human consumption'. One of the issues that farmers face in that circumstance is that they will not receive payment of the GST from the processors for the animal but they will be required to pay GST on their inputs. That means there are cash flow implications for a great many farmers in this country.

You have to remember that, with all the talk about wholesale sales tax and its application to the farming community, most, if not all, of the farmers involved in activities where wholesale sales tax is involved are exempt. They do not have to pay it. But, under the GST system, farmers will have to pay GST up front for the inputs to their production process. Yes, they will be able to claim them back after a period of time, but the arrangement which is being discussed and which I understand from the industry is to be implemented is that the beast will not attract payment of the GST from the processors for the animal but they will be required to pay GST on their inputs. That means there are cash flow implications for a great many farmers in this country.

The issue that I raised involves hundreds of millions of dollars in the value of inedible animal parts—that is, if what I was told was correct, that would not attract the GST. There is no doubt that the inedible parts of the animal would be retained by the processor. The question then arises: does that mean that the processor is effectively getting an exemption for hundreds of millions of dollars worth of product, such as hides or the contents of their blood and bone plant, for example?

Those are issues which one would have thought the Assistant Treasurer could have assisted us with. There are discussions which I understand have taken place quite recently. But, no, we could not get an answer to that. We noticed that in the answer to Senator Conroy’s question we did not even get an answer at all. There was clearly no understanding of the question that was asked. All that we got from Senator Kemp is that somehow Professor Fels’s remarks should be looked at. I wonder whether Senator Kemp had indeed heard them or had seen them because it was clear from Professor Fels’s remarks that, because the issue that Senator Conroy raised was a tax question, he was not in a position to answer it. He clearly did not want to answer it when he gave the interview on the AM program this morning. But what did we get? We got an answer to an entirely different question. I wonder where the Assistant Treasurer was when the question was being asked. He clearly was not present here today.

I go back to the issue that I raised about the hundreds of millions of dollars in the value of inedible animal parts that appear to be escaping the GST net. If that is the case, I ask the government to explain to the Australian people why we are going to apply the GST to tampons and women’s sanitary products, for example. There seems to be a much better case to exclude them from the GST if indeed the government is going to agree to a scheme which will exempt these inedible animal parts from the GST’s application.

Senator Ferguson (South Australia)

(3.10 p.m.)—The subjects the opposition choose to take note of answers on never cease to amaze me. Yesterday I was quite surprised by the issue Senator Faulkner raised. Today we have Senator O’Brien raising the issue of the GST. Yesterday the opposition were flat out on the National Textiles case with question after question. Today there is not one. National Textiles and all the issues that were raised yesterday have been blown out of the water in one day. Today it is the GST. Senator O’Brien raises the issue of the GST as it relates to farmers. Senator O’Brien, I do not know how big your farm is or how much experience you have had with people
who are involved in the farming industry, but let me tell you that the National Farmers Federation fully endorses the GST package that was put in place by this government. It has been shown, not by our figures but by the research and modelling of the National Farmers Federation, that the average farmer in Australia is going to be something like $6,000 or $7,000 a year better off under the GST tax reform proposals than they are under the current wholesale sales tax system.

Senator O'Brien raised the issue that they will have to pay the GST up front but of course they will get it back later. Let me tell you that, in the package that is being brought forward, most of the farmers that I know actually get their income not on a slow, week by week basis but in bulk at any one time—for instance, at harvest time for grain or when wool or any other commodity is sold. In fact, there is a tremendous benefit for them under the GST system because they will be collecting GST under that system, and most of the people in my own area receive their harvest payments in early January and will not have to refund the GST that they have collected until 21 April in that same quarter. They have the advantage of having this extra money that they can use during that three-month period, and it more than offsets any GST that they would have paid on inputs.

If Senator O'Brien wants to come here and represent the views of farmers and those who are involved in primary industries throughout Australia and talk about the effect that the GST is going to have on their enterprises, their income and their cost of production, he needs to go back to the National Farmers Federation and say, ‘Do you still support the whole program? Do you still support the GST package in total?’ They do, Senator O'Brien. The one thing that the primary producers of Australia have to fear is having a Labor government. We had the Leader of the Opposition, Mr Beazley, saying on 8 February that, when Labor get into government, they will start rolling back the GST. I think that, if we started talking about rolling back the GST, farmers would really have to worry about what would be left of the tax reform process which has been put in place and which they support wholeheartedly and have supported wholeheartedly since it was first mooted back in 1993. As a matter of fact, if you want to choose the greatest supporters, you choose farmers—you choose people who sell cattle and you choose people who are involved in all primary industries. They are the very people who, over that whole period of time, have been the strongest supporters of tax reform because, as you know, Senator O'Brien, many of them are involved in exports. For the exporters of this country, the taking away of the burden of the wholesale sales tax system is going to make life much easier. It is going to make it possible for them to make larger profits than they have in the past under the old system with wholesale sales tax.

The only thing the farming community has to fear is the election of a Labor government which might start to roll back the GST, although in earlier days Mr Beazley did say that the simple fact of the matter is that business will have spent millions putting this tax into place and getting systems to conform with it. So, even though they could not turn back the clock and reinstate any other form of taxation system, they are now starting to talk about rolling it back. If a Labor government were to roll back the GST system, I would be very interested to see just where it would get the revenue to replace that which it would lose in the roll back.

Senator MURPHY (Tasmania) (3.15 p.m.)—I also rise to take note of answers that were—or perhaps were not—given to questions that the opposition asked today. In particular, I want to go to the question I asked of Senator Kemp about rents. The minister implied that, under the Trade Practices Act, the ACCC would have the power to prosecute an individual who does not register for an ABN, who owns houses and/or properties and who rents them to other people, who puts the rent up and says that the rent increase is actually a GST increase and who then proceeds to collect additional moneys. The minister says that, under the Trade Practices Act, the ACCC can prosecute these people.

That simply is not true, as was acknowledged even by the ACCC during the estimates hearing. The Trade Practices Act allows for the ACCC to prosecute corporations
but not individuals. The purpose of the question was to ask the government, as we did at estimates, to make a move to give the ACCC the power to do that—that is, prosecute people where they are quite blatantly making profit at the expense of many people who are unable to afford to pay rent increases when those rent increases are greater than the 10 per cent GST. Even the minister’s senior minister—and I do not know whether that is a correct description of their relationship—the Minister for Financial Services and Regulation in the other place today acknowledged that the ACCC cannot prosecute individuals. In fact, he said that he had written to the states to seek agreement from the states to enable the government to do something to give some powers to the ACCC. They are the facts, and for the minister to come in here and try—as he also tried at the estimates—to infer that somehow there was a power available to the ACCC is quite misleading of the Senate.

Senator Faulkner—He is just not up to it.

Senator MURPHY—Absolutely. As Senator Faulkner says, he is just not up to it. As I say, when we do get answers from him, those answers are incorrect.

Moreover, there is another aspect to all of this which goes to the GST, and that is in terms of petrol prices. We have asked the government, in respect of the city/country petrol price differential, whether it will give a guarantee to country people, people out in the regions of this country, that there will be no increase in the price of petrol differential between city and country. The fact of the matter is that the government cannot give that guarantee. We have the poor old Prime Minister continuing to say that they will deliver on their election promises. But they are promises that they cannot deliver on, and they know it. That is why they are still trying to work out what price they will choose to actually apply the GST to. But at the end of the day, it does not matter which one they choose. It will be impossible for them to guarantee that the price differential will not change and that country people will not be paying more for their petrol.

The other issue that has been raised goes to compliance costs for the small businesses of this country in regard to the introduction of the GST. We have heard all manner of things as to how this will work. But the reality is that, for many small businesses, the costs of compliance are very significant. Small businesses will not be able to recoup those costs, unless they increase prices. We have the Chairman of the ACCC, Mr Fels, going around saying, ‘10 is 10 is 10.’ He is still in discussions with the business community with regard to compliance costs, and I do not think ‘10 is 10 is 10’ will finally be 10. If it is only 10, then I think many small businesses may well find themselves in deep financial trouble. Indeed, it may well be the case that the ACCC is considering more than 10.

But what is the government saying about that? Nothing. What is the minister who is responsible for the implementation of the GST saying about that? Nothing. We have asked questions of this minister, and we would expect the person responsible for the introduction of the GST to be able to come in here and at least give some straight answers on these questions. But no, not Senator Kemp. He just cannot make the grade. That is very unfortunate for Australians because, at the end of the day, we just do not know what the GST will cost us. (Time expired)

Senator MASON (Queensland) (3.20 p.m.)—The ALP does keep some promises; they promised us a scare a day, and I think we are going to get it.

Senator Murphy interjecting—

Senator MASON—That is your entire election platform, and that is a very great pity that today the entire Labor policy is all about scab lifting, trying to exact as much political pain from the necessary tax reform that has been undertaken by this government.

Senator Murphy interjecting—

Senator MASON—That is your entire election platform, and that is a very great pity—no policies on health, work, the future of employment or anything like that. It is all about scab lifting. The light on the hill has evaporated, and what do we have left? Rounding up and rounding down. That is the ALP in the year 2000, and that is sad.
Senator Faulkner—Get a new joke writer.

Senator MASON—I hear the Leader of the Opposition. But here we have the entire policy of a great reformist party of the past; it has been left with rounding up and rounding down. It is pathetic. Senator Richardson was quite right when as early as 1985 at the tax summit he said, ‘I have come to the conclusion after wrestling with it for a long, long time that, if we do not move forward and go ahead with this tax reform package, this government will forever be branded as weak and indecisive’—and how right he was.

For 13 years, Labor did nothing while the rest of the world left Australia behind. Some 150 countries have a form of consumption tax, but the ALP say that Australia is not up to it. They think the current, abysmal system adopted by Botswana and Swaziland is the system to go with—that a system devised in the thirties, in the Depression days, fits with Australia in the year 2000. I know you do not really believe that, but you are going to exact as much political pain as possible, and it is pathetic. You can do much better than that.

Yet I am not even sure that the ALP do oppose it—they hate the GST so much that Mr Beazley says, ‘You’re going to have to keep it.’ Their policy is to keep it, yet they hate it so much. They have a multiple personality disorder on tax reform. One minute yes, one minute no, one minute it cannot be rolled back and the next minute it can. Labor do appreciate the case for change, but they lack the guts and the conviction to do it, and that is sad. Labor do not have any other tax policy. They cannot offer an alternative vision, simply scaremongering.

Sadly, the Labor Party is telling the Australian public that tax reform is not necessary and that you do not need to concern yourself with preparing for the future. The Labor Party certainly does not. The Labor Party is also saying that it cares less about the best interests of Australians in the long term than about cheap political point scoring, and that is also a great pity. This is a very sad spectacle from a party that has always claimed to be at the edge of social and economic reform. On this, you are not, and you know that. The GST is all about replacing a whole host of indirect taxes, reducing income tax and reducing scope for tax avoidance. The Prime Minister recently said something that summarises the entire argument:

No agenda built on exploiting a few aspects of technical implementation will detract from the significant net benefits for the Australian economy and the Australian people which will result from tax reform.

The benefits of this reform far outweigh the transition costs. There will be some pain. There may be some administrative difficulties, but to say that it should be scrapped because of them is absolutely pathetic and against the best interests of this country. And the Labor Party know it, yet they are going to do their best to extract as much pain as they possibly can. This system will give Australians $12 billion a year of personal income tax cuts. Some 80 per cent of Australians will pay no more than 30 cents in the dollar on their top marginal rate—no more than that. A single income family earning $40,000 a year with two kids will be almost $50 a week better off as a result of income tax cuts and increased family benefits. The new taxation system will abolish inefficient taxes, broaden the tax base and be a secure source of income for the states. Today Senator Kemp said that the IMF and the OECD back this proposal, and yet the Australian Labor Party still oppose it, and it is very sad.

Senator QUIRKE (South Australia) (3.25 p.m.)—I normally pass a comment on some of the earlier speeches when I get up, and I just want to tell the Senate, through you Madam Deputy President, that Senator Mason is not likely to endear himself to future promotion within his own show by getting up in here and saying, ‘What a wonderful outfit the Labor Party could be if they simply followed my advice.’ He is saying that not only can he run his own show but he can run ours as well. Let us make it quite clear; he is going to have plenty of opportunities between now and the end of the year—and certainly the end of the financial year—to get up on these and other issues. The only thing is, his colleagues are not with him. They are not here today. They have gone. In fact, as soon as question time finished, they could not get out quick enough, and poor old Senator Mason
was left holding the mug award for defending the GST. I thought Senator O’Brien’s taking note today was very good, and I thought what Senator Murphy had to say was excellent.

Senator Faulkner—I agree with that.

Senator QUIRKE—I just want to take one point up with Senator Murphy. Senator Murphy said that the Assistant Treasurer came in here and deliberately did not answer questions. I think that is wrong. I think he just did not have the answers to give. He could not find them in the briefs, and then we had the frightening thing of Senator Herron being taken off the leash and let loose. We got some great chestnuts from him. One was that we were told about breast pumps. I find breast pumps a rather interesting device most times. I have never used one myself, but I have seen them being used for therapeutic reasons. A large number of women who breastfeed need this appliance and other appliances. But what did we find out today? We found out there is a whole series of different categories of breast pumps.

If your doctor is moonlighting—that is, he is selling them on the side, and that might be an advantage in this—you can get them 10 per cent cheaper. You can go to the good old quack and, if he is prepared to sell you a breast pump, you can get it 10 per cent cheaper. If you go to the doctor and you say, ‘Look, I’ve got a few other problems,’ and he diagnoses that you are going to need some sanitary towels or some other things, unfortunately you will not have the opportunity to get them 10 per cent cheaper. You are going to have to go down to the supermarket or the chemist’s store and you are going to have to pay the 10 per cent on them. Somehow, I do not think this whole thing has been thought out very well.

From Senator Crowley’s question, we then found out that—and I think I have this right—condoms are going to be GST free and that lubricants—somebody used some other fancy word for them; I think basically it was lubricants—were also going to be GST free, and that this was something that the Australian Democrats had insisted on in their negotiations with the government. I make no comment on that other than: who could expect any less than the Australian Democrats standing up for these sorts of issues? Then we found that spermicidal cream is still going to be taxed. If you actually took the tax off the spermicidal cream, you might be able to save the money on all the other products as they go down, right down to the breast pumps.

At the end of the day, the government has not thought out the implications, firstly, of the whole GST and, secondly, of the deal they did with the Democrats to get this through.

What we now have is the Prime Minister getting up and saying, ‘It is like this. If we give an exemption for one thing, there will be something else bowled up to us the next day.’ He is dead right. It may not even be the next day, it may be that afternoon. There is a queue of people out there who cannot see the fine principles in this. They cannot see why they are going to be paying a bit more on some items, a lot more on others and maybe a little bit less on a few others—although, that is yet to be seen. I want to conclude by saying that what the taxpayer will get back in July in personal income tax cuts will only be what has been taken off him or her in the last 12 years. This is bracket creep. That is all it is. (Time expired)

Question resolved in the affirmative.

**Dairy Industry: Deregulation**

**Rural and Regional Australia: Austudy**

Senator WOODLEY (Queensland) (3.31 p.m.)—I move:

That the Senate take note of the answer given by the Minister for the Environment and Heritage (Senator Hill) and the Special Minister of State (Senator Ellison), to questions without notice asked by Senator Woodley and Senator Stott Despoja today, relating to Commonwealth funding in rural and regional Australia.

I was tempted to speak in the debate that was going on previously, but I think we have probably had enough of that. I want to take note of the questions asked by Senator Stott Despoja and me today and the answers given because I am very interested in the fact that the Prime Minister was able to visit a number of regional centres. The Democrats certainly have no argument with him doing that. In fact, I congratulate him for doing that. I think there should be more visits to the bush by all of us. I do it all the time, but I do not think
many other senators or members of the other House do unless they have electorates in those areas. The problem I have with the Prime Minister’s visit is that in promising to stop Commonwealth government services being taken out of those areas he is operating on a false premise. That premise is that there are going to be people interested in receiving those services in regional areas in the future.

I remind the Prime Minister and everybody in both houses that we have seen for the last 20 years—in fact, we have seen almost all of last century—a decline in country populations. We are not going to stop that decline unless somebody and some party—and, in fact, in the end all parties in this place—are prepared to answer the question: do you want rural communities? Do you want farmers to have incomes? Do you want profitable industries in rural areas? Unless we can say yes to those questions and design policies which will actually return people, resources and hope to the bush, then it is no good the Prime Minister promising that government services are not going to be taken away. It is pointless delivering government services to communities which have been absolutely devastated both in terms of income and population.

I used the example of the dairy industry. We have had a Senate inquiry and extensive estimates questions on this and at every point the estimation has been that there will be up to 5,000 dairy farmers who will exit the industry. I do not really think there will be that many. Because of the way in which farmers are able to hang on, in spite of everything that is done to them, I think that it will probably be less than 5,000. That was the top ABARE estimate.

At estimates last week the Department of Agriculture, Fisheries and Forestry said that at least 4,000 dairy farmers would be vulnerable. They did not say they would exit. There is a multiplier effect of about four times operating. We are looking at somewhere between, I would say, 4,000 and 16,000 people exiting after dairy deregulation takes place. You cannot maintain government services to those communities that are going to lose that number of people. So that is why I asked the question today.

A related question was asked by Senator Stott Despoja. Unfortunately, the minister did not have a clue about the question. It would have been better had he said, ‘I will go and get some information for you.’ This has been a long running debate in this place.

Senator Hill interjecting—

Senator WOODLEY—Not you, Senator Hill. I was talking about Senator Ellison. You had your facts correct. Senator Ellison did not understand that the question was actually about farm families and Austudy. This has been a long running issue in this place. We have had Senate inquiries chaired by the government which they signed off on and in which they recommended that the family farm should be discounted by up to 100 per cent from the assets test for Austudy. In 1996, the government said, ‘Yes, we will discount it up to 75 per cent.’ They have never delivered on that promise. That is simply one of the promises which they made which would have made it possible for the Prime Minister to say, ‘Yes, we are going to do this and that will help in retaining people in country areas.’ They could not answer that. The minister obviously did not even understand the question. (Time expired)

The DEPUTY PRESIDENT—Order! The time for the debate has expired.

Question resolved in the affirmative.

NOTICES

Withdrawal

Senator COONAN (New South Wales) (3.37 p.m.)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that, at the giving of notices on the next day of sitting, I shall withdraw Business of the Senate notice of motion No. 1 standing in my name for the next day of sitting for the disallowance of the Health Insurance Amendment Regulations 1999 No. 5 as contained in Statutory Rules 1999 No. 176 and made under the Health Insurance Act 1973. I seek leave to incorporate in Hansard the committee’s correspondence concerning these regulations.

Leave granted.

The documents read as follows—
Dear Minister,

I refer to the Health Insurance Amendment Regulations 1999 (No.4), Statutory Rules 1999 No.176, which amend the Medicare Benefits Schedule. Item 1 of the Schedule adds seven item numbers which, if requested by oral and maxillofacial surgeons, will be within the Medicare Benefits Schedule. These changes take effect from 1 September 1999. The Explanatory Statement, however, suggests that these amendments are the correction of an oversight, which occurred when the Diagnostic Imaging Services Table was amended from 1 March 1999. It would appear, therefore, that there has been a period of six months when dental practitioners could not claim for such services.

The Committee would appreciate your advice on whether the information in the Explanatory Statement is correct and whether any dental practitioners have been disadvantaged by the fact that the changes made by item 1 are to take effect only from 1 September 1999.

Yours sincerely,

Helen Coonan
Chair

Senator H. Coonan
Chair
Senate Standing, Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600

Dear Senator Coonan,

Thank you for your letter of 23 September 1999 to the Minister for Health and Aged Care, the Hon Dr Michael Wooldridge, concerning Health Insurance Amendment Regulations 1999. (No. 4), Statutory Rules 1999 No. 176. As Parliamentary Secretary to the Minister, I am responding on behalf of the Government.

I appreciate the Committee’s concern to ensure that changes to the legislation did not disadvantage patients of dental practitioners. These amendments relate to the introduction of capital-sensitive Medicare items for computed tomography (CT) services. From 1 March 1999, additional items were introduced to ensure that any Medicare service, performed on a CT machine over ten years old, receives a lower Medicare rebate than one performed on a CT machine that is less than ten years old. This ensures that the benefit for the service relates more closely to the cost of providing the service.

Unfortunately, the list of CT items for which dental practitioners may refer was inadvertently not updated at the same time. This had the effect of dental practitioners being unable to refer patients for CT scans at machines that were over ten years old, and receive Medicare rebates.

This oversight, as you are aware, was corrected from 1 September 1999, and further changes will take place (subject to Parliamentary approval) from 1 November 1999 to complete this process.

Since the intention was never to deprive dental practitioners, the Health Insurance Commission (HIC) has advised that, since the 1 September amendments, any claims received for the type of service outlined above will be paid in full, according to the usual Medicare arrangements. This includes claims for services rendered in the period 1 March to 1 September.

It is also expected that few dental practitioners will have been disadvantaged in practice, as they retained their ability to refer patients to CT machines of less than ten years of age.

I trust this information addresses your concerns. Thank you for taking the time to write on this issue.

Yours sincerely,

(signed)

GRANT TAMBLING

The Hon Michael Wooldridge MP
Minister for Health and Aged Care
Parliament House
CANBERRA ACT 2600

Dear Minister,

Thank you for your letter, dated 25 November 1999, concerning the Health Insurance Amendment Regulations 1999 (No.5), Statutory Rules 1999 No. 176. The Committee considered your response at its meeting today. We appreciate your advice that it was never intended that dental practitioners who referred patients for CT scans would be disadvantaged and that the Health Insurance Commission will honour claims for services in the period 1 March to 1 September 1999. Notwithstanding this advice, the Committee would be grateful to know on what legislative authority the HIC is relying to pay these claims? Also, if the HIC is paying such claims, it appears to the Committee
that it might not have been necessary to amend the Regulations.

The Committee would appreciate your further clarification on these matters.

Yours sincerely
Helen Coonan
Chair

The Hon Dr Michael Wooldridge
Minister for Health and Aged Care
Senator H. Coonan
Chair Senate Standing Committee on Regulations and Ordinances
Parliament House
CANBERRA ACT 2600

Dear Senator Coonan


In your letter, you sought my further advice as to the legislative authority the HIC is relying on to pay claims for services in respect of particular Computed Tomography (CT) scans requested by dental practitioners in the period 1 March to 31 August 1999, and performed on machines over 10 years of age.

My Department has examined this issue and I am advised that there is no legislative authority for the HIC to make payments in respect of this period. Although payments were made without lawful authority I believe it would be inequitable for HIC to take any action to recover the amounts paid, and would not envisage them doing so. I am advised that few claims are expected to have been made, as the majority of old CT machines were replaced after the 1 March changes. In addition, dental practitioners retained their ability to refer services to newer CT machines.

In the circumstances I would be prepared to make a submission to the Executive Council that the 1 September amendments to the Health Insurance Regulations be backdated to 1 March 1999. This will have the effect of validating any payments made to date.

In the circumstances I do not think that retrospectivity would offend section 48 of the Acts Interpretation Act 1901.

I would like to thank the Committee for bringing this matter to my attention.

With kind regards,
Yours sincerely
Dr Michael Wooldridge
the charter in the new online delivery environment.

Senator Bolkus to move on the next day of sitting:

That the time for the presentation of the report of the Environment, Communications, Information Technology and the Arts Legislation Committee on the Sydney Harbour Federation Trust Bill 1999 [2000] be extended to the first sitting day in April 2000.

Senator Brown to move on the next day of sitting:

That the Export Control (Hardwood Wood Chips) Amendment Regulations 1999 (No. 3), as contained in Statutory Rules 1999 No. 328 and made under the Export Control Act 1982, be disallowed.

Senator Cook to move on the next day of sitting:

(1) That a joint select committee, to be known as the Joint Select Committee to Scrutinise the Implementation of the New Tax System, be established to inquire into and report, by 1 March 2001, on the implementation and impact of the Goods and Services Tax (GST), as well as associated tax system changes.

(2) That, in conducting its inquiry, the committee examine the following matters:

(a) the actual impact of the GST and associated tax system changes on different socio-economic groups, particularly disadvantaged and fixed-income groups;

(b) the extent to which government commitments on the GST have been achieved, including the promises that:

(i) no person will be worse off because of the tax changes,

(ii) no petrol price will rise as a result of the GST,

(iii) no price will rise by more than 10 per cent, and

(iv) health and education will be GST free;

(c) the extent to which confusion remains over whether the GST applies to some goods and services, particularly food products;

(d) the revenue generated by the proposed changes, including the level of revenue generated by imposing a GST on specific items of food, clothing, shelter, education expenses, health products, books, newspapers and magazines, petrol and other essential goods and services;

(e) the effects of the proposed changes on the Consumer Price Index;

(f) the effects of the GST on bank and other financial institutions’ fees and charges and interest rates;

(g) the creation and management of the Australian Business Number system;

(h) the pricing policies of the Australian Competition and Consumer Commission (ACCC) in implementing the GST and the resourcing of the ACCC for that task;

(i) the actual compliance cost impacts for the implementation of the GST and other tax changes on:

(i) business, especially small business,

(ii) charities and non-profit organisations, and

(iii) local government, and the adequacy of proposed compensation measures;

(j) the financial and compliance cost impacts of requiring disclosure of the GST on receipts for consumers;

(k) the extent to which the GST is levied on state and local government fees, charges and levies, thus becoming a tax-on-a-tax;

(l) the implementation performance of the Australian Taxation Office, the GST Start-up Office and other relevant bodies including (but not limited to) information provision, accuracy of advice and adequacy of briefing materials;

(m) the scope of further legislative change required and the timetable for issuing of regulations and public and private rulings; and

(n) such other matters as the committee considers fall within the scope of this inquiry.

(3) That the committee consist of 7 members, 2 members of the House of Representatives to be nominated by the Leader of the Government in the House of Representatives, 2 members of the House of Representatives to be nominated by the Leader of the Opposition in the House of Representatives, 1 senator to be nominated by the Leader of the Government in the Senate, 1 senator to be nominated by the Leader of the Opposition in the Senate and 1 senator to be nominated by the Leader of the Australian Democrats.

(4) That every nomination of a member of the committee be forthwith notified in writing to the President of the Senate and the Speaker of the House of Representatives.

(5) That the committee may proceed to the dispatch of business notwithstanding that not all members have been duly nominated and appointed and notwithstanding any vacancy.

(6) That:
(a) senators, or members of the House of Representatives, may be appointed to the committee on the nomination of the Leader of the Government or Opposition in the Senate or the Leader of the Australian Democrats, or the Leader of the Government or Opposition in the House of Representatives, respectively, as substitutes for members of the committee in respect of particular matters before the committee;

(b) senators, or members of the House of Representatives, may be appointed to the committee on the nomination of the Australian Greens, Pauline Hanson’s One Nation, or independent senators, or independent members of the House of Representatives, respectively, as participating members; and

(c) participating members may participate in hearings of evidence and deliberations of the committee, and shall have all the rights of members of the committee, but shall not vote on any questions before the committee or be counted for the purpose of a quorum.

(7) That the committee shall elect a government member as its chair.

(8) That the committee shall elect an opposition member as its deputy chair, immediately after the election of the chair.

(9) That the deputy chair act as chair when there is no chair or the chair is not present at a meeting.

(10) That, in the event of an equality of voting, the chair, or the deputy chair when acting as chair, shall have a casting vote.

(11) That the quorum of the committee shall be a majority of the members of the committee.

(12) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any subcommittee any matter which the committee is empowered to examine.

(13) That the committee appoint the chair of each subcommittee who shall have a casting vote only and any time when the chair of a subcommittee is not present at a meeting of the subcommittee the members of the subcommittee present shall elect another member of that subcommittee to act as chair at that meeting.

(14) That the quorum of a subcommittee be 2 members of that subcommittee.

(15) That members of the committee who are not members of a subcommittee may participate in the proceedings of that subcommittee but shall not vote, move any motion or be counted for the purpose of a quorum.

(16) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, and to sit in public or in private.

(17) That the committee have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.

(18) That a subcommittee have power to adjourn from time to time and to sit during the adjournment of the Senate and the House of Representatives.

(19) That the committee set 30 June 2000 as the date for receipt of submissions, but that the committee be empowered to receive and consider submissions at any later time.

(20) That the committee hold hearings in each state and territory as required.

(21) That a message be sent to the House of Representatives acquainting it with this resolution and requesting that it concur and take action accordingly.

Withdrawal

Senator COONAN (New South Wales) (3.38 p.m.)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that, at the giving of notices on the next day of sitting, I shall withdraw Business of the Senate notice of motion No. 1 standing in my name for six sitting days after today for the disallowance of the Health Insurance 1998-1999 Diagnostic Imaging Services Table Amendment Regulations 1999 as contained in Statutory Rules 1999 No. 219, and made under the Health Insurance Act 1973. I seek leave to incorporate in Hansard the committee’s correspondence concerning these regulations.

Leave granted.

The documents read as follows—

Health Insurance (1998-99 Diagnostic Imaging Services Table) Amendment Regulations 1999 (No.3)
Statutory Rules 1999 No.219
14 October 1999
The Hon Michael Wooldridge MP
Minister for Health and Aged Care
Parliament House
CANBERRA ACT 2600

Dear Minister

The purpose of these Statutory Rules is to impose a deadline of 11 October 1999 for medical practitioners to complete a statutory declaration to ensure that any diagnostic imaging services that they provide on Magnetic Resonance Imaging Equipment will be eligible for Medicare benefits. The Explanatory Statement notes that the deadline is 2 pm on 11 October, but the Regulations themselves state the deadline merely as 11 October 1999.

Also, no reason is given in the Explanatory Statement or the Regulation Impact Statement of the reason for choosing 11 October as the date of the deadline. The Regulation Impact Statement indicates that the Health Insurance Commission is concerned at the tardiness of some medical practitioners in claiming eligibility for their equipment, some 12 months after the relevant changes were made to the legislation. Nevertheless, the Committee notes that after 12 months of not giving any indication that speed of completing applications was regarded as desirable, the Health Insurance Commission has now imposed a deadline which expired 20 days after the Regulations were made.

The Committee would appreciate your advice on this matter.

Yours sincerely

Helen Coonan
Chair

The Hon Dr Michael Wooldridge
Minister for Health and Aged Care

Senator H. Coonan
Chair
Standing Committee on Regulations and Ordinances
Parliament House
Canberra ACT 2600

Dear Helen


The amendment to the Regulations introduced a deadline by which providers of MRI services were to lodge a statutory declaration in respect of any MRI equipment. As you’ve noted, this requirement to lodge a declaration was introduced 1 September 1999, at the time that Medicare rebates were made available for MRI scans. Twelve months after that introduction, the Health Insurance Commission was aware that a number of declarations were outstanding. This made it difficult to finalise the number of MRI machines eligible for Medicare benefits. Finalisation of this number was, and is, important in the context of examining how the market has adjusted to the expansion of MRI funding and to develop subsequent policy for Commonwealth funding of MRI services.

It was also considered important in the context of management of the Diagnostic Imagine, Agreement, and the Royal College of Australian and New Zealand also requested that a cut-off date be introduced.

In addition to this, the Health Insurance Commission, in examining the contracts for purchase of some of the MRI machines, detected that there were possible breaches of the Health Insurance Act. This included possible backdating of contracts, to pre-date the Budget night announcement that only MRI machines installed as of 7.30 pm on 12 May 1998, or on order via a binding, written contract, would be eligible for Medicare benefits.

In order to assess the magnitude of this problem, the cut-off date was instituted to expedite the lodging of statutory declarations.

To ensure that MRI providers were informed, advertisements were placed in national newspapers on 4 September 1999 advising of the 11 October 1999 cut-off, and a letter sent to the Royal Australian and New Zealand College of Radiologists for advice to their membership.

As you have noted, the explanatory statement declaration refers to a 2pm deadline on October 1999. It had been intended to specify a time to overcome the ambiguity sometimes encountered with the phrase ‘close of business’. Ultimately, however, it was agreed that a time would not be specified in the regulation, as the aim of the amendment was to finalise the lodgement of the declarations without being overly prescriptive.

The Health Insurance Commission has advised that all declarations were provided by 11 October 1999.

I hope this clarifies these issues for the Standing Committee.

With kind regards,

Yours sincerely

Dr Michael Wooldridge
26 NOV 1999

Presentation

Senator Bolkus to move on the next day of sitting:

That there be laid on the table by the Leader of the Government in the Senate (Senator Hill), no later than immediately following questions without notice on the first sitting day in March 2000, the following documents outlining Australia’s approach to the international climate change negotiations:
(a) any Australian government submissions and/or responses to the most recent draft of the Intergovernmental Panel on Climate Change (IPCC) Special Report on Land Use Change and Forestry;

(b) all internal working papers, reports and supporting documentation, with the exception of Cabinet submissions, created after July 1999 and relating to Australia’s position on Articles 3.3, 3.4 and 3.7 of the Kyoto Protocol;

(c) documentation, with the exception of Cabinet submissions, relating to the High Level Sinks Forum in Perth in April 2000 hosted by the Australian Government including:

(i) the agenda,

(ii) a list of countries, regional economic integration or other regional organisations, intergovernmental organisations, non-governmental organisations, business associations, ministers, officials, scientists and any other persons invited, to be invited or to be given observer status,

(iii) reports and/or memos detailing the governmental aims of the forum, and

(iv) the forum’s budget; and

(d) all internal working papers, reports and supporting documentation, with the exception of Cabinet submissions, created after November 1999 that refer to Australia’s approach to, possible position for and/or expectations of the IPCC Plenary in May 2000.

Withdrawal

Senator O’BRIEN (Tasmania) (3.39 p.m.)—On behalf of Senator Murphy, I withdraw general business notice of motion No. 413 standing in his name for today.

COMMITTEES

Selection of Bills Committee

Report

Senator CALVERT (Tasmania) (3.39 p.m.)—I present the first report of 2000 of the Selection of Bills Committee. I move:

That the report be adopted.

I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE

REPORT NO. 1 OF 2000

(1) The committee met on 15 and 16 February 2000.

(2) The committee resolved to recommend—

(a) That the provisions of the following bills be referred to a committee:

<table>
<thead>
<tr>
<th>Bill title</th>
<th>Stage at which referred</th>
<th>Legislation committee</th>
<th>Reporting date</th>
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<tbody>
<tr>
<td>Broadcasting Services Amendment Bill (No. 4) 1999</td>
<td>immediately</td>
<td>Foreign Affairs, Defence and Trade</td>
<td>4 April 2000</td>
</tr>
<tr>
<td>Classification (Publications, Films</td>
<td>immediately</td>
<td>Legal and Constitutional</td>
<td>14 March 2000</td>
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<tr>
<td>and Computer Games) Amendment Bill (No. 2) 1999</td>
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</tbody>
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(b) That the following bills not be referred to committees:

Aboriginal Land Rights (Northern Territory) Amendment Bill (No. 3) 1999
Copyright Amendment (Moral Rights) Bill 1999
Customs Tariff Amendment Bill (No. 3) 1999
Ministers of State and Other Legislation Amendment Bill 1999
Pooled Development Funds Amendment Bill 1999
Telecommunications (Consumer Protection and Service Standards) Amendment Bill 1999

Telecommunications (Numbering Charges) Amendment Bill 1999

The Committee recommends accordingly.

(3) The Committee deferred consideration of the following bills to the next meeting:

Aboriginal Land Rights (Northern Territory) Amendment Bill (deferred from meeting of 19 October 1999)
Copyright Amendment (Moral Rights) Bill 1999 (deferred from meeting of 23 November 1999)
Customs Tariff Amendment Bill (No. 3) 1999
Ministers of State and Other Legislation Amendment Bill 1999
Pooled Development Funds Amendment Bill 1999
Telecommunications (Consumer Protection and Service Standards) Amendment Bill 1999

Taxation Laws Amendment Bill (No. 10) 1999
Albury-Wodonga Development Amendment Bill 1999
Criminal Code Amendment (Application) Bill 1999
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999
Gladstone Power Station Agreement (Repeal) Bill 1999
Therapeutic Goods Amendment Bill 1999
(deferred from meeting of 15 February 2000)
Health Legislation Amendment Bill (No. 4) 1999
Health Insurance (Approved Pathology Specimen Collection Centres) Tax Bill 1999
New Business Tax System (Miscellaneous) Bill 1999
New Business Tax System (Venture Capital Deficit Tax) Bill 1999
A New Tax System (Tax Administration) Bill (No. 2) 1999
Fisheries Legislation Amendment Bill (No. 2) 1999
(signed)
Kerry O'Brien
Whip/Selection of Bills Committee member.
Appendix 2
Name of bill: Classification (Publications, Films & Computer Games) Amendment Bill (No. 2) 1999
Reasons for referral/principal issues for consideration:
To examine the reasons for the change in the classification of films, and videos, from ‘X’ to ‘NVE’;
To examine all advice provided to the Government on this change and what public consultation took place prior to the Bill being introduced;
To examine the nature and possible effects of the pornographic material to be included in ‘NVE’;
To examine whether the change from the X rating to ‘NVE’ would support moves to make the bulk of material now classified X more accessible throughout the States;
To examine other issues raised in the bill;
To allow for wider public consultation and comment on the possible effects of the new classification.
Possible submissions or evidence form: Attorney General’s Department, OFLC & Respondees to Advertisement.
Medicare Levy Amendment (CPI Indexation) Bill 1999
Taxation Laws Amendment Bill (No. 11) 1999
Transport and Territories Legislation Amendment Bill 1999
(Paul Calvert)
Chair
16 February 2000
Appendix 1
Name of bill: Broadcasting Services Amendment Bill (No. 4) 1999
Reasons for referral/principal issues for consideration:
Concerns raised by shadow Minister for Foreign Affairs (re: powers conferred upon Minister for Foreign Affairs through this Bill)
Possible submissions or evidence form: T.B.A.
Committee to which bill is to be referred: Foreign Affairs Defence and Trade Legislation Committee
Possible hearing date(s):
Possible reporting date: 4 April 2000
Appendix 2
Name of bill: Classification (Publications, Films & Computer Games) Amendment Bill (No. 2) 1999
Reasons for referral/principal issues for consideration:
To examine the reasons for the change in the classification of films, and videos, from ‘X’ to ‘NVE’;
To examine all advice provided to the Government on this change and what public consultation took place prior to the Bill being introduced;
To examine the nature and possible effects of the pornographic material to be included in ‘NVE’;
To examine whether the change from the X rating to ‘NVE’ would support moves to make the bulk of material now classified X more accessible throughout the States;
To examine other issues raised in the bill;
To allow for wider public consultation and comment on the possible effects of the new classification.
Possible submissions or evidence form: Attorney General’s Department, OFLC & Respondees to Advertisement.
Senator HARRADINE (Tasmania) (3.40 p.m.)—I would support the reference of the Classification (Publications, Films and Computer Games) Amendment Bill (No. 2) 1999 to the Legal and Constitutional Legislation Committee. It is very important to do so. It is very important for the legislation committee to examine the reasons being proposed for the change in the classification of films and videos from the X rating to the NVE rating; to examine all advice provided to the government on this change and what public consultation actually took place prior to the bill being introduced; to examine the nature of the material itself and the possible effects of the pornographic material to be included in the NVE; to examine whether the change from the X rating to the NVE rating would support moves to make the bulk of the material now classified X more accessible throughout the states; to examine other issues raised in the bill; and to allow for wider pub-
lic consultation and comment on the possible effects of the new legislation.

I know that the Legal and Constitutional Legislation Committee has a very heavy workload, including its consideration of the government’s humanitarian and refugee programs. I move the following the amendment to the proposition put forward by the Government Whip:

At the end of motion, add “and, in respect of the Classification (Publications, Films and Computer Games) Amendment Bill (No. 2) 1999, the Legal and Constitutional Legislation Committee report on 4 April 2000”.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.42 p.m.)—The government has no opposition to the proposition moved by the honourable senator.

Senator O’BRIEN (Tasmania) (3.42 p.m.)—The Opposition is relaxed about this matter. We understood that the government was anxious for the matter to be dealt with as expeditiously as possible and, of course, I can interpret from other happenings in the chamber that the timetable of the committee is a matter which probably needs some consultation with the committee. But I indicate that the opposition supports this, given that there was understanding that the committee would deal with it in the time available to them, and that if they had a problem, they would come back to the Senate.

Amendment agreed to.

NOTICES
Postponements

Items of business were postponed as follows:

General business notice of motion no. 340 standing in the name of Senator Allison for today, proposing an order for the production of Commonwealth-State agreements, postponed till 17 February 2000.

Business of the Senate notice of motion no. 1 standing in the name of Senator Brown for today, relating to the reference of matters to the Foreign Affairs, Defence and Trade References Committee, postponed till 8 March 2000.

General business notice of motion no. 410 standing in the name of the Leader of the Australian Democrats (Senator Lees) for today, relating to the Private Health Insurance Rebate Scheme, postponed till 6 March 2000.

COMMITTEES

Native Title and the Aboriginal and Torres Strait Islander Land Fund Committee Meeting

Motion (by Senator Calvert, at the request of Senator Ferris) by leave—agreed to:

That the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund be authorised to hold a public meeting during the sitting of the Senate on 17 February 2000, from 6 pm, to take evidence for the committee’s inquiry into an amendment of the Native Title Amendment Act 1998 to fulfil Australia’s international obligations in relation to racial discrimination.

Legal and Constitutional References Committee Meeting

Motion (by Senator McKiernan) agreed to:

That the Legal and Constitutional References Committee be authorised to hold a public meeting during the sitting of the Senate on 17 February 2000, from 5 pm till 9.30 pm, to take evidence for the committee’s inquiry into matters arising from the introduction of the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999.

ELGIN MARBLES

Motion (by Senator O’Brien, at the request of Senator Schacht) agreed to:

That the Senate—

(a) notes that the so-called ‘Elgin Marbles’ were pillaged from the Parthenon in the early 19th century and are now held at the British Museum; and

(b) strongly urges the British Government to take all necessary action to ensure that the marbles are returned to their rightful place in Greece as a matter of urgency.

EASTERN EUROPE: CYANIDE SPILL

Motion (by Senator Brown)—as amended by leave—agreed to:

That the Senate—

(a) notes that:

(i) the Australian Company Esmeralda Exploration Ltd is a joint owner of the Bata
Mare gold mine in Romania from which a recent cyanide spill occurred, and
(ii) this spill has contributed significantly to alarming environmental damage in the tributaries of the Danube River, including the Zazar, Szamos and Tisza rivers in Romania and Hungary; and
(b) calls on:
(i) the Minister for the Environment and Heritage (Senator Hill) to:
(A) offer Australian expertise to assist with remediation of the tailings dam and rivers, and
(b) assist in compensation negotiations between parties to ensure adequate remediation is possible, and
(ii) the Government and the mining industry to review existing codes of practice and promote the strict observance of such codes by Australian companies to ensure adequate environmental protection in countries overseas where environmental protection regimes may be less rigorous than those in Australia.

COMMITTEES

Information Technologies Committee
Meeting
Motion (by Senator Calvert, at the request of Senator Ferris) agreed to:
That the Select Committee on Information Technologies be authorised to hold a public meeting during the sitting of the Senate on 16 February 2000, from 4.30 pm till 6.30 pm, to take evidence for the committee’s inquiry into online gambling.

Scrutiny of Bills Committee
Extension of Time
Motion (by Senator O’Brien, at the request of Senator Cooney) agreed to:
That the time for the presentation of the report of the Standing Committee for the Scrutiny of Bills on search and entry provisions in Commonwealth legislation be extended to 16 March 2000.

Economic References Committee
Extension of Time
Motion (by Senator O’Brien, at the request of Senator Murphy) agreed to:
That the time for the presentation of the report of the Economics References Committee on the operation of the Australian Taxation Office be extended to 9 March 2000.

Rural and Regional Affairs and Transport References Committee
Extension of Time
Motion (by Senator Bartlett, at the request of Senator Woodley) agreed to:
That the time for the presentation of the reports of the Rural and Regional Affairs and Transport References Committee on the development of the Brisbane Airport Corporation’s Master Plan for the future construction of a western parallel runway and on issues relating to air safety be extended to the last sitting day in April 2000.

SENATE: PROPORTIONAL REPRESENTATION

Senator Harris (Queensland) (3.49 p.m.)—I ask that general business notice of motion No. 405 standing in my name for today, relating to proportional representation of the Senate, be taken as a formal motion.

The Deputy President—Is there any objection to this motion being taken as formal?

Senator Faulkner—Yes.

The Deputy President—There is an objection.

Suspension of Standing Orders

Senator Harris (Queensland) (3.50 p.m.)—Pursuant to contingent notice, I move:
That so much of the standing orders be suspended as would prevent Senator Harris moving a motion relating to the conduct of the business of the Senate, namely a motion to give precedence to general business notice of motion No. 405. I have conversed with the Whips and there is an indication that there is no objection to the motion, so I do not wish to speak to the motion.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (3.50 p.m.)—The opposition does not support the suspension of standing orders to debate this motion, and we will not be supporting the motion in the form that it is on the Notice Paper if the suspension is carried. Let me make it absolutely clear that that is not because this is not an issue that the opposition believes is an insignificant one. We have
treated the proceedings of the conference on the 50th anniversary of the use of the system of proportional representation in the Senate very seriously indeed. In fact, I gave a paper on behalf of the opposition to that conference.

Let us be clear: this is a motion that goes much further than just recognising and celebrating the anniversary of the implementation of a voting system. This is a motion that says the proportional representation system is arguably more democratic in nature than a voting system based on single member electorates. I would be very surprised if the government would be happy to vote for that part of this particular motion, because after all certainly we in the Labor Party belong to a political party that acknowledges that, if you have a multimember constituency, then proportional representation is the absolutely appropriate mechanism for determining who parliamentary representatives should be. The Labor Party does support a quota preferential voting system in any multimember electorate.

We also say that one of the great benefits in Australian parliaments and the Australian political system has been that in the House of Representatives we have had a system of single member constituencies which has delivered stable government in this country since Federation. I think it ought to be a matter of record that as far as the Labor Party is concerned we understand the importance of voting systems to the strength and the stability of our institutions of government, and we do say that this applies not only to the proportional representation system in the Senate but also to the exhaustive preferential system that is used for the election of members to the House of Representatives.

There are very many aspects of the motion before the chair that the opposition, for its part, just cannot endorse without debate and, in the case of the actual motion on the Notice Paper, just cannot simply endorse without amendment. Some of the thrust of the motion would be shared, I am sure, by all parties and all senators in the chamber, but not all of it is accepted by the opposition.

It is for that reason that, as far as the opposition is concerned, we will not agree to a suspension of standing orders, although I do note that it is going to be hard for the government to justify that debate on motions like this are not necessarily priorities when there appears to be very little legislative business before the chamber. In fact, I think the government’s legislation program is already in a shambles. We are effectively into only the second day of these sittings and we are scrabbling around on the Notice Paper looking for bill No. 30 or 40 to try to debate. But this will require, if it is to be debated, a serious and detailed examination of each and every clause of the motion that is before the Senate, and that is what the opposition will be proposing if we move to a debate. At this stage, I cannot support the suspension in these circumstances. (Time expired)

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (3.55 p.m.)—The government will not be supporting the motion to suspend standing orders.

Senator BROWN (Tasmania) (3.55 p.m.)—I will support the motion to suspend standing orders. I think it is very important that we take seriously motions such as this which look at the fairness or otherwise of our parliamentary system and particularly move towards endorsing proportional representation, which is, I think unarguably, the most democratic form of voting that citizens can have. I recognise that what will happen as a result of this is that, for Senator Harris's information, if he is not aware of this, the motion will go off into cyberspace and not be heard of again.

Senator Faulkner—Limbo land, I would say.

Senator BROWN—Yes. However, this motion comes from One Nation. That does not deter me at all from saying that I very much endorse proportional representation in the Senate and believe it should be applied to the House of Representatives. And members will remember my having brought that up on a number of occasions, I think even in my first speech in this place.

Senator Faulkner—You did. It is not a view we share, so we are entitled to debate it. So you would accept that.
Senator BROWN—Yes. As Senator Faulkner says, the rest of the chamber is entitled to debate that. The problem is that we are seeing here a move towards not having a debate on the matter. The House of Representatives should be elected under proportional representation because it is the house of government, it is where people are most concerned about their vote. We have under single member electorates in Australia a system whereby half of any given electorate, roughly speaking—slightly more than that actually on average—wakes up in the morning after an election to find that the person they voted against is their member of parliament. The other half, roughly speaking, find that the person they voted for is their member of parliament. So you have half the nation happy and half the nation unhappy.

Under a proportional representation system almost everybody finds that a candidate from a party or a person that they voted for is elected into the House of Representatives. It is unarguably a much fairer system. That is why the Europeans, almost without exception, have gone to proportional representation for their parliaments. When the issue of stability comes up I ask people to look at Denmark, for example, where proportional representation has been the institution of democracy. I do not think there has been a majority government there since the Second World War, but it is one of the most stable democracies on the face of the planet. It has multiparty governments as well as multiparty cabinets and a multiparty parliament. I think we should be looking at that system because it is much fairer, and I am sorry this opportunity is not being taken up.

That said, I would be one of the first to congratulate the Chifley government so long ago for having brought proportional representation into the Senate. One only has to look at the Senate votes in the first half century of this country to see how massively skewed it was and how it was not based on the representation in this place of one person one vote. This is a more democratic chamber than the House of Representatives because of proportional representation.

Let me also take this opportunity as a Tasmanian to say that proportional representation in this Senate was inspired by the Hare-Clark system in Tasmania, not least the work of Attorney-General Clark right back at the start of the century—one of the great democrats of the Australian nation and a prime architect of the federation to boot. Andrew Inglis Clark is somebody who has been way undervalued in the historical record. So we owe him, as well as Chifley, a word of praise at this juncture in this debate.

Senator BARTLETT (Queensland) (3.59 p.m.)—The Democrats are also quite happy to support the suspension of standing orders as the only mechanism available to actually have a vote on this important motion. In some ways, this motion could be seen as just merely the noting of an anniversary. But it is a very important motion because it is not just a matter of history; it is a matter of the present and hopefully a matter of the future of democracy in this nation.

The only part of the substantive motion I have some disagreement with is the suggestion that proportional representation is arguably more democratic. I suppose you can argue it is not, but I have never heard anyone make a convincing argument that it is not. There is little doubt that proportional representation is the most democratic approach. As Senator Brown said, most European democracies have operated under a form of proportional representation for many decades and have clearly demonstrated that it is an effective mechanism for determining a representative government.

Often times on other issues, we in Australia have spoken of the need to be outward looking, to embrace globalisation and to look at world’s best practice, but we still have a system of determining government as fundamentally anti-democratic as a single member electorate system in the house of government when most other democracies around the world have demonstrated there is a better way. Some of our other English speaking nations that we have historic ties with—such as New Zealand—have now moved down that path. Even the UK is starting to move down that path, in terms of the Scottish parliament and the Welsh parliament and possibly even electoral reform to their own upper house at some stage in the future. Australia is...
perhaps being left behind, with only the US having a system which is even more discreditable than ours.

There is no doubt that proportional representation is more democratic, and that is worth emphasising. There is no doubt that the Senate is more representative than the House of Representatives, and that fact should not be hidden. As Senator Harris’s motion says, around 20 per cent of the Australian population at the last election voted for a party other than the traditional larger parties, and they are not represented at all in the other chamber. Yet we can see how much more dynamic an outcome we get in a parliamentary sense when that diversity of representation is able to have a voice in a chamber, such as we have in the Senate.

It is probably worth taking this opportunity to note that a 50th birthday card from the Electoral Reform Society was tabled in the Senate yesterday. It is not too often the Senate gets sent a birthday card, so we should note that someone out there likes us. The card was sent by Deane Crabb, the Electoral Reform Society’s hardworking secretary. They are very passionate defenders of the Hare-Clark and proportional representation system. They were letting us know that they are celebrating the 50th anniversary of the use of proportional representation in the Senate along with the Senate itself.

Despite the indications that other senators do not support this motion, I hope there is nonetheless a recognition of the valuable role proportional representation has played as the method of determining representation in the Senate over the last 50 years. I spoke on behalf of the Democrats at the conference that was held in Parliament House to mark that 50th anniversary. That conference highlighted not just the benefits of PR in the Senate but the benefits of the proportional system of voting overall. It is a system that provides a greater opportunity for a representative democracy, a democracy where people’s voices are more accurately reflected in the parliament that is meant to represent them and be their voice.

We are now at a time when people are continually bemoaning the fact that they feel disconnected from the parliamentary process, and it is little wonder when they have a system where so many feel they are not represented—and the fact is they are not. Their vote is not represented. We need to look at ways to improve that. It is not just a matter of reform of the electoral system, but that is clearly one of the fundamental components of people feeling represented. As has clearly been demonstrated around the world, the best mechanism for doing that is a proportional representation system. The Democrats very much celebrate the 50th anniversary of the use of such a system in the Senate and encourage its spread to other houses of parliament around Australia.

Senator O’BRIEN (Tasmania) (4.04 p.m.)—I simply want to respond to a comment by Senator Harris suggesting that somehow I had led him to believe that the opposition would be supporting the suspension motion. Certainly, the opposition’s position at whips meetings has been that this motion would be opposed and formality would be opposed. In conversation in the chamber I was asked about our position, and I indicated again that we would be opposing formality and that it was up to the senator as to what he would do then. There was no indication that we would be supporting suspension. I simply put that on the record.

The DEPUTY PRESIDENT—Senator Harris, you will need leave if you are going to speak, because the suspension debate does not close with you.

Senator HARRIS (Queensland) (4.05 p.m.)—I will seek leave to speak on the basis that I was led to believe certain proceedings would take place. So I seek leave of the chamber.

Senator Faulkner—On a point of order: is Senator Harris seeking leave to make a personal explanation or seeking leave to speak in the suspension debate? We ought to be clear. I do not think we can have two cracks at—

Senator Calvert—He didn’t speak the first time.

Senator Faulkner—He exercised his right and sat down.

Senator Calvert—I think he is asking for leave to make a personal explanation.
Senator Faulkner—That is fair enough. If any senator believes there has been a problem in terms of misrepresentation, then we do ordinarily give leave, and we will give leave to Senator Harris. The issue is whether we give leave to Senator Harris now or after we have dealt with the issue before the chair. The only reason I am on my feet is because it is unusual to do it just in the middle of a debate. That is the problem I am drawing attention to.

Senator McKiernan—Calvert will do it on the phone.

Senator Faulkner—On the phone?

The DEPUTY PRESIDENT—Senator McKiernan, you are out of order.

Senator Faulkner—So can we just have that clarified? I am happy to give leave to Senator Harris. The issue is that if it is a personal explanation it should not be made in the middle of a debate like this; it should be made at the conclusion, which is the way we have consistently dealt with these sorts of issues in this chamber, as every senator present knows.

Senator HARRIS—I am seeking leave to be able to speak in the adjournment debate.

The DEPUTY PRESIDENT—This is not an adjournment debate. I presume you mean the suspension debate. Is leave granted? There being no objection, leave is granted.

Senator HARRIS—In not speaking to the motion to suspend standing orders, it was in the belief that the government did support the motion, as I believe that was clearly indicated in the whips meeting. Senator O’Brien is correct that he did clearly indicate that the opposition would oppose formality, and I accept that and have no problems with that. What I do have difficulty with is being given an indication that this motion standing in my name, No. 405, would have come through to a debate that could have had the positive effect of highlighting the benefits of proportional representation. I would like to address, as Senator Faulkner raised, the issues in the motion itself in that it appears that the motion is going to be defeated.

Senator Faulkner—No, the suspension is going to be defeated.

Senator HARRIS—Well, it has been indicated that it will be defeated.

Senator Faulkner—No, not from us. I indicated that if it is debated we will propose some amendments. Some of it I agree with.

Senator HARRIS—On that basis, I would just like to reiterate that in the 1998 election, as Senator Brown raised, there were issues where the direct proportion method of election in the Senate definitely followed an indication of support in the population that is not in any way represented in the House of Representatives. I believe that the proportional representation that was initially brought in by the Chifley government has been a positive move in the Senate itself. Proportional representation will deliver the seats in the Senate roughly in relation to the support for them in the electorate.

It is of some concern that the people of Australia find themselves not only having representation in this place and in the House of Representatives but also, to a large degree, lacking the process to actually have a meaningful input into the legislation that comes before both of these houses. I believe that the government we have in this country today would be greatly enhanced if the residents, the people of this country, were more aware of the legislation that is passing through both of these houses and also of the actual implication for their lives. As a One Nation senator in this place, I am very firmly committed, within the capacity that I have as a senator for Queensland, to consulting with the people of Queensland and also to taking on board issues from other areas within the state. In conclusion, I support the motion for the suspension of standing orders that would in actuality result in having a full debate on the issue.

Senator CALVERT (Tasmania) (4.12 p.m.)—by leave—I think Senator Harris may be under a misapprehension. Last night at the whips meeting when Senator O’Brien indicated that he was going to call the motion not formal, I said to Senator Harris, ‘You will have to suspend standing orders.’ I did not indicate that the government was going to support that suspension; I just said that that is the process he would have to follow and that has to happen. I think you understood me to
be giving an assurance, but I cannot give that assurance, because it is not my position to do so. I just pointed out to Senator Harris that to progress that particular matter he would have to suspend standing orders, which is the normal practice.

The ACTING DEPUTY PRESIDENT (Senator Knowles)—The question is that the motion moved by Senator Harris to suspend standing orders be agreed to.

Question resolved in the negative.

LITHUANIA

Motion (by Senator Calvert, at the request of Senator Gibson)—by leave—agreed to:

That the Senate—
(a) notes that the 16th of February commemorates the original Declaration of Lithuanian Independence at Vilnius in 1918;
(b) joins with the Tasmanian Lithuanian Community in recognising, that whilst Lithuania lost this freedom to foreign occupation in 1940, independence was regained a further fifty years later in 1990;
(c) recognises that since the restoration of Lithuania’s independence on March 11, 1990, a number of Australian volunteers have helped in rebuilding free Lithuania in areas such as educational, legal and medical services; and
(d) commends the significant contribution of Australians, both at home and in Lithuania, to the restoration of Lithuanian independence.

MATTERS OF PUBLIC IMPORTANCE

Banking

The ACTING DEPUTY PRESIDENT (Senator Knowles)—The President has received the following letter from Senator Conroy proposing that a definite matter of public importance be submitted to the house for discussion, namely:

The declining levels of bank service, particularly in rural areas including that:
(a) 1706 banking branches have closed since 1993, 615 of these in rural and remote areas;
(b) 257 banking branches closed last year, 114 of these in rural and remote areas;
(c) customers are being charged more to conduct their banking including charges of between $2.00 and $2.50 to conduct an over the counter withdrawal in a branch;
(d) banks have failed to pass on interest rate increases to many of their deposit customers; and
(e) the four major banks made combined profits of over $7 billion in the last financial year.

and that, despite comments by the Prime Minister that the banks do have a social responsibility, the Federal Government has failed to take any action to ensure that Australians have equal and affordable access to financial services.

I call upon those senators who approve of the proposed discussion to rise in their places.

More than the number of senators required by the standing orders having risen in their places—

The ACTING DEPUTY PRESIDENT—
I understand that informal arrangements have been made to allocate specific times to each of the speakers in today’s debate. With the concurrence of the Senate, I shall ask the clerks to set the clocks accordingly.

Senator CONROY (Victoria) (4.15 p.m.)—Bank bashing has become a national pastime, and for good reason. Australians have become angry at the way the banks have callously treated them. They are angry at branch quotas. They are angry at being pushed out of their local branches by being charged up to $2.50 to conduct a transaction. They are angry that, whilst in the last two years competition and technology have made telephone calls cheaper, computers cheaper, CDs cheaper, the costs of banking have gone up. They are angry that banks are quick to pass on interest rate increases to their home loans, yet fail to pass on rate increases to their depositors as quickly. They are angry that the banks have made record profits at their expense. But, most of all, they are angry at the failure of this federal government to take any responsibility for the actions of the banks.

The Prime Minister would have you believe that he understands the problem but that there is just nothing that he can do about it. He would have you believe that the banks do have a social responsibility, but he does not understand that the banks will not take their social responsibility seriously unless they are made to. The Treasurer would have you move your home loan to another bank if the interest rate is uncompetitive, but he does not understand that it costs a minimum of $700
to transfer a housing loan to another bank. The Minister for Financial Services and Regulation would have you believe that higher fees and charges are the trade-off for lower interest rates, but he cannot explain why both interest rates and fees and charges are now increasing. But let us be clear: as long as this federal government does nothing, it must accept responsibility for the problems we have with our banks. Let me now turn in detail to the problems we face with our banks.

The banks are continuing to close branches. Already 1,706 branches have closed since 1993 and 257 branches have closed in the last year, and more branch closures are to come. Last Saturday, on the front page of the *Herald Sun*, Westpac’s hit list was exposed. Let me just list the Westpac branches that are to close in my state of Victoria in the next few months: Yarram, Yea, Tatara, Leitchville, Birchip, St Arnaud, Mansfield, Sea Lake, Beechworth, Mallacoota, Orbost, Rochester, Castlemaine, Drysdale, Yarrawonga, Cobram, Mitcham, Richmond South, Brighton North, Glenroy, Mordialloc and Pinewood. In addition to that list, another 19 Westpac branches in Victoria are in doubt. Westpac is effectively deserting country Victoria. Maybe Victorians should desert them.

The banks are not just closing their branches; they are closing their agencies. A report produced by the Reserve Bank of Australia reveals that, in the last 12 months, ANZ has closed 40 agencies, the Commonwealth Bank has closed 86 agencies, NAB has closed three agencies and Westpac, again, has closed a massive 126 agencies. The closure of 126 Westpac agencies is despite the fact that the 1998 Westpac annual report promised shareholders and customers that it would maintain face-to-face banking in country towns. Westpac argues it is opening new agencies in pharmacies, local supermarkets and newsagencies. However, these agencies will not provide customers with the same levels of service. Consumers will not have the same access to advice on consumer and business loans. The agencies will simply be somewhere to deposit a cheque and will offer a few value added services such as international transfers.

These bank branch closures are not because the branches are making losses. Let us make this absolutely clear: they are not being closed because they are loss makers; they are simply not making enough profits for the banks. The recently established Upway Community Bank, sponsored by the Bendigo Bank in Victoria, is currently making a profit of $10,000 per month. This is despite the fact that the Commonwealth is to close its Upway branch because it is not profitable enough. That is right: $10,000 a month sustains the community bank, the Bendigo Upway Bank, but the Commonwealth Bank says, ‘Ours is not profitable enough.’

How much profit is enough to keep a branch open? Does a branch need to make $20,000 a month, $40,000 a month or more? It is not as if the Commonwealth Bank is not profitable. It recently announced a half-year profit of $840 million, an increase of 18 per cent on the corresponding period last year. In that same period, 57 branches closed. These closures have left many people with few choices. Pensioner and community groups have protested the impact of the closure on the communities, but to no avail. The closures go on. For many rural communities, the closure of a bank branch represents a crippling blow.

We have here in the chamber today a National Party representative, Senator McGauran, who is listed to speak in this debate. I will be very interested to hear what Senator McGauran has to say and see whether he is prepared to support making the banks provide rural services. That will be the key here. As I said, for many rural communities, the closure of a bank branch represents a crippling blow. Banking customers are forced to either change banks or, in the case of when the last branch leaves town, travel to the nearest town just to do their banking. We have heard anecdotal stories of small businesses delaying their banking by carrying over their cash for up to two weeks because their local branch is over 100 kilometres away. Imagine the extra risk that that is placing on small business owners because they cannot put their cash somewhere.
But it is not just the inconvenience factor that hurts the community. When a branch closes, a community loses valuable jobs. When it comes to business lending, it loses people who work in the local bank branch who understand the particular problems in that community. Instead, business lending decisions are taken away to business lending managers in head offices who do not have the same understanding of the local community.

A branch closure can also kill the local high street shops. In the Sydney suburb of Lalor, local businesses have claimed that they lost up to 20 per cent of their trade after the local Commonwealth Bank closed. At least one local trader was forced to cut staff as a result. What is the government doing about branch closures? Very little, it appears. In the electorate of the Minister for Financial Services in North Sydney, the Cammeray branch of the Commonwealth Bank is to close. What has he had to say about it? He says that people will be able to go on the Net; there will be an Internet cafe. That is the standard response from the minister. Even then, the minister still does nothing.

The government will claim that it has established the Rural Transaction Centre Program, with $71 million from the sale of Telstra 2, so that rural communities can make bank transactions. That will be what Senator McGauran will try to suggest. But rural transaction centres do not replace a banking branch and do not offer the same levels of service. Traditionally, rural transaction centres used to be called banks. We are now trying to cover the fact that they are not there any more.

How many of these centres does the government have? Senator McGauran will tell us about one so far, which the government has announced eight months after the policy was released. There is a second, rumour has it, somewhere in Victoria; perhaps Senator McGauran can inform us where it is. That is two. Eight months later, we have two rural transaction centres. That is what we are talking about when we mention government inaction. Rural transaction centres do not meet the business lending needs of local communities. They are simply a shop in which to conduct transactions.

Let me now turn to the issue of bank fees. It is not just the closure of the banks that is the problem. Banks do not want customers in their branches and are charging fees to push them out. They call it channelling. Currently the banks are charging fees of up to $2.50 just to make an over-the-counter withdrawal in a branch. They are making you pay to get your own money back. The banks argue that branch transactions cost them more so they must charge more. Yet when they have the opportunity to charge us less for Internet banking, for instance, which Dr David Morgan, the Chief Executive Officer of Westpac, recently admitted cost only one cent per transaction, what do they charge? Do they charge two cents? No, they do not. Currently Westpac charge their customers 65 cents for Internet banking transactions. It costs one cent by their own admission yet they are charging 65 cents. Do not believe that when they force everybody onto the Net or to use phone banking they will not have you captive and that they will not start to then screw down customers and start forcing up prices to the sort of price they used to tell you they had to charge when you were in the branch. Do not believe that for one minute. The same is the case for the Commonwealth Bank, which charges the same for Internet transactions as it does for EFTPOS. It costs one cent, yet it charges the same as it does to set up an entire EFTPOS network.

The banks’ argument that they need to charge more for branch banking because it costs more breaks down if they do not in turn charge less for Internet banking because it costs less. Charging $2.50 for an over-the-counter withdrawal is inherently unfair. It discriminates against those customers who prefer to conduct their banking with a staff member rather than by telephone or by computer. Let me be clear: we are not against the use of modern technology in banking. Telephone banking and the Internet offer many people a convenient alternative to branch banking. But people should have the right to choose how they do their banking without being penalised for their choice. We need to recognise that not all people are comfortable with new forms of technology.
One commentator in a newspaper today described these people as technology luddites. He says that we should ignore the technology luddites. We need to recognise that not everybody is as comfortable as Mr McCrann at the Herald Sun. In particular, elderly people with eyesight problems may find it difficult to use an ATM. Technology should be our friend, not an enemy. But when you are given no other choice but to use an ATM because your branch has closed, you will no doubt feel betrayed.

Banks now charge us fees on everything we do. We are charged for taking money out of an ATM. We are charged an account keeping fee for operating a bank account. We are charged fees if we have a credit card. We are charged fees to take out a housing loan. In its recent half-yearly report, the Commonwealth Bank announced that lending fees were up 18 per cent on the corresponding period last year. This was on top of an 11 per cent increase the year before. The bank also announced that income from other fees, including credit cards and transaction fees, was up six per cent on the corresponding year after rising by 15 per cent the previous year.

The government has argued that the trade-off for increased fees has been lower interest rates. The Minister for Financial Services, Mr Hockey, stated on 24 November 1998 in the House of Representatives that the trade-off for lower interest rates has been that people are starting to pay for some of the services they are demanding from the banks. I am demanding to be able to go into a branch and get my money back. That is the sort of demand that he feels you should be charged for. But with the recent half a per cent increase in official rates, we now have the scenario where interest rates and fees are increasing. So too are bank profits.

The banks are fast to put up interest rates but slow to bring them down. Research conducted last week by the Herald Sun—I am sure Senator McGauran saw it—has shown that banks put their fees up four times faster than they bring them down. Their research showed that it took less than a week for two banks to hit home loan borrowers with the latest 0.5 per cent rate rise on 2 February. ANZ, NAB and Westpac all raised their interest rates on housing loans by half a per cent effective from 7 February, only five days after the announcement.

Senator McGauran—Madam Acting Deputy President, I raise a point of order. Senator Conroy now has only two minutes left. He has brought on this very important matter of public importance. So that we can participate in the debate, I would like to know what his policy on and solution to the whole matter will be before he finishes.

The ACTING DEPUTY PRESIDENT (Senator Knowles)—That is not a point of order.

Senator CONROY—I hope I did not lose my time in that waffle. As I said, the Commonwealth Bank at least did not increase it straightaway. It was on 28 February. However, in July 1997, all four banks waited a full month before passing on a half a per cent rate drop. Each month the increase is accelerated, the banks gain an extra $240 from each home owner who has borrowed $100,000 over 25 years.

The banks have been quick to raise interest rates on housing loans since the official rate rise of half a per cent on 2 February. The Bank of Adelaide even increased its interest rates by 0.7 per cent. Aussie Home Loans increased theirs by 0.6 per cent. Mr Costello’s response was typical of the take-no-responsibility attitude of this federal government. He arrogantly suggested that Bank of Adelaide customers should move their housing loans to another bank. This kind of head-in-the-sand attitude ignores the reality of the situation. It costs a minimum of $700 to transfer a mortgage to another bank. All four banks charge the same $600 application fee for a housing loan. Where is the competition in that? State governments also charge mortgage registration fees and discharge fees. Many Australians also have mortgage insurance, which can cost thousands of dollars, depending on the amount that you are transferring. What happens in six months time when the bank you have moved to increases its rates as well? The Australian Financial Review reported on 3 February that, according to Merrill Lynch, Australia’s four major banks have a low cost funding...
base, primarily through deposit funds, of close to $90 billion. According to Merrill Lynch, a 50 basis point rise in short-term interest rates adds $298 million—or 3.6 per cent—to combined net profits in the fiscal year 2000. Merrill Lynch believes the Commonwealth Bank was best placed to benefit from this effect, because of its large deposit base. (*Time expired*)

**Senator CHAPMAN (South Australia)**

(4.30 p.m.)—It is all very well for Senator Conroy to come in here and lambaste the banks for closing branches, for their increase in fees, for their increase in interest rates and for what he regards as their excessive profits. Maybe there are, Senator Conroy, some questions for the banks to answer in relation to some of these issues. But certainly Senator Conroy shows the height of hypocrisy when he comes in here and in his MPI criticises the Howard government and alleges that it:

... failed to take any action to ensure that Australians have equal and affordable access to financial services.

Senator Conroy talked about the government taking responsibility for banks. He talked about making the banks provide services. Let us have a look. Senator Conroy has got a short memory, or perhaps he was too young to remember what happened when Labor governments did have responsibility for banks. Need I remind Senator Conroy about the State Bank of South Australia under Labor administration, and how its mismanagement of the State Bank is still costing South Australians dearly as a result of the $3 billion that that bank lost under its adventures under a Labor administration, or in Victoria the misadventures of the Tricontinental merchant bank in the late 1980s, with losses of more than $1 billion? So let us hear none of this nonsense in terms of criticising the Liberal government about its approach to banking.

The fact is, apart from those banking disasters that I have just mentioned, the Credit Union Services Corporation Ltd, when it conducted research back in 1995, found that there were 600 rural towns in Australia with between 200 and 5,000 inhabitants which did not have a financial institution within 40 kilometres. This was towards the end of Labor’s 13 years in office. They had had 13 years in office and did nothing about this decline in banking services. Yet today they have the hypocrisy to march in here and criticise the Howard government for allegedly doing nothing about banking services. They did not, in office, propose that any form of community service obligation apply to the banks, although they could have done so in government. So Labor has an appalling record with regard to this issue.

In contrast, since this government has been in office, it has taken initiatives to turn around the situation with regard to the provision of banking facilities, particularly in rural communities. There is a number of innovations for which this government can take great credit. The most important of those, of course, is the establishment of rural transaction centres, an initiative of this government to ensure that rural and regional communities have access to financial services. This program recognises the importance of face-to-face services being available to people with regard to financial services. The program will support the establishment of up to 500 rural transaction centres in towns with populations of less than 3,000 people.

The rural transaction centres will provide access to services such as personal banking, business banking aspects and automatic teller machines, as well as post, phone, fax and other communications systems. So there is a marked contrast between this government and the previous Labor government with regard to providing banking services in rural towns. Already—in contrast to what Senator Conroy said—although this program has only been in operation a short time, there are six rural transaction centres operating in Australia: three in New South Wales, at Eugowra, Urana and Gresford; at Aramac in Queensland; at St Mary’s in Tasmania; and at Welshpool in Victoria. So there is a positive initiative taken by this government with regard to ensuring that services in the bush improve.

Another important initiative has been taken by rural communities themselves. The government’s banking legislation, the increased competition model that this government has introduced, has allowed institutions like the Bendigo Bank to be established by
local communities. Under the old banking regulations of the Labor era such an initiative would not have been possible. Initiatives like the Bendigo Bank involve community banking, with the community providing the start-up capital for the branch of an existing bank and with local investors owning and managing that branch. The community takes responsibility for managing the staffing levels and the day-to-day running of the bank as well as the risks of the branch but does obtain technical assistance from the parent bank.

We know well the success of the Bendigo Bank with regard to providing this form of service. Already there are 19 community banks set up under the Bendigo Bank label under this model, which has, as I said, as a result of this present federal government’s policy been allowed to develop. The viability of a community bank is obviously dependent on what businesses are operating in its local area. But it should be noted that communities as small as 1,100 people have been able to support a branch of the Bendigo Bank split between two rural towns in the Wimmera district of Victoria. The other important aspect of a community bank such as the Bendigo Bank is that the revenue raised is split between the community bank and the parent Bendigo Bank. So there is money going back into the local community from this initiative, as well as the benefit of the banking service that is provided.

So there are two specific initiatives that have resulted directly from the policies of the present federal government. That simply reinforces the fact that the Howard Liberal-National party government is committed to ensuring that all Australians have access to the best possible banking services. It has allowed that by the introduction of greater competition into the banking system.

In addition to that, of course, there is the development of initiatives on electronic banking. The provision of electronic banking facilities will overcome some of the difficulties created by the absence of face-to-face banking. But I say to the banks in this context that, if they want people to engage more in electronic banking, they must provide education and information to their clients so that they fully understand the way in which electronic banking is organised and how it operates. They can then fully participate in that activity and, again, gain the benefits that electronic banking can provide to customers. Another initiative of this government is to allow credit unions to issue cheques. That follows on from the government’s policy of allowing a wider range of players into the financial sector, including superannuation companies being allowed to provide traditional banking products—again, heightening further competition. As part of its initiative with the credit union movement, the government has initiated Credit Care to help residents in rural and remote communities that do not have current banking support or that have lost it to regain convenient access to basic financial services. As a result of this initiative, 39 towns across Australia have received access to financial services. That will continue to increase in the future. We have also initiated a public inquiry on financial institutions and public administration through the House of Representatives standing committee. That inquiry has also examined further alternative means of providing adequate banking services in regional and remote Australia. The recommendations of that committee are currently under consideration by the government.

I mentioned earlier the growth of electronic banking services. An important aspect of that is the provision of automatic teller machine services. Again, if the banks want people to engage in this form of banking more widely—both to the advantage of the bank and to the advantage of the customer—it is important that they meet standards. A couple of weeks ago I called on the banks to ensure that suitable arrangements were put in place to give customers full fee information at automatic teller machines at the time transactions are undertaken. This was included in a draft code of electronic banking practice formulated by the Australian Securities and Investment Commission in discussion with the banks, but it has been omitted from the final draft code. My call a couple of weeks ago for that particular part of the code to be restored and made part of the code agreed between the banks and ASIC certainly met with widespread positive reaction and support from the community in terms of people
phoning my office, people writing letters to
the editor and talkback radio discussions. So
it is clear that the issue of banking services is
important to the community. There are initia-
tives that the banks can undertake to ensure
that those services are maintained and im-
proved. But the fact is that the initiatives this
government has taken in terms of rural trans-
action centres, banking reforms to allow or-
ganisations like the Bendigo Bank to develop
its services and credit unions have certainly
provided opportunities for a better establish-
ment of services, particularly with regard to
rural and remote communities. (Time expired)

Senator LUDWIG (Queensland) (4.40
p.m.)—I rise today in respect of the matter of
public importance dealing with banks, in
particular—and I must say, in particular—
their closures, high fees and lack of services
in rural and remote areas of Queensland. We
have heard Senator Chapman talk about the
Bendigo Bank, the credit union and the rural
transaction centres—six in all—but let me
give you some figures about the actual clo-
sures in Queensland. There have been 57
closures in Queensland since 1993, 152 since
1997 and 66 last year—40 in remote Queen-
sland. In response—partly in response, be-
cause I did also hear about the Bendigo Bank,
but I do not know whether it has stretched to
Queensland yet—there are six rural transac-
tion centres. If we then find that the rate is
going to go—as we are told—to something in
the order of 500, at the rate we are going at
present I think I will be long retired by the
time we get anywhere near that number.
However, in looking at and dissecting the
actual figures we are then talking about in
respect of the banks, their combined profit
was over $7 billion—up 14 per cent on the
previous year’s record of some $6.2 billion.
However, some might argue that the banks
are entitled to make a profit. They are entitled
to be efficient, rationalise themselves and
then provide better services. But let us have a
look at what they have really done and
whether they have measured up.

First of all, I took the opportunity of
looking at the banks’ pricing structures—
their bank fees and charges. In January and
February of this year I put together a spread-
sheet—some 6½ pages—and some 68 differ-
ent headings came out, without even counting
the subheadings. This is an extraordinary
amount when you then try to dissect the Na-
tional, Westpac, Suncorp, Metway, Com-
monwealth and ANZ groups as to their fees
and charges. It is an extraordinary amount of
fees and charges, without even looking at
their prices. What the banks have done is
unbundled their fees and charges, dissected
them into very small pockets and then ap-
plied them to their customers. Overall, you
can see their trend. Rather than, as in the
past, providing bundled services which were
free as part of the banking service that the
community had grown to expect from them,
the banks have decided to split them all up
and hide them among a multitude of head-
ings—68 different headings that I have
counted so far, and I suspect that that will get
higher as I go through—and all the little sub-
headings underneath them. But what do we
hear the ACCC talk about? I go to their
‘Price Watch’ on the GST and it is clear that
they have not heard the loud voice of con-
sumers out there on bank fees and charges.
They must be the only ones that have not
heard it. Everyone else that I have spoken to
has heard it. This chamber has heard it and
the House of Representatives has heard it, but
it appears that the ACCC, which are charged
with the responsibility of looking after some
of these areas, have not heard it. Under the
Trade Practices Act, their objective is to—as
set out in the legislation—enhance the wel-
fare of Australians ‘through the promotion of
competition and fair trading and the provi-
sion for consumer protection’.

Let us look at what they then talk about
with the GST. They say:

GST does not generally apply to bank fees and
charges. There will be, however, some cost in-
creases for banks as a result of the GST applying
to the prices of certain goods and services that
they purchase and use as inputs.

They then go on to say:

At this stage bank costs have not been investi-
gated but any rises are not expected to be near 10
per cent in general. Should there be any attempt
by banks to charge excessive fees, they would
face massive penalties, as well as further damage
to their current image.
In respect of matters that go to the GST, they are prepared and Professor Fels is prepared to take quite a bold forward step but, when we talk about bank fees and charges generally, it seems a little bit timid.

We then go and have a look at what the Reserve Bank have said. In June 1999, the Reserve Bank had a look at bank fees and charges. In the *Reserve Bank of Australia Bulletin*, under the heading ‘Bank Fees’ on page 2, they say:

Most concern about bank fees centres on the cost to households of running a bank account and making transactions.

In the paragraph above that, they say:

Many people feel that fees have risen too quickly or are too high.

What we now know is that not only does this chamber know about bank fees and charges but the Reserve Bank have already heard the loud voice of consumerism talking about high fees and charges. They have heard it. Professor Fels has not heard it, and this government has not heard it. We then talk about what the effects will be. This *Reserve Bank of Australia Bulletin* from June 1999 says:

In 1998, this trend was partly reversed. Non-interest income of major banks grew by 20 per cent and, within that, fee income grew by 21 per cent. These growth rates are more than double their previous averages. In the case of fees, the growth appears to have come from three main sources:

- Fee revenue from housing loans ...
- Fee revenue from household transactions ...
- Revenue from merchant-service fees, which increased by 28 per cent.

The *Bulletin* goes on to ask, ‘Why have banks’ profits remained high?’ They have remained high because banks have closed their branches. They have removed services. They have downsized their number of employees. They have then sought to make longer queues outside their banks. As a method of increasing their profitability, they have unbundled, as I said earlier, their fees and put 68 or more categories in to ensure that their fees are there and that they recover profitability from them.

Have they then provided service? Have they actually given the consumer something back in return? On bank info lines, a January-February 2000 *Choice* article entitled ‘Hanging on the telephone’ summarises it by saying:

Only 23% of our calls to the national telephone information services (info lines) of Australia’s four largest banks (ANZ, COMMONWEALTH, NATIONAL and WESTPAC) received complete and correct answers to straightforward inquiries.

So the banks are not even providing service as a consequence. That is the effect. We then look at what this government has said. In an adjournment debate, Senator Troeth highlighted the problem:

Given the undeniable fact that banks have thought it necessary to rationalise or close their services—not only in regional areas, I hasten to add, but also in metropolitan areas—the question arises as to how customers of those banks can access a similar service.

Senator Troeth went on to indicate that rural transaction centres are one mechanism. I have already talked about that one mechanism. It is a very skinny mechanism that this government is seeking to plug that hole with.

What else have they done? They had a Senate Standing Committee on Economics, Finance and Public Administration look at this whole area. They produced something in the order of 21 recommendations. To date the government have been silent about that. In respect of the rural transaction centres themselves, we have heard from Senator Chapman that there are six of them. However, when you look at the rural transaction centres Internet site, it was last updated on 4 November. They have not even kept pace themselves with technology, by the look of it. They then revised that and said that they will be up and running by Christmas. At this rate, it will be some time before they reach their particular target.

The *Courier-Mail* on Tuesday, 30 November talks about ‘obscene fees and profits’. In particular, we should also hear from federal Minister for Financial Services and Regulation, Joe Hockey. An article in the *Courier-Mail* of Wednesday, 22 December 1999 states:

Federal Financial Services Minister Joe Hockey yesterday called on the banks to ensure
regional consumers had access to a wide range of banking services.

We then hear from Senator Boswell in the Courier-Mail on Wednesday, 22 December 1999. The article says:

Previous Senate inquiries into the banking sector and rural summits had not achieved significant change, Senator Boswell said. What was needed was an investigation by an authority “with some teeth” such as the consumer commission. Even he has given up on them. (Time expired)

Senator McGauran (Victoria) (4.50 p.m.)—The government is pleased to be able to debate this matter of public importance and answer the charge against the government, which, to quote Senator Conroy’s MPI, in essence is ‘the federal government has failed to take any action to ensure that Australians have equal and affordable access to financial services’. The government expresses its regret for the series of bank closures, and it has often, from the Prime Minister down, been critical of the banks’ lack of social conscience and their need for greater social sensitivity. The truth of the matter is that this MPI, led by Mr Bluff and Bluster himself, Senator Conroy, is really a pathetic decoy for what has been a hopeless two days for the opposition. It certainly is heading towards being a hopeless week. I would have thought the MPI would have been on some of those big issues that you were rolling up to parliament with to hit the government with this week as the new session and the new century started. You came with all the bluff and bluster. The media actually believed you this time, thinking that maybe you really were going to deliver. They were full of expectations. Well, it is day two, and it is a fizzer.

The National Textiles issue is off the agenda now because that slur failed. You could not even raise a boo from the Federation Fund issue because that slur also failed; the Auditor-General cleared the government totally. You could not even make the government’s tax package a matter of public importance. You could not even elevate that because, as was quite obvious from today’s question time, you are very close to pushing that issue too far and forcing it over the top to reach the absurd. Now with this MPI you are down to blaming the government for bank closures. When desperate, always pick the soft targets and do a bit of bank bashing.

Senator Conroy’s MPI obviously follows on from newspaper articles in the Melbourne papers over the weekend regarding the many closures—particularly in the rural and regional areas—of the Bank of Melbourne. What is the Labor Party going to do? What is Senator Conroy’s solution? Senator Conroy’s solution, as far as I could glean there being one—and in the last two minutes, in the hope that Senator Conroy would present the Labor Party’s policy, I even had to take a point, not a point of order as so ruled—was that ‘there ought to be a law against it’.

We can easily answer the charge as we have a policy on this side, but first let us just look at your record. We need only go to the dying days of your government after being in office for 13 years. I certainly hope that this government gets that sort of time in government, 13 years, because a hell of a lot will be done. But the last Treasurer of the Labor Party, Ralph Willis, issued a very dramatic press statement, saying that Labor were going to now monitor the fees and charges on the retail transactions of banks. This is what he said:

A Labor Government will write to the Chairperson of the Australian Competition and Consumer Commission (ACCC) requesting the Commission to formally monitor fees ... What do you think the date of that press release was? When do you think Labor really started to become concerned about bank charges and bank closures and the lack of social conscience that it accuses the banks of having? The first time it made such a statement was on 26 February 1996. And when was the election? The election was on 2 March 1996. After 13 years they made a desperate attempt. I think it amounted to about 14 days before the election that the final Treasurer of the Labor government, after 13 years, suddenly got an idea and a conscience in regard to bank fees.

As my colleague pointed out, this government has acted in relation to bank closures. And may I say in regard to the closures of the Bank of Melbourne, given that it is specifi-
cally a Victorian issue, I am also disappointed in those closures. I think the Bank of Melbourne closures are very much a product of Westpac taking over the Bank of Melbourne. So behind the small bank is yet again another big bank acting as it sees fits. The merger came about by the board of directors of both banks accepting the merger, and it was waved through by the ACCC based on the grounds that Westpac really did not have a footing in Victoria.

If big banks can take over little banks and then continue on with their policy of closure in rural and regional areas, that really does highlight the necessity for this government to maintain its four-pillar policy. I think it is an example of exactly why the four-pillar policy ought to remain the four-pillar policy, because it maintains the very minimum of a choice of four. Any less than four big banks and we will get more closures. The maintaining of the four-pillar policy is this government's policy. Not only in the Labor government's dying days but during its whole period in office some doubt arose as to the maintaining of the four-pillar policy—the policy which means that no merger will occur amongst the four big banks. At times in cabinet it was believed that the Labor government was going to change that policy.

This government is concrete in its maintenance of the four-pillar policy so as to keep competitiveness in the market. We have introduced competitiveness, and that is the real answer to all of this. Credit unions have been given greater authority; they have been given the power to sign cheques and to act more like a bank. Credit unions are able to maintain and develop financial services and infrastructure in rural and remote areas in competition with banks. So we have given them a greater ability to act like a bank so that they can compete directly with banks.

As my colleagues have also said, we are opening up and funding up to 500 rural transaction centres. We have just started, so there are only a handful that as yet have opened up. But the submissions are in and we plan to open up some 500. Also there are community banks—and full credit to the Bank of Bendigo, another Victorian bank, for creating community banks. That is how you bring pressure to bear upon the banks. So that is point No. 1, introduce competition.

Time does not allow me to touch on the other points in regard to this government's tax policy, which is taking $2.4 billion off bank statements, fees and taxes. That $2.4 billion is greater than the four banks raise in fees, so automatically charges on bank statements will be reduced. Of course, I would love to have the time to talk about this government's lowering of interest rates, because nothing sears a customer more than high interest rates. (Time expired)

Senator KNOWLES (Western Australia) (4.49 p.m.)—It is interesting today that this matter of public importance has been put on the Notice Paper by the Labor Party, and yet both Labor speakers have scurried out of the chamber immediately they have spoken. Clearly, not only have they not wanted to front up to their past but neither have they wanted to front up to reality. Senator Conroy has huffed and puffed very loudly about this issue for quite some time. Not only has he refused steadfastly to account for the Labor Party's lack of action in 13 years of government but also he has failed to enunciate what it would do if re-elected to government—and yet the contrast is so stark with what has happened under a coalition government in the four short years it has been in place.

Already, the coalition has sought to address some of the fallout that has accompanied the changes in the banking industry. The Labor Party would have you believe the changes that the industry has undergone have been as a result of the coalition government. It is clearly nonsense. As part of the Wallis reforms, the coalition has taken steps to heighten competition. It is interesting that in years gone by Senator Cook actually thought that was desirable. I will quote him from the Hansard of 31 May 1995:

One of the big benefits to Australian consumers of financial market and bank deregulation has been the introduction of a greater degree of competition between banks.

He thought that was good when he was in government, and now somehow the Labor Party think it is bad when they are in opposition. They had better decide which it is they want. As Senator Chapman said, the coalition
has also given credit unions the chance to issue cheques, and a wider range of players in the financial sector—including superannuation companies—will provide traditional banking products. This serves to further heighten competition. The coalition has also initiated Creditcare, a joint venture with the credit union movement, to help residents in rural and remote communities that are left without banking support regain convenient access to basic financial services. This initiative has meant that 39 towns across Australia have received access to financial services. Of course, it is expected that many more will follow in the near future.

The coalition has allocated $70 million over five years for the rural transaction centre initiative. Some $41.6 million was allocated in last year’s budget to establish 30 regional health centres, and so forth. Everything that we are trying to do is to get services and facilities back out into rural areas. The government committed a further $3.5 billion to the Regional Australia Strategy, which takes a whole of government approach to ensure that the full resources of government are focused on the needs of regional communities. No-one is trying to say that they are perfect, and no-one is trying to say that you would not want them better, but the difference is that this government recognises that there has been a problem. The previous Labor government simply removed facilities and services from country areas on the basis that they believed no-one voted for them in the country, so it did not matter. That was the most unfair thing that they could possibly do.

It is interesting to look at the reality of what consumers have by way of greater choice. Access points, for example, in 1989 were 30,721. In 1999, they were 241,000, and this year they will be 280,000. Interestingly enough, if you look at Labor’s record of a decade ago, in 1989 mortgage rates were 16 per cent. Last year they were 6.5 per cent and this year they are 7 per cent. And what do you get? You get the Labor Party complaining about interest rates. The brevity of their memory is absolutely breathtaking. In the last five years, EFTPOS transactions increased 115 per cent to 44 million transactions per month. In February 1998 there were 170 credit card products. In February 1999 there were 234, and that represents a 30 per cent increase.

In 1980, for example, there was not a thing called phone banking. In 1998, which is the latest figure available through the ABS, 4.8 million people paid bills by phone. And here is the Labor Party saying that banking has been cut back and that competition has cut it back. It is absolute plain and utter nonsense. The same applies with Internet banking. The latest ABS figures say that 112,000 people pay bills by Internet. One can only wonder how many more do that now, some two years later. In 1980 there were 10 different types of cheques. In 1998, there were 530. In 1980 there were 26 different types of mortgages. In 1998 there were 1,800 different types. Savings products went from 600 to 1,700, and ATMs went from 25 to 8,814.

This is the reality, and the sad part about it is that the Labor Party will continue to misrepresent the situation. They will continue to foolishly blame the government for something that started to occur as a natural progression of technology and as a natural progression of a number of things that they instituted, not the least being competition. The coalition’s record for rural areas in particular stands on its own. The Regional Australia Strategy includes $1.25 billion over five years for the Natural Heritage Trust, and most of that has been spent in the regions. There are many more areas of funds that have been spent in rural and country areas that were totally and utterly neglected by Labor’s 13 years in office. It is just a shame that the mover and seconder of the Labor Party for this particular motion did not bother to stay and listen.
where they live. The Australian Democrats have long subjected banks and the financial services sector to close scrutiny and have applied equally close scrutiny to relevant government policies over time. Yet, while the combined profits of the four major banks in the last financial year clearly indicate that the banks are having little difficulty meeting their needs when it comes to profitability, the number of complaints coming from consumers makes it equally clear that the banks are simply not meeting the needs of their customers.

The issue of access to banking services is one which has received a great deal of attention over the past few years, and one that has not been resolved. That attention has been well founded. Over this period, bank fees and charges have increased, jobs have been cut, branches have closed and bank profits have soared. The Australian Banking Industry Ombudsman noted in his 1998-99 annual report ‘that complaints about issues relevant to the quality of services provided by banks has increased’. More than 17 per cent of the complaints to the Banking Industry Ombudsman in 1998-99 fell outside of the terms of reference related to the banks’ policy decisions such as introducing or increasing fees. Some 2,164 of those complaints were calls relating to issues such as fees and bank closures. Sadly, the Banking Industry Ombudsman noted that ‘it appears likely that this level of complaint will continue to increase unless steps are taken by banks to more effectively manage their relationship with their customers’. That is a point I made quite clearly last week at a meeting with a senior executive of the ANZ.

A recent survey undertaken by the Australian Consumers Association, and reported recently in the summer issue of Consuming Interest, also backs up claims of widespread dissatisfaction amongst bank customers. More than 70 per cent of the over 5,000 people surveyed by the ACA said that they felt that the banks only want to increase their profits. Some 80 per cent of those said that they think fees and charges hit hardest the people who can least afford them with 76 per cent of those surveyed saying they want the federal government to have a role in monitoring bank fees. Some 76 per cent of those surveyed said that they believe consumers will be worse off if the big banks merge.

In addition, 31 per cent of the respondents said that they had been affected by a merger involving their financial institution. Of those customers banking with a particular institution that had been taken over, 55 per cent—more than half of them—said that they were worse off with regard to fees and charges than they were before. Twenty-six per cent said that the staff knowledge, the client customer relationship, was worse since the takeover and those living in rural areas have been particularly hit.

As representatives from Beal and Ralston told the House of Representatives inquiry on regional banking services in 1988, RBA figures for the period 1993-96 suggested that perhaps as many as one in three major bank branches in rural communities had closed during that period. It has not declined—it has continued. Only last week, on a visit to my own area on the north coast, my mother told me that the local bank was closing. This is in a community where the population numbers 17,000.

Many residents in rural areas now have to travel many kilometres to do most of their banking. Indeed, our parliamentary leader, Senator Meg Lees, found on a recent trip to Tasmania that there were no banking facilities on the west coast of Tasmania. As a result of her call for increased services in Tasmania, this situation has now improved. The lack of banking services in rural areas does not just have an impact on those who are inconvenienced by having to travel further to do their banking; it also has a much broader impact on other rural businesses because more residents will then do their banking and their shopping outside of the town they live in.

The impact of bank closures, particularly in rural areas, is therefore not just on the number of transactions people make in a certain place. Closing a bank branch does equal job losses and affects the way people shop and do business in their own communities. The Democrats agree that the declining levels of bank services, particularly in rural areas, is a matter of public importance.
We agree with the opposition’s contention that the federal government’s failure to adequately regulate the financial sector is resulting in Australians having to pay higher costs for less banking services. In saying this, however—and I am disappointed that Senator Conroy is not here—I must say that I think the Labor Party is being a bit hypocritical in laying all the blame for the current shortfalls in the banking sector at the government’s feet. After all, it was the Labor Party who made the decision to sell the Commonwealth Bank when it was in government—a decision which by mid-1998 alone had resulted in the closure of 404 bank branches and 475 agencies and the loss of 12,000 service staff.

The Democrats, at that time, vigorously opposed the Labor Party’s decision to sell the majority of the share in the Commonwealth Bank because the bank was important in servicing the bush. If Labor had not sold the Commonwealth Bank, the federal government would be in a far better position now to direct the bank to provide better services to the bush and small business customers. Labor also has a long history of letting the banks get away with blue murder. During their time in government they failed to direct the banks to reduce account fees, reduce credit card rates or reduce their small business loan rates. The Democrats have long argued for greater regulation of the financial sector.

The consumers of financial services in Australia are clearly looking to this government to do more today. So far we are paying more and getting less. I believe that the Australian people deserve better.

The ACTING DEPUTY PRESIDENT (Senator George Campbell)—Order! The time for the debate has expired.

COMMITTEES
Scrutiny of Bills Committee
Report
Senator O’BRIEN (Tasmania) (5.14 p.m.)—On behalf of Senator Cooney, I present the first report of 2000 of the Standing Committee for the Scrutiny of Bills and lay on the table the Alert Digest dated 16 February 2000.

Ordered that the report be printed.

Foreign Affairs, Defence and Trade References Committee
Report
Senator O’BRIEN (Tasmania) (5.15 p.m.)—On behalf of Senator Hogg, I present the report of the Foreign Affairs, Defence and Trade References Committee on the proposed sale of Australian Defence Industry Ltd to Transfield Thomson-CSF, together with the Hansard record of the committee’s proceedings and submissions.

Ordered that the report be printed.

Senator HOGG (Queensland) (5.15 p.m.)—I move:

That the Senate take note of the report.

The sale of ADI began in July 1997 and was sold to Transfield Thomson-CSF on 29 November 1999. The sale was managed by the Office of Asset Sales and IT Outsourcing, with the assistance of Defence and commercial advisers. The purpose of the inquiry was to review the sale process and not to interfere with that process or to prevent the finalisation of the sale. The Senate Foreign Affairs, Defence and Trade References Committee makes no comment on the selection of Transfield Thomson-CSF over its rival Tenix.

The length of the sale process was criticised in the inquiry. It made the exercise more expensive for prospective buyers and made it difficult for ADI to keep its businesses going and to maintain morale of staff. It also increased the Commonwealth’s costs by having to keep the government sale team together throughout the process. It was a very long sale process, which was due to a number of factors. ADI’s structure and the complexity of its business operations and OASITO’s cautious and thorough approach to the task to ensure the integrity of the process and the protection of the Commonwealth’s interests were never conducive to a quick sale. ADI’s involvement in two major tenders—the frigate upgrade and the Bushmaster vehicle—also contributed to the length of the sale process. ADI’s success in winning the two tenders enhanced its value but necessitated additional due diligence on the part of prospective buyers.

The committee received no evidence that cast any doubt on the integrity of the sale
process. It appeared that OASITO and its advisers went to considerable lengths to ensure the integrity and propriety of the sale even though this lengthened the process. These measures included OASITO’s requirement that participants adhere to extensive confidentiality provisions. As far as the committee could determine, the confidentiality provisions were not breached. It notes, however, comments from some participants that the confidentiality provisions were too onerous.

On 2 November 1999, the Minister for Finance and Administration and the Minister for Defence jointly announced that the final sale price for ADI was $346.78 million. This price did not include the value of the three development properties that were excluded from the sale. The estimated value of the three properties was about $160 million. The combination of the price paid for ADI by Transfield Thomson-CSF and the estimated value of ADI’s development properties amounted to approximately $500 million, which was towards the upper end of the speculated value of ADI during the sale process. There was nothing to suggest that the Commonwealth did not receive due value for money from the sale. It should be noted that the price was only one of the many criteria used in the evaluation of bids for ADI.

The committee was told that market research on the preferred model for sale of ADI and the ASC conducted during the scooping phase had revealed there was no commercial rationale or market interest in acquiring a merged ADI-Australian Submarine Corporation. Although interest had been shown by some prospective buyers of ADI in the Submarine Corporation, there was no evidence to suggest that combining both entities in the one sale would have advantaged the Commonwealth.

The committee was informed that some ADI employees still contributing to the Commonwealth Superannuation Scheme would be disadvantaged. By law, they had to leave the scheme when ADI was sold. A consultant engaged by ADI found that 147 CSS members were potentially disadvantaged. The government has made it clear that, as the ADI sale was no different from other privatisations, it would not make any special arrangements for those ADI CSS members disadvantaged by the forced change in their superannuation arrangements. As a matter of equity, the committee believes that it is the responsibility of the new management to ensure that those former CSS members are not disadvantaged overall.

ADI’s facilities are widely dispersed and many are important employers in regional areas. The new owners have pledged to develop ADI’s regional facilities. The committee looks forward to the realisation of those commitments and to the benefits that should flow from them to the regional communities.

Although ADI is now 50 per cent owned by a French company with part French government ownership, Thomson-CSF has a long and successful history of working in the Australian defence industry. As a major international contractor, Thomson-CSF is in a position to provide ADI with finance, technology and access to markets overseas. The committee received no evidence that Thomson-CSF’s investment in ADI was likely to prejudice the transfer of technology from the United States to Australia. It is a respected international prime contractor with existing contracts with US firms. Transfield witnesses were adamant that Transfield would not be a sleeping partner in the management of ADI and that it had no intention of selling its share of ADI.

During the inquiry, it became evident that there was concern within the Australian defence industry about the extent of consultation and cooperation between Defence and the industry about acquisition policies and practices and their effect on the evolving structure of the industry. The committee flags this concern to ensure that it is placed on the agenda and is discussed in appropriate consultative fora in the national interest. The ability of the defence industry to meet Australia’s defence needs in the future is not something that should be taken for granted.

Finally, I wish to thank everyone who contributed to the inquiry and to those members of the secretariat who worked tirelessly in assisting the committee to take evidence and bring down this report. I commend the report to the Senate.
Senator BROWNHILL (New South Wales—Deputy Leader of the National Party of Australia in the Senate) (5:22 p.m.)—First of all, I would like to thank the secretariat. I would also like to thank the chairman for the way he chaired this inquiry into ADI. I think one of the most important things was that we met all the terms of reference that were given to us in the inquiry: to protect the value of ADI and its assets, to realise the maximum price for ADI and its assets, to find out if that happened, and to protect Australia’s national security and defence relationship.

The inquiry, as I said, covered all those things. The assets were protected. During the hearings, most witnesses expressed overall satisfaction with the process, which I believe was clearly enunciated. The committee received no information which cast any doubt on the integrity of the sale process. The overall handling of the sale and the length of the sale process received comment and expressions of concern from some witnesses. It did take a long time but to get the proper propriety and to make sure that everything was done properly, I think that OASITO did everything absolutely perfectly. In 2.53, we said: Apart from the deliberate phasing of the sale to protect the integrity of the tendering process, the complexity of ADI’s business was an acknowledged cause of much of the delay. Again, I think that was one of the reasons why it took so long. In 2.54, the complexity of the business meant that the vendor due diligence process was a long and difficult task. That definitely was adhered to in the selling of the ADI asset. In 2.76, Mr Hutchinson confirmed that ADI had been sold for approximately twice the net asset value. So, obviously, that part of the terms of reference for the inquiry were met.

The issue which does have some ongoing concern and interest is the interests of the employees. We have covered that in the report as well and that has to be addressed by the new owners of the enterprise. Another part of the inquiry which received a lot attention was whether it would affect our relationship with our allies, for example, the United States of America, and that was found not to be of concern to anyone. By the actual sale of ADI and the actual selling it to the partner-

ship that is there now, we are going to make sure that ADI has been structured accordingly to gaining high access to high technology, and that was one of the biggest hurdles that ADI had before this restructure. I commend the report to the Senate and support the chairman. Again, I thank the secretariat, including Paul Barsdell and the other people who worked very hard to get this report down in the time it did.

Question resolved in the affirmative.

Public Works Committee Report

Senator CALVERT (Tasmania) (5:26 p.m.)—On behalf of the Parliamentary Standing Committee on Public Works, I present the first report of 2000 entitled CSIRO/University of Queensland Joint Building Project, St Lucia, Queensland. I move:

That the Senate take note of the report.

Question resolved in the affirmative.

Senator CALVERT—I seek leave to incorporate a tabling statement in Hansard.

Leave granted.

The statement read as follows—

Madam President, the report I have just tabled concerns the proposed construction of a research facility to be built at the St Lucia campus of the University of Queensland.

This complex will replace the CSIRO research facilities that were built 30 to 40 years ago on the site, and seeks to enhance research synergies between the CSIRO and the University of Queensland in the field of molecular biology.

The CSIRO and the University of Queensland have entered into a joint venture agreement for the $110 million dollar project, with the CSIRO contributing $50 million to the development. Subject to Parliamentary approval, the construction of the building is expected to be completed in 2002.

The Committee has recommended that the project should proceed.

The project generated some local controversy and resulted in a lengthy public hearing last October, and a follow up hearing in November.

The range and strength of views put forward by local community groups and residents can be understood when the size and nature of the proposed research facility are considered.
The proposed complex is will comprise three, eight-storey wings and a multi-level carpark.

Local residents had concerns about site selection, the visual appearance of the building, overshadowing and lack of privacy.

They also expressed concerns about addition to noise during construction.

The Committee found that the proponents had considered many of the issues that residents have raised.

The Committee has concluded that there are sound reasons for locating the facility on the proposed site. It is neither practical nor efficient to insist that the facility be located at another University of Queensland campus or site.

The Committee asked the principal architect on the project to explain the design and if other options had been considered.

The Committee was advised that proposed design provides advantages in terms of natural light and internal flexibility.

A different design, for example a single five-storey building would have larger building footprint.

The Committee accepts that the architect has attempted to ameliorate impressions of size and bulk through techniques such as underground levels, ‘stepping’ the walls and landscaping.

Tests have indicated that overshadowing will be minimal.

The Committee believes issues of privacy should be dealt with by the Community Liaison Committee.

Local residents expressed concern about the nature of the proposed research in a residential area and the disposal and transfer of hazardous material from the site. The Committee heard evidence regarding the waste management systems and transportation of materials.

The Committee has concluded that based the evidence, especially relating to regulations and procedures established to manage any potential biological hazards, the proposed facility will not pose any threat to the safety of the community.

Certification of laboratories is required from the Genetic Manipulation Advisory Committee, a Federal Government Committee responsible for the monitoring of all recombinant DNA research. The new office of the gene technology regulator will provide a statutory and regulatory compliance regime.

In conclusion, I take this opportunity Madam President to comment on a feature of the inquiry that caused considerable concern to the Committee. This was the approach adopted by the project proponents with respect to the concerns of local residents.

Two examples are sufficient to illustrate the residents’ perception of the somewhat dismissive approach adopted by the project proponents.

The first of these was reliance on a disputed Brisbane City Council planning exemption on the basis of special zoning to avoid Council approval processes.

The Committee understand that plans have since been submitted and approved by Brisbane City Council even though there is no statutory requirement for this.

The second was the belated establishment of the Community Liaison Committee.

The Committee believes many of the concerns of local residents could have been resolved or at least addressed if the proponents had undertaken a program of genuine consultation and information dissemination well in advance of the Committee’s inquiry.

The proponents have now undertaken to submit the plans to the Brisbane City Council for endorsement and have established the Community Liaison Committee.

It is envisaged that this Liaison Committee will be able to resolve issues in an open and fair manner, and reduce the frustration and alarm that many residents have experienced with this project so far.

This facility will enhance Australia’s biotechnology research base and increase the capability of the CSIRO to deliver extensive economic, environmental and social benefits to the Australian community.

Madam President, I commend the report to the Senate.

Public Accounts and Audit Committee

Report

Senator CALVERT (Tasmania) (5.27 p.m.)—On behalf of Senator Gibson and the Joint Committee on Public Accounts and Audit, I present report No. 372 entitled Corporate governance and accountability arrangements for Commonwealth government business enterprises, together with the Hansard record of the committee’s proceedings and submissions. I seek leave to move a motion in relation to the report and to incorporate my tabling statement in Hansard.

Leave granted.

The statement read as follows—
Commonwealth GBEs provide a range of services to the Australian Community including communications, transport, employment and health services. In 1998-99, Commonwealth GBEs generated revenues of nearly $25 billion, provided dividends of $4.5 billion, and controlled assets of some $40 billion. Given that GBEs are publicly controlled entities, the Parliament has a continuing interest in their governance, performance and accountability.

The growing demand for more efficient, effective and responsible corporate governance stems from the corporate failures during the 1980s and 1990s.

Madam President, the focus on corporate governance, however, is not just driven by the corporate failures of the past but also by the corporate challenges of the future. Corporations, both public and private, face challenges relating to globalisation, technological change and sustainable development.

In view of these issues, the Committee decided to review aspects of, and ask questions about, corporate governance and accountability arrangements applying to Commonwealth GBEs. The Committee commenced this inquiry about two years after the Government introduced new Governance Arrangements for Commonwealth Government Business Enterprises in June 1997.

The new governance arrangements focused on reporting arrangements, the appointment and removal of board directors, board responsibilities and financial governance arrangements. The broad objective of the inquiry is to assess the appropriateness and effectiveness of these arrangements.

The issues that the Committee focused its investigations on, and which I will briefly discuss, include:

1. the appropriateness of the governance framework;
2. the role of shareholder Ministers;
3. GBE boards and performance appraisal;
4. the Senate Estimates process and the scrutiny of GBEs; and
5. risk management issues.

The governance framework

Madam President, the Committee examined the appropriateness of the Commonwealth Authorities and Companies Act 1997 and, in particular, its continued application to GBEs. Some groups suggested that it would be more effective for GBEs to be subject solely to Corporations Law.

The primary objective of the CAC Act is to standardise the reporting, notification and auditing requirements of CAC bodies. In addition, it helps to ensure appropriate accountability to Ministers and the Parliament.

Madam President, as stated earlier, GBEs in 1998-99 generated revenues of nearly $25 billion, provided dividends of $4.5 billion and controlled assets of some $40 billion. In view of the significant responsibility in managing these assets, the Committee is not prepared to recommend any relaxation of the accountability requirements applying to GBEs and supports the application of the CAC Act to GBEs.

Shareholder Ministers

The Commonwealth’s ownership interests in its GBEs is represented, in most cases, by two ‘Shareholder Ministers’, the portfolio Minister and the Minister for Finance and Administration.

A key consideration during the inquiry was the perceived conflict that exists with the continuation of portfolio Ministers as shareholder Ministers. The Government has recognised this very fact when it chose to have the Minister for Finance and Administration as the sole shareholder for Sydney Airports Corporation, Essendon Airport, and Employment National. In these cases, the Department of Finance and Administration justified the sole shareholder model on the grounds that it would allow portfolio Ministers to focus primarily on regulatory and industry policy issues and the Minister for Finance and Administration, as shareholder, to pursue the objective of value maximisation.

It is essential that the operational settings for GBEs are such that they maximise the efficiency and effectiveness of the entity and help generate appropriate rates of return. As suggested in the evidence, the influence of the portfolio Minister could compromise these objectives.

In view of these issues, the Committee recommends that all portfolio Ministers be removed from their GBE shareholder responsibilities but remain as the responsible Minister under GBEs’ enabling legislation. The Government’s shareholder interests in GBEs should be represented by, and be the responsibility of, the Minister for Finance and Administration.

Madam President, a number of organisations have drawn attention to the fact that there are no principles to guide the relationship between Ministers and boards relating to GBE performance.

The Committee notes that in the event that the Minister gives written directions to the boards of Telstra or Australia Post, then these written directions must be tabled in both Houses of Parliament within 15 sitting days.
In the case that Ministers have the power to direct GBE boards, there is increased accountability and transparency if written directions are made public and subject to scrutiny. The Committee concludes that all GBE boards in their relationship with Ministers should be under a similar arrangement to Australia Post and Telstra. That is, all Ministerial directions to GBE boards should be in writing and publicly reported.

GBE Boards

Boards of GBEs are responsible and accountable to shareholder Ministers and Parliament for delivering the government’s policy objectives and ensuring that the enterprise is operating as efficiently and effectively as possible.

It is essential that board directors be well equipped and informed to carry out their work. Therefore, the Committee recommends that GBE boards must ensure that there are appropriate and effective induction, education and training programs offered to new and existing board directors.

In addition, there is the need for greater attention to be given to board and individual director performance. Therefore, the Committee recommends that the Minister for Finance and Administration amend Part 3 of the 1997 Governance Arrangements for Commonwealth GBEs to include a section requiring confidential board and director performance appraisal.

A rigorous performance appraisal system, in association with identified incentives, will help develop a more competitive and performance oriented culture in GBE boards.

The Senate Estimates process

A number of GBEs and portfolio departments made comments regarding the appropriateness of the Senate Estimates process as an additional accountability mechanism. Telstra, in particular, indicated that appearing at Senate Estimates hearings created an additional cost burden in terms of time and human resources devoted to this task. In addition, Telstra was concerned that questioning at Senate Estimates could lead to the release of commercially sensitive information which could disadvantage it against its competitors. In view of these concerns, Telstra advised that it should be exempt from the Senate Estimates process.

The Committee acknowledges some of the concerns that GBEs have about Senate Estimates. While Telstra admitted that no commercially sensitive information has yet been released through Senate Estimates, the risk remains that Telstra and other GBEs could be seriously disadvantaged in the market place if this were to occur.

The Committee suggests that there is the need for greater clarity and coherence in the way Parliamentary Committees examine commercial matters of GBEs. Therefore, the Committee recommends that the Minister for Finance and Administration develop draft guidelines for the scrutiny by Parliamentary Committees of commercially confidential issues relating to GBEs. The draft guidelines should be submitted to the Committee for approval.

Risk management

Madam President, the Government is exposed to many risks through its ownership of GBEs, including financial, operational, political and reputational risks. Therefore, the Government considers it is essential to ensure that the risk management strategies of all Commonwealth GBEs are operating effectively. The board of a GBE is wholly responsible for identifying, monitoring and controlling all risk that may affect the operations of a GBE.

Audit committees are playing an increasingly important role in corporate governance, and more specifically, in the area of risk management. The Committee notes that Telstra’s internal audit function is conducting a risk management assessment function. The Australian National Audit Office, in its better practice guide, proposed that audit committees should have a role in risk management including approving and monitoring policies for reporting risk management and internal control.

The 1997 Governance Arrangements devote a section to managing risks although there is no mention of the role of audit committees in this process. The Committee, therefore, recommends that the risk management responsibilities of audit committees be included in the Governance Arrangements for Commonwealth GBEs, under Part 4, Managing Risk.

In conclusion, Madam President, I would like to express the Committee’s appreciation to those people who contributed to the inquiry by preparing submissions and giving evidence at public hearings.

Finally, I wish to thank the members of the sectional committee for their time and dedication in conducting this inquiry. I also thank the secretariat staff who were involved in the inquiry: — the Secretary to the Committee, Margot Kerley; sectional committee Secretary, Stephen Boyd; research officer, Mr Gordon Carey and administrative officer Tiana Gray.

Madam President, I commend the Report to the Senate.

Senator CAL VERT—I move:
That the Senate take note of the report.
Question resolved in the affirmative.

DOCUments

Auditor-General’s Reports
Report No. 31 of 1999-2000

The ACTING DEPUTY PRESIDENT

COMMITTEES

Membership

The ACTING DEPUTY PRESIDENT
(Senator George Campbell)—The President has received a letter from a party leader seeking variation to a committee.

Motion (by Senator Patterson)—by leave—agreed to:
That Senator Mason replace Senator Payne on the Legal and Constitutional References Committee for the committee’s hearing into matters arising from the introduction of the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999, on 17 February 2000, from 5 p.m. until the committee concludes its business.

CRIMINAL CODE AMENDMENT (APPLICATION) BILL 1999
MINISTERS OF STATE AND OTHER LEGISLATION AMENDMENT BILL 1999

First Reading

Bills received from the House of Representatives.

Senator Patterson (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (5.30 p.m.)—I indicate to the Senate that those bills which have just been announced are being introduced together.

After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:
That these bills may proceed without formalities, may be taken together and be now read a first time.

Question resolved in the affirmative.
Bills read a first time.

Second Reading

Senator Patterson (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (5.30 p.m.)—I move:
That these bills be now read a second time.
I seek leave to have the second reading speeches incorporated in Hansard.
Leave granted.

The speeches read as follows—

CRIMINAL CODE AMENDMENT (APPLICATION) BILL 2000

One of the more exciting and ambitious projects within my responsibility has been the development of the Model Criminal Code.

Following extensive nation-wide cooperation, we have developed model offences concerning a wide range of topics, including conspiracy to defraud, assault, stalking, abduction, sexual offences, homicide, perjury, threatening witnesses, drug trafficking, the contamination of goods, slavery and sexual servitude.

As a result of the States and Territories adopting various components of the Model Criminal Code, Australians have been given greater certainty, protection and confidence under the criminal law.

The Model Criminal Code discussion papers and reports contain a comprehensive review of the law on each topic in Australia and overseas.

This body of work has come to the notice of the High Court and is now recognised throughout Australia and overseas as one of the more worthwhile contemporary law reform projects.

While there has been this tremendous progress, some effort is still required in order to harmonise Commonwealth offences with the Criminal Code.

The overall task of developing and implementing the Criminal Code has proven to be more extensive than was first anticipated in 1995.

It is therefore reasonable to amend the Criminal Code Act to defer application of some parts of the Act.

This Bill extends the date of application of Chapter 2 of the Act.

Chapter 2 contains the Criminal Code’s general principles of criminal responsibility, which ultimately are intended to apply generally to all Commonwealth criminal offences.
Subsection 2.2(2) of the Bill provides for the deferral of the application of Chapter 2 until 15 December 2001.

This replaces the present provision which states that Chapter 2 will apply on the day 5 years after the day on which the Criminal Code Act received Royal Assent.

Royal Assent was given on 15 March 1995, and therefore, unless the Criminal Code Act is amended, Chapter 2 will apply in March this year.

In 1995 the Parliament set the 5 year period described in subsection 2.2(2) with the view that this would allow sufficient time for all offences under Commonwealth law to be reviewed and, if necessary, amended in order to comply with the general principles of criminal responsibility contained within the Criminal Code.

Whilst that process of review continues and significant progress has been made, it has become apparent that the original 5 year period was somewhat too optimistic.

A deferral until December 2001 in applying Chapter 2 is necessary to allow the review and adjustment process to be properly concluded across all Commonwealth legislation.

After that time, the principles of the Criminal Code will generally apply to all offences under Commonwealth law.

I believe that this Bill will assist in the implementation of the Criminal Code by permitting adequate time to review offences under Commonwealth law for the application of the Code.

If many offences are not adjusted they will become more difficult for the prosecution to prove.

The Criminal Code is a significant step in the evolution of our system of justice, and it is important that it be implemented in a way that is considered and pays careful regard to the way Commonwealth offence provisions are to work in practice.

I commend the Bill to the Senate.

MINISTERS OF STATE AND OTHER LEGISLATION AMENDMENT BILL 1999

One of the purposes of this Bill is to allow for the appointment of Parliamentary Secretaries under section 64 of the Constitution.

Parliamentary Secretaries will, however, retain their title, roles and responsibilities—and continue to assist the portfolio Minister or Ministers.

The Remuneration Tribunal noted in its report how the job of a Parliamentary Secretary had developed significantly under several successive governments.

Parliamentary Secretaries perform a range of functions for Ministers. These include some parliamentary duties such as overseeing the introduction and debate on legislation, as well as attending to administrative and departmental matters. They are often authorised to perform statutory functions on behalf of a Minister and generally represent the Minister. As with Ministers, they are bound by the principles of collective responsibility in relation to Cabinet decisions.

To allow for such appointments, the Ministers of State and Other Legislation amendment Bill 1999 will amend the Ministers of State Act 1952 to enable the 12 Parliamentary Secretaries, appointed under section 64 of the Constitution, to be covered by that Act.

The Government has accepted the salaries for Ministers and Parliamentary Secretaries recommended by the Remuneration Tribunal in its Report. Another purpose of the Bill will be to amend the Ministers of State Act to increase the maximum annual sum for the payment of salaries to Ministers, to accommodate the 12 Parliamentary Secretaries and the Tribunal’s recommendations.

The Bill will also repeal the Parliamentary Secretaries Act 1980, and make certain consequential amendments to the Remuneration Tribunal Act 1973, as well as a minor consequential amendment to the Freedom of Information Act 1982.

These consequential amendments are desirable simply to avoid confusion once appointments of Parliamentary Secretaries are made under section 64 of the Constitution.

Debate (on motion by Senator O’Brien) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

CUSTOMS LEGISLATION AMENDMENT (CRIMINAL SANCTIONS AND OTHER MEASURES) BILL 1999

Report of Legal and Constitutional Legislation Committee

Senator CALVERT (Tasmania) (5.31 p.m.)—On behalf of Senator Payne, I present the report of the Senate Legal and Constitutional Legislation Committee on the provisions of the Customs Legislation Amendment (Criminal Sanctions and Other Measures) Bill 1999, together with the Hansard record
of the committee's proceedings, minutes of proceedings and submissions.

Ordered that the report be printed.

PRIVACY AMENDMENT (OFFICE OF THE PRIVACY COMMISSIONER) BILL 1998

Second Reading

Debate resumed from 10 March 1999, on motion by Senator Ellison:

That the bill be now read a second time.

Senator BOLKUS (South Australia) (5.31 p.m.)—I want to say a few things about the Privacy Amendment (Office of the Privacy Commissioner) Bill and indicate that this debate may not take all that long. This bill separates the Office of the Privacy Commissioner from the Human Rights and Equal Opportunity Commission and creates an independent statutory Office of the Privacy Commissioner.

The record will show that the opposition opposed this bill in the House of Representatives and did so for a number of reasons. We were concerned that the planned separation may result in a net decrease of resources available to the Office of the Privacy Commissioner and to the Human Rights and Equal Opportunity Commission as a result of that separation. We were concerned that gains in effectiveness as a result of the separation of the Office of the Privacy Commissioner from HREOC would be marginal. We were also concerned that administrative efficiencies and service delivery benefits flow from the fact that the operation of the Privacy Commissioner was within HREOC. In essence, our view was that the separation may in fact decrease available resources and that the existing situation was one that maximised existing resources.

While the opposition continues to remain sceptical about the benefits of separating the Office of the Privacy Commissioner from the commission, we are now prepared to allow the bill to pass on the strength of assurances we have received from HREOC in relation to funding of the proposed split. It has to be recognised that there is already an internal division in funding between the Office of the Privacy Commissioner and HREOC and that there has been an internal division of resources between those two bodies. That is something that we have established time and time again in estimates proceedings.

We are concerned, however, that the government has been guilty of misrepresenting the effect of this bill and its approach to the protection of privacy generally. For instance, the government claimed in a statement on 7 December last year that the bill ‘will allow the Privacy Commissioner to operate more effectively in protecting the privacy of all Australians’ and described it as ‘a concrete measure to strengthen the Privacy Commissioner’s ability to ensure that the personal information of all Australians is handled fairly and securely’. This is demonstrably not the case. Under the bill, the functions of the Privacy Commissioner will remain unchanged. Constituted as a separate office, the Privacy Commissioner will continue to have all the functions it currently has as an office within HREOC. Basically what we are talking about here is an administrative division of functions only—it neither increases nor decreases the powers of the Privacy Commissioner.

We have to acknowledge that this sort of misrepresentation is something that we are used to from this Attorney-General. Senator Harradine in question time today raised the issue of misrepresentation in respect of doing away with the X-rated video category. He made a very clear case, as he has done over a number of years now, that what the Attorney-General did do was perpetrate a fraud on the Australian public in the way that he announced a new category and the abolition of the previous one as if to indicate to the public that something was going to change. On 7 December last year, his government put out a statement indicating that, once again, something would change and that as a consequence of these measures there would be a strengthening of the Privacy Commissioner’s ability to ensure that information is ‘handled fairly and securely’. What we have here is not an enhancement of powers; what we have here is in fact an administrative division of functions between HREOC and the Privacy Commissioner.

So the government’s blustering on this bill has been to disguise its real delay in finalis-
ing its proposals for privacy protection in the private sector. That is a very pertinent point in this debate. Whilst the Attorney-General has been out there arguing that something that will not happen was going to happen under this government’s intentions, what the Attorney-General has done consistently over the last four years now has been to run very much behind the pack when it comes to privacy protection in the private sector. He has tried to put up this sort of smokescreen in respect of the Privacy Commissioner in an attempt to mislead the public, to mislead constituencies, about the government’s actions in respect of privacy protection in the private sector.

What we saw last year was a government which has been in a sense, as I said, dragging its feet since 1996 when it first announced its intention to introduce protection for personal information in the hands of the private sector. It was caught on the hop by reports of a huge database containing information on all Australians and that that database would be up and running by Christmas. This caused the government to hurriedly release so-called ‘key provisions’ of its proposed legislation and what we essentially saw was a poor substitute for effective protection.

If the government’s private sector legislation ever comes to fruition, let me put on the record now that we will give it a solid working over in this Senate and parliament. We will work to ensure that protection provided for personal information is adequate protection.

We note already that a key number of bodies, including the AMA, have been critical of the so-called key provisions of the government—critical to the extent that they claim, and I support their claims, that those key provisions are not adequate in protecting people from disclosure of medical records. That is one area we will need to examine, and there will be so many others.

In 1989 I introduced the first bit of legislation in this parliament to attach privacy principles and privacy protection to an important part of the private sector—that is, the credit reference institutions and agencies and databanks. The collection of data has moved on quite substantially since that time. In fact, with technology it has moved on exponen-

tially over the last 10 years. There is now a need to further extend such legislation to data collection areas that 10 or 12 years ago we never thought would be possible.

It has taken the government 3½ years and they have made no progress, and let me place on the record that this bill does not make any progress either. This is an administrative division of functions, one that the opposition have opposed because we have always seen it as a diversion of the debate but a diversion which in a sense has many negative impacts, negative in that it may cost more to run two separate organisations than it has to run a Privacy Commissioner within the ambit of HREOC.

As I have said, the shadow Attorney-General, Rob McClelland, has taken the view that we will allow this bill to pass on the strength of assurances we have received from HREOC. As a consequence, we will not be opposing the legislation at this stage.

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (5.39 p.m.)—I rise on behalf of the Australian Democrats to speak on the Privacy Amendment (Office of the Privacy Commissioner) Bill 1998. The Democrats, as the chamber would be aware, have a long history of raising issues in this place pertaining to privacy. It is a tradition and debate that my predecessors, including former Senators Michael Macklin, Janine Haines and Don Chipp, were all active in. They have lamented, while in parliament and since, that they have not seen more progress in privacy legislation in Australia, and in particular the legislation which Senator Bolkus referred to in his remarks—that is, the idea of extending privacy laws to the private sector.

We are very much aware of what has happened in the last couple of years and the fact that this government did make a promise as it went into the 1996 federal election campaign that it would extend privacy to the private sector. That decision was pretty much overturned by the Prime Minister, or at least his statements certainly ran contrary to a commitment given in, I think, September 1996 by the Attorney-General. Nevertheless, we have seen some progress. At least there has been talk of legislation. Draft guidelines, if you
like, were circulated as of December last year and the Democrats, like the Labor Party, look forward to scrutinising the legislation when it comes before us in this place.

We have seen much action in this place on the discussion about privacy laws generally, but specifically the extension of privacy laws to the private sector. We have had a reference to the Senate Legal and Constitutional Committee, a committee inquiry and reports as a consequence of that inquiry by the committee. We have a bill before us today that, I do acknowledge, does not necessarily further the privacy debate in a significant way, but nonetheless the Democrats hope to see the changes before us in a positive context. We hope these changes will lead to improved privacy protection in Australia and, for that reason, we will also support the legislation before us.

The Democrats have long argued that we need clearly stated and legislated complaints, investigation and enforcement mechanisms that involve the Privacy Commissioner and which are adequate to ensure an independent and transparent mechanism to give consumers the certainty and the confidence that we believe their personal information requires. Consumers in our society have a right to know that their personal information is safe. The privacy amendment bill before us works towards this goal, we hope, by furthering in some respects the stature and perhaps the autonomy of the Office of the Privacy Commissioner. So I am hopeful that it will achieve what the government has said that it would achieve. In that respect, it is good to see an air of cross-party support for this legislation.

The bill, as we know, separates the Office of the Privacy Commissioner from the Human Rights and Equal Opportunity Commission. The bill creates an office of the Privacy Commissioner independent of HREOC, allowing the Office of the Privacy Commissioner to act and operate as the head of their own department and to employ staff. I understand that under current arrangements staff are employed by the commission.

I understand the references Senator Bolkus made in his comments, his concerns relating to this decision originally. We shared and articulated some of the concerns that he had. Similarly, we are guided very much by the comments from HREOC and of course from the Privacy Commissioner. I note that the Privacy Commissioner and the Human Rights and Equal Opportunity Commission support this legislation. HREOC assures us that this bill will not require any additional funding; it will not be an additional strain on the already strained finances of the commission—as the commission’s funding has been reduced. Neither HREOC nor the Privacy Commissioner expect to be financially disadvantaged by the split, and that is certainly something that we hope to hold the government to.

It is worth noting again the cuts that have been made to the Human Rights and Equal Opportunity Commission. The commission’s $20.5 million funding in the year 1996-97 was reduced to $17.9 million in 1997-98, $12.3 million in 1998-99, and $10.7 million per annum for 1999-2002. That is effectively a halving of the commission’s budget under this government. The Office of the Privacy Commissioner was created under the Privacy Act with the functions vested in the office rather than in the commission. Since the act’s introduction in 1988, the Privacy Commissioner’s jurisdictions have proliferated—and Senator Bolkus referred to keeping pace or keeping up with increasing privacy needs as a result of technological and other advancements. Data matching and the growth in telecommunications technology and online services have all extended the commissioner’s functions under the Telecommunications Act 1997 with respect to records by telecommunications carriers, carriage service providers and similar regarding the disclosure of consumer information. So all these have added to the work for privacy commissioners in Australia. Additionally, the Commonwealth Spent Convictions Scheme and the Medicare and Pharmaceutical Benefits Scheme all have privacy guidelines.

I support the notion that the expansion of the Privacy Commissioner’s functions necessitates reform in order to provide the required public profile and stature to address the rapidly expanding consumer needs in this area.
Furthermore, the Privacy Commissioner’s functions are likely to be further expanded if the government introduces legislation to extend privacy to the private sector. As I said earlier, that is a longstanding policy of the Democrats. I know that during my time we have introduced a private member’s bill to fulfil the election promise that the government made in 1996. We withdrew that in good faith leading up to the process of consultations around the national privacy principles, and we are very hopeful, as I say, of seeing that the legislation promised by the government is an effective and, we hope, uniform—so clearly national—but enforceable privacy regime. If this bill in any way facilitates that possibility of enforceable privacy rights in the private sector, that certainly is an added reason for supporting it.

As we know, privacy is a ubiquitous issue; it spans many areas of public life. It is a basic right which deserves nothing less than transparent and enforceable protection—specifically noted in the 1948 Universal Declaration on Human Rights. It is a fundamental principle that a person has a right to know what personal information is held about them and that, if that information is lawfully held, the information is correct. The International Charter of Civil and Political Rights, article 17, provides:

No one shall be subjected to arbitrary or unlawful interference with his—
or her, I presume—privacy.

The Universal Declaration of Human Rights, article 12, provides:

No one shall be subjected to arbitrary interference with his—
or her—privacy, family, home or correspondence, nor to attacks upon his—
or her—honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Issues pertaining to this basic right can only proliferate further in the oncoming debate—I guess it is a debate we have yet to have in the parliament—with the finalisation in this decade of the human genome project, the emerging global digital economy and an information technology society.

In relation to the issue of privacy of the most sensitive information that we have—that is, our basic genetic make-up, so in relation to genetic privacy—I would like to bring the Senate’s attention to a decision that was made last week by President Bill Clinton, President of the United States. He made an announcement and signed an executive order banning American federal agencies from genetic discrimination against workers. I really hope that this international stand will provide impetus for action in Australia. I note that where this was carried in some media outlets last week there was comment from various members of state parliaments. I note that in my home state of South Australia the Attorney-General acknowledged in the newspaper that this is a good issue and that maybe we should look into it. Indeed, we should, but just not on a state and territory level in much the same way that we do not necessarily simply want a mishmash of state and territory legislation relating to extension of privacy laws to the private sector. We need national, uniform laws, and we certainly need laws in relation to the issue of genetic privacy and non-discrimination. The President’s decision means that employers and other workers will not be able to abuse advances in medical research. Unfortunately, despite the Democrats’ keen efforts to have these issues debated and addressed, we have not made any such move to ban similar discrimination in Australia. The Senate Legal and Constitutional Legislation Committee recommended further examination on the issues of genetic discrimination and privacy and the possibility of creating a national working party to address them. Through you, Mr Acting Deputy President, I implore those government members to investigate this issue because now that we have international standards—certainly an American decision—we should be looking, if not to match them, to have better and more workable laws in this area. So I hope that some of the recommendations of that Senate committee will be looked into. It certainly recommended the development of appropriate amendments to existing legislation in relation
to genetic privacy and discrimination. I think we are still awaiting such action, unless something has been happening behind the scenes that we are not aware of. I think it would be a great opportunity to start debating these issues as we are in a new century, approaching a new millennium, and technological advances are taking place at great pace.

It is interesting to note in the media the reactions by members of the community to the President’s announcement. Time and time again, people have been asking what Australia is doing about this issue and whether anyone has thought about the privacy implications of these emerging technologies. It is not that people are not thinking about them, because there are academics, doctors and indeed political parties like the Democrats who are considering these issues. We have considered the need for strong, transparent and comprehensive privacy protection regimes that are responsive to the knowledge and the technologies of the 21st century. But it does seem to be a case of people not understanding, not wanting to know or governments not listening and taking a proactive role in privacy protection.

This bill will, I hope, allow the Privacy Commissioner and the office to increase the impact of their work. I hope that at some point in the future we can perhaps give them the appropriate resources to cope with the expanding needs of that office. I also hope that the government will look more closely at the expanding needs for privacy legislation in this country. Once again, I urge the parliament to deal as swiftly as possible with the issue of extending privacy laws to the private sector—something that the Democrats called for during the period of the ALP government, and I believe we had support from the then opposition. With this government, we have called for similar measures. I hope that this government will be the government to produce them and will do so with—again, I hope—an air of cross-party support, provided that the legislation is uniform, enforceable and meets with those international declarations to which I referred.

Senator COONEY (Victoria) 5.51 p.m.—Senator Stott Despoja, in her splendid speech, referred to what had been done in this area prior to coming here today. It pains me in some sense to have to refer to the times when Senator Bolkus was doing a lot of work on this. It pains me because it occurred over 10 years ago. As a minister in the Hawke ALP government, he did a great deal of work in bringing privacy principles to bear in the area of credit agencies and things like this. So there has been a lot of work done in this area, although there has been little done in recent times.

Since I have mentioned Senator Bolkus, in a spirit of bipartisanship I should mention Senator Chris Puplick, as he then was, a man who was eager for human rights, including privacy—he later became the Privacy Commissioner of New South Wales—and a person in the coalition opposition, as it then was, who needs to be remembered as a person who is very keen on human rights and willing to press them. In particular, in the area of privacy in this context I would like to mention Kevin O’Connor—who now is a judge in your state, Mr Acting Deputy President George Campbell—who was the first Privacy Commissioner and a person who set up a lot of the principles that guide us.

Senator Bolkus—He was just a mere Geelong supporter.

Senator COONEY—He was a Geelong supporter, as Senator Bolkus says, but we can forgive him for that. In any event, I would like to remark on the work done by Mr O’Connor as the first Privacy Commissioner. This bill does not extend, at a federal level, the jurisdiction that the Commonwealth has in terms of privacy; what it does is set up a body separate from the one that is presently operating within the Human Rights and Equal Opportunity Commission. No doubt, the hope is that that body, in its separate form, will do the work that is needed in this area.

But there are many areas that need privacy to be enforced. One that you would be very interested in, Mr Acting Deputy President, is the workplace. You would know better than most the way that employers now use techniques to spy—I think that is the right word—on workers. There are demands to
have blood samples taken from workers for DNA testing and what have you.

I mention that example to point out that privacy is not simply a matter of keeping information quiet. It is not simply a matter of making sure that things that should not be made public about people are not made public. Privacy goes to the very notion of a person. You and I and everybody else in here should be able to walk the streets, go about our business, go about our play and go about our home life with the dignity and reputation that we deserve. Things that are private should not be revealed about us unless it is according to law—not only the written law but also the moral law—and unless they are revealed truthfully.

A lot of the problem comes about in two ways. Firstly, untruths are told about people and, secondly, and perhaps more importantly, a wrong interpretation is given to the truth. The need is to not only have truthful things said but also have people interpret those properly, not use them, twist them and put a spin on them so that people are damaged. That idea of people being damaged comes through the legislation. The preamble to the Privacy Act 1988 says:

WHEREAS Australia is a party to the International Covenant on Civil and Political Rights, the English text of which is set out in Schedule 2 to the Human Rights and Equal Opportunity Commission Act 1986:

AND WHEREAS, by that Covenant, Australia has undertaken to adopt such legislative measures as may be necessary to give effect to the rights of persons not to be subjected to arbitrary or unlawful interference with their privacy, family, home or correspondence.

The words ‘privacy, family, home or correspondence’ are taken from article 12 of the International Covenant on Civil and Political Rights which, in turn, took them from article 16 of the Universal Declaration of Human Rights, which says:

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

That provision, which is summed up usually in terms of saying people are entitled to privacy, goes further than what we generally understand by privacy—that is, that people should be able to keep their secrets. It goes beyond that. The concept of privacy includes the concept that we are entitled to the reputation that we deserve and to go about our home life in peace and without busybodies coming in and prying on what we do. It means that we are able to carry out our family life without that being interfered with so that we are left with our true dignity as human beings.

That is a very noble concept. It is a concept that should be brought more and more into law. It has not been brought sufficiently into law as yet. This act goes only to matters of procedure and mechanics without addressing the deeper need of people to have their privacy, in the sense I have been talking about it, protected. There is provision in the International Covenant on Civil and Political Rights and in international treaties for this parliament to enact a lot more than it already has, and specifically in the private sector. Senator Bolkus started this at the end of the 1980s or the start of the 1990s, and there is much work yet to be done. I think it is time that that work be done and that legislation be passed through this parliament to guarantee the rights we have by international law but which are not yet made specific in the domestic law of this nation.

The principles set out in the preamble to the Privacy Act 1988 and in the International Covenant on Civil and Political Rights have not yet been made, in my view, in any event, part of the domestic law. According to international law and the law of treaties, once this country has signed and ratified a treaty such as the International Covenant on Civil and Political Rights, it ought to bring those principles into the domestic law of Australia either at state or at federal level. That has not happened to the point where the legislation would satisfy what we as a nation have signed up to under the covenants.

To simply pass a law which sets up as a separate body a privacy commissioner or commission is not sufficient. It is seen as a start. The real work ought to be done. In fact, an argument could be made that the Privacy Commission would be better left with the
Human Rights and Equal Opportunity Commission because the right of privacy is complemented by other rights. It is part of a whole raft of rights. It should not be seen as something separate from all those other things that are set out in the International Covenant on Civil and Political Rights and in the declaration of rights. In any event, it has been separated out. Everybody in this chamber agrees that that is what ought to happen, and that is it. But the office of the Privacy Commissioner ought to now be the driving force for the sorts of things I have mentioned.

There is another way of looking at information. Privacy is not simply a means of keeping people’s private affairs private. It is also part of the concept of the control of knowledge. People who control knowledge have a lot of power. Privacy and this whole area should not simply be about keeping things out of sight; it should also be about making clear what should be made clear. The issue of privacy is part of that concept which deals with knowledge and the control of knowledge. For example, we have just been through a series of estimates committees. In the estimates committees it is said that some things should be kept private. For example, commercial contracts between a department and an outside body should be kept private and not made available for the people of Australia or parliament to look at, even though it affects them most vitally.

When we look at privacy, we have to look at it in its true sense. It is not a matter of just blocking out everything that people want blocked out. Certain things ought to be made public; they are things which the public and members of parliament should have control of. One of them is the details of commercial contracts let by the government to provide services for the people of Australia.

To sum up, privacy is central not only to the issue of keeping secret what should be kept secret but also to the issue of how we see ourselves as people. It is central to the dignity of the person and our home life. It is central to all those things. It is borne out by the various instruments that have been made on an international scale over the years. Even though this is now a separate body—it is proper that we have this office of the Privacy Commissioner— it should not be divorced from the whole regime of rights that should operate in Australia. Our obligation to bring into domestic law treaties that we have signed and ratified has not yet been fully carried out. Finally, privacy is part of the whole regime of the control and ownership of knowledge. There are things that should be kept private, and there are things that should be made open to the public. The example I gave is commercial-in-confidence contracts between the government and outside suppliers.

Senator Patterson (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (6.08 p.m.)—I would like to thank senators who have participated in today’s debate. I welcome the opposition’s change of heart on this bill, which should have been debated and passed last year, given the support the bill has received from those most affected by it. We, together with the Privacy Commissioner, have been seeking the opposition’s support for this bill since it was first introduced in 1998. For most of that time the Democrats have supported passage of the bill but Labor seemed to not be able to find within itself the ability to support the government’s actions to promote better privacy practices. However, the opposition’s support is certainly better late than never.

The bill today before the Senate removes the Privacy Commissioner from the Human Rights and Equal Opportunity Commission and creates a separate statutory office of the Privacy Commissioner. We are all agreed that the Privacy Commissioner plays, and should continue to play, an important role in the protection of personal privacy. The creation of a separate office of the Privacy Commissioner will formalise the practical arrangements that have been in place to date. It provides an opportunity to further increase the profile, and thus the effectiveness, of the work of the Privacy Commissioner and of the office of the Privacy Commissioner. I acknowledge Senator Bolkus’s comments that there will be no change in the Privacy Commissioner’s functions or powers as a result of this bill, but I would like to point out that, by
not having the responsibilities associated with being commissioner of HREOC, the Privacy Commissioner will be able to focus exclusively on privacy matters, which will mean he can therefore be more effective.

Any changes to the current functions and jurisdiction of the Privacy Commissioner in relation to the private sector will be dealt with in the context of the Privacy Amendment (Private Sector) Bill 2000, which the Attorney-General will shortly be introducing into parliament. The Privacy Commissioner will be the key focus point for implementing the private sector privacy legislation. Funding of $5 million distributed over the next four years was allocated in the 1999-2000 budget for this purpose.

The bill before the Senate has the support of both the Human Rights and Equal Opportunity Commission and the Privacy Commissioner, Malcolm Crompton. The government has consulted with the commission during the development of this bill and has kept it informed since the bill was first introduced into parliament. The Privacy Commissioner moved gradually over the 1998-99 financial year to prepare for the separation and has been ready for this change for some time. I understand that the commission has already identified the proportion of its budget to be allocated to the Privacy Commissioner and that the Privacy Commissioner is already operating on this basis pending the passage of the bill.

The office of the Privacy Commissioner and the Human Rights and Equal Opportunity Commission will receive separate funding once the office of the Privacy Commissioner is established as a separate entity. In line with moves towards increased efficiency across the public sector generally, the creation of a separate office of the Privacy Commissioner provides an opportunity for the Privacy Commissioner to prioritise and re-focus the work of his office. The Privacy Commissioner will be able to consider the most effective allocation of resources and the most efficient means of delivering services. The establishment of a separate statutory office of the Privacy Commissioner will create an administrative structure which will assist the Privacy Commissioner to play a meaningful role in the protection of privacy across the public sector and also the private sector. I commend the bill to the Senate.

Question resolved in the affirmative.

Bill read a second time, and passed through its remaining stages without amendment or debate.

MINISTERS OF STATE AND OTHER LEGISLATION AMENDMENT BILL 1999

Second Reading

Debate resumed.

Senator HARRADINE (Tasmania) (6.13 p.m.)—This piece of legislation, entitled the Ministers of State and Other Legislation Amendment Bill 1999, is to allow for the appointment of parliamentary secretaries under section 64 of the Constitution. As the second reading speech said:

Parliamentary secretaries will, however, retain their title, roles and responsibilities and continue to assist the portfolio minister or ministers.

The essence of this legislation is to ensure that parliamentary secretaries are paid. But it is done in a very roundabout way and, in my view, quite seriously tends to subvert the Constitution. If you have a piece of legislation, as you have here, which goes to the appointment of parliamentary secretaries under section 64 of the Constitution, it is to allow for the appointment of parliamentary secretaries under section 64 of the Constitution and then deems parliamentary secretaries to be ministers under section 64 of the Constitution, one wonders why. The only reason appears to be so that they are able to be paid.

If I can go to the question of the parts of the Constitution, section 64 of the Constitution states:

The Governor-General may appoint officers to administer such departments of State of the Commonwealth as the Governor-General in Council may establish.

It goes on:

Such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Federal Executive Council, and shall be the Queen’s Ministers of State for the Commonwealth.

It then indicates that:

After the first general election no Minister of State shall hold office for a longer period than
three months unless he is or becomes a senator or a member of the House of Representatives.

The key element here is that:

The Governor-General may appoint officers to administer such departments of State of the Commonwealth as the Governor-General in Council may establish.

Section 66 of the Constitution talks about the salaries of ministers, stating:

There shall be payable to the Queen, out of the Consolidated Revenue Fund of the Commonwealth, for the salaries of the Ministers of State, an annual sum which, until the Parliament otherwise provides, shall not exceed twelve thousand pounds a year.

That figure, of course, has changed over the years. The number of ministers is provided for in section 65 of the Constitution. It says:

Until the Parliament otherwise provides, the Ministers of State shall not exceed seven in number, and shall hold such offices as the Parliament prescribes, or, in the absence of provision, as the Governor-General directs.

If I can go to section 44 of the Constitution, it states:

Any person who—

(i.) Is under any acknowledgement of allegiance, obedience, or adherence to a foreign power, or is a subject or a citizen or entitled to the rights or privileges of a subject or citizen of a foreign power; or—

and I go down to the key point here for the purpose of this legislation—

(iv.) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

Quite clearly, that provision of the Constitution, on the face of it, prevents the payment of moneys to parliamentary secretaries, unless—and this is what this legislation is doing—you deem them to be ministers appointed under section 64 of the Constitution. If you deem them to be ministers in accordance with that section of the Constitution, they can be paid. Let me make it perfectly clear: I have nothing whatsoever against the parliamentary secretaries. They are very hardworking in my estimation and, of course, as the Remuneration Tribunal indicated, they are not paid for their troubles. But the fact is they are treated as ministers for one purpose and one purpose alone under this legislation, and that is to have them paid. They are not in charge of departments as was envisaged by the Constitution. There are a number of provisions in this legislation that talk about the purpose of the current legislation. The legislation before us amends the Ministers of State Act 1952 to increase the maximum size of the ministry from 30 to 42. Up to 12 of the 42 may be designated ‘parliamentary secretaries’, and the maximum number of ministers remains at 30. I am at a bit of a loss to know precisely what that means. The purpose of the legislation is to increase the maximum size of the federal ministry from 30 to 42, but really only 30 of them are fair dinkum ministers as envisaged under the Constitution.

What happens to the others? They are parliamentary secretaries. They are doing a job for which they are not being paid. This is a ruse, as it were. I would like them to be paid—they deserve it—but this is a ruse to do a quick shuffle of the constitutional situation so that you can deem them as being ministers for the purpose of payment. If you do not, you run up against section 44 of the Constitution which, as I mentioned, renders those parliamentary secretaries ‘incapable of being chosen or of sitting as a senator or a member of the House of Representatives’. I know that we went over this in 1980. I think it was the Hawke government at the time.

Senator Robert Ray—Fraser.

Senator HARRADINE—The Fraser government, was it? Anyhow, we were told that there was legal opinion. Where did the legal opinion come from? It came from the Solicitor-General. The government made the point at that particular time that we really had nothing to be concerned about. But I do feel that we have to be very careful indeed in trying to cure the problem, and that is the very real problem of remuneration for those people who are doing an excellent job and a very hardworking job. But we should find other ways of doing that rather than manipulating the Constitution, as appears to be done under the provision of this particular bill.
Senator ROBERT RAY (Victoria) (6.23 p.m.)—The Ministers of State Act is usually a fairly standard measure and will certainly attract the support of the opposition. Senator Harradine has raised some matters, and I will return to those at the end of my speech because I think they are matters of import. First of all, this bill basically is here to do two things: to validate genuine pay rises to ministers and office holders and to alter arrangements with regard to parliamentary secretaries. On that first thing, it is necessary each time alteration to the salaries of ministers and other office holders occurs at a certain level to amend the Ministers of State Act. Those changes are usually not controversial.

I want to return to one aspect of this that seems to be hidden in the mists of time. The remuneration for ministers incorporates within it the old entertainment allowance that was given to ministers. This was changed 10 or 12 years ago. Ministers used to be paid a separate entertainment allowance. This was later rolled over into salary, which a lot of people saw as beneficial in terms of superannuation and other things, but it seems to be forgotten these days. What we have in terms of ministerial entertainment is that the departments often pick up the ministers’ expenses. I have previously described those expenses in two categories. One is for the normal official functions, such as entertaining ministers from overseas, senior businessmen or other official delegations, all of which I regard as highly legitimate, and I think the department should pay. But there has been a tendency over the past eight or nine years for ministers also to charge for minor entertainment—for taking staff out to dinner, for taking departmental advisers out to dinner and—even worse, in my view, although I get no support for this—taking out the fourth estate, all at the taxpayers’ expense. It was those last three categories I mentioned that were meant to be paid out of the ministers’ entertainment allowance, which was rolled into salary. It was not meant to be paid by taxpayers.

I have to be frank with you, Mr Acting Deputy President; it is not only Howard ministers who have done this. There were a couple of ministers in the Keating government that I see did exactly the same thing. I can assure you I did not, but, having belled the cat on this about a year ago, I notice that the behaviour has changed and that they are not in fact using these devices to pay for their own meals and those of their contacts. I think that is good. It once again proves that it is not so much changing regulations or law; you have to expose it only once and it disappears as a system. But we should remember that, for those minor, irritating entertainment expenses that office holders have, an allowance is already incorporated in the salary, even if it goes back 10 or 12 years in the mists of time to when it was done.

The payment of parliamentary secretaries is something I have campaigned on for some time. I have always believed that parliamentary secretaries should be paid. Senator Harradine, to his credit, has also said the same thing. I have found it totally anomalous that, as a backbencher on the opposition side and due to a committee chairmanship, I could be paid more than the parliamentary secretaries. I simply did not think that ever made sense. I notice in another place Mr Andren has teed off about the payment of parliamentary secretaries. I accept that Independents around various state and federal parliaments always get publicity attacking parliamentary entitlements. It is their bread and butter issue. Sometimes I actually agree with them. But I cannot agree with Mr Andren on this occasion. For instance, he says that this is going to cost over $500,000. I would have thought that, with $22,000 by 12, the maximum it is going to cost is $264,000. They are no longer eligible for their $10,000 a year expenses, so we can take off $120,000. I know finance does not allow us to make these claims, but when you take into account tax clawback it is not going to cost taxpayers more than $100,000. Yet these parliamentary secretaries are often carrying a workload equivalent at least to band one of the SES in the Public Service and sometimes more.

What we have done over the years—and the parliamentary secretaries have come and gone on about seven or eight occasions in our federal history—is say, ‘No, we’re not going to pay these people.’ I think we should. Parliamentary secretaries are appointed for a
variety of reasons. The main reason is to ease the workload of ministers. There is no point talking about the size of ministries in 1900 to 1920. Modern society is so changed and has become so complex that the workload of ministers is intense. Having parliamentary secretaries to ease that workload in the ways that they do makes for more efficient and more competent government. The second reason for appointing parliamentary secretaries is that it is deemed to be a very good apprenticeship before someone moves on to a ministry. It is the intermediary step between being a backbencher and a minister. They get used to the procedures. They get used to the workload. It is seen as a good way—if you like, as an apprenticeship—to become a minister in the future.

It has to be admitted that there is a third reason why we have parliamentary secretaries. It allows the Prime Minister a degree of patronage to assuage disappointed backbenchers that do not make it straight into a ministry. If that were the only reason, none of us would support it. But it complements the other advantages of having parliamentary secretaries. There is, of course, a less savoury fourth reason. Prime Ministers always reserve one of these posts for the Prime Minister’s sycophant. That happened under Labor, and it has certainly happened under the Liberal Party. The biggest sycophant in the parliament to the Prime Minister was made a parliamentary secretary after the recent election. If that fulfils that role, it is fair enough. It gives the Prime Minister a chance to reward his most devoted admirer.

However, having said that I support the payment of parliamentary secretaries and having some months ago, basically without any authority, committed the Labor Party to supporting it, I said at the time that this had to be done in a way that was legal. In that speech I went through all the historical precedents and the legal views that have been expressed throughout history on this—from Menzies and Barwick and all the other legal views that have been offered. So I did qualify my support of payment of parliamentary secretaries on the basis that it could be done legally and constitutionally. I frankly do not know in terms of this bill whether it meets that requirement or not. But I did ask at the estimates committee last week of Prime Minister and Cabinet whether they had legal advice on this matter, and the answer was yes. If my recall is right, that advice came from the Attorney-General’s Department, and they again thought the methodology in this bill was a proper competent legal procedure.

Senator Harradine today has cast some doubt on it. I cannot judge whether he is right or wrong. But I can say this: I hope that he is wrong because we do not want to put anyone in danger’s way in terms of section 44 of the Constitution. I say to the minister at the table that we want an answer on this before this bill progresses. If you do have legal advice from Attorney-General’s on this matter, perhaps you could table it as on occasions you do—and you do not always, and we understand that. Often you do not table legal advice, but on some occasions you have done so. I think this would be a very proper occasion to table such advice to convince senators that, in fact, we were not putting 12 colleagues in harm’s way where they could eventually be challenged under section 44 of the Constitution. So we really do need those assurances from the minister at the table before this bill should progress any further.

But again I say that there has been not a lot, I think—apart from Mr Andrew—of criticism of the payment of parliamentary secretaries. I think it is just, I think it is right. I also think the level chosen is just about spot on—the level that the rem tribunal came up with at $20,000 a year. I think that is a nice balance. I do not think it is an extra imposition on the taxpayers. I could point to some other areas in the whole parliamentary and ministerial services where scrutiny has brought a large reduction in costs, far more than we are paying parliamentary secretaries today and that we are proposing to pay them. I think some recognition and reward for the efforts they put in—and they all do it without salary—should be made, and this bill reflects it, always on the proviso that it is sound and legally based.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (6.33 p.m.)—On behalf of the opposition, I indicate that the opposition will be sup-
porting the Ministers of State and Other Legislation Amendment Bill. Senator Ray indicated to the Senate—he was courageous about this—his committing the opposition to supporting the bill at an earlier stage. His arguments have proved very persuasive and have been unanimously supported by the federal parliamentary Labor Party.

I would say, after listening to Senator Harradine’s contribution on this legislation, when he indicated that he felt essentially the purpose of the bill is to facilitate payment of parliamentary secretaries, that that is absolutely correct. There is no doubt that that is what this bill is about, and I think it is long overdue that parliamentary secretaries be paid for the extra responsibilities they bear within the system of government we have in this country.

Senator Harradine—So long as they do not lose their seats over it.

Senator Faulkner—Yes. I must say, Senator Harradine, that I share with Senator Ray the view that he expressed to the Senate in his speech, that you do raise in your speech important issues, and I think that the Senate does need to receive some assurances from the minister at the table about these matters. I am hopeful that these will be provided by the minister. Perhaps you may intend even progressing those matters in the committee stage debate, after we deal with the second reading of the bill.

The office of parliamentary secretary I think was established in 1980 but, since that time, the duties that have been attached to that office have grown quite substantially and significantly, as I think senators in the chamber would be aware. We have a situation now where it is not at all uncommon to see parliamentary secretaries handling legislation in the chamber, taking on a range of statutory and representative responsibilities on behalf of ministers. The truth is that parliamentary secretaries also are responsible for a wide range of administrative and departmental matters. The opposition, as Senator Ray indicated in his earlier contribution, has been of the view for some time that these additional responsibilities have increased to a point where it is appropriate that parliamentary secretaries receive financial recompense for the duties they undertake.

In December 1999 the Remuneration Tribunal did address this issue in its report on salaries and allowances for senators, ministers, members, ministers and holders of parliamentary office. The Remuneration Tribunal reported that the government wrote to the tribunal on 30 November 1999 advising that it intended to amend legislation to allow for the appointment of parliamentary secretaries as officers under section 64 of the Constitution. The tribunal went on to say that this removes the anomalous situation that the tribunal commented on in its review in 1997 where the roles and responsibilities of parliamentary secretaries had developed significantly but they could not, for constitutional reasons, receive additional salary.

The tribunal points out that parliamentary secretaries are bound by cabinet rules, introduce legislation, attend to administrative and departmental matters and generally represent ministers, and that their appointment under section 64 of the Constitution is consistent with their role. The tribunal recommendations included a provision for additional salary for such appointments should they be made. That salary level is, as indicated in the Remuneration Tribunal’s report of 7 December 1999, a loading of 25 per cent of base salary, and that is the figure that has been discussed previously in the second reading debate, $22,500. We could look at comparisons with other office holders or the additional salary received by ministers—for example, a cabinet minister now receives 72.5 per cent of base salary, which is $65,250, and the Prime Minister receives an additional 160 per cent of base salary, $144,000. I think that puts in context the tribunal’s recommendation in relation to parliamentary secretaries—a loading of 25 per cent, or an annual salary of $22,500. The Remuneration Tribunal seems to have recommended a sensible level in its recent report.

The bill amends the Ministers of State Act 1952 to enable 12 parliamentary secretaries appointed under section 64 of the Constitution to be covered by the act. We will hear, no doubt, from the minister in a moment that the serious issues and concerns raised by
Senator Harradine have been addressed by the government. The bill increases from an amount of $1.622 million to $2.3 million the maximum annual sum for the payment of ministerial salaries—which, of course, now also includes the parliamentary secretaries. That will give effect to the Remuneration Tribunal’s recommendation of 7 December last year. I can say on behalf of the opposition that we would consider these levels of remuneration are commensurate with the responsibilities of parliamentary secretaries, and it is in that spirit that we support the bill and await with interest the minister’s advice on the important matters that have been raised by other honourable senators.

Senator ELLISON (Western Australia—Special Minister of State) (6.41 p.m.)—Parliamentary secretaries have been around for a long time, and I think Senator Ray last year made a speech in the Senate which outlined the history of the progress of parliamentary secretaries. The speech set that out very clearly, drawing particular attention to the role that parliamentary secretaries now play. Senator Ray has said today that parliamentary secretaries do carry out an important role in the government of the day. In fact, I would imagine one or two have responsibilities which would equal that of a junior minister, particularly if one were to look at the value in monetary terms of the programs they administer. Over time, the parliamentary secretaries have taken on more and more responsibility. That being the case, the situation has arisen—with the agreement of the opposition and other senators—that it is necessary to look at the situation of parliamentary secretaries and how they are paid. The problem is that section 44 of the Constitution, and in particular subsection (iv), states:

Any person who ...

Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth ...

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

That means that a parliamentary secretary, being an officer of the Crown, cannot hold an independent office of profit. They cannot be paid a salary as such for that role. Ministers are exempted by section 44—and, indeed, section 66 of the Constitution allows for payment of a salary. So the question is: how do you bring about a situation which allows a parliamentary secretary to be paid a salary? At present, expenses which are associated with the office of parliamentary secretary are paid to parliamentary secretaries—and Senator Ray has already mentioned that. But that is really not as satisfactory as having a salary paid much like a minister or a chairman of a committee.

I can assure the Senate that the Solicitor-General has advised that the course of action the government is taking with this legislation is valid and that there are no constitutional problems with it. I can give the assurance to the Senate that the Office of Parliamentary Counsel had no problems when drafting this legislation. That office certainly does have a duty to look at the provisions it drafts and ensure that they are constitutional. There are two safeguards in relation to the constitutionality of the proposals contained in this bill.

In relation to Senator Harradine’s query—and I hope I am addressing it when I put it this way—what we have here is a question of appointment. I mentioned that ministers of state can be paid a salary. They are appointed pursuant to section 64 of the Constitution. The Governor-General, by virtue of that section, appoints officers to administer such departments of state of the Commonwealth as the Governor-General in Council may establish. Such officers shall be members of Federal Executive Council and shall be ministers of state for the Commonwealth. So, if appointment is made under that section, that person can be paid a salary without offending the terms of section 44 of the Constitution.

This bill allows the number of ministers of state who are designated as parliamentary secretaries to be 12 and in the case of those not so designated 30. That allows the class of parliamentary secretary, of which there are 12, to be appointed by the Governor-General, pursuant to section 64. This bill opens up the way for the Governor-General to then act himself. At the moment, the number is limited to 30 and does not include that class of
person described as a parliamentary secretary. In order for the Governor-General to make this appointment, we need to amend this bill to allow for those 12 parliamentary secretaries to be included in this section of the Ministers of State Act. That appointment under section 64 would then allow for those parliamentary secretaries to be paid a salary in accordance with section 66 and the exemption in clause 44, which I have mentioned.

That is the procedure that we have adopted in this legislation. It is a sound one. It is one which is well within the Constitution and one which I can again assure those senators present today has the backing of legal advice of the Solicitor-General and Office of Parliamentary Counsel.

Senator Faulkner—Amend the act.

Senator ELLISON—That is what I have been talking about.

Senator Faulkner—You said ‘amend the bill’.

Senator ELLISON—No, amend the act is precisely what we are purporting to do with this bill.

Senator Faulkner—I understand, but I think you were saying that we need to amend the bill.

Senator ELLISON—No, we need to amend the act. I think that is quite clear.

Senator Faulkner—It is quite clear, but I think you unfortunately said ‘amend the bill’, which is not quite clear.

Senator ELLISON—The situation is, Senator Faulkner, that the act does need this amendment in order for an appointment to take place under section 64. There is a question of cost that has been mentioned. I think Senator Ray has touched on this. You have 12 parliamentary secretaries who are entitled to expenses. Those expenses are a net sum of $10,000 for each parliamentary secretary. That is $120,000 per annum. That is mentioned in the explanatory memorandum. That is the equivalent of $240,000 gross salary if you were to pay it. I think Senator Ray again touched on that. Mr Andren, in the other place, is mistaken when he says that this would blow out the cost associated with the payment of salaries of ministers of state. In fact, it will not do that in relation to parliamentary secretaries for the reason I have just outlined.

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Chapman)—Order! It being 6.52 p.m., I propose the question:

That the Senate do now adjourn.

Boer War Centenary Contingent

Senator MASON (Queensland) (6.52 p.m.)—On New Year’s Day 2000 Queenslanders enjoyed celebrating the start of a new century. Our newspapers were reflecting upon nearly 100 years of great national achievement. But 100 years ago on New Year’s Day 1900, it was the Queensland Mounted Infantry fighting far away in South Africa that first showed the world the spirit of Australia. As fathers of the Anzacs, these soldiers gave birth to Aussie courage.

Recently I had the great honour of presenting two plaques to the 2nd/14th Queensland Mounted Infantry to be taken by them to South Africa and placed at Kimberley and Elands River—two places where Australian troops fought the first engagements of our proud military history. The Boer War from 1899 to 1902 saw more than 16,000 Australians answer the call of the Empire to fight in South Africa. It was Australia’s first national military deployment, with all the colonies for the first time sending a large contingent of troops. It was also the first time our troops fought in the uniform of the Commonwealth of Australia. Australia had not yet achieved Federation by the start of the Boer War. The first soldiers went as Victorians, New South Welshmen and Queenslanders but returned in 1902 as Australians. Indeed, in the first decades of this century, it was the awful spectacle of war that was to forge our national identity.

I make special mention that Queensland, the state that I am proud to represent, was the first of the Australian colonies to offer troops to Britain. I also note, sadly, that it was Queenslanders were the first Australians to lay down their lives in the Boer War. It was a war that was to cost the lives of a further 600
of our countrymen and remains to this very day our third bloodiest conflict.

Our troops returned home to a new nation carrying a reputation as excellent soldiers and fixing in the national consciousness the sense of pride, spirit of adventure and loyalty which in World War I would help establish the Anzac legend. Six of those soldiers became the first Australians to receive the British Empire’s highest decoration, the Victoria Cross, and it was fitting that, in the Australian spirit of mateship, all six VCs were awarded for rescuing wounded soldiers under fire.

I was deeply honoured a few weeks ago to stand with our soldiers past and present. We gathered in Brisbane at Anzac Square to commemorate an early sacrifice in the early days and early months of our country’s history—a sacrifice of men and women who responded to a call to arms, eager to pursue what was properly then seen as Australia’s national interest. Their deeds stand proud alongside the deeds of others who also fought for Australia and in Australia’s interests in so many conflicts, particularly in World War I, in World War II and in Vietnam.

Australia’s bush tradition gave us the famous Light Horse. Its contribution in the Boer War and World War I is legendary. The Light Horse holds a very special place in the proud legacy of the Australian armed forces—born on the South African veldt, but even now writing a new chapter in the jungles of East Timor. ‘Forward’—the Queensland Mounted Infantry’s call to arms—has been hard-earned with every sacrifice, every drop of blood, every inch of spirit and every ounce of determination. It is the spirit that reverberates in the reply of an Australian officer when our troops were surrounded and the Boers demanded our surrender. He said, ‘We are Australians; we never surrender. Australia forever!’

The 2nd/14th Queensland Mounted Infantry has now returned to South Africa—but this time in the name of peace. The plaques that I presented to the men and women of the 2nd/14th honoured what is best in Australian soldiers: a great fighting spirit, discipline and sacrifice tempered with a love of freedom and fairness. Taking their place at Kimberley and Elands River, these plaques now honour the memories of those men and women who served, who fought and who died in the Boer War, South Africa, 1899 to 1902.

I would like to take this opportunity to thank the Commanding Officer, Colonel Chris Burns, and Colonel Miles Farmer for bestowing upon me the honour of presenting these plaques on behalf of the Australian government. As well I would like to thank Mr Lance Lawlor, the Organising Secretary of the Royal Australian Armoured Corps Association (Queensland Branch) for inviting me to participate in this presentation. When the men and women of the 2nd/14th Mounted Infantry went to Kimberley and went to Elands River, even though they had travelled 10,000 miles to get there, they never really were in a foreign country because every piece of ground, no matter how small or distant from these shores, upon which an Australian soldier has shed his blood becomes part of Australia.

**Youth Suicides: Aboriginal Death in Custody**

Senator Lundy (Australian Capital Territory) (6.57 p.m.)—The death in custody last week of a 15-year-old Aboriginal boy on mandatory sentencing for a petty theft tragically highlights Australia’s youth suicide problem. In particular, it highlights the problems faced by indigenous young people. It highlights government policies which provoke, rather than alleviate, the despair of many young people. Tomorrow, outside Parliament House, many decent Australians plan to protest against policies that cause the unnecessary death of young people.

Australia’s youth suicide rates highlight the inadequacies of government actions and policies. It has long been acknowledged that, if we are serious about reducing youth suicide rates, we must identify and address the problems of the young people at risk. Action must include: educational and employment assistance for disadvantaged young people; social and community support, and programs for troubled or risk taking youth; and an attack on discriminatory policies. Teenagers and young people face problems of feeling and being undervalued and dispossessed. What white middle-class parent has not at
some time had to intervene to save a teenager or youth from the consequences of risk-taking behaviour? Sadly, the 15-year-old Aboriginal boy had no-one with the clout to save him from mandatory detention.

A recent report from the Australian Institute of Health and Welfare entitled Australia's young people: their health and wellbeing, shows that male youth suicides in Australia have increased by 71 per cent in two decades. Tragically, Australia is ranked fifth among Western countries in terms of its high male youth suicide—an unenviable achievement exceeded only by Finland, New Zealand, Switzerland and Austria. The Australian female rate for youth suicide is ranked 11th of the Western countries.

Australian Bureau of Statistics figures show that, of the deaths of young men aged from 15 to 24 years in 1997, nearly 30 per cent were suicides. In 1998, 26.5 per cent of the deaths of young men in this age group were suicides. Overall in 1998, there were 446 reported suicides of young men and women in this age group. Suicide accounted for 23.8 per cent of all deaths of 15- to 24-year-olds.

The tragedy is that many of these deaths were preventable. Since the 1970s, rates of suicide in Aboriginal and Torres Strait Islander communities have been increasing. The majority of Aboriginal people who suicide are aged under 29 years. According to the government's draft National Action Plan for Suicide Prevention issued in 1998, suicide did not even exist in traditional indigenous communities. Now the suicide rate in indigenous communities appears to be 40 per cent higher than the rate of non-indigenous suicides. According to Professor Colin Tatz, the rates are possibly two to three times the non-Aboriginal rates.

New figures for 1998 from the Australian Bureau of Statistics show that, in the Northern Territory for the 15 to 24 years age group, suicide deaths of indigenous youth account for half of the total suicide deaths. In 1998 in Western Australia, there were 10 suicides of indigenous youth compared with 45 for non-indigenous youth. Indigenous people are only 3.1 per cent of the total population of Western Australia, and yet indigenous youth suicides form 18.2 per cent of the youth suicides in that state. In Queensland, 17 of the total 93 suicide deaths in this age group were of indigenous youth.

The tragedy is that suicide risk factors have long been identified. They include: social disadvantage, particularly low socio-economic status; experience of prejudice and discrimination; leaving school early; job loss; homelessness; and confinement to institutions such as mental hospitals or jails. Young people, and particularly indigenous youth, tend to have a higher exposure to these factors than other groups in the community. Confinement to an institution, such as jail, is particularly stressful for indigenous people, and yet they are massively over-represented in terms of incarceration rates.

The Royal Commission into Aboriginal Deaths in Custody made its report way back in 1991, and yet many of its recommendations, including those aimed at reducing the numbers in custody, have not been implemented. In fact, the imprisonment rates of Aboriginal and Torres Strait Islander people have risen. National prison census statistics show that, in 1986, indigenous people made up 14.6 per cent of all prisoners and 1.46 per cent of the total population. By 1995, they made up 17.1 per cent of all prisoners and only 1.3 per cent of the population.

The Howard government recommended in its 1998 draft report on suicide prevention a whole of government approach involving federal, state and local governments and services. How can this recommendation be taken seriously when the draconian mandatory sentencing laws of the Northern Territory and Western Australia contravene the United Nations Convention on the Rights of the Child? Mr Howard and his government appear greatly concerned about adhering to international conventions when it comes to supervised injecting places. They have overturned territories legislation on euthanasia. Yet they are content to allow the Northern Territory and Western Australia to flout the Convention on the Rights of the Child with their mandatory sentencing laws.

Article 37B of the Convention on the Rights of the Child, ratified by Australia, states quite unequivocally:
No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.

For petty theft of, reportedly, such things as paint, pens and textas, a 15-year-old Aboriginal orphan was taken from his community and sentenced to serve 28 days detention in a Darwin juvenile correction centre. From reports such as the Royal Commission into Aboriginal Deaths in Custody and the stolen children report, it should have been obvious that this youth was being placed in an identified risk situation.

Indeed, a submission from Jon Tippett, President of the Northern Territory Law Society, on behalf of the Criminal Lawyers Association, warned the Northern Territory government in March 1999 that a death in custody was an entirely foreseeable consequence of mandatory sentencing. Other similar warnings and protests, for example, from Amnesty International, have gone unheeded. The National Youth Suicide Prevention Strategy was terminated in June 1999, and we are still awaiting its overall evaluation. It is to be replaced by a national action plan for suicide prevention called ‘life’.

The consultation draft plan appeared in December 1998. The draft acknowledges that indigenous people are experiencing higher and increasing rates of suicide, particularly among young males. The draft acknowledges:

To be effective, suicide prevention programs need to work with, and aim for, outcomes in related areas such as reducing rates of imprisonment, reducing accidents and injuries, enhancing emotional and social well-being, building self-determination and meaningful life opportunities for indigenous young people with their traditional culture and spirituality. Strategies need to be practical, effective, sustainable and adequately resourced.

How does this alleged commitment to reducing the high and life threatening rates of imprisonment for indigenous youth fit with the Howard government’s reluctance to act against mandatory sentencing? Unfortunately many young Australians and many young indigenous Australians have died while we wait for action from the Howard government.

**Senior Executive Remuneration: Corporate Governance**

Senator MURRAY (Western Australia) (7.06 p.m.)—I rise in this adjournment debate tonight to briefly discuss the issue of senior executive remuneration and the wider issue of corporate governance of Australian public companies. Many senators will know that this is an issue which I have had significant interest in for a number of years. My interest in the issue is not from the perspective that these people are being paid too much or too little, but it is from the perspective of criticising the process of determination of senior executive remuneration and, in a broader sense, criticising the ability of company directors to make decisions on matters in relation to which they may have a conflict of interest.

At present the remuneration of the directors of the vast bulk of companies is determined by the shareholders but on the recommendation of the board of directors. I think it would be naive to suggest that this process results in directors being remunerated at a rate which is determined as a result of an objective consideration of the value of the skills and experience of each director, both executive and non-executive, by each shareholder. I would have to ask the question as to how many Australians would like to have such a significant input into how much they are paid.

I believe that the best illustrations of the need to have directors’ remuneration determined by an independent board are the golden handshakes paid out recently to people like George Trumbull, formerly of AMP, John Prescott, formerly of BHP, and Don Argus, formerly of National Australia Bank. On termination or resignation, Mr Trumbull received $13.2 million, Mr Prescott received $11.1 million and Mr Argus received $9.3 million. These sums are staggering amounts and are beyond the contemplation of most Australians. I cannot help but think that the shareholders of those companies would have been far more comfortable with payouts of those magnitudes if they had been determined by a board independent of the main
board of directors who benefitted from these payments. I am not necessarily suggesting that the remuneration packages of Australia’s most senior executives are all unjustifiably high. But I am saying that the manner in which those packages are determined and approved leaves them open to attack, and I think quite rightly so.

During debates on amendments to the Corporations Law over the past couple of years I have moved amendments which would require all public companies to require their shareholders to vote to consider whether they should create an independent corporate governance board which would have the role of deciding issues where there might be a conflict of interest if those issues were decided by the main board of directors, including of course directors’ remuneration. But it is not just the process of determining directors’ remuneration that would benefit significantly by being undertaken by an independent corporate governance board. Other functions such as the appointment and remuneration of auditors and other professional advisers such as valuers, making appointments to fill casual vacancies of directors, decisions relating to issues of conflict of interest such as where board members are also suppliers, and the conduct of general meetings and determination of voting procedures could all be managed more appropriately by an independent corporate governance board.

Corporate governance boards are not new ideas. Some companies do have such boards. Members of the Senate who are not familiar with the Corporations Law might be surprised to know that the Corporations Law does not refer to boards; it only ever refers to directors. The board structure, although we know it very widely, is not a feature of Corporations Law. The concept of a corporate governance board is between a body that conducts the normal operational and managerial functions of a board—which we shall call for the purposes of this debate the main board—and another board which deals with the accountability and conflict of interest issues.

Unlike the main board, members of the corporate governance board would be elected on the basis of one vote per shareholder, rather than one vote per share. That would allow it to be completely independent of any control group. All positions on the corporate governance board would be vacated annually but re-election would be permissible. This proposal is a proactive one designed to prevent problems and improve corporate performance. To those who answer that the stock market will police companies with poorly performing boards in corporate governance, that involves a reactive attitude and a prejudicial one to shareholders since the value of their shares will have fallen.

The corporate governance board proposal would both simplify and reduce the role, responsibilities and workload of the main board of directors as well as increasing their credibility by removing the powers which permit the perception or actuality, as it often is, of a conflict of interest. This should thereby improve the accountability of directors and the internal governance of companies and lead to better business management decisions by directors. Ultimately, this is about re-establishing the balance of company governance in favour of shareholders rather than management and the directors.

So far, neither the Liberal-National coalition nor the Australian Labor Party have supported these amendments. They have not understood the link between this proposal, far better corporate governance and performance, and preventing corporate disgraces such as Yannon and Trumbull. It also has the virtue of limiting one majority shareholder’s control of sensitive accountability issues.

I would like to draw the attention of the Senate to an article in today’s Australian Financial Review by Shann Turnbull. Mr Turnbull is an expert on issues of corporate law, corporate ethics and matters of corporate governance. In today’s Australian Financial Review he advocates the introduction of corporate governance boards. Mr Turnbull makes the comment:

These arrangements—referring to corporate governance boards—would prevent shareholders losing millions of dollars in related party transactions and ASIC— that is, the Australian Securities and Investments Commission—
spending millions of taxpayers’ dollars investigating them after a loss had occurred. Research shows companies in countries with superior investor protection obtain higher values.

The point is that corporate governance boards not only have the potential to improve corporate governance within individual companies but also have the potential to improve the value of Australian companies as a whole.

The issue of corporate governance boards was considered by the Joint Statutory Committee on Corporations and Securities during its consideration of matters arising out of the Company Law Review Act 1998. I must confess that I was disappointed with a number of expert witnesses who commented on this issue and came to give evidence on this issue but who had not read the authoritative literature on the concepts and had not understood the impetus behind the use of these boards. Frankly, many of the sorts of people coming to talk to the corporations and securities committee tend to come from a conservative tradition which does not pay attention to modern literature and modern concepts of accountability. Therefore, in my view, their views can be superficial on such matters as these.

I will continue to attempt to amend the Corporations Law to require public companies to have their shareholders determine whether they want a corporate governance board. I anticipate that my next opportunity will be later this year when we are dealing with the bill which introduces the CLERP 6 reforms. The CLERP 6 reforms are currently in the form of a draft bill. I look forward to the introduction of the final bill into the parliament, at which time I will again be pursuing the corporate governance board concept.

I would urge the government and Labor members and senators to again consider this measure for the benefit of shareholders in Australia. It would markedly assist in lessening the opportunities for the Yannon and Trumbull affairs to again return to Australian corporate discussion.

Northern Land Council

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (7.15 p.m.)—I speak tonight on a matter that I have raised in this place on two previous occasions. On 10 March 1999 I first spoke on the court case which saw Peter Julian Hansen take action against the Northern Land Council for wrongful dismissal. At that time I mentioned some rather startling evidence given under oath which showed that the NLC had been giving the Labor member for the Northern Territory in-kind assistance at federal elections.

On the second occasion, on 11 August 1999, it was my unfortunate duty to describe a sophisticated scheme cooked up by the NLC in the early 1990s to misappropriate moneys from the then Aboriginal Benefits Trust Account. The scheme raided the ABTA to gain control of assets, including the current NLC premises, through a dummy organisation with charitable status.

On both of these occasions, I have spoken about serious matters that have seen money and resources that should have been going to the Aboriginal people of the Northern Territory diverted for the Northern Land Council’s and others’ own political gains. We have seen strong evidence of the close and improper relationship that existed between the NLC and the Labor Party, particularly the federal member for the Northern Territory and ALP ministers Hand and Tickner.

There is also strong evidence of a lack of checks and balances and procedural problems with the administration of the NLC in the early 1990s. The result of this past administrative incompetence and corporate dishonesty is that millions of dollars have been bled from the Aboriginal Benefits Reserve or wasted on unfair dismissal claims and court cases—the same millions that should have benefited Aboriginal people in the Northern Territory.

I have requested that the Minister for Aboriginal and Torres Strait Islander Affairs ensure that the Northern Land Council is not allowed to access further Aboriginal Benefits Reserve moneys to top up its present budget to pay for this past incompetence and fraud. The ABR is there for the benefit of all Aboriginal Territorians. It should not be raided by the NLC every time it makes an administrative mistake, attempts to protect the precious reputation of past directors and their Labor
mates or tries to cover up scams that have been perpetuated by the previous executives of the NLC.

The cost of the Hansen v. NLC court case to the NLC could be almost $1 million. The NLC must be made to use money from its own existing substantial budget to meet those exorbitant and unnecessary costs. The NLC’s intransigence in this matter was highlighted by the sensational media coverage last week when Mr Hansen sent in the bailiff to seize 15 Toyota vehicles owned by the NLC to force settlement of the outstanding debts.

I would like to quote from the judges’ comments in the Supreme Court appeal of Hansen v. NLC, an appeal which was initiated by the NLC and very quickly dismissed. These quotes are important as they help illustrate the extent of past lies and cover-ups in this matter. Justices Mildren, Bailey and Riley delivered their judgment on 25 January this year. It is yet another damning indictment of Mick Dodson and others who were involved in the whole sordid saga. I quote:

As has been observed (his Honour concluded that) the given grounds for the plaintiff’s dismissal were baseless.

In fact the reasons given for the sacking of Mr Hansen by Mick Dodson and others under oath in the Supreme Court of the Northern Territory are baseless. They are lies. Let me continue with the quote:

It was his view (Justice Angel’s) that there was an ex post facto reconstruction of events designed to justify the decision that Mr Dodson had taken to dismiss the respondent. I am unable to see that the learned Trial Judge was other than correct in his conclusion.

In other words, Mick Dodson and his cohorts actively conspired to get rid of Peter Hansen by creating four totally false reasons for his dismissal. They destroyed his career with a web of lies and, in doing so, showed no conscience, remorse or hesitation. They took this heinous action because Mr Hansen wished to have an audit conducted on the NLC and they did not wish their scam to be discovered. This would be an appalling act by anybody but, for a person such as Mick Dodson, who has held important and responsible positions in the community, it is totally reprehensible. Mick Dodson must apologise to Peter Hansen for his actions. He must also apologise to the Aboriginal people of the Northern Territory for illegally using ABR funds that belonged to them. Mick Dodson has dunned Aboriginal Territorians and should be deeply ashamed.

Another highly interesting quote is:

His Honour heard from Mr Haritos, a person passed over for the position of Senior Adviser, and whom he regarded as a person who was “jealous and resentful”. His Honour found Mr Haritos to be “unreliable” and “untrustworthy”. He did not accept the evidence of Mr Haritos. There was no challenge to this finding.

Mr Tony Haritos now works for Warren Snowdon, and this adds another interesting dimension to a tangled web of conspiracy and lies, particularly in light of the statement put out by Mr Hansen on 14 February 2000. It should be noted that Warren Snowdon gave a glowing reference and endorsement of Mr Hansen when he applied for the fateful job at the NLC in 1992. It is also important to note that Mr Hansen has been described by Justice Angel as an honest conscientious witness who ‘fully appreciated the need to be objective and honestly tried to give a true account of the events’. In the media release Mr Hansen alleges that Warren Snowdon:

... is fully aware of why the Northern Land Council has wasted an amount approaching a million dollars on my wrongful dismissal. From the outset Snowdon has had the inside knowledge. From me. He had the choice of looking after the interests of his real voters. He remained silent. He chose to ignore the $4.5 million scam.

Why did Mr Snowdon ignore the evidence that Mr Hansen put before him? Why did he not call for an investigation into this matter several years ago? Why has the only time he has spoken on this issue been to attack me in the parliament? Why has he let down his core constituency, the Aboriginal people of the Northern Territory, so badly? Why has he let millions of dollars be ripped off and wasted without acting? I will tell you why: it is because he is protecting his Northern Land Council former staffers, because he owes them. He owes them because they helped him at election time—they provided him with kind assistance. He owes them because he was mixed up in the NLC administration. He is protecting himself and his political career.
He is looking after one of his staff and protecting himself.

I have written to the Hon. Lou Lieberman, Chairman of the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, on three occasions regarding issues arising from these court cases. In my latest correspondence, dated 7 February this year, I have once again urged that committee to fully investigate the implications of these court cases and subsequent judgments on property and on the use of resources. I have also called for Warren Snowdon, who is a member of the committee, to be stood aside due to his conflicts of interest. Warren Snowdon should not only stand down from the House of Representatives committee; he should resign from parliament if he was aware of the issue being played out to raid the ABTA of millions of dollars.

The activities of the previous NLC executives at the time this corporate raid and scam were concocted were reprehensible. They illegally raided the ABTA—now called the ABR—actively conspired to cover up their actions and unfortunately compromised Northern Land Council administrations ever since. The NLC today must show some administrative responsibility and accountability. They owe it to their constituency. The NLC are there to serve Aboriginal people on land and development issues, not to build property empires. The NLC should be partnering with the federal and Northern Territory governments to improve the social and economic conditions of Northern Territory Aborigines and their families and their communities.

Queensland Shearers

Senator LUDWIG (Queensland) (7.24 p.m.)—I rise tonight to congratulate the Australian Workers Union and to acknowledge their success in securing a better deal for Queensland shearers. I know that among the ranks of senators there are some who were shearers in their previous career—and I hope they tune in and hear about the efforts of the AWU in this industry. Through their efforts and perseverance, the Australian Workers Union has secured for Queensland shearers their biggest pay rise in more than 40 years. This historic victory will not only see Queensland shearers receive a well-earned pay rise; for the first time in their industrial history, Queensland shearers will be paid overtime and penalty rates for weekend work. This has been a just and hard fought victory that has reverberated through Queensland shearing sheds. Quite clearly, shearers, the Australian Workers Union and the Queensland Industrial Relations Commission felt that the time had come for the wool industry to catch up with most other Australian industries and pay its workers overtime and penalty rates.

Shearing in the wool industry is a hard, difficult and, at times, back-breaking job. It is an industry that is characterised by their generally not receiving sick leave or holiday pay because of the nature of the short-term contracts. It is an industry where you need to shear at least 125 sheep and more a day to earn a decent wage. It is an industry where shearers have to supply, in many parts, their own combs and cutters, which can cost up to $2,000. It is an industry that is seasonal and requires workers to be mobile as a consequence. However, it is not an industry that has paid its workers in the past a realistic wage, overtime or weekend penalty rates.

That has now changed.

It has been a terrific victory for Queensland shearers and the Queensland branch of the Australian Workers Union not only for the significant financial rewards that have been won for Queensland shearers but also because they have been won in the face of constant opposition by the United Graziers Association, in the first instance, and then the grazier representative body, Agforce. Indeed, opposition by Agforce had extended far beyond the original negotiation of this agreement. The Queensland branch of the Australian Workers Union negotiated in good faith on behalf of shearers with Agforce. They assumed that Agforce would be true to their word and uphold their end of the deal, yet no sooner had the ink dried on the agreement Agforce were trying to renege on the agreement.

Queensland shearers should have had the benefit of this agreement months ago. The original agreement between Agforce and the Australian Workers Union to grant shearers a five per cent pay rise plus overtime and weekend penalty rates was agreed to and rati-
fied by the Queensland Industrial Relations Commission back in November 1999. What happened? Indeed, for nearly a fortnight following the agreement in November, Agforce was saying the deal was inevitable. Lindesay Godfrey, Agforce Sheep and Wool President, stated in *Queensland Country Life* that ‘the decision is a step forward in modernising the award’.

But there was a change of heart. We suspect the National Farmers Federation found out. They reached Lindesay and his mob, and inevitably the agreement with Agforce was changed. Their tune was sung differently. Larry Acton, Agforce President, and Lindesay Godfrey, Agforce Sheep and Wool President, in a joint press release were claiming that ‘the matters now put to the commission on 12 November only occurred through a misunderstanding of their advocate’. What a backflip!

You might ask what changed in a few days, and I suspect a lot of pressure was put on them by the National Farmers Federation. Agforce were now trying to renege on the basis that the agreement reached with the Queensland branch of the Australian Workers Union by their industrial advocate, one Mr Lyons, was made without their authority. To help reinforce this view, Mr Lyons in a fit of loyalty threw himself on his own sword and resigned. Mr Lyons stated in his letter of resignation:

I misrepresented the recent settlement with respect to the AWU claim for the allowance of penalty rates ... I indicated consent without due authorisation before Commissioner Blades.

Needless to say, Agforce accepted Mr Lyons’s head. However, the view that Mr Lyons was acting without consent of his employer, Agforce, was one not shared by the Queensland Industrial Relations Commission. Mr Blades rejected Agforce’s argument and ordered Agforce to honour their agreement. In handing down his decision, Commissioner Blades stated:

On the whole of the evidence, on the balance of probability, I am satisfied that Mr Lyons sought and received the approval of the Chief Executive Officer of Agforce to the agreement on 11 November before it was relayed to the Commission.

It is my understanding that, as a result of this finding, the head of Mr John Cooper, the Chief Executive Officer of Agforce, now lies in state beside that of Mr Lyons. Of course, Mr Cooper denies this and resigned simply because he had done his job—some 13 months into it, though, might I add. The commission’s decision ended a lot of unnecessary angst created by Agforce’s attempt to crawl out from under the agreement. Once again, my congratulations go to the shearers of Queensland and the Queensland branch of the AWU. Through their efforts, they have secured a just wage agreement, despite Agforce, for the shearers of Queensland.

**Senate adjourned at 7.30 p.m.**

**DOCUMENTS**

**Tabling**

The following documents were tabled by the Clerk:

- Broadcasting Services Act—National Television Conversion Scheme 1999.
- Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—Exemption No. CASA EX17/2000.
- Instrument No.—CASA 1097/99.
- CASA 51/00.
- Migration Act—Statements for period 1 July to 31 December 1999 under section 417 [60].
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Minister for Transport and Regional Services: Departmental Liaison Officers
(Question No. 1295)

Senator Robert Ray asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 23 August 1999:

(1) How many departmental liaison officers are employed in, or were seconded to, the Minister’s office as at 23 August 1999.

(2) (a) What are the names of the officers; (b) what are their employment classifications; and (c) what duties are they assigned, that is, to which policy areas or agencies are they allocated responsibility.

(3) What was the total cost to the department of these officers.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Two.

(2) (a) Julia Dimitriadis and Mark Laduzko.

(b) Executive Level 2 (Senior Officer Grade B).

(c) Ms Dimitriadis, departmental liaison in aviation matters; Mr Laduzko departmental liaison covering matters portfolio-wide (except aviation).

(3) For the period from 21 October 1998 to 23 August 1999 (being the period from the time the second Howard ministry was sworn in to the time the question was asked), the costs to the Department were $144,567.05.

These costs include salary, superannuation, Departmental Liaison Officer allowance and travel.

For the information of the honourable Senator, the following relates to the DLO in the office of Senator the Hon Ron Boswell, Parliamentary Secretary to the Minister for Transport and Regional Services:

(1) One.

(2) (a) Caroline Linke;

(b) Executive Level 1 (Senior Officer Grade C).

(c) All matters coming within the Parliamentary Secretary’s portfolio responsibilities.

(3) For the period from 26 July 1999 to 23 August 1999, the costs to the Department were $6,845.39.

These costs include salary, superannuation, Departmental Liaison Officer allowance and travel.

Minister for Foreign Affairs and Minister for Trade: Departmental Liaison Officers
(Question Nos 1297, 1302 and 1327)

Senator Robert Ray asked the Minister representing the Minister for Foreign Affairs and the Minister for Trade, upon notice, on 24 August 1999:

(1) How many departmental liaison officers are employed in, or were seconded to, the Minister's office and the Parliamentary Secretary's office as at 23 August 1999.

(2) (a) What are the names of the officers; (b) what are their employment classifications; and (c) what duties are they assigned, that is, to which policy areas or agencies are they allocated responsibility.

(3) What was the total cost to the department of these officers.

Senator Hill—The Minister for Foreign Affairs and the Minister for Trade has provided the following answer to the honourable senator’s question:

(1) On 23 August 1999 there were three departmental liaison officers in the Office of the Minister for Foreign Affairs, two departmental liaison officer in the Office of the Minister for Trade, and one in the office of the Parliamentary Secretary.
The following departmental liaison officers are employed in the following ministers’ office with the following classifications with the following duties/agency responsibilities:

Office of the Minister for Foreign Affairs
- Natalie Kershaw, APS3 Department of Foreign Affairs and Trade Assistant Departmental Liaison Officer
- Lucienne Manton, Exec Level 1 AusAID Liaison Officer
- Ann Harrap, Exec Level 1 Department of Foreign Affairs and Trade Departmental Liaison Officer

Office of the Minister for Trade
- Tim Yeend, Exec Level 2 Department of Foreign Affairs and Trade and Trade Departmental Liaison Officer
- Mark Wood, Exec Level 1 Austrade Liaison Officer

Office of the Parliamentary Secretary
- Kristen Pratt, Exec Level 1 AusAID Liaison Officer

The total cost of these officers for the period 21 October 1998, being the date on which the second Howard ministry was sworn in, to 23 August 1999, was as follows:
- Department of Foreign Affairs and Trade $229,922
- AusAID $151,716
- Austrade $87,275

Senator Robert Ray asked the Minister for Industry, Science and Resources, upon notice, on 23 August 1999:

(1) How many departmental liaison officers were employed, or were seconded to, the Ministers’ office as at 23 August 1999.
(2) (a) What are the names of the officers; (b) what are their employment classifications; and (c) what duties are they assigned, that is, to which policy areas or agencies are they allocated responsibility.
(3) What was the total cost to the department of these officers.

Senator Minchin—The answer to the honourable senator’s question is as follows:

(1) As at 23 August 1999 two departmental liaison officers were employed in my office.
(2) (a) Pat Davoren and Ditta Zizi.
   (b) Both officers are employed at the Executive Level 2 classification.
   Mr Davoren has been allocated responsibility for liaising on resources issues, and Ms Zizi responsibility for liaising on industry and science issues.
(3) The annualised cost for DLOs in my office, incurred by the Department of Industry, Science and Resources, over the period 21 October 1998, being the date on which the second Howard Ministry was sworn in, to 23 August 1999 for salaries, allowance, travel and superannuation was $163,669.

Senator Robert Ray asked the Minister representing the Attorney-General, upon notice, on 23 August 1999:

(1) How many departmental liaison officers are employed in, or were seconded to, the Minister’s office as at 23 August 1999.
(2) (a) What are the names of the officers; (b) what are their employment classifications; and (c) what duties are they assigned, that is, to which policy areas or agencies are they allocated responsibility.
(3) What was the total cost to the department of these officers.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:
(1) Two
(2) (a) Ms Sonali Rajanayagam, Mr Michael Argy
    (b) Principal Legal Officers
    (c) The duties of departmental liaison officers (DLO’s) were outlined in the Prime Minister’s re-
    sponse to part (3) of Question No. 313 (Hansard, 31 March 1999, p.3688). In undertaking these duties
    the DLO’s have responsibility for specific portfolio issues as determined from time to time by me.
    (3) I am advised that the total cost to the department for the period 21 October 1998* to 23 August
    1999 was $177,071 which included salary, superannuation, ministerial allowance, travel and other ad-
    ministrative expenses. This figure also includes the costs incurred by the predecessors to Ms Rajanaya-
    gam and Mr Argy, as follows:
    Ms Sonali Rajanayagam $41,378 (22 March 1999 to 23 August 1999)
    Ms Annette Willing $45,260 (21 October 1998 to 21 March 1999)
    Mr Michael Argy   $4,753 (9 August 1999 to 23 August 1999)
    Ms Catherine Hawkins $85,680   (21 October 1998 to 8 August 1999)
    * The date on which the second Howard ministry was sworn

**Minister for Sport and Tourism: Departmental Liaison Officers**
(Question No. 1322)

Senator Robert Ray asked the Minister representing the Minister for Sport and Tourism, upon notice, on 23 August 1999:
(1) How many departmental liaison officers were employed, or were seconded to, the Minister’s of-
office as at 23 August 1999.
(2) (a) What are the names of the officers; (b) what are their employment classifications; and (c) what
duties are they assigned, that is, to which policy areas or agencies are they allocated responsibility.
(3) What was the total cost to the department of these officers.

Senator Minchin—The Minister for Sport and Tourism has provided the following answer
to the honourable senator’s question:
(1) As at 23 August 1999 one departmental liaison officer was employed in my office.
(2) (a) Alan Henderson.
    (b) Executive Level 2 classification.
    (c) Mr Henderson liaises on sport and tourism issues.
(3) The total cost to the Department of this officer from 6 November 1998 until 23 August 1999 was $71,496.15.

**Freedom of Information Requests: Members of Parliament**
(Question No. 1539)

Senator Faulkner asked the Minister representing the Attorney-General, upon notice, on
20 September 1999:
(1) Of the requests for disclosure of information under the Freedom of Information Act dealt with by
the department, or any agency in the portfolio, since 3 March 1996, how many requests have been made
by: (a) a member of the House of Representatives; or (b) a member of the Senate.
(2) Of the cases relevant to (a) and (b) in (1), how many requests regarding access were: (a) partially
successful; or (b) refused.
(3) Of the cases relevant to (a) and (b) in (1), how many requests regarding charges were: (a) par-
tially successful; or (b) refused.
(4) Of the cases relevant to (2) and (3), how many of the department’s or agency’s written reasons for
decision used, as grounds for refusal under the Act, a reference to members of Parliament having access
to parliamentary processes to seek information from departments.
(5) Is the department, or any agency in the portfolio, aware of any provision contained in legislation, or departmental guidelines, or practice where the applicant’s employment provision can be, or has been, used as grounds for refusing access to documents.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) (a) 1
(b) 1
(2) Both applications were partially successful.
(3) The charges in relation to both requests were waived.
(4) None.
(5) No.

Department of Family and Community Services: Departmental Census
(Question No. 1758)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 8 November 1999:

With reference to the departmental census of 1998:

(1) Why was a departmental census of child care not conducted in 1998.
(2) When, and by whom, was this decision made.

Senator Newman—The answer to the honourable senator’s question is as follows:

(1) The Census of Child Care Services has traditionally been conducted biennially and the major service types of long day care, family day care and outside school hours care were surveyed in 1997. Because of the additional administrative burden on services, the department recommended against undertaking a Census in 1998 at a time when reforms were being implemented.
(2) The former Minister for Family Services, Mr Warwick Smith, on 10 August 1998.

Department of Family and Community Services: Departmental Census
(Question No. 1759)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 8 November 1999:

With reference to the departmental census of 1999:

(1) According to the department’s 1998-99 annual report, data from the department’s census of child care services, which was conducted in May 1999, will be reported in the 1999-2000 annual report. Given that the likely publication date of that report is October 2000, when the 1999 census results will be 16 months old, will the Minister direct that the 1999 census data be reported sooner than the publication of the 1999-2000 annual report; if not, why not.
(2) Will the full results of the May 1999 census be made available to the Opposition; if so, when; if not, why not.
(3) (a) Why was data from the 1999 census not reported in the department’s 1998-99 annual report; (b) who made this decision; and (c) why.
(4) The Department of Health and Family Services—Report for 1996-97 provided ‘1993-1997 figures estimated from the department’s Census of Child Care Services’. This data concerned the number and percentage of all children using Commonwealth-funded child care who are within additional needs target groups (figures 18 and 19, pp. 143-144) and according to the report the department regarded ‘additional needs target groups’ as ‘Indigenous children, children with a disability and children whose parents have a disability, and children from a non-English speaking background’ (pp. 143-144): Is this how the department currently defines ‘additional needs target groups’; if not, how and why have the criteria changed.
(5) The department’s 1998-99 annual report gives data on the number of families and children receiving child care assistance (CCA), with separate totals for families on partial and maximum CCA, and broken down by service type. These data are based on the 1996 and 1997 censuses of child care services. Can the equivalent data from the department’s 1999 census of child care services be provided.
Senator Newman—The answer to the honourable senator’s question is as follows:

1. The 1999 Census of Child Care Services data will be published after data processing and editing has been completed. It is expected that data will be available before October 2000.
2. Yes. As soon as the data is available for publication.
3. Data from the 1999 Census was not available for this year’s annual report.
4. Yes.
5. Yes. As soon as the data is available for publication.

Sudan (Question No. 1779)

Senator Bourne asked the Minister representing the Minister for Foreign Affairs, upon notice, on 23 November 1999:

Noting that the Government encourages the Sudanese Government to comply fully with the United Nations (UN) Security Council Resolution 1044:

1. (a) Are entry and transit restrictions on members and officials of the Sudanese Government and armed forces still in place; and (b) has the Government had occasion to enforce these restrictions.
2. What other measures is the Government taking to support international efforts to end the civil war in Sudan.
3. Has the Australian Ambassador to Egypt, Ms Victoria Owen, who is accredited to the Government of Sudan, recently visited Khartoum; if not, does she have plans to do so in the immediate future; if so: (a) what was on the agenda for discussion; and (b) was the issue of compliance with the UN resolution raised with the Sudanese Government and what was the response.
4. What action has the Government taken at the UN to support the international efforts in trying to end the civil war in Sudan.
5. (a) Is the Minister aware of a report by Human Rights Watch that Ugandan Acholi children are being abducted by the Lord’s Resistance Army (LRA), a Ugandan rebel group and that this group is supported by the Sudanese Government; and (b) has the Government made representations to the Sudanese Government to pressure the LRA to end the abduction, killing, torture and sexual abuse of these children.
6. With reference to Australian assistance to Sudan, can the Minister: (a) provide details of recipient organisations of the $2.1 million pledged in 1999; and (b) outline the Government’s ongoing commitment to Sudan through its aid program.
7. With reference to arms trade with Sudan: (a) does the Government support arms trade embargoes on Sudan; and (b) has the Government made representations to those countries providing military assistance as well as participating in arms trade with Sudan, this would include China, France, Malaysia and South Africa, to cease these activities.

Senator Hill—The answer to the honourable senator’s question is as follows:

1. (a) Yes, however, in early 1999 it was assessed that the immigration restrictions were more stringent than intended by the United Nations Security Council Resolution 1054. The relevant regulation was subsequently amended in November 1999 to give the Minister for Immigration and Multicultural Affairs discretion to approve the entry or transit of certain persons covered under Resolution 1054 on compelling grounds (eg. entry of Sudanese officials or participants to the Olympic Games).
(b) Yes, in February 1999 an inquiry was made by a high level Sudanese government official regarding a visa for the Sudanese Foreign Minister to visit Australia. The official was advised that the Foreign Minister would be denied entry to Australia and no application was submitted. DIMA is not aware of any other proposed or actual applications from persons subject to these restrictions.
2. The Australian Government continues to support efforts to end the conflict and hopes that Sudan will join with other regional parties in finding lasting solutions to the region’s social, political and economic problems. Australia has supported the efforts of the United Nations in urging Sudan to commit itself to participate in negotiations sponsored by the Inter-Governmental Authority on Development (IGAD).
The Australian Ambassador to Egypt, Ms Victoria Owen, who is accredited to the Republic of Sudan, visited Sudan from 18-24 April 1998. The purpose of the visit was to present credentials and to meet Sudanese Ministers and officials. The Australian Ambassador raised our concerns about human rights violations in the Sudan during that visit. The Ambassador does not have plans to visit Sudan in the near future.

Australia has co-sponsored resolution on Sudan at the 54th and 55th sessions of the United Nations Commission on Human Rights (CHR) and at the 53rd and 54th sessions of the United Nations General Assembly (UNGA). The resolution at the 55th session of CHR (April 1999) expressed concern at continuing serious violations of human rights, fundamental freedoms and breaches of international humanitarian law perpetrated by all parties to the current conflict.

(a) Yes, the Minister is aware of the Human Rights Watch Report produced in 1997 entitled “The Scars of Death—Children Abducted by the Lord’s Resistance Army in Uganda”.

(b) While the Government has not made direct representations to the Sudanese Government on the activities of the Lord’s Resistance Army, its concerns were registered in Australia’s Country Situations Statement at the United Nations Commission on Human Rights in 1998. In that statement Australia’s Permanent Representative to the United Nations in Geneva stated that “the Australian Government is also very disturbed at reports on the abduction of children from Northern Uganda by the Lord’s Resistance Army and calls for the immediate safe return of these children to their families”. In addition the resolutions Australia co-sponsored at CHR and in the Third Committee of United Nations General Assembly (UNGA) in 1998 and 1999 expressed serious concerns at the abduction, trafficking and sale of children, kidnappings, arbitrary detention, forced conscription, indiscriminate killings and forced displacement in the Sudan and neighbouring countries.

(a) The $2.1 million committed to Sudan this financial year is to cover existing contractual commitments for ongoing projects. These funds will cover: $872,000 to UNICEF Australia for the final year of a $2.6 million 3-year Emergency Basic Education Project; $658,000 to UNICEF Australia for the final year of a $1.9 million 3-year Primary Health Care Project; and $606,236 to CARE Australia for the final year of a $1.86 million 3-year Primary Health Care Project.

(b) There is an AusAID assessment mission scheduled to visit Sudan in February 2000 to report to the Government on the current situation in Sudan and to consider options for future Australian humanitarian funding.

(a) The Australian Government has a standing policy of denying approval for export of arms or other military goods to any country which is subject to a United Nations Security Council or United Nations General Assembly arms embargo. The United Nations has not imposed an arms embargo against Sudan and the Government has not implemented a Prohibited Export Regulation specifically covering the Sudan. Any application to export defence or related goods to Sudan would, however, be subject to the closest of scrutiny, on a case-by-case basis, by agencies of the Standing Interdepartmental Committee for Defence Exports to ensure consistency with Australia’s foreign, strategic and security policy objectives. The Government has not approved the export of any offensive weapons to Sudan for over ten years.

(b) The Government has not made specific bilateral representations in regards to arms sales to Sudan. More broadly, through Australia’s participation in the Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, the Government is working to promote greater transparency and responsibility in transfers of conventional arms to regions of concern. Arms flows to countries in the Horn and Sub-Saharan region of Africa have been the subject of Wassenaar attention.

Regional Forest Agreements: New Licences

(Question No. 1790)

Senator Brown asked the Minister representing the Minister for Forestry and Conservation, upon notice, on 1 December 1999:

With reference to the Minister’s stated intention to extend the completion date for regional forest agreements from 31 December 1999 to 31 March 2000:

(a) does the Minister intend to do so; (b) when; and (c) what will be the process.
(2) If the new licences are to be issued or the existing ones amended: (a) what ceiling will be placed on the volume of woodchips that can be exported from each region; (b) what conditions will be placed on licences; (c) what assessment will be made on the compliance of applicants with the conditions on their previous licences; (d) what period will the licences be issued for; and (e) what areas of native forest will be protected and which will be permitted to be logged (please specify geographical locations).

(3) (a) has the Minister determined whether the making of the regulations or the issuing of licences to extend the deadline to 31 March 2000 requires environmental assessment under the Environment Protection (Impact of Proposals) Act; and (b) in each case: (i) what are the reasons, (ii) what advice has the Minister for the Environment and Heritage provided, and (iii) when was it provided.

Senator Hill—The Minister for Forestry and Conservation has provided the following answer to the honourable senator’s question:

(1) (a), (b) and (c) The Export Control (Hardwood Wood Chips) Amendment Regulations 1999 (the ‘Amendment Regulations’) were made on 15 December 1999, and have the effect of extending the period of operation of transitional licences in force on 31 December 1999 to 31 March 2000; provided that such licences are for a region for which an RFA is not in force on 31 December 1999. The Amendment Regulations commenced on 31 December 1999.

(2) (a) The Amendment Regulations provide that the volume able to be exported under each transitional licence during the extension period will be limited:

. in the case of controlled wood chips classified as “whether residue or otherwise”, to one-third of the annual mass allowed to be exported under the transitional licence, or 10,000 green tonnes, whichever is greater; and

. in the case of controlled wood chips classified as “residue”, to one-third of the annual mass allowed to be exported under the transitional licence.

(b) Existing licence conditions will continue to apply, subject to necessary changes made under the Amendment Regulations in relation to conditions concerning volume, reporting and payment of monitoring fees.

(c) Licences will continue to be monitored by the Woodchip Export Monitoring Unit for compliance to licence conditions both during the original and extended periods of operation.

(d) See answer to question 1.

(e) Licences do not guarantee the licence holder any right to harvest. However, licence conditions prohibit the export of woodchips sourced from areas that may be required for a comprehensive, adequate and representative reserve system for the region, as specified under the relevant State’s Deferred or Interim Forest Agreement. The Amendment Regulations ensure that licences whose period of operation are extended remain bound for the extension period to the relevant Deferred or Interim Forest Agreement as in force on 31 December 1999.

(3) (a) and (b) In relation to my proposal to recommend to the Governor-General in Council the making of the Amendment Regulations, I designated myself as a proponent under the Administrative Procedures under the Environment Protection (Impact of Proposals) Act 1974. On 9 December 1999, the Minister for the Environment and Heritage advised me that he had determined that “neither an environmental impact statement nor a public environment report is required for the purpose of achieving the object of the Act in regard to this proposal.”