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

NAVIGATION AMENDMENT (EMPLOYMENT OF SEAFARERS) BILL 1998
Second Reading
Debate resumed from 7 March 2000, on motion by Senator Vanstone:

That this bill be now read a second time.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (9.30 a.m.)—When the Senate rose last night, I was summing up the second reading debate on the Navigation Amendment (Employment of Seafarers) Bill 1998. I was indicating that, whilst I expect little better from the Labor Party, captive as they are to the unions—most of the Labor senators are here only because of the support of the unions—most of the Labor senators are here only because of the support of the unions; an ever diminishing element in our society these days as people realise that the unions really do not have a lot to contribute—I was disappointed at the Democrats' level of involvement in this bill.

The government is trying to achieve a modern and efficient waterfront for the good of Australia. To do that, we rely on public servants, on people who have knowledge of the industry to look through it and work their way through it. They look at the facts and the arguments in an independent way. Our advisers have no particular interest except to make the industry much better, more efficient and more modern for the benefit of Australia.

I have been told by Mr Anderson, the minister, that we have offered the Democrats a briefing not from Mr Anderson's office and not from me, but from the public servants, the bureaucrats, the department who understand this issue. They could go through the legislation with the Democrats and explain what each clause means, why it is there, what the pros of the proposal are, what the cons of the proposal are and let the Democrats understand just what it is all about in a calm and rational way.

Regrettably, the Democrats have not taken us up on that offer of consultation. That is a shame. I repeat the offer to Senator Greig—I know he is relatively new here—that the bureaucrats are available not to convince you one way or the other, not to run a line, but to simply answer your questions, to explain why various provisions are there and to let you understand what the facts are so you can make a decision. Regrettably, Senator Greig and the Democrats did not avail themselves of the offer of some independent advice and they have sought advice elsewhere. I do not know, but I can only assume from Senator Greig's speech in the second reading debate that his source of advice was the Maritime Union of Australia.

We are fairly well aware of the Maritime Union of Australia's reputation. Perhaps they do some good work, but they have a bit of a reputation. They have a major influence on the Labor Party and its senators in this chamber. They are there desperately seeking to maintain their position in society as the rest of the Australian society understands that unions are becoming more and more irrelevant because of the way they have approached things. The union bosses are determined to maintain their power as much as possible.

I note that Senator Greig expressed some disappointment at the majority committee report where those sorts of sentiments were expressed. Senator Greig, this is the real world. That is what it is about. The report of the majority of the committee is, in that regard, worthy of consideration. You obviously considered it and rejected it. Can I say to you that you have to get your advice from places elsewhere than that.

I am aware that Senator Greig's background is relatively maritime. You understand what it is like around the wharves, as I recall from your maiden speech. Can I suggest to you that, as well as talking to the Maritime Union of Australia, you should perhaps get some other advice. You do not have to take it. You do not have to be swayed by arguments, but at least get the facts right. I regret to say, from the things you have said in your speech at the second reading stage, that
it is fairly clear that your consultation has been limited.

I do not say that in a critical way. What I am saying to you, Senator Greig, and your colleagues is, ‘Please take some advice from the bureaucrats. Do not have Mr Anderson’s office there, do not have me there, do not have my office there, but speak to the bureaucrats and understand what is being proposed and where some of the things the MUA have told you are simply not correct.’

In the few minutes available to me, I want to go through some of the issues that Senator Greig mentioned in his speech which are factually incorrect. I mentioned briefly last night the articles of agreement. The Democrats are proposing that the articles of agreement system be retained because the Democrats are told and they believe that they provide a record of a seafarer’s service at sea. The Democrats also believe that AMSA should supervise the articles of agreement process.

Senator Greig, the articles of agreement system was originally established to cover a casual employment situation on ships and it was an appropriate system for that situation. However, seafarers in Australia are now employed on a permanent basis, not a casual basis, under individual company employment agreements registered with the Industrial Relations Commission. Under these circumstances there is no longer any need for the old-style articles of agreement system or for AMSA to actually supervise these arrangements. The Industrial Relations Commission is now the appropriate body to oversee employment arrangements. So that article of agreement system is old-fashioned. It may have served a purpose years and decades ago, but it is no longer relevant.

There was an issue of crew handling of cargo. As I understand Senator Greig’s speech, the Democrats do not support the removing of the restrictions on a ship’s crew handling cargo because of safety considerations. That is what I understand he was saying—it was all related to safety considerations. The first point to note is that the Navigation Act, as it now stands, permits ships’ crews to handle cargoes where there is not a sufficiency of shore labour. It is quite common for ships crews to handle cargo at small ports where there is no stevedoring labour available. That is already happening, Senator Greig. There are not safety considerations there—well, there are safety considerations but it is deemed to be done safely. So the suggestion that this provision has to apply because of safety considerations is just plain wrong. Whoever has told you that is telling you the wrong information obviously for the wrong reasons.

The safety standards covering the loading and discharge of ships’ cargoes apply equally to the ships’ crews as they do to the shore labour. Again, it does not matter whether the ship’s crew are doing it or whether shore labour is doing it, Senator Greig: the same standards, the same regulations, apply in a safety way. So safety is dealt with by other means, not by that particular provision. When it comes to container terminals with large shore side cargo handling equipment, the terminal operators employ their own permanent labour force trained to handle their equipment. They clearly do not want untrained staff from the ships jumping on board to handle that equipment. The suggestion that this approach by the Labor Party and the Maritime Union is the right one is simply not factual. Theshore side cargo handling equipment is handled by professional people and the last thing the owners would want is untrained sea workers, ship board people, actually handling such equipment.

The Marine Council was mentioned. As I understand the Democrats’ position, the Marine Council was to be retained as an independent regulator of ship board employment arrangements. I am told, Senator Greig, that the Marine Council has not met in 12 months. It has nothing to do with the current dispute being heard by the Industrial Relations Commission. It is now the commission’s role to exercise oversight of employment arrangements, not the Marine Council. I understand that the Marine Council has not met for 12 months but even before that I understand it met fairly infrequently. So if people were relying on the Marine Council to oversight employment arrangements, then it has not worked for many, many years, Sena-
It is not necessary and it is part of an antiquated system that really serves no purpose these days. For oversight of employment relations, it is the Industrial Relations Commission, not some strange hybrid group that rarely meets.

I understand that the Democrats also were concerned to retain a prohibition on demands being made for seafarers to have to pay some third party to find them a job. If this is the case, the government would consider retaining such a prohibition, but we consider that it is quite appropriate for ship management companies that find crews for ships to be paid a fee by the relevant employer. This is the same situation that applies to shore employment agencies. That is the way the world is going today. Senator Greig, if you had a concern about that, if you were able to talk it through with the bureaucrats, if you had a point that was relevant, we would be prepared to have a look at that. But that is my understanding. You may have information that my bureaucrats and advisers do not have. If you have a point there and are genuinely concerned—I am sure you are genuinely concerned about it, although I suggest some of the information that has been given to you has not been quite as genuine—and if you are interested in pursuing that matter, I am quite happy to make the officers from the department available to talk it through with you. If there is some concern that we can address there, then we would be very happy to amend the legislation to comply with your requirements.

The Democrats, as I understand, also want the current sick leave provisions to remain in the Navigation Act. I point out that these provisions are well in excess of the norm applying in other industries in Australia and can considerably add to the costs of Australian shipping companies. This, again, comes back to the question: do you want a modern, efficient and sustainable industry in Australia or do you really want to chase people out of the industry? We are not saying that the standards should be made worse than they are elsewhere; we are saying that the provisions that apply elsewhere in industry in Australia, and apply well elsewhere in industry in Australia, should equally apply to the shipping industry. The government believes that sick leave is a matter that should be left to the employer-employee negotiations and employees are free to have their unions represent them in such negotiations. We are always very happy with that.

Knowing the Maritime Union, they would be there. The suggestions that are conjured up of some poor little seafarer wandering along to the big company office and being belted around the head by the uncaring, profit grabbing shipping companies is simply something out of Dickens. These days the union would be there with them, negotiating those agreements and negotiating the sick leave provisions in a way that suits the industry but, importantly, suits the seafarer himself or herself. The government’s view and the industry’s view is that, to get a modern efficient industry, those sorts of provisions should not be in the Navigation Act, that they should be a matter for negotiation between the parties, and that all the parties should be properly represented in the negotiations.

Turning to the six-month voyage limit: I understand the Democrats want to retain the current restriction of six months on the length of time seafarers should be at sea without a break. Again, this is a provision that can add significantly to the cost of operating Australian ships, particularly when the six months expire and the ship is a long way from the seafarer’s port. In some cases, this might happen when a ship is at a port at the opposite end of the world. There is a better way to do that. There is a better way, which, no doubt, we will go through in the committee stage, of overcoming that provision. It is the government’s view that, in getting the ultimate goal of a more efficient and effective modern shipping industry that is good for Australia and is sustainable, those provisions should not be in the Navigation Act but should be a matter for arrangement and agreement elsewhere.

When this matter went through the House of Representatives, there were three amendments from the Labor Party which were debated and which we have come here to debate today. We found that, as the second reading speech started last night at 6.01, 14
new amendments were tabled. My understanding of those amendments is that they simply gut the bill and leave nothing to debate in the committee.

Senator Conroy interjecting—

Senator IAN MACDONALD—An irrelevant interjection, as usual, Senator.

Senator Conroy—You just stick to your RTCs.

Senator IAN MACDONALD—Perhaps I could say to Senator Greig, now that you mention RTCs, that if you do have a question this question time on RTCs, could you please ask me.

Senator Jacinta Collins—It was not Senator Greig who made that interjection.

Senator IAN MACDONALD—know it was not Senator Greig, but I am talking to him now. If the Democrats have a question about RTCs, please ask the right minister and you will get the answer. Anyhow, I am being diverted. Overnight, we have had a look at these amendments and we will deal with them in committee.

(Time expired)

Question resolved in the affirmative.

Bill read a second time.

In Committee

The CHAIRMAN—Senator Collins, maybe you would like to move your amendments Nos 3, 5 and 12 first, because they have been circulated.

Senator Jacinta Collins (Victoria)—All of the amendments have been circulated. I was going to propose this morning that we deal with the items opposed altogether—as they have also been circulated through the chamber—for ease of the committee and then deal with the amendments together in a block as well. Senator Macdonald might like to indicate whether he is happy to proceed in that fashion, and then I will deal with some general remarks in the committee stage.

Senator IAN MACDONALD (Queensland)—Minister for Regional Services, Territories and Local Government) (9.49 a.m.)—I am agreeable to dealing with this in whatever way will get the ultimate result in the earliest possible time. If the speeches at the second reading stage are a guide and the Democrats intend to support all of these amendments, then I would like to deal with them as one, have a vote on them, have them voted down—if I read the speeches at the second reading stage correctly—and we can then move on to some other business. I am not in the business of wasting the time of this chamber in exercises that really get us nowhere. Perhaps Senator Greig could confirm that he will be supporting all of the amendments. I do not want to put pressure on Senator Greig. If there are things he would like debated in committee, we are very happy to do that. But, if it is a predetermined position that is unlikely to change, then we might as well deal with the lot, vote them down and move on to another piece of legislation.

Senator JACINTA COLLINS (Victoria) (9.50 a.m.)—As has been circulated through the chamber, I propose that we deal, firstly, with opposed items Nos 1 to 5, 8 and 9, 12 and 13, 15 to 17, 20, 23 to 26, 30 and 31, 33 to 39, 46 and 48 and schedule 2, and then deal with the question in relation to our amendments following that.

The CHAIRMAN—The question will be that the schedule 1 items that you have just read out and schedule 2 be opposed. If you want to speak to that, please do so.

Senator JACINTA COLLINS—I will commence my remarks, firstly, by dealing with some of the issues Senator Macdonald raised in his second reading closing speech, because there seems to be quite an element of confusion—at least on the government’s part from what I can gather from his bleating—as to what the opposition’s position is on this bill. When it was most recently considered before the parliament, which was in the House of Representatives, I understand the reason for some of that confusion may well be that the government, in proceeding with the business, took a fairly irregular path of essentially forcing a controversial piece of legislation into the Main Committee. In the Main Committee, when the consideration in detail of the bill was dealt with, not only the amendments seeking to amend the detail of the bill were outlined, which have been in circulation in both the House of Representa-
tives and Senate for quite some time, but also
the comprehensive areas of opposition con-
cern and opposition to many of the items of
the bill.

I would like to put the record straight be-
cause my understanding of Senator Mac-
donald’s advice, as he gave it to us this
morning, does not fit neatly with my under-
standing of how this matter has progressed
over the last day or so. I have been seeking
some clarification, at least from our end, as to
whether the government was seriously seek-
ing to progress this bill, and I was advised
yesterday morning that Minister Anderson’s
office had suggested, I think, to the Demo-
crats that, if there was such comprehensive
opposition as was being advised, they may
not seek to progress the bill.

Later in the day yesterday, my office had a
call from Minister Anderson’s office asking
whether we had circulated amendments. We
indicated that yes, the amendments that had
been dealt with in the House of Represen-
tatives had indeed also been circulated in the
Senate but that the minister should be aware
that there was detailed opposition to many of
the items in the bill. When we heard later that
the government was still seeking to progress
the bill, we outlined the detail of those items
of opposition. Minister Macdonald should
not be amazed that a schedule of amendments
was circulated very early in the second read-
ing debate on the bill. There is nothing
strange about that process. What is strange is
that the government had been given notice
since this bill had been debated in the House
of Representatives of those very comprehen-
sive areas of concern that the opposition had
with the bill.

Senator Ian Macdonald—You had only
three amendments.

Senator JACINTA COLLINS—We had
advised Minister Anderson’s office that the
three amendments that had been circulated
were the amendments that we understood had
been dealt with in the House of Representa-
tives but that there were broader areas of op-
position concern. The minister’s office was
given the opportunity to contact me to talk
through those matters, and did not. So, Min-
ister, I suggest you check back with Minister
Anderson’s office as to where the breakdown
of communication is because I am also not
aware of any offer of briefings from Minister
Anderson’s office—and Senator Greig might
want to deal with this aspect himself; in fact,
I am sure he will.

What I am aware of is that we have com-
prehensively looked at the detail of this bill.
We have had a Senate inquiry into it. It is
interesting that the bureaucrats, and you
yourself in your second reading contribution,
have not dealt with the concerns detailed
quite clearly in the minority report of the
Senate consideration of this matter. The best
element of that is the issue of casual em-
ployment. It is not true to say that casual em-
ployment is a thing of the past. For heaven’s
sake, look at any other industry in Australia.
If you change the industrial regime that ap-
plies in shipping, there is nothing to stop
casualisation coming back into the industry,
unless the minister wants to give us some
assurance to the contrary.

Finally, let me go back to a comment that
Mr Bevis made in the House of Representa-
tives. He expressed his concern that this bill
had been forced into the Main Committee,
that the government had basically said that
they were going to prevent any further oppo-
sition speakers if it stayed in the House of
Representatives as the whole. It was shunted
off to the Main Committee, and Mr Bevis
there expressed concern that Minister Ander-
son was not present. He was not present for
the second reading debate, he was not present
for the detailed consideration of the bill, and I
suppose it is not surprising that, when we are
here dealing with the junior minister on the
matter, there seems to be still some lack of
clarity as to exactly what the government
want to do on this matter.

The opposition’s position is clear. It has
not changed since the debate in the House of
Representatives. What you now have before
you are detailed amendments which set out
the position which has been on the record for
a very long period of time, and I hope it will
not take too long for us to move through
those matters. I will commence to deal with
all these items together, as was suggested. I
may not cover all aspects of it in the remain-
ing 10 minutes, but I will suggest, by leave,
that I then take another 15 to conclude it all at once.

As I indicated, I wanted to make some further general comments about the bill. So, at the outset, I would like to address the important issue of the process of the reform which led to the introduction of the Navigation Amendment (Employment of Seafarers) Bill. The government has set out to alter the seafaring industry without consultation with all of the stakeholders. It has developed its current policy on the seafaring and shipping industries with an inadequate consultation process, a process so biased that it almost predetermined the outcome.

In August 1996, the government set up the Shipping Reform Group. This group was chaired by Mr Julian Manser, the CEO of Perkins Shipping Pty Ltd. It consisted of representatives of Mobil Oil Australia, BHP, the Australian Shipowners Association, the National Bulk Commodities Group, Howard Smith Ltd and ALOR. There was no representation from the work force or the union on the group. A further working group was formed, the Shipping Reform Working Group, chaired by Lachlan Payne of the Australian Shipowners Association. That group has reported to the minister, but the minister refuses to publicly release the report. So what we have is a consultation and reporting process conducted by big business and which, for the most part, has been kept secret. It is not a process in which all stakeholders have been consulted, and there has been no pretence of doing that. In fact, the government’s own members involved in the 15th Treaties Committee report commented:

The process of consultation, from the formation of the SRG to the decision to denounce ILO Convention No. 9 has been imperfect.

Even the government’s own members criticised the consultation process, of which this bill forms one small part. It is not surprising then that the outcome is this bill, a bill about which, in the most part, the Labor Party has very serious concerns, a bill which seeks to amend some 80 provisions in the act and to which we will be opposing a great number of items. Before outlining the provisions which Labor opposes and seeks amendments to, it is necessary for me to make a number of these preliminary remarks and observations because of the history of this lack of consultation in relation to not only this bill but reform as a whole and how ad hoc that reform process has been.

Firstly, the government considers that the Australian shipping industry has to be more internationally competitive and that Australian seafarers enjoy exceptionally good working conditions. The minister said this yet again recently. But as I indicated yesterday, if the government is serious about improving the competitiveness of Australia’s shipping industry as indicated, then the causes should be investigated. The leaked 1999 Shipping Reform Working Group report found that Australia is at a cost disadvantage to other major trading fleets but concluded that one of the reasons for this cost disadvantage is that Australian ships employ Australian nationals who, despite this government’s best efforts, are paid more than Third World nationals. We want that situation to continue.

The report also noted that seafarers’ working conditions were comparable to Australian community standards. So they are comparable to Australian community standards, but what I think Minister Reith, if not Minister Anderson, would like to see is for us to compete with Third World countries by lowering the bottom line to the Third World status. Of course, we and the Democrats are opposed to that.

Other OECD countries provide substantial assistance to their shipping industries. The Australian shipping fleet has not received any financial assistance since 1996, unless you look at the Patrick dispute—and who would regard that as assistance? It is no surprise then that the government is not eager to publicly release the 1999 Shipping Reform Working Group report because it puts an end to the myth that Australian seafarers are overpaid.

A further justification for the bill is the desire to bring the seafaring industry into line with other industries by removing legislative protections and subjecting seafarers to the Workplace Relations Act. We had this debate in the committee, and when I asked the bu-
reaucrats—whom Senator Macdonald seems to have such absolute confidence in—to point those inconsistencies out to me, they had great difficulty doing so. When I actually asked for the detail and said, ‘Okay, you tell me what you think is actually inconsistent between the two,’ they could not.

Taking into account the nature of the shipping industry—the extended time at sea, time away from family and friends and the confined spaces within which seafarers work and live—Labor do not accept that the Workplace Relations Act will offer adequate protection to this group of isolated workers. We do not believe that the way to deal with that is to reduce these workers to the minimum as applies in the Workplace Relations Act and that they will be able to bargain above it. The whole reason for the act that we are presently seeking to amend through this bill was to provide additional standards in an area where they were necessary.

Also ignored is the very real dangers faced by seafarers. It is the second most dangerous occupation in the world. There is evidence also which suggests that the loss of life at sea is increasing, not decreasing. We are not looking at going back to Dickens by raising these issues. The facts show that some of these concerns are increasing, not decreasing; they are not irrelevant as the minister suggests. Any loss of life is to be treated seriously.

Also to be treated seriously is the potential resultant impact on our environment. We continue to have environmental problems associated with the level of regulation of our seafaring industry. As a nation island, ship safety problems pose a very real threat to our coastline, environment and tourist industry.

Intricately linked with this is the issue of crew welfare and certification of seafarers’ qualifications. Research has indicated that within the last 30 years the cause of ship accidents in the majority of cases has not been technical failure but human error or substandard actions, and that the most dangerous risk to the seafarer is from social conditions on board both at sea and in port. Recruitment, placement, certification and suitability for employment are essential social conditions which lead to crew safety.

I will now commence to outline Labor’s opposition to each item and it will become apparent that a great deal of the matters dealt with in this bill will impact adversely on safety and crew welfare. It is for that reason generally that these items are opposed. I commence with schedule 1, items 1 to 5. These items are opposed by the Labor Party. They are provisions which deal with the articles of agreement system and the Marine Council—a partial story that Senator Macdonald referred to in his second reading contribution. But let me deal in detail with the Labor position.

Items 1, 2, 4 and 5 relate to the articles of agreement system and seek to abolish that system. The articles system exists because the Australian parliament has accepted for decades the need to regulate this industry and to ensure that the worst practices in the seafaring industry around the globe are not pushed on to our Australian seafarers. It does so by requiring seafarers to enter into prescribed engagement of articles prior to their voyage. The removal of articles will remove the ability of the Australian Maritime Safety Authority to independently audit the contemporaneous records of sea service as evidenced by the articles and lodged with AMSA. Although the government contends that this will be replaced by a marine order requiring the employer to supply a statement of service, we do not agree that this is an adequate alternative to the present arrangements. This may lead to employers keen to have their work force recognised as highly skilled having an incentive to misrepresent the service history of their employees. (Time expired)

Senator GREIG (Western Australia) (10.05 a.m.)—I would firstly like to pick up on the point Senator Macdonald made about the alleged lack of Democrats consultation and information search. Minister, that is untrue. I did in fact meet with officers from I think Minister Anderson’s office, including Mr Peter Walsh, now sitting next to you. I do not recall exactly when that was, but I believe it to be in the last session of parliament. Sitting in on that meeting with me was my colleague Senator Andrew Murray, who has a particular interest in industrial relations, as
you know. That briefing opportunity was presented and accepted.

Further to that, there has been some correspondence between me and Senator Collins, as she outlined Labor Party concerns to me and, yes, I did meet with members of the MUA the other day, because they asked to see me. I make the point that, to the best of my knowledge, nobody from the shipping industry has asked to see me. Had they wanted to do that, I would have been only too happy. However, Democrat concerns remain unchanged in relation to the bill and in relation to support for the opposition’s amendments. I wish to address those briefly in response to the arguments you have presented.

Firstly, Minister, as I see it there is still the very real opportunity for fraudulent claims to be made in terms of records of experience and skill or worked times from seafarers. That is not addressed in the bill. That concerns me, because it seems to me that if somebody were to present a fraudulent claim and that were to be exposed then there would be few opportunities for that person to not then move on to some other employer without that fraudulent claim having been exposed to the second or third employer.

Secondly, I will accept that there is some truth, Minister, in your arguments about foreign crews operating cargo on the wharves but it seems to me that there are still opportunities for inexperienced crews to be working within that operation — those opportunities have not been closed off, as it were. In particular, it concerns me that it might be argued that those crews are a potential danger only unto themselves. That is, of course, not true because they still interface with other seafarers in shipping environments and on the wharves themselves where cargo goes from ship to crane to truck et cetera. Thirdly, I still believe strongly that the government ought to look more seriously at resolving those issues around ILO179 which have yet to be addressed.

In conclusion, I make it very clear that the offer of consultation was made and accepted. I have met with government and opposition representatives and with those other lobbyists within the industry who have a particular interest in this area. I do not speak from a position of ignorance. I also make the point that I do come from a maritime background of sorts. I do not profess to be an expert in maritime scenarios but I do bring with me the historical experience of my grandfather and my father. While I accept your point, Minister — and I do not claim to quote you verbatim — that there are some anachronistic parts of the union and labour movement as it relates to wharves — I think you described much of it as old-fashioned — the dignity of work is not an old-fashioned concept to me, nor is the concept of adequate protections for workers. My position on this bill is therefore unchanged.

Senator JACINTA COLLINS (Victoria) (10.10 a.m.) — I will continue to now move through the detail of our opposition. I concluded when I ran out of time a moment ago on the concern in relation to underskilled seafarers being hired, which was covered in detail in the minority Senate report. In fact, I think my last comments were a quote from the minority report.

The government’s objections to articles are that they are inconsistent with the objectives of the Workplace Relations Act, which is why the government representatives had difficulty in pinpointing anything in detail in the act which was inconsistent and why they could then only hide behind the more general objectives of the act. The government considers that the underpinning seafarers terms and conditions of employment with reference to the Workplace Relations Act would allow flexibility. However, Labor considers that the removal of articles of agreement would allow flexibility only to the extent of obtaining cheaper labour. The Ships of shame and the Ship safe reports outlined the working conditions of seafarers with little negotiating or bargaining strength. We do not accept that Australian seafarers ought to be placed in a similar position.

Yesterday the government referred to the history of the article system as justification for the removal of that system — that is, that it was created at a time when the industry was highly casualised. The government now considers that the move to company employment will lead to permanency and therefore articles are no longer required. However, the Senate
committee inquiring into this bill heard evidence of the increasing casualisation of this industry, particularly in light of the move to company employment. Also, the government considers that articles are prescriptive. However, we consider that those elements of the article system that are outdated may be removed through amendments to the subordinate legislation, not by abolition of the system itself.

Item 3 seeks to remove the definition of Marine Council from the act. The effect of the proposed amendments will be to abolish the Marine Council. The Marine Council consists of equal numbers of employers and employees as well as representatives of AMSA and has an obligation to inquire of and report to the minister upon any matters arising out of the act. Perhaps the Marine Council has not met for the very reason that it comprises employee representatives and Minister Reith and Minister Anderson do not really want to hear from them—I do not know. But the fact that the Marine Council has not met is not a reason for this parliament to abolish it; it is a reason though for us to question the behaviour of government if it is not meeting and not participating in the consultations that are necessary to effectively reform this industry.

The council’s principal function is to assess the suitability of people for employment at sea through a system of registration and to deal with accommodation issues. The council will consider a person’s suitability for employment as a seafarer when investigating a serious breach of the code of conduct. The council has the power to deregister a seafarer, effectively preventing them from working in the industry. The government argues that such matters ought to be regulated by the employer in line with the company employment and other industries. But the Marine Council is not unique; it is not some antiquated element of an Australian system. A similar system of registration and licensing is operated by the United States Coastguard.

The Labor Party sees little merit in the argument that the removal of the Marine Council will bring the seafaring industry in line with other industries. Many industries do have registration of their members regulated by an independent body and they do investigate such matters as conduct and behaviour—for example, law societies which register solicitors. Those societies hear complaints about solicitors’ conduct or behaviour and have the right to deregister a member, effectively preventing them from working in the industry. Similar systems of registration are in place with doctors and teachers. There is no reason for them not to continue in relation to seafarers, particularly when you have such significant public interest matters, public safety matters and environmental matters operating within the industry.

The government’s justification for the removal of the council ignores the unique nature of the industry—living in close quarters for extended periods of time—and the necessity for independent regulation of those who work in the industry. Concern was expressed during the Senate inquiry that, without this independent audit, a seafarer who may have previously been deregistered and legally prevented from working will merely move to another employer. The Marine Council’s deregistration would have prevented this. We do not consider it unreasonable, given the unique nature and safety requirements of the industry, that some independent regulation of those who work in it is required. It would be a shame upon the current government if that process is just simply abolished in name, if not through this legislation, if the Marine Council is not meeting.

Item 8 repeals section 17 of the act, which contains the requirement that a seafarer’s qualification certificate be produced upon demand. We oppose this item on the basis that it may interfere with safety. There should be a requirement to produce qualification certificates and section 17 should remain.

Item 9 seeks to remove the prohibition on demanding or receiving a fee for providing a seafarer with employment. I spoke yesterday about these provisions and Senator MacDonald has referred briefly to them this morning. He did not deal with our concern that if you remove these provisions a vacuum is left and some suitable form of regulation should be put in place if you do want to allow such a system to operate as it does in other areas of industry in Australia. Some form of
regulation of payments for job placement is necessary to avoid a situation where workers are forced to underbid each other to secure employment. Because of the highly specialised nature of the shipping industry, it is important that employees are fully trained and qualified. Currently, some countries allow payments for job placement. This practice leads to the lowest bidder being employed, often a person underqualified for the position.

ILO convention No. 9 prohibits payment for job placement. The act is currently consistent with this convention. The ILO has recognised that this convention needs to be revised and in 1996 adopted ILO convention 179, which removes the prohibition on fee charging employment agencies and makes provision for regulation of such agencies. But the government has denounced convention No. 9, not ratified convention No. 179 in its place, and continues not to propose adequate regulation if it wants to allow a situation of fees. So, in absence of that we continue in our opposition.

Item 12 deals with the process of how the article system is to operate. I have indicated our reasons for not supporting its removal and oppose an item which forms an important part of the operation of the article system. Item 13 relates to the functions of the Marine Council, and again I have outlined why we oppose the removal of the Marine Council.

Item 15 amends section 52 of the act by removing the requirement of an employer to notify AMSA of the new changes in the crew. We oppose the removal of this provision. This provision is linked to AMSA’s ability to independently audit a seafarer’s qualification, that is, their time at sea. We believe that it is necessary to ensure that our seafarers are properly qualified. Further, in the event of an incident at sea, it may be necessary for AMSA to have complete details for search and rescue and relative notification.

Item 16 removes a number of sections of the act relating to the article system, and I have already indicated our opposition. Item 17 repeals sections dealing with the discharging of a seafarer. The discharge of a seafarer is intricately linked with the article system and necessary for the accurate recording of a seafarer’s qualifications and we oppose any provision relating to the removal of the discharge system.

Item 20 is a consequential amendment relating to the articles which will be opposed. Item 23 is a consequential amendment and will be opposed. Items 24, 25 and 26 provide for a maximum of three months sick leave for a seafarer left onshore due to illness during a voyage. The government believes that such matters ought to be dealt with at the enterprise level. However, during the course of the Senate inquiry cogent reasons were presented to support retention of these provisions. The nature of the industry is such that the ability of a seafarer to receive timely medical treatment may result in rather minor problems becoming much more serious. With the removal of these provisions, a seafarer must take a decision of continuing to work whilst ill or going ashore to seek medical treatment. In the event that the seafarer continues to work due to the removal of these provisions, this will create a safety risk to the remainder of the crew. The international standard is similar to these provisions and it is accepted that the standard for seafarers cannot be compared with the norm across Australian industry. There cannot be any benefit in having seafarers negotiate these conditions at an enterprise level. The only obvious benefit is to the employer in that what is now a statutory requirement will be lost and workers will be forced to bargain from a much lower minimum. As such, Labor does not support items 24, 25 and 26.

Item 30 deals with the article system and is opposed. Item 31 seeks to amend section 154(3) by deleting the words ‘or the certificate of a proper authority stating that certain seamen were shipped in the ship from a port outside Australia.’. Again, Labor believes that these provisions are important for AMSA to be effective and they are not supported. Items 33, 34, 35, 36, 37, 38 and 39 all deal with provisions in the act regulating the articles and discharge system and are not supported, and item 37 in relation to the Marine Council is not supported.

Item 46 is consequential with respect to the operation of articles and is not supported. Item 48 repeals the provisions in the act which establish the Marine Council and, as
such, will not be supported. Schedule 2 concludes our detailed position of opposition. Schedule 2 deals with consequential amendments to the Occupational Health and Safety (Maritime Industry) Act by removing references to the articles of agreement. As articles are important to the maintenance of qualifications of seafarers, this schedule as a whole will be opposed. The remaining items of the detail I need to deal with relate to our amendments, and I will leave that for when those questions are put.

I have covered in detail Labor’s position in relation to all of these items of opposition. I will conclude with the remark that I am again somewhat surprised that we are having to raise these matters in the committee stage of the bill. The opposition has been prepared to deal with the detail of this bill for some time. But there are a number of issues where the minister could well have benefited from some constructive dialogue had the details of the Senate’s report into this bill been considered by the minister’s office. The minister has not sought such dialogue and, as such, our opposition remains in many areas where some further clarification could perhaps have moved issues to the benefit of the industry as a whole. I suppose that stands for the whole reform agenda under this government in relation to seafaring. There are many issues of reform that could be progressed with adequate consultation and dialogue. But what we have essentially here is what I have said before—the Reith IR reform agenda, not shipping industry reform. And, as such, many important issues have simply been sidelined in this ideological debacle.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (10.24 a.m.)—It will be relatively valueless to this chamber for me to respond to Senator Jacinta Collins. The Labor Party have made up their mind. They opposed reform of the waterfront. Australia must have a modern and efficient shipping and waterfront industry. We are an island continent. We rely on those. Under Labor we are continually dragged back to decades and centuries gone by with the way our waterfronts are handled. I am proud of the work that both Mr Reith and Mr Anderson have done to try to bring the waterfront and the shipping industry up to standard, up to scratch, to a competitive stage with the rest of the world. But as much as we continue to try to improve it for Australia, we are rejected and held back at every opportunity by the Australian Labor Party, which is running a different agenda, an agenda related more to unionism, union power and, of course, the fortunes and futures of Labor Party politicians, who rely on union support.

So I do not intend to go in detail through the matters raised by Senator Jacinta Collins. However, I do want to place on the record a comment, both for her and also in response to Senator Greig, on the processes. Perhaps I could start with Senator Greig. Senator Greig, I am told that in the first week of sittings this year Mr Anderson’s advisers approached the Democrats and asked, ‘What’s your view on this bill?’ The response was, ‘Got no idea. Don’t know what it is about. We don’t have a view.’ This was reasonable for a small party with limited resources. So the offer was made to brief you. And, as you have rightly said, you and an adviser—I am told Senator Murray was not there—did speak with Mr Anderson’s adviser and with people from the department for about 15 to 20 minutes on what the bill was about, just to
bring you across what exactly was being sought, what was being achieved. There was no detailed briefing. It was a 15- to 20-minute explanation to help you.

I see you denying that, Senator Greig. I would be grateful if you would let me know if you are saying what I am saying is not correct. I am saying to you what I am advised by Mr Anderson’s adviser. It was a 15- to 20-minute—perhaps a little longer—explanation of what the bill was about. It was not a detailed, step by step, taking you through the bill. What I am instructed and advised was that you were then told that when you had a think about it, if you wanted to go through it, if you wanted any further information, the department would be available to go through it in detail.

I was then told that because you were not ready the government did not proceed with that bill in the first sittings of parliament this year and it was left over until this time, to give you a chance to consult, to look further at it. I am told by Mr Anderson’s office that many attempts were made to contact your advisers to say, ‘Do you want the department? Can we go through it with you? Can we go through it clause by clause?’ It ended, I understand, when eventually you said, ‘No, we’ve done our consultation. We’re supporting the Labor amendments.’ We offered, I understand, briefings on those amendments. We understood that you were supporting three amendments. We thought perhaps we could argue a couple of amendments in the chamber—one perhaps would not have mattered. We understood you would be supporting the government bill but supporting the three Labor amendments. Had that happened—whilst it is not exactly what the government would have wanted for reform of the shipping industry and the waterfront—then at least we would have moved a step forward towards that. The three amendments do take a bit out of it, but there was still a lot of good work that would have been done by the bill.

So that is where we left the Democrats. The offer was there for a detailed briefing by the department—not by the political officers—on what this was all about, particularly on the three amendments. But that was not taken up, and that is where we have left it. I repeat: if there is any chance at this stage to go through those things, to get the department to explain these amendments to your adviser or to the other people whom you have consulted, that offer remains. But supporting what the Labor Party has now done means that reform of the waterfront and the shipping industry just stops dead yet again, and Australia suffers. Senator Collins said in her first address that we were aware of the proceedings—that she had given us details of what we were going to be doing with the new amendments. I would just read out from the fax that was sent from Senator Collins’s office to Mr Anderson’s office at 11.47 a.m. yesterday. It says, ‘Proposed amendments attached, as requested.’ I would intercede there by saying that the attachment shows the three amendments that the Labor Party moved in the House of Representatives. We understood—until 6.01 last night, when the other amendments came in—from this written communication from Senator Collins’s office that the proposed amendments were attached; that is, the three amendments that were moved by the Labor Party in the House of Representatives.

These were the amendments that we believed the Democrats and the Australian Labor Party were dealing with because these were amendments that the Australian Labor Party moved in the House of Representatives. Why wouldn’t we accept that, when they had moved them in the House of Representatives and had then sent a fax to Mr Anderson’s office saying, ‘Here are the three amendments that we are going to move’? In fairness, I will continue reading from the fax. It says, ‘As discussed, these amendments don’t really indicate the extent to which Labor will oppose the bill.’ There is no suggestion of other amendments; they were going to oppose it. I could have told you from day one that when you talk about waterfront and shipping reform, the Labor Party will oppose it. You did not have to tell us that you were going to oppose it—we knew that. We know where you are on waterfront reform. You are totally captive to the union and you will oppose everything. So you did not help us by telling us that you were going to oppose it—we knew that. We know where you are on waterfront reform. You are totally captive to the union and you will oppose everything. So you did not help us by telling us that you were going to oppose it—we knew that. But you did say that there were three amendments, which we believed the
Democrats to be dealing with, and then we get here—

Senator Jacinta Collins—That is not our fault.

Senator IAN MACDONALD—It is your fault, Senator, because you faxed us at 11 o’clock yesterday morning and said there were three amendments that you were dealing with. There was no suggestion of any other amendments. We deal with this on the basis of your word. Why we continue to take your word sometimes amazes me, I might say. You suggest that there will be three amendments, that we should deal with you and the Democrats on three amendments, and we get here when the speeches in the second reading debate are under way and find that there are a great number of amendments—which, in effect, just means that you should have opposed the bill at second reading. If your amendments are carried, there is absolutely nothing left of the government’s bill, and waterfront and shipping reform for Australia goes out the back door. I accept your position, Senator, and I know that you oppose anything to do with the waterfront and shipping reform. I know you oppose it and I accept that. That is fine. What I do not like—and it is the reason this chamber continues to be brought into disrepute—is this sort of dishonesty in dealing with government legislation.

Three amendments by the Labor Party were dealt with in the House of Representatives in March last year. Three amendments were put by the Labor Party in the House of Representatives and they were debated. The bill came to this chamber—it was delayed a bit to assist the Democrats with getting on top of it; there were offers to help—and we believed we were dealing with three amendments that the Democrats told us they were supporting from the Labor Party. I had better be accurate there because I do not think they told us that there were three amendments; they told us that they were supporting the Labor Party amendments which, to all intents and purposes, numbered three. Had we been aware of that, perhaps we could have impressed upon the Democrats a little further that what this really meant was that waterfront reform would just cease yet again because of the Labor Party. So take whatever position you like, Senator, because we expect you to oppose it. We know that if there are any reforms involving the waterfront, shipping and the unions, the Labor Party will oppose them. They did not do anything in 13 years and at least our government have the record of achieving something on the waterfront. We will continue to try to make improvements but, obviously, we will have to involve the Democrats at a bit of an earlier stage and work through with them on how we can get improvements to the waterfront. We will not bother about the Labor Party because we know that is a useless exercise.

Senator Quirke interjecting—

Senator IAN MACDONALD—You will always be captive to the unions that put you here, Senator Quirke, and so it is fairly pointless. But, Senator Collins, please do not misrepresent the processes. At 11.47 a.m., you told us that there were three amendments.

Senator Jacinta Collins—Could you refer to the verbal conversation that occurred with my office?

Senator IAN MACDONALD—I have a written document. Would you like me to table it?

Senator Jacinta Collins—Yes, that would be fine.

Senator IAN MACDONALD—I do not really like to table inter-office communications, but I have read it out. It states, ‘Proposed amendments attached, as requested. As discussed, these amendments don’t really indicate the extent to which Labor will oppose the bill.’ It states, ‘Proposed amendments attached, as requested.’

The CHAIRMAN—Order! Senator Collins and Senator Macdonald, would you please both address the chair. Senator Collins, will you refrain from interjecting. If you wish to join the debate, I am sure you will be able to when Senator Macdonald has finished speaking.

Senator IAN MACDONALD—Madam Chairman, I appreciate your ruling. I sat through Senator Collins’s two 20-minute discussions without a word of interjection. But this is fairly typical in the debate of things
that are sensitive to the Labor Party, things they do not like the Australian public being aware of. With Labor’s total reliance on the union movement, we have interjections all the time in this debate. We have other speakers being shouted down so that the Australian public cannot hear the debate.

Senator Jacinta Collins—And slogging from you!

Senator IAN MACDONALD—There we go again. They try to shout down the debate. We know the Labor Party’s positions here are totally dependent on the unions. When the Maritime Union says jump, they jump. I accept that as a fact of life. I do not criticise Senator Collins for that. I do criticise the processes, which have been less than open and forthright. Three amendments were faxed to us yesterday at 11.47 a.m., the second reading of the bill came before the parliament last night at 6 o’clock, and we suddenly found a great number of other amendments which the government were not advised of. That is fine, there is nothing we can do about it, but the Australian public need to know the lengths to which the Labor Party will go to assist the unions to maintain their control of the waterfront.

Senator JACINTA COLLINS (Victoria) (10.39 a.m.)—Unfortunately, the minister has chosen to extend this debate with some of his more provocative remarks. It will not surprise you that I will not let the suggestion that I have been anything less than open and forthright go unchallenged in this place. I thank the minister for referring to the written communication from my office. I will repeat what I said earlier—my understanding of the events that occurred. The amendments that were circulated in the Senate and the House of Representatives reflected the manner in which the government chose to deal with this bill in the House of Representatives. Those same amendments were circulated in the Senate.

When my office was contacted by the minister’s office about whether we had amendments, we said, ‘Yes, we do,’ and they said, ‘We didn’t realise that they’d been on the Internet for some time.’ It was pointed out to the minister’s office, though, that he should not be confused into thinking that that was the extent of them, because we were opposed to a significant proportion of the bill. Any sensible minister’s staffer should be able to refer to the House of Representatives debate on a bill. The government have been aware of the opposition’s position towards the bill for some time. For the benefit of Minister Macdonald, for the benefit of Minister Anderson—who was not present at the time—and for the benefit of Minister Anderson’s office, I suggest they read the Hansard of the House of Representatives debate in the Main Committee. That is where the detailed position was elaborated, and it was the brief that was used to put the detailed amendments that were circulated yesterday afternoon during the debate.

I have already referred, Minister, to the confusion that occurred between the Democrats and us, and you have not referred to this issue. As I understand it, the minister’s office suggested yesterday morning that, if the opposition to the bill were so broad based—and you were aware of this because it was in my written facsimile to the minister’s office—we would not continue with the bill. That was the government’s position yesterday morning. How on earth can you now deny knowledge of that and claim some lack of openness from my office if you were proposing that yesterday morning? I conclude with a suggestion to Minister Macdonald: cheap politicking of that nature only discredits you. We do a lot of politicking in this chamber but, whilst you continue to go for the person rather than the issue, you discredit yourself. I will not tolerate misrepresentations that seek to discredit my staff.

The CHAIRMAN—The question is that schedule 1, items 1 to 5, 8, 9, 12, 13, 15 to 17, 20, 23 to 26, 30, 31, 33 to 39, 46 and 48 and schedule 2 stand as printed.

Question resolved in the negative.

Senator JACINTA COLLINS (Victoria) (10.42 a.m.)—by leave—I move opposition amendments Nos 3, 5 and 12 on sheet 1309 revised together:

(3) Schedule 1, item 10, page 4 (lines 12 and 13), omit the item, substitute:

10 Subsections 45(1), (1A) and (2)

Omit “or ballast”.

(3) Schedule 1, item 10, page 4 (lines 12 and 13), omit the item, substitute:

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(3) Schedule 1, item 10, page 4 (lines 12 and 13), omit the item, substitute:

10 Subsections 45(1), (1A) and (2)

Omit “or ballast”.

(3) Schedule 1, item 10, page 4 (lines 12 and 13), omit the item, substitute:

10 Subsections 45(1), (1A) and (2)

Omit “or ballast”.
(5) Schedule 1, item 14, page 5 (lines 1 and 2), omit the item, substitute:
14 Subsections 50(4) and (6)  
Repeal the subsections.
(12) Schedule 1, item 47, page 8 (lines 7 and 8), omit the item, substitute:
47 Paragraphs 377C(f) and (g)  
Repeal the paragraphs.

The first of these amendments deals with item 10. We seek to amend section 45(1), section 45(1A) and section 45(2) of the act by omitting the words ‘or ballast’. Section 45 of the act prohibits a crew from handling cargo or ballast in the loading or unloading of a ship. So, in part, we support the government’s amendments in this area. We do not support the removal of the prohibition on crew handling cargo. The government believes that who handles cargo or ballast ought to be a matter determined by negotiation between the parties. The example of allowing crew to handle residues of cargo for the cleaning of holds and the loading of stores was provided as the justification for the removal of this prohibition.

Labor’s concern is with the quality of the certification required to perform the stevedoring work such as the handling of cargo. By allowing seafarers to handle cargo in port, we would be leaving Australia’s coastline susceptible to occupational safety and environmental problems. The Senate inquiry heard evidence from those involved in the industry that these concerns do not extend to handling ballast. As such, we support the removal of the prohibition, and our amendment reflects this.

With respect to item 14, our amendment No. 6 is to support the repeal of section 50, subsections (4) and (6). Subsection (4) sets out the requirement that 24 hours notice be provided of a proposed discharge. With the move to company employment, this provision is no longer necessary. Labor support its removal, despite our refusal to abolish the discharge system. Similarly, subsection (6) is no longer necessary, and we support its removal. With respect to the last amendment referring to item 47, Labor’s amendment will repeal sections 377C(f) and (g) of the act. These provisions provide an appeal mechanism to the AAT for a decision under section 76, subsections (4) and (5) of the act. As Labor supports the repeal of section 76 contained in item 18, this appeal mechanism is no longer necessary.

That concludes the amendments. In concluding these comments on our amendments, I think I should reflect on the fact that they obviously demonstrate that there are, despite the minister’s comments, a number of areas in which genuine reform is sought rather than the reduction of workers’ entitlements and that we have gone out of our way to seek to accommodate the government not only in those areas that we amend but also where there are a number of items which we have actually supported when the issue has been genuine reform. I look forward to hearing the minister’s response to these amendments.

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.
ABORIGINAL LAND RIGHTS
(NORTHERN TERRITORY)
AMENDMENT BILL (No. 2) 1999

Debate resumed from 12 August 1999, on motion by Senator Ellison:
That this bill be now read a second time.

(Quorum formed)

Senator BOLKUS (South Australia) (10.50 a.m.)—I rise to speak on this legislation and indicate at the start that what we have here is a government which, faced with two alternatives in Aboriginal affairs, is once again taking the wrong one. This is legislation which in a sense is not needed, but it is legislation which the government is pursuing in order to once again use a mechanism to play wedge politics, to divide, to put the plaques up in one corner and to argue to a broader constituency that this government knows how to use a big stick when it wants to.

This legislation is not needed. Though at the start of the process a few of us were uncertain about that, when the Senate commit-
tee met to discuss this legislation it ran a pretty constructive forum. It became obvious that what the government wanted to achieve through this legislation could be best achieved by a consultative approach of sitting down with the community involved and working out their problems, achieving the same outcome probably in much quicker time. The government has chosen to approach this matter in this way.

The whole history of this matter is one where the particular community involved has been treated as a bit of a football. It was given commitments a few years ago; those commitments have not been met. It was given undertakings a few years ago; those undertakings I suppose were substantially not met or, to the degree they were met, were met in a very cursory manner.

So today we have before us legislation which the opposition have decided not to support. We oppose the legislation and believe it should not be proceeded with. We were told that this bill would merely effect technical changes. But we are now of a view that it would effect substantial changes and it would betray undertakings given to the relevant communities a number of years ago by the previous government—undertakings which were repeated by this government.

This government has had an opportunity to ensure the delivery of what was promised to this community—delivery of what was promised in return for support for this legislation. But not only has the Northern Territory government not delivered on those undertakings; once again this minister has been asleep at the wheel, taking no interest. Had he taken the relevant interest, we might have had an outcome here.

We believe that negotiated solutions to the two major issues—the Elliott stockyards and stock routes—are more appropriate. They would have been less costly, and they have only failed because of the Northern Territory government’s and the Commonwealth government’s intransigence. We are further of the view that amendments such as these subvert the purpose of the land rights act in that the traditional owners, because a sunset clause is now in effect, are now precluded from lodging a claim over the stockyards which they would have been able to pursue if the land had never been granted. We also note in addition that the subject matter which is part of this legislation is being considered as part of a major review of the Aboriginal Land Rights (Northern Territory) Act 1976 in any event. If the government really wanted to take a constructive approach to this, changes to this act as proposed in this legislation could have been and should be considered by the government as part of a broader review.

We have some real concerns about the automatic commencement provisions as proposed in this legislation. Clause 2 provides for the commencement of the bill on proclamation or 12 months after assent, whichever is the earlier. The effect of this is that, if no proclamation is made sooner, the bill will automatically come into effect.

An important part of this bill is the Commonwealth’s side of a 1995 agreement with the Northern Territory about the disposition of claims over stock routes. As I said earlier, the evidence before the committee is that the Territory has yet to fulfil its side of that agreement, and further evidence is that the Commonwealth has not really taken an interest to ensure that the Territory has fulfilled its side of the agreement. Automatic commencement in these circumstances, we believe, is inappropriate.

A major issue covered by the legislation is, as I mentioned earlier, the Elliott stockyards. There are a number of reasons why we oppose provisions proposed by the government in respect of these stockyards. As I said earlier, in the committee’s hearings on the bill, it emerged that there are very good prospects of the Elliott stockyards case being resolved by agreement between the Northern Territory Cattlemen’s Association, the Northern Land Council and possibly the Northern Territory government. The extreme measure of retrospectivity revoking a longstanding deed of grant, as is proposed by clause 3 of the bill, is probably not necessary at all and should not be considered, the opposition and I believe, whilst there is a prospect of such resolution by negotiation and agreement.

Secondly, in respect of these stockyards, clause 4(1) entitles persons whose property is acquired by clause 3 to just terms compensa-
tion if (a) the acquisition is not on just terms and (b) the acquisition would be invalid because of paragraph 51(xxxi) of the Constitution. It is worth focusing on this particular mechanism. What we are told is that there may, in fact, be a cause or reason for compensation, but the Commonwealth is not prepared to put in the legislation a clause that demands that such compensation meets the requirements of the Australian Constitution.

Basically, what the Commonwealth says to the impoverished, I must say, people involved, both financially and healthwise, is: ‘We will not guarantee that if you have a valid compensation claim you will get fair and just compensation under 51(xxxi) of the Constitution; we say to you that, if you want to see compensation, go to court. If the court so decides that you are entitled to fair and just compensation, you will get it then’—knowing full well that that clause does apply in these circumstances. It is almost unconscionable for a minister to force a small community such as the one involved here to go to court to enforce their claims when, as Mr Stacey said to the committee during evidence, ‘The bill provides that the Commonwealth is only liable to pay compensation in the event that the Federal Court were to find that this is required by section 51 of the Constitution.’

I believe the Commonwealth again take the view that there should not be a moral obligation to pay compensation. There may very well be a moral obligation to pay compensation to any mining company that might be involved; the Commonwealth might try to enforce that. But, when it comes to a small community like this, it is told, ‘Well, we are not going to protect your rights in accordance with the Constitution. You go out and spend all the resources that you don’t have, spend all the resources that may be more appropriately spent on health and other services and try to enforce that right.’ As I say, it is almost unconscionable, Senator Herron, that you are forcing this sort of mechanism in respect of this case.

Going further to other points, what we also need to take into account is the impact of not proceeding with this legislation. It appears through the evidence that the Northern Territory Cattlemen’s Association and the Northern Territory government have put to the committee that the operation of the Elliott stockyards has not been adversely affected by not having this legislation in place. I could go on with respect to this particular point, but the point seems to be, as was evidenced before the committee, that a deal might have been done with respect to legislation but the community has not received for some five years now what was promised in terms of meeting the health, safety and ceremonial concerns of the community involved. There has not been delivery there and I think it is pretty rough for this minister, who has taken no interest in ensuring delivery, to come into the parliament now and claim that this legislation is necessary. It is not necessary for the operation of the stockyards and it is totally unacceptable in the circumstance that what was promised to the community has not been delivered over five years.

We do not support this legislation in respect of what it seeks to do with the Elliott stockyards. We say to the government, ‘Take a bit of interest, deliver an outcome and then come back to this place with legislation and we will have a fresh look at it.’ In the meantime, there is absolutely no moral or practical reason for pursuing this legislation.

There is another point that needs to be made in respect of this legislation. A degree of inequity has evolved from the operation of the legislation—inequity forced on the community involved. These amendments have the effect of subverting the purpose of the land rights act. Prior to 4 June 1997, the date of the sunset clause, land which was reserved or used for public purposes under Territory legislation was available for claim—and was commonly claimed—under the land rights act. In practice, after a successful claim, the minister requires the parties to reach a negotiated settlement before land is granted as Aboriginal land. Such agreements are usually reached and have always been encouraged by Commonwealth ministers. For example, Senator Herron recently agreed to the grant of Muckaty Station as Aboriginal land, after successful negotiations regarding the proposed Alice Springs to Darwin railway corridor and an existing gas pipeline.
In other words, if the stockyards had not been granted as Aboriginal land in 1991, it would have been open—I think Senator Herron knows this—to the traditional owners to pursue a land claim regarding that land. It is undoubtedly the case that such a claim would have been pursued. Given that the Gurungu people have successfully claimed other land in that region—and the stockyard we are talking about today adjoins an important ceremonial ground—it is likely that their claim would have been successful.

In those circumstances, negotiations would have commenced between the parties. In contrast to the present circumstances, it is reasonable to expect that agreement would have been reached under the usual practice of encouragement by the Commonwealth minister. The land would have then been granted as Aboriginal land in an amicable situation and probably with similar conditions as to health, safety and ceremonial concerns as previously committed. The retrospective revocation of the 1991 grant of Aboriginal land subverts this purpose. This is an effect which we ought to also take into account when trying to assess whether this land, in all the circumstances, should be handed back in the terms of this legislation.

We have another concern about this legislation—that is, the provisions the government seeks to introduce in circumstances where the commissioner is unable to make a finding. Recent history shows that, if we were to proceed with the legislation proposed by the government, we would once again have direct inequitable consequences.

It was submitted to the committee by the Central and Northern Land Councils, and the Aboriginal Land Commissioner acknowledged in the committee’s hearings, that there are many reasons for which a commissioner from time to time might be unable to make a finding that there are traditional owners at a particular time. For example, due to factors beyond the control of any party, the evidence in the claim may fall short of establishing traditional ownership. Succession processes may not have run their course at the time of the initial hearing. As a result, evidence before us indicates that the commissioner would be unable to make a finding and may so report to the minister.

Under the government’s proposed amendments, in these circumstances the claim would then be deemed to be ‘finally disposed of’ and the protection of section 67A would be lost. The Territory would be able to alienate the land, removing it from the definition of crown land in subsection 3(1) and from claimability under subsection 50(1). This would have the effect of potentially resulting in gross injustice.

The evidence to the committee submitted by the Central Land Council was that this amendment could result in injustice. They evidenced the repeat land claim of the Urpantyenye people. The area in question in respect of that claim was originally the subject of the North West Simpson Desert land claim, but the commissioner in those circumstances reported that he was unable to find traditional owners for the area. The Territory government then purported to grant a crown lease perpetual to the Northern Territory Land Corporation. Then we had a repeat claim. The commissioner hearing the repeat claim determined that, because the North West Simpson Desert land claim had not been finally determined, the alienation to the Northern Territory Land Corporation was invalid because of the operation of the existing law. The claim could proceed. When the claim did proceed, the claim of the traditional owners was upheld.

That would not happen in the future, Senator Herron. If your legislation proceeds, a repeat claim such as the one I have just mentioned would not happen in the future. As a consequence, the community would be disadvantaged inequitably. We say in respect of that there is an injustice. If you want to proceed with this clause, give us some evidence of why you should. There is no evidence there. There is no pressing need, no pressing inequity on the other side to be addressed. This legislation basically wants to cut off any potential land claim, but for no good purpose.

Once again, we have the operation of one of the Prime Minister’s favourite mechanisms in this legislation and it is one that I need to address now—that is, the so-called sunset
clause. The sunset clause on land claims under the principal act prevents the commissioner from fulfilling a function in relation to claims lodged after 5 June 1997. Schedule 1, item 4, which inserts subparagraph 67A(6)(b)(i) of the present bill, would finally dispose of such claims for section 67A purposes. There was never a legislative intention to prevent such claims for all time. The subsection could be repeated at any time. In the event, no applications have been lodged since 5 June 1997. The administration of land in the Northern Territory, Senator Herron, has not been affected. We believe what you are trying to do here is unnecessary.

I need to go to one more point before finishing this particular stage of the debate, and that is in respect of stock routes. Subsection 50(2D) was inserted into the principal act by the Aboriginal Land Rights (Northern Territory) Amendment Act 1987. It prevents the Aboriginal Land Commissioner from performing a function in relation to a claim over a stock route or stock reserve if the commissioner had not commenced an inquiry into the claim before 1 March 1990. Schedule 1, item 4, of the present bill would finally dispose of such claims.

On 7 September 1989, the Commonwealth and the Territory entered into a memorandum of agreement about stock route claims and living areas pastoral districts in the Northern Territory. In short, that agreement was that the Commonwealth would proclaim the commencement of subsection 50(2D) in return for the Territory fulfilling its longstanding promise to provide a system for the grant of land to Aboriginals in pastoral districts. The Territory then proceeded to enact its Miscellaneous Acts Amendment (Aboriginal Community Living Areas) Act 1989, which sets out the text of the MOA as a schedule, and the Commonwealth proclaimed subsection 50(2D) to commence on 1 March 1990. This legislation was later transferred to the Pastoral Lands Act 1992. The amendment to section 50 did not have the effect of finally disposing of claims for the purposes of section 67A, and there was never a legislative intention manifest in the act.

In 1995, the Commonwealth and the Territory made a further agreement. It appears that that agreement was that the Commonwealth proposals for streamlining the processes of the Community Living Areas Tribunal under part 8 of the Pastoral Land Act would be implemented in return for an amendment to section 67A to finally dispose of claims over stock routes and stock reserves. Once again, the evidence before the committee from land councils, undisputed I think, was that the Territory had not fulfilled its side of the 1995 agreement. I think so much of this was acknowledged in the second reading speech on this bill in the House of Representatives and was, as I say, contradicted by the Territory in its submission. So the present amendment, we believe, should not be entertained while the Territory’s obligations under the 1995 agreement remain unfulfilled.

This is technical legislation. But it is technical legislation with some pretty pernicious effects. It is technical legislation which, we believe, is not necessary, given the circumstances of recent history in respect of the Elliott stockyards and stock routes. The opposition will oppose this legislation at the conclusion of the second reading debate.

Senator WOODLEY (Queensland) (11.09 a.m.)—The purpose of the Aboriginal Land Rights (Northern Territory) Amendment Bill (No. 2) 1999 we are considering today is to invalidate the deed of grant in favour of the Gurungu Land Trust on 5 December 1991 under the Aboriginal Land Rights (Northern Territory) Act 1976 to the extent that it included the area of land described as the Elliott stockyards. The bill would also amend the Aboriginal Land Rights (Northern Territory) Act 1976 to dispose of Aboriginal land claims where an Aboriginal Land Commissioner, in his or her report to the minister relating to the claim, has stated that he or she is unable to find any traditional Aboriginal owners of the land, over stock routes and stock reserves, and made after 5 June 1997.

The Democrats will be opposing this bill today because we believe it may lead to an unjust outcome for the Aboriginal people who will be affected. We are convinced that in relation to the Elliott stockyards a negotiated settlement between the Northern Territory Cattlemen’s Association and the North-
ern Territory Land Council and perhaps the Northern Territory government would produce a much fairer outcome. This is because a negotiated outcome, such as that which has already been proposed by the Northern Land Council, would provide the cattlemen with security of access whilst meeting the health, safety and ceremonial concerns of the traditional owners.

It is disappointing to note that since 1996 the Northern Territory government has failed to respond to, or even acknowledge, repeated correspondence with regard to this matter from the Northern Land Council, even though this correspondence has included a redrafted agreement which would give legal force to a negotiated position reached between the parties in 1995, as highlighted during the committee hearing into this bill last year. This is unfortunate because the NLC’s redrafted agreement addresses the concerns of all the parties involved—the cattlemen, the Aboriginal people who are affected and the Northern Territory government.

A negotiated outcome is the only fair outcome with regard to the issue. This is because, even if the land had not been granted as Aboriginal land in 1993, it would still have been claimable under the land rights act. And there is no doubt that the traditional owners would have pursued such a claim and, given that the stockyards adjoin an important ceremonial ground and other Aboriginal land, the claim would more than likely have been successful. The Commonwealth minister, as in other land claims, would then have required the parties to reach a negotiated solution whereby Aboriginal land was granted subject to a lease to the Cattlemen’s Association which properly met the concerns of all parties.

So, as the minority report of last year’s committee points out, these amendments would have the effect of subverting the purpose of the land rights act because the sunset clause now prevents the lodgment of a claim over the stockyards. The extreme measure proposed by the government is effectively an act of compulsory acquisition of land which could invoke extensive compensation payments and other legal challenges. The severity of the government’s response is at odds with the importance of the stockyards to the Northern Territory cattle industry, whose reliance on the stockyards is minor and diminishing. A negotiated solution is offered and should be pursued.

The bill also would have the effect of finally disposing of three categories of land claims. These were all the subject of a hearing of the Finance and Public Administration Legislation Committee in June last year. The land councils raised a range of important concerns about each of the categories and the government has not responded to any of them. The first category is cases in which the Aboriginal Land Commissioner ‘is unable to make a finding that there are Aboriginals who are the true traditional owners of the land’. The possible injustices of such a provision are obvious. There could be any number of reasons why the commissioner is unable to make findings of traditional ownership. The land councils gave an example at the committee’s hearing. The Urrpantyre land claim was one example.

The minister delivered title to the land in that case at a ceremony at the Titjikala community on 19 August 1999. But, if this amendment had been in place, the original claim would have been ‘finally disposed of’ when the commissioner reported that he was unable to make a finding of traditional ownership. The Northern Territory government’s attempt to alienate vacant crown land to defeat repeat claims would have succeeded. The traditional owners of Urrpantyre would have remained dispossessed. The government’s bill contains no clear indication of a retrospective intention. It can apply only to applications made in the future. No applications have been made since the sunset clause took effect on 15 June 1997.

The second category is claims made after the sunset clause date. No applications have been made since the sunset clause date, even though it is technically possible. Although the Commonwealth and Territory governments would like to portray Aboriginal people as greedy and unrestrained land grabbers, no claims have been made. Of those claims made shortly before the sunset clause date, many potentially claimable areas were not
claimed, such as land containing public infrastructure. The 1987 amendments were not intended to preclude claims for all time. They merely prevent the commissioner from hearing claims lodged after a certain date.

The third category is claims over stock routes. The Northern Territory government has long complained that its 1989 memorandum of agreement with the Commonwealth about Aboriginal living areas on pastoral leases requires that stock route claims be finally disposed of. The Territory conveniently overlooks that the 1989 agreement also requires it to enact excisions legislation. Legislation was introduced—the Northern Territory Miscellaneous Acts Amendment (Aboriginal Community Living Areas) Act 1989—but the legislation is fundamentally flawed. The legislation was replaced but not improved by part 8 of the Northern Territory Pastoral Land Act 1992.

The Territory also overlooks that a 1995 agreement with the Commonwealth requires modest changes to part 8 of the Pastoral Land Act. Those changes have never been made. So the government’s bill amounts to an abdication of its responsibilities to the displaced Aboriginal people whose traditional country happens to be the Territory pastoral estate. But even if you leave aside the Territory’s failure to abide by the 1989 and 1995 agreements, which Aboriginal people were not consulted about, and examine the excisions legislation on its merits, it must be judged a complete failure. Certainly, living areas have been granted, but in the vast majority of cases that has been possible only by the Aboriginal people and the pastoralists reaching agreement that, in effect, avoids reliance on the excisions legislation.

In those unfortunate cases where Aboriginal people have had to pursue non-consent applications through the so-called Community Living Areas Tribunal, the case histories speak of interminable technical arguments and the failure of the legislation to respond at all to their real needs. Because of the mean-spirited philosophy of the 1989 memorandum of agreement and the Territory’s excisions legislation, most Aboriginal people with real cultural needs for traditional living areas on pastoral country do not even pass the two-prong threshold test for applications.

Firstly, they must demonstrate a historical residential association with the pastoral lease in question—a difficult hurdle, considering how many people were chased off their traditional country to make way for cattle. Secondly, they must have a demonstrated need for a living area. Again, in keeping with the spirit of legislation that is designed to deny traditional interests entirely, the Community Living Areas Tribunal has interpreted this phrase to mean ‘physical need’. This completely undermines the maintenance of Aboriginal culture, leading to social breakdown—something which the government professes to be concerned about. And yet we have this bill, which would further entrench Aboriginal disadvantage.

One example of this is Jingaloo, a small community which has been an applicant for a community living area on a pastoral station called Beetaloo, east of Elliott and south-east of Katherine. Despite being displaced from their country from the late 1960s, the Jingaloo community have continued living on the station on a very small area of land in very rudimentary conditions. The process through which the Jingaloo community have had to go to get title under the community living areas provision has taken years and been subject to bureaucratic delays, ministerial interference, contradictions and obstruction. Yet without secure title to that area of land, ATSIC is unwilling to release much needed housing funds to allow the community to secure basic housing infrastructure.

Another development of the Commonwealth government’s negligence which I must draw to the Senate’s attention today is the action initiated by the Registrar of Aboriginal Corporations in liquidating assets of some Aboriginal corporations granted under the community living area provisions. This action is in response to minor administrative problems experienced by Aboriginal corporations which could have been resolved simply and without further dispossessing people of title to the little bit of land that they have.

I know that the Commonwealth Registrar of Aboriginal Corporations has taken action in the Supreme Court to liquidate four Abo-
original associations in the Northern Land Council region simply because they failed to provide annual returns. Similar action has been taken in the Central Land Council area where a number of land owning corporations have been liquidated. I also know that there are hundreds more such liquidations in the pipeline throughout Australia and that all these liquidations will be handled by one law firm in the Supreme Court of Australia. I could provide the Senate with numerous examples of it, if time permitted.

The effect of this action is that these Aboriginal living areas and any assets of these Aboriginal corporations are now under the control of the Queensland liquidator. That such a thing is happening is completely short-sighted, unjust and downright ridiculous. After all, the associations in question are often on remote communities—we are talking about small communities of people living in very primitive conditions—and lack the resources and skills to meet reporting requirements which are the equivalent to those of major corporations.

Many of these associations have been established for the single purpose of holding land. It is not as though they were some great trading corporation. Many of these associations, because they are located in remote areas, do not receive efficient mail services, do not have members who can read or write English and do not get copies of national newspapers in which the registrar places notices. In fact, I am pretty angry about this whole process. It would have taken only a simple inquiry of the registrar’s own records or through the land councils to work out a more appropriate response and to avoid these mistakes which lead to further Aboriginal hardship.

I raise this issue to illustrate how the actions of governments and their agencies are insensitive to the reality of Aboriginal communities and how serious problems could have been avoided by adopting a more cooperative approach. The Democrats will be opposing the government’s bill, and we call on both the Commonwealth and the Northern Territory governments to bring commonsense to this issue and pursue a negotiated solution rather than use a sledge hammer to crack a nut.

Senator CROSSIN (Northern Territory) (11.23 a.m.)—Let me just begin by congratulating my colleague Senator Woodley from the Democrats for what I think was quite a well-prepared speech and for summing up the issues very accurately, particularly the latest development in terms of the CLAs and the actions of the registrar. We have canvassed the issues in the Aboriginal Land Rights (Northern Territory) Amendment Bill (No. 2) 1997 for many months now, with this legislation first being introduced into the Senate last year and the matter being referred to the Senate Finance and Public Administration Legislation Committee.

I am not going to reiterate the views of the Labor Party that were expressed in that report. As people well know, we in fact provided a minority report in that instance because we believe that this bill would not merely effect technical changes, as the Minister for Aboriginal and Torres Strait Islander Affairs claims, but would effect substantial changes to the lives of these Aboriginal people and would yield unjust results.

Negotiated solutions to two of the major issues—that is, the Elliott stockyards and the stock routes—are more appropriate, we believe. They are less costly and have failed only because the Northern Territory government, once again, and the Commonwealth government have been intransigent in this instance. Further, the amendments subvert the process of the land rights act in that the traditional owners, because of the sunset clause that is now in effect, are now precluded from lodging a claim over the stockyards which they would have been able to pursue if the land had never been granted.

There are a number of things that I want to highlight today. We handed down this report on this bill back in August, and the fourth dot point in the Labor Party’s minority report said:

In addition, the subject matter is being considered as part of a major review of the Aboriginal Land Rights (Northern Territory) Act 1976, and any changes to the Act should be considered as a part of that review.
Late last year, the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs handed down their report into the review of the land rights act in response to what was known as the Reeves report. It was a majority report—that is, all members of this government agreed with the contents of that report. That is a very significant fact when we are dealing with this bill, that there was not a minority report tabled by the members of the government in review of the Northern Territory land rights act. The very first recommendation in that report was that there should be no changes made to the Aboriginal Land Rights (Northern Territory) Act without the consent and agreement of all of the parties. ‘All of the parties’ does not just mean the Northern Territory government and the Commonwealth government; ‘all of the parties’ means the organisations that represent the Aboriginal people and, more particularly, the Aboriginal people concerned.

So late last year we had a review of the Northern Territory Aboriginal land rights act. We have a majority report. The first recommendation in that report suggests that that act should not be changed unless there is an agreement between all the parties. So what do we have with us now? With this change, with this amendment bill No. 2, we do not have agreement with all the parties, but the government is still prepared to push ahead with this bill. What does that say about the inconsistency and the hypocrisy of the way in which this government handles matters when it comes to Aboriginal affairs?

Can we deduce from that that the government members who were party to that majority report last year in fact misled this parliament when they signed their name to that report and agreed with that recommendation, or can we deduce from the tabling of that report last year and the actions of this bill before us now that this Commonwealth government has no intention of putting in place those recommendations which its government members agreed to last year? It leaves you wondering about the fate of Aboriginal people and the control over their land, particularly in the Northern Territory, when we have this sort of juxtaposition between a majority report on the one hand and the tabling and debating of this bill and the persistence of the Commonwealth government to go ahead with this legislation on the other.

A number of things that I want to raise today perhaps look at what has happened in the recent developments since we tabled that report last year. I think the matters that go to why this bill should not be supported have been more than adequately canvassed by my colleague Senator Bolkus, by our minority report of last year and by Senator Woodley. But let us look at what has happened since that report was tabled. We know that little has changed since the conclusion of the committee hearings last year and the presentation of the committee’s report in August last year.

There have been some relevant developments since the committee produced its report. In relation to the Elliott stockyards, the Northern Land Council wrote to the NT Cattlemen’s Association in November last year proposing a simple solution to any problems which they perceive in relation to ongoing access to the stockyards. So there is a willingness on behalf of the Aboriginal people through the NLC to try to pursue this in a negotiated, amicable way. The NLC proposed negotiations towards finalising a lease would provide the cattlemen security of access whilst meeting the health, safety and ceremonial concerns of the Aboriginal people affected. It is disappointing to note that to date no response has been received from the Cattlemen’s Association to this letter.

Further, as the committee heard and as the minority report noted, the NT government has not objected to the substance of the NLC proposal for a negotiated solution but had failed to respond over a period of more than three years. In fact if my memory serves me right, the NLC were made aware of the Northern Territory government’s response during the committee hearings. It is disturbing that there has still been no response from the Northern Territory government in relation to this or any of the matters raised during the committee’s hearings.

We believe a negotiated solution is the only fair outcome regarding this issue. As stated in the minority report, even if the land had not been granted as Aboriginal land in 1993, it still was claimable under the land
rights act. There is no doubt the traditional Aboriginal land owners would have pursued such a claim and, given that the stockyards adjoin an important ceremonial ground and other Aboriginal land, the claim would have been successful. The federal minister, as in other land claims, would then have required the parties to reach a negotiated solution—for example, as was done at Muckatty Station—whereby Aboriginal land is granted subject to a lease to the NT Cattlemen’s Association which properly meets the concerns of all parties.

In relation to the stock routes and their relationship to the community living areas—CLAs—legislation, the NLC retains the view that the Commonwealth and the NT government have not fulfilled their obligations under the memorandum of agreement they entered into in September 1989. Under that agreement, the Commonwealth would proclaim the commencement of subsection 50(2D) in return for the Northern Territory fulfilling its longstanding promise—whatever promises are worth when you talk about the Northern Territory government—to provide a system for the grant of land to Aboriginals in pastoral districts. The Northern Territory government continues to obstruct the resolution of CLAs and, in addition, is now using spurious native title concerns to delay resolution of title to living areas. As a result, as we saw in the example that Senator Woodley gave about this intransigence over dealing with CLAs, Aboriginal communities are being denied urgently needed housing funds that would come from ATSIC because the matters are not being resolved.

Senator Woodley also raised another important matter that has come to light during this debate and since the report was tabled last year—that is, the development that relates to the CLA issue. The development that is indicative of the Commonwealth government’s negligence, in this case by commission, is the action initiated by the register for Aboriginal corporations in liquidating the assets of some Aboriginal corporations which hold title to some of the few living areas granted under the CLA provisions.

In order to actually have a community title you need to be registered—so that title is held in trust—and we all know that one of the conditions of that is that you need to provide an annual report. What does that actually mean for people who live in places like Bob’s Yard in the Northern Territory? Their mail is unreliable, they probably have no PO boxes hundreds of kilometres east or west of the Stuart Highway and they may not even understand that very detailed document if it gets into their hands. What we have seen in the last couple of months is that there is very little flexibility in dealing with this. This is probably a minor administrative problem, because the registrar does have the power to look at these situations and provide exemptions, but instead they are almost being taken to the wire over this for what seems to be very little understanding of the living conditions and the situation that these people find themselves in.

Let me say one thing in finishing. On 22 February, some weeks ago, in the Northern Territory parliament Denis Burke stood on his feet—as he would want to do because the sittings so infrequently happen up there—in response to a claim from John Ah Kit, the member for Arnhem. Amongst his gabbling was this quote:

For years they have told communities—I am assuming by ‘they’ he means John Ah Kit and the Labor Party or even the land councils—

‘Vote for the CLP and you will lose your land’, it was absurd then given that the CLP government has continued in government in all that time and no one has lost their land.

Denis Burke, are you lying? Or are you misleading the Northern Territory government again? Or are you misleading Territorians and Aboriginal people once again?

Senator Herron—Mr Acting Deputy President, I rise on a point of order: it is not permissible for a senator to call a member of another chamber of any parliament in Australia a liar. I ask her to withdraw that statement.

Senator CROSSIN—Speaking on the point of order: I did not accuse Denis Burke
of being a liar. I asked the question: are you a liar? I asked a question; I did not accuse him of being a liar.

The ACTING DEPUTY PRESIDENT (Senator McKiernan)—That is the way I heard it, Senator Herron.

Senator McGauran—Mr Acting Deputy President, I have a point on the point of order, or are you about to rule?

The ACTING DEPUTY PRESIDENT—I have ruled, yes. As I heard it, it was a question that was being asked and it was not disorderly. I rule it is not out of order.

Senator CROSSIN—We have a bill before this parliament that will compulsorily acquire that land. So the claim, ‘If you vote for the CLP, you will lose your land,’ is absolutely correct, because if this bill is passed by this federal government, we know that the Territory Liberals and the connection they have with this Commonwealth government will do exactly that. They will compulsorily acquire this land. They will take this land back off those Aboriginal people. Those Aboriginal people will lose that land.

So when you vote for the CLP in the Northern Territory, when you vote for the Liberal Party at a federal level, that is exactly what you are doing as an Aboriginal person: you are giving up the right to your land. In fact, you are losing your land by virtue of the fact that this bill has come before the federal parliament again and this Commonwealth government is urging us to support it. That is not what this Labor Party is about and that is not what I am suggesting we do today.

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (11.37 a.m.)—Before I get into the substance of the Aboriginal Land Rights (Northern Territory) Amendment Bill, I must take issue with the implication in the remarks of Senator Bolkus in particular casting doubt on the government’s commitment to improving the situation of Australia’s indigenous people. Let me spell out to him just how solid that commitment is. It is a commitment that totals a monetary sum of a record $2.2 billion this year supporting indigenous specific programs. We are directing these funds to areas where they will make an appreciable and lasting difference: health, housing, education, employment and economic independence.

Take, for example, a 61 per cent increase in health funding between 1996 and 2003 and an emphasis on improving access to quality primary health care; a $16.3 million increase in funding for indigenous education programs this year; a new indigenous education strategic initiatives program in place for the next five years, plus strategies to improve numeracy, literacy, attendance and retention rates; an additional $55 million this year for employment and training programs; and the innovative ATSIC army program, which provides urgently needed housing and health related infrastructure in remote communities. Part of our policy is to direct resources where they are most needed. Some of the most needy Aboriginal communities are in the Northern Territory, and those groups living on pastoral leases without any form of secure title are amongst the neediest of all. The bill we are considering today will result in better outcomes for these people.

The bill currently before the Senate is largely a tidying up of legislation that failed to fulfil the intent of its originators and a correction of administrative error. The effect of the bill will be to create greater certainty about land title in the Northern Territory. This will also be of benefit to the Northern Territory government in assisting it in planning and development. It will be of assistance to pastoralists who are anxious about the status of stock routes. Most particularly, it will benefit those Aboriginal Territorians whose traditional lands are on pastoral leases and who currently have no security of tenure. That is why I believe it is vitally important for the Senate to agree to the bill.

This bill is not putting new issues before the parliament; most of it has been canvassed here before. What I found extraordinarily inconsistent is that the major provision of the bill relating to land claims over stock routes was first put forward by the then Labor government in 1986. But I understand from the debate in the House of Representatives and from what honourable senators have said today that Labor now oppose the very policy they embodied in legislation. Mr Acting
Deputy President McKiernan, with due deference to you in the chair: hypocrisy, thy name is Labor. They proposed the bill in the first place. We are carrying on the legislation that was proposed by the Labor Party when they were in government. Now we are getting pilloried for promoting their legislation. How could that be anything but hypocritical on the part of those senators who spoke today? They know that.

I quote from Hansard of 22 October 1986 the then Aboriginal affairs minister, Clive Holding—and a very good Aboriginal affairs minister, I might say; in fact, the second longest serving Aboriginal affairs minister in 32 years. He said:

Under the present act it is possible for Aborigi-
nals to claim title to stock routes and reserves, and
a number of the claims that have yet to be heard
and reported on by Aboriginal land commission-
ers are in respect of such stock routes and re-
erves.

Some practical problems have emerged. On the
one hand, a claim to such lands may offer to some
Aboriginal groups living in the pastoral areas of
the NT the best or in some cases the only prospect
of obtaining title to some of their traditional lands.
On the other hand, to proceed to grant title to
some of those areas—assuming that a land com-
missioner had so recommended—would result in
the splitting of existing pastoral leases into two or
more segments, with consequent disruption and
costs for the pastoralists concerned.

Against this background, it has been the gov-
ernment’s position—
and this is the Labor government—
that it would be preferable, as a general rule, that
claims to stock routes and reserves not proceed
and that a program be developed, with the coop-
eration of the Northern Territory government and
the pastoralists, whereby excisions from pastoral
leases to provide living areas for Aboriginal
groups would be negotiated.

It is eminently clear what the minister in-
tended, and it was an eminently sensible pro-
posal—a proposal in which everyone was a
winner. I am happy to give credit to him and
the then government for that. Where things
came unstuck was in the detail of the draft-
ing. No provision was made to deal with pre-
existing claims, which remain in legislative
limbo on the books to this day. And that is
what this legislation is about: to correct that
drafting error that occurred in the past under
the previous government. It now precludes
the Territory government from taking any
action in relation to title to the land. These
claims cannot be heard. The land cannot be
granted to anyone and no-one benefits from
this impasse. So the obstruction of this legis-
lation puts it further into limbo. This is what I
believe is totally hypocritical. I know that
politics change and I know that events alter
the opinions of people, but surely it is piece
of legislation that requires passage to get us
out of that impasse.

It remains so, despite the fact that agree-
ment was reached between the Common-
wealth, during the term of the Labor govern-
ment, and the Northern Territory about living
areas for dispossessed Aboriginal groups on
pastoral leases. Then Prime Minister Keating
wrote to the Chief Minister of the Northern
Territory in April 1995:

I am pleased that the Northern Territory has
agreed to amend the Pastoral Lands Act to im-
prove the processes related to the granting of
community living areas ...

Mr Keating went on to express some reser-
vations about the extent to which the Terri-
tory had met Commonwealth concerns about
Aboriginal needs, saying:

In these circumstances I would be prepared to
agree to the amendment which you are seeking to
the Land Rights Act provided that your govern-
ment agrees to adopt more fully the Common-
wealth’s proposals for amendment to the Pastoral
Lands Act.

And the Territory government did just that. In
November 1995 the Acting First Assistant
Secretary of the Office of Indigenous Affairs
wrote to the Deputy Secretary of the Territ-
ory’s Department of Lands, Planning and
Environment confirming that ‘this office is
now satisfied that the amendments proposed
by the Northern Territory pick up the propos-
als made by the Commonwealth.’ The letter
continued:

We would be keen to see them enacted as soon
as possible.

Nearly five years later, we are trying to do
that today and it gets opposed by the Labor
Party now in opposition—something that
they proposed in 1995. Oh, hypocrisy, thy
name is Labor. However, Labor now are ap-
Apparently demanding that the Northern Territory fulfil its part of the bargain while the Commonwealth reneges on its part. This is an unconscionable position for them to take and one which can only be to the disadvantage of the Aboriginal people they profess to support—Aboriginal people who are arguably the most disadvantaged group in Australia.

This agreement with the Northern Territory was years in the making. It took so long because the Commonwealth was very rightly concerned to get the best deal possible for Aboriginal people. The deal was done. The Northern Territory legislation is drafted. It is ready to go just as soon as the Commonwealth gives effect to Mr Holding’s plan for stock routes. That deal is now in jeopardy and with it the future of many dispossessed Aboriginal people. It is a classic example of Labor playing to the gallery, whipping up an issue and bringing extraneous issues into this legislation when it should be fairly clear to them—as it originated in the Labor Party—that it should be passed.

Unless Aboriginal people have proper title to land, they cannot obtain the resources to establish adequate infrastructure. Senator Crossin spoke about that and that is perfectly correct; they cannot. How is it possible if they have not got title? All this does is perpetuate the disadvantage—the very thing that Senator Crossin spoke against. That is not the only anomaly in the position taken by the opposition. The ownership of the Elliott stockyards is another issue on which Labor has done a complete about-face. They now appear to oppose the return to the Territory of the Elliott stockyards which, through a clerical error, were included in a land grant to local Aboriginal people despite the express intention of the then government to exclude it.

I quote another Labor minister for Aboriginal affairs, Gerry Hand, who spoke in parliament on 31 October 1989:

In accordance with concerns raised by the Northern Territory, an area used for cattle yards and a dip at Elliott has been excluded from the area to be scheduled.

I do not blame Labor—hypocritical, though it is—for what was clearly an unfortunate administrative mistake, but I am puzzled as to how they can justify opposing the return of land to its rightful owners. I am particularly puzzled, given the efforts made by my predecessor, another Labor Aboriginal affairs Minister, Robert Tickner, to return the land.

It is important is set out some of the history. In April 1993 Mr Tickner wrote to the Northern Land Council in unequivocal terms. I quote:

I would like to inform the traditional owners that it was the will of the parliament that the cattle yards and dip not be granted, and that accordingly I share ATSIC’s reservations about allowing the grant to stand. I believe that the traditional owners should surrender the land in question.

I do not know how much further you can go. I would like honourable senators to note that parliament, the government and ATSIC—the government’s primary source of advice on indigenous affairs—were all in accord. At the same time Mr Tickner also encouraged the Northern Territory government to address the environmental health conditions surrounding the cattle yards—and that was brought up in the committee hearing—those environmental health conditions which were causing some concern to the traditional owners in the Northern Land Council. Mr Tickner wrote to the Northern Land Council in December 1993, and I quote:

... as long as the matter remains unresolved, it provides a basis for critics of the Land Council to argue that the Council and the traditional owners are now acting in bad faith, given the earlier consent for the yards to be excised from the grant.

Mr Tickner also made it clear that, if agreement could not be reached, the government was prepared to legislate the return of the cattle yards, and I quote again:

If necessary though, the Commonwealth will need to examine other options for rectifying this error if my preferred approach of negotiation does not succeed.

Then in April 1994 we had a promising development. There was a media release put out by the Northern Land Council headed ‘Amicable meeting at Elliott resolves stockyard issue’. This agreement depended on the Northern Territory undertaking environmental health improvements. Environmental health and title to land are two separate issues. While the Northern Territory govern—
ment undoubtedly has a responsibility to provide a safe and healthy environment for its people, the Northern Land Council is being very opportunistic in withholding return of the land until demands unrelated to land title are met. I can understand, however, that they felt they could not pass up such a windfall chance to obtain leverage over the Territory government—that is politics. While I find the ethics a little dubious, I cannot criticise their determination to seek a better environment for the traditional owners. What I can criticise, however, is the continued refusal to return the land despite the efforts put in by the Territory government to meet their demands.

The Chief Minister wrote to me last year reporting on the measures his government had taken and these measures included dust control, carcass disposal and screening. Further improvements are planned once the legal situation in regard to the operation of the yards is clarified. So, while some inconvenience and uncertainty is being caused to the Northern Territory government and pastoralists through the stock routes amendment, the real losers here are the Aboriginal people whom the land council purports to represent. I do not think we can really blame the Northern Territory for not putting even more resources into the cattle yards when potentially they could be refused access to them, but the traditional owners get no benefit from having title to their cattle yards. It seems perfectly obvious to me that the only win-win solution involves the correction of the original error through return of the yards and the completion of the environmental health works.

**Senator Bolkus**—And nothing has happened since.

**Senator HERRON**—That was the intent of the Labor Party’s legislation. Senator Bolkus interjects that nothing has happened. Nothing has happened since because they will not pass this legislation. The government is determined that these anomalies be rectified. The Democrats are clearly unaware of the facts. That is because they did not even bother attending the Senate committee hearing. It is also because they have chosen only to be briefed by the land councils. We believe that a negotiated outcome is preferable on the stockyards, but ATSIC and the Northern Land Council already reached agreement, but the Northern Land Council did not fulfil its side of the bargain.

**Senator Bolkus**—Five years of commitment and you’ve done nothing.

**Senator HERRON**—Senator Bolkus says we have done nothing about it for five years. We have been in government for four years. He has damned himself by his own interjection. What did he do after that legislation was introduced? He is jumping up and down now, but he did nothing about it. Hypocrisy, not only is thy name Labor; hypocrisy, thy name is Bolkus.

**The ACTING DEPUTY PRESIDENT** (Senator McKiernan)—Order!

**Senator HERRON**—I withdraw before you ask me, Mr Acting Deputy President. He is stimulating me. I should not allow myself to be stimulated.

I cannot let the occasion pass. Senator Crossin and Senator Woodley mentioned the registrar. That is probably not related to this debate, but I think it is important to put on the record that where organisations are still being funded by taxpayers’ money and do not reply to correspondence over a three-year period or do not send any audited reports in, then they are being chased up. That is an argument for another time, but I want it made perfectly clear that there is another side to that, rather than attacking the registrar, who is a separate body, as you know, from me in any case. Senator Woodley also talked about Urrpantyenye, Tjukurla and Jingaloo—again extraneous issues in relation to this bill.

**Senator Bolkus**—You’re extraneous to the bill.

**Senator HERRON**—Senator Bolkus, your criticism of me is a criticism of you. The government is determined that these anomalies be rectified. While this situation remains, the integrity of the act is brought into question. But the government wants the legislation to be fair, and it is prepared to review the arguments of the opposition and the Democrats. The extraordinary part is, really, that most of this legislation was introduced by the now opposition when it was in government and it is now opposing it. But, if they have something of substance, the gov-
ernment would be prepared to introduce amendments that may resolve the issue because, as I said, it is disadvantaging Aboriginal people if it does not pass. Surely, the intent of both sides of parliament is to not disadvantage the Australian people. So, with that in mind, I think I have covered most of the points that have been raised by the debate.

There is one other issue. It was said—I think by Senator Crossin, but I stand corrected if it was not—that there is a delay in excisions occurring. I would point out that since we have been in government—

Senator Crossin—I didn’t say that. Perhaps you weren’t listening carefully enough.

Senator HERRON—Was it Senator Woodley, Senator Crossin? The other thing to point out was that Senator Bolkus talked about the sunset clause delaying things. The sunset clause was introduced by Labor, and what they are doing by delaying it is keeping these claims in limbo. That is the effect of not passing this bill. It was because of sloppy drafting under Labor that it occurred, and Senator Bolkus knows that too.

Senator Bolkus—What occurred?

Senator HERRON—Sloppy drafting occurred under your government, Senator Bolkus. There was another issue. It was stated that the amendments were not needed. It was the previous government that proposed them. The commitments have been met. The stockyards were accidentally granted, as I have said. There have already been long negotiations, and an agreement was reached. Compensation was mentioned. The government’s view is that there is no compensation entitlement, because it was granted by administrative error. And already ATSIC grants have been made in compensation of over $100,000. So there is no loss to Aboriginal people by this. So I believe that most of the arguments have been met. But, as I said, I am prepared to accept amendments that resolve this issue because I do not want to see it going on forever and no resolution achieved. So I would seek leave to continue my remarks.

The ACTING DEPUTY PRESIDENT—Is leave granted?

Senator Bartlett—Mr Acting Deputy President—

The ACTING DEPUTY PRESIDENT—Senator Bartlett, I cannot recognise you if you are not in your seat and if you are not standing.

Senator Bartlett—I apologise for not listening fully to every word the minister was saying. Could I have a clearer indication of why he needs to continue his remarks rather than bring it to a vote?

The ACTING DEPUTY PRESIDENT—It took me by some surprise as well. Perhaps, Minister, you could by way of indulgence of the chamber give an explanation as to where we are.

Senator HERRON—I want this legislation to go through. I would like to consult with the opposition and the Democrats to see if we can get an amendment that makes that possible.

Senator BOLKUS (South Australia) (11.57 a.m.)—by leave—I think it has become pretty clear during the debate that the minister will not get any movement on this today. He has had five years to actually work at it and to get some agreement and some delivery of services to the people involved. Once we see that, then we will be in a better position to further the legislation. But the absence of any ministerial interest for five years does not really augur well for any outcome, particularly today.

The ACTING DEPUTY PRESIDENT—The minister has sought leave to continue his remarks. Is leave granted?

Leave not granted.

Question put:

That this bill be now read a second time.

The Senate divided. [12.02 p.m.]

(The President—Senator the Hon. Margaret Reid)

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<th>Ayes</th>
<th>28</th>
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<td>Majority</td>
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AYES

Abetz, E.  Alston, R. K. R.
Boswell, R. L. D. Brownhill, D. G.
Calvert, P. H. Campbell, I. G.
Chapman, H. G. P. Coonan, H **
Eggleston, A. Ferguson, A. B. Gibson, B. F. Herron, J.
Knowles, S. C. Mason, B. Minchin, N. H. Payne, M. A.
Tambling, G. E. Troeth, J. M.
Ellison, C. M. Ferris, J. Heffernan, W. Kemp, C. R.
Macdonald, I. D. McGauran, J. J. Patterson, K. C. 
Reid, M. E. Tchen, T. Watson, J. O. W.

NOES
Allison, L. Bartlett, A.
Bishop, M. Bolkus, N.
Bourne, V. W. Brown, B.
Campbell, G. Carr, K.
Conroy, S. M. Cook, P. F. S.
Cooney, B. Crossin, P. M.
Denman, K. J *
Gibbs, B.
Harradine, B.
Hogg, J.
Lees, M. H.
Mackay, S.
McLucas, J.
O’Brien, K.
Ray, R. F.
Schacht, C.
West, S.M.

PAIRS
Crane, A. W.
Hill, R.
Lightfoot, P. R.
Newman, J. M.
Parer, W. R.
Tierney, J. W.
Vanstone. A. E.
Faulkner, J. P.
Collins, J. M. A.
Evans, C. V.
Sherry, N.
Crowley, R. A.
Lundy, K. A.
Murray, A.

* denotes teller

Question so resolved in the negative.

CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) AMENDMENT BILL 1998
CLASSIFICATION (PUBLICATIONS, FILMS AND COMPUTER GAMES) CHARGES BILL 1998

Second Reading
Debate resumed from 15 February 1999, on motion by Senator Minchin:
That these bills be now read a second time.

Senator BOLKUS (South Australia) (12.07 p.m.)—I rise to speak to the Classification (Publications, Films and Computer Games) Amendment Bill 1998 and the Classification (Publications, Films and Computer Games) Charges Bill 1998. What a mess the Australian censorship system is in today. A system which has been developed over a number of years, at length and in consultation and in cooperation with the states is now in a mess because of a rearguard party room revolt by a small number of excited and agitated National Party backbenchers, the self-proclaimers of morality in this country.

We have a scheme that was developed over years, particularly by the previous Labor government, a scheme that was adopted and adapted to some extent by the current government and a scheme that relies on a national approach built on cooperation with the states and after consultation with the states and passage of legislation in this parliament. It was a structure that was agreed to. A censorship board, which has been more independent in the past than it is at present, was set up to govern the operation of the scheme. But events of the last 24 hours have led to headlines in today’s papers such as ‘Nats in X-rated censorship rebellion’. There has been a party room revolt as to the fundamental structures of the scheme.

It is important to note that good policy management is about ensuring a consultative outcome and approach, and this is what we have achieved in this area over a number of years. We have a national approach—we need a national approach, given our small population and the common borders that we all have in respect of the importation of films—which has been built on and depends on consultation and cooperation with the states. The government adopted that scheme. They have made only one small change, and that was to—sometime in the last 12 months—stack the censors.

In the last 24 hours we have seen an overruling of the censors. We have seen an ambush by excited, agitated National Party members who want the proposed classification ‘nonviolent erotica’ to be ‘nonviolent pornography’ or some other term that De-Anne Kelly in her wildest dreams may want to assign to this category of video. As a consequence, we have seen an undermining of the hapless Attorney-General, Daryl Williams. We have also seen, once again, a lack of leadership by the Prime Minister. The Prime Minister is missing in action in the debate. The Prime Minister has not been able
to protect his Attorney-General and the scheme that the Attorney-General has been able to get through cabinet and has been able to get the states to agree to.

The Prime Minister believes in selective censorship. When it comes to those he wants to protect, as we discovered just a couple of years ago with Pauline Hanson and her mates, he turns a blind eye. He gives them cover. This is the Prime Minister who railed against censorship when he first came into office. When Pauline and her racists and bigots got out of the blocks, he was the one who said that he did not believe in censorship and that people had a right to express their views. But when it comes to views he does not like, censorship is on, even though it may mean an undermining of one of his senior ministers. We have a Prime Minister who has told us in the past that, in this community, you cannot call a racist a racist or a bigot a bigot. But you can call things like this what you like, and it does not matter that a consultative process over a number of years has led to another definition. When it comes to his cultural opponents, the Prime Minister offers no such defence of freedom of expression or freedom of people being able to see and read what they want to, subject to protection of minors, and so on.

We have had a backroom revolt by a small number of people. A small number of National Party members, De-Anne Kelly and her moral vigilantes, have taken over censorship in this country. You may as well now call De-Anne Kelly the Commonwealth Censor. One wonders what they will want to do next. One wonders why they have done this now. When you look at reports of the party room meeting, De-Anne Kelly says, ‘We’ve done this because my concern is that this is a softening up process to allow over-the-counter sales of these movies.’ Is she afraid that the three movies that she put on for her small number of friends the other night, Transsexual Adventures, Max Goes South and Black She-Men, will pop up on her local grocery store shelves? That will not happen under this scheme. A good appreciation of policy shows it will not happen. She will not get them in her local grocery store. She is afraid that something might happen and, as a consequence, we have derailed a nationally accepted scheme.

One wonders where this will go next. I am sure, given the creativity and imagination of De-Anne Kelly and her state of agitation, we may next have her advocating labels on videos reading, for instance, ‘Watching these videos could lead to blindness’. I say this because this is the ridiculous nature of the situation we are in at the moment. Censorship in this country, the Commonwealth Censor, has been supplanted by De-Anne Kelly and her band of merry National Party vigilantes.

I urge the government to apply some sense in this. I urge the government to take some lead from the Attorney-General, although he has been substantially undermined by this, and to acknowledge that they have a scheme that has been worked out in consultation with the states and a scheme that has to come through this parliament for amendment. In doing so, they should appreciate that what De-Anne Kelly may want and what John Howard may let through to the keeper while he is missing in action in the party room may not be acceptable to the rest of Australia.

In that context, it should also be of concern to us that, when Mrs Kelly decided on Monday night she wanted to see some nonviolent erotic videos, she did not go to Fyshwick like the rest of Canberra might. She went to the Attorney-General’s office, and she was refused. She was refused because the view of the A-G’s office was that this would constitute an unlawful public viewing. Crimes can be committed in this parliament, Senator Heffernan—you know that. They can be committed in this parliament, and there has to be some concern as to whether what she did the other night constitutes an unlawful public viewing. It is obvious that this is the case in the assessment of the Attorney-General and his office, and it is something which I think the Attorney should look into further. This is the state of censorship.
In the legislation before us today, we have an attempt by the federal government to implement a 1997-98 budget commitment to provide full cost recovery for the classification services provided by the Office of Film and Literature Classification to apply from 1 July 1998. As an interim measure commencing on 1 November, the government introduced regulations to increase the relevant classification charges. An attempt was made to disallow these fees in the Senate, but at the time Senator Harradine supported the government and Senator Colston abstained. The regulations were projected to raise some $1.2 million per year. The government originally also introduced these two bills in the House of Representatives on 27 November 1997. The bills passed the House of Representatives but lapsed when the parliament was prorogued for the 1998 election. With one minor exception, the 1998 bills are substantially the same as the 1997 bills. The bills seek to further implement the measure announced in the government’s 1997-98 budget and, if passed, they are expected to increase the revenue of the Office of Film and Literature Classification, and of the government, by some $2.15 million per year. The government has already indicated that if the bills are not passed, it will seek to alter the financial arrangements of the office to ensure its financial position.

The first issue we need to address is the question of the bills imposing a tax. Whilst the bills claim to be imposing a charge, they in fact seek to impose a tax under section 55 of the Constitution. The government has received constitutional advice that it cannot otherwise include the full cost recovery of the ancillary services provided by the office in determining the appropriate level of the charges to be paid by those seeking the classification of publications, films and computer games. These ancillary services, as we have come to appreciate over recent estimates and other hearings, include such matters as research, policy development, ministerial support and payments to the states and territories for enforcement and related purposes. This is because, under the constitutional principles laid down by the High Court in the Air Caledonia International v. the Commonwealth case, for a charge to be lawfully classified as a fee for service rather than as a tax, the fee must bear a reasonable relationship to the cost of providing the service. The fact that the government is seeking to recover the cost of these ancillary services by imposing a tax is indeed an admission on its part that these charges do not in fact bear a legally sufficient relationship to the cost of the actual service provided to the industry, namely the classification of publications, films and computer games. The Labor Party believe that it is inappropriate to charge industry for the public interest functions performed by the office. We believe classification is a matter of genuine community, not just commercial, benefit. It is therefore appropriate that industry meet the cost of classification while government meets the cost of the related public interest functions.

We also have real concern about the effect of these charges on independent and small film-makers. The Attorney noted in his second reading speech that the level of the charges had been agreed following consultation with industry. To this end, the government appointed Ernst & Young to review the charge structure. What the Attorney omitted to state is that, despite having had only a few days in which to lodge their objections to the proposed fee structure, independent and smaller film producers have vigorously opposed the new charges. This is because it is the small, independent producers and publishers who will be hardest hit by these new fees. The fees for classifying a publication, film or computer game are levied on a one-off basis. For example, once a film has been classified, all identical prints of the film are also deemed to have been classified. In this context, large commercial distributors of films are therefore able to absorb the increased costs of classifying a film, given the considerable revenues generated from the multiple copies of the film distributed to cinemas across the country.

However, for the small and independent film-makers, those who already operate on limited budgets and who may be in a position to distribute only one or two prints of the film, the fee is the same but the increased cost as a proportion of the overall cost of production is quite considerable. As a result,
the enactment of this bill will make it even harder for small and independent distributors to service niche markets and, in particular, to encourage the development of the creative talents of young and upcoming Australian film-makers. The Attorney has claimed that these charges would have little impact on new and small film-makers because film festivals are generally exempted from these fees. It is very obvious that he does not understand that film-making in Australia has developed enormously and film-makers have to prove themselves in the commercial market before major film studios, distributors or film festivals pick them up.

The level of the fees also gives rise to concern about the level of compliance with Australia’s classification system. The shadow Attorney has been advised by industry sources that the level of compliance with the system has dropped since the fee increases of 1997. The office stated at the Senate estimates that it was not aware of these concerns. It also noted that it had not been looking at such a trend. Rather, it pointed to the excellent work that is done by the community liaison office in seeking to encourage increased compliance. But if the trend is indeed true, as industry claims it is, then it has to be a worrying trend. Public interest is best served not by a community liaison officer but by industry complying with the laws. I think it is something that needs to attract the Attorney’s attention and the attention of his officers. If increased fees are indeed resulting in an increased number of rogue operators on the fringe of the system, then they are neither in the interests of the government nor in the interests of the public. Public interest is clearly best served by maximum compliance with the scheme.

The question of varying the tax also comes up in this legislation. The charges bill provides that the level of the taxes can be varied by way of regulation. The government argues that this is necessary because the charges will have to be regularly adjusted with a view to the cost structure of the office. However, this also gives the government considerable flexibility to increase the relevant charges so that they bear no relationship to the future cost structure of the office. Therefore, they cease to be a cost recovery measure, even in the grossly expanded term, which is used by the government in this legislation. In effect, what the bills do is allow the imposition of potentially punitive taxes on publication, film and computer game industries, with only subsequent Senate disallowance as a possible check on government excesses. We believe that this situation is not acceptable as it enables the government to increase taxes at its whim.

Part 1 of the amendment bill also removes some formal requirements in making application for classification of material and for the investigation and prosecution of an offence. These amendments overcome the failure of two prosecutions in 1997, which occurred due to lack of compliance with all the formal requirements. We support these amendments.

There is only one difference between the 1998 bill and the 1997 bill. That relates to subsection 91(1) of the 1998 amendment bill which, if it is in the public interest to do so, permits the director to waive, in whole or in part, the classification charges for limited distribution of special interest material which comprises a documentary record of an event or which is of a cultural or like manner. It is estimated that only about 100 films per year will be excluded on this basis, and the cost to budget will be some $54,000. It is a very limited exemption. It is not the broad exemption that the Attorney sought to portray in the House of Representatives. It will not provide a sufficient mechanism for small independent distributors of films to get exemptions for their works. It would not allow, for example, religious institutions to seek an exemption for films within a religious context. However, it does address the problems experienced by a very particular niche in the market. Once again, the Labor Party supports this.

Consistent with our stance on the 1997 bills, Labor will continue to oppose the charges bill. We will support those amendments contained in the amendment bills which improve the enforcement of this area of law, but we will be moving amendments to the amendment bill to remove references to the imposition of charges. This will allow the
amendment bill to operate independently of the charges bill.

So I indicate that there are a number of amendments. They are large in number, but they all amount to achieving this particular purpose. I will be seeking to move them all together in the committee stage, if that is procedurally possible. I would say once again that we do and we will continue to oppose the charges regime proposed by the government, but the other parts of the legislation we can accept.

Senator GREIG (Western Australia) (12.25 p.m.)—I would echo the preamble to Senator Bolkus’s speech in the second reading debate by expressing too my alarm at the state of censorship in Australia, particularly with the way in which in the last 12 to 24 hours we have seen a strange scuttling of proposed legislation that has been in the pipeline for so long and which has undergone such thorough consultation and which has cooperative cross-party support. It concerns me that such a scuttling can take place by such a small group of what I consider to be unrepresentative people. I would go further than Senator Bolkus. I would argue that it is not simply members of the National Party who have managed to bring about this effect; I fear too the shadowy hand of the Christian Right whose sinister, I think, influence is so dominant in America—and there has been much reportage of that in recent weeks in terms of the preselection battles between the presidential candidates in the States. I fear that that dominance will grow here in Australia also.

However, I will go back to the bills at hand. We are not debating NVE at this point in time but the classification of such matters. In essence, these bills are about taxation. There are some other amendments, which will attract the support of the Australian Democrats. However, what we are in essence talking about here is the imposition of a tax on freedom of speech and, in those terms, democracy itself. When these bills were first proposed around 1998, the Australian political landscape was a very different place. Senator Harradine and former Senator Colston held the effective balance of power in the Senate and conservatives and, as some unkind people have suggested, wowsers had the ear of government. At that time the ANTS package had not passed this parliament. So to my mind, one must question how this new film, literature and computer games tax is meant to now fit into the government’s new tax package.

The current bills are stated as being a reflection of an ongoing application of cost recovery by successive coalition and Labor governments. In terms of the rhetoric of economic fundamentalism, these bills fall under the nominal heading of ‘user pays’. As stated in the Office of Film and Literature Classification annual report of 1997-98:

A subsequent decision however taken by the government in the context of the 1996 budget required the OFLC to achieve cost recovery for its entire operation including the services provided to government and to the community.

The Australian Democrats support a legitimate role by the federal government in classifying material in the public domain. We also support a vibrant and robust environment where freedom of expression is promoted and protected within the context of respect for, and adherence to, appropriate community domains. The Classification (Publications, Films and Computer Games) Amendment Bill 1998 and the Classification (Publications, Films and Computer Games) Charges Bill 1998 fail to take into account these principles. Furthermore, the bills fail to establish a system of classification that is workable, competitive and responsive to the community’s expectation of an efficient system of grading and classifying visual material in the public domain.

The Australian Democrats believe that it is the public responsibility of government to provide a system of efficient, unbiased and cost effective classification to industry and consumers. We do not believe it is the role of industry to fund the classification system in this country. The Parliamentary Library’s Bills Digest outlines the legislative history of the current bills. These bills replace the Classification (Publications, Films and Computer Games) Bill 1997, which passed the House of Representatives on 4 December 1997, having been introduced on 26 November 1997. The previous bill was introduced into the Senate
on 4 December 1997, but not debated further. It then lapsed when the election was called on 31 August 1998.

The new bill contains one significant change from the earlier bill. It concerns the power of the Director of the Classification Board to waive the whole or part of the charges for classification of material that has limited market appeal. This change has been made following concerns expressed by independent film makers about the possible inequity of the new charges.

The Classification (Publications, Films and Computer Games) Act 1995—that is, the principal act—is part of a Commonwealth, state and territory cooperative legislative scheme for the classification of publications, films and computer games and enforcement of classification decisions made under it. That act established the Classification Board and the Classification Review Board on 1 January 1996 and provides the procedures for the classification of material.

It is clear that the classification amendment and charges bills were conceived by the government at a time prior to the development of the series of bills presented before the Senate, variously known as a new tax system. The Democrats believe that, in light of the new tax system, which at various times the government has described as being a replacement for superfluous charges and taxes, there is an apparent inconsistency between the government’s stated objective and the concept of creating a new tax system.

Notwithstanding that, the Australian Democrats remain concerned that, until the Senate’s Legal and Constitutional Legislation Committee inquired into this bill, there appears to have been little or no consultation with industry groups and bodies towards the appropriate or even alternate cost recovery structures necessary to give effect to a workable and affordable system of classification. I remain concerned that the Ernst and Young and the KPMG reports, on which these bills are purportedly based, appear not to have been released for public dissemination. If that has occurred, I apologise to the minister. However, the fact remains that the report was not released before these bills were drafted.

Evidence from the Commonwealth Attorney-General’s Department to the Senate hearing suggests an extensive consultation process:

The time for turning this around was tight, but we engaged Ernst & Young and there was a report to the Attorney-General’s Department, which reported in March. This is dated 3 April, but I think the submissions cut off on 23 March. What it did, according to this, was write to everyone who had used the OFLC services in the previous two years. That should have covered some of the people today that said they were not. There was a very tight two week timetable to put in the initial submissions. There were several meetings with interested people.

However, in evidence to the Senate Legal and Constitution Legislation Committee, Mr Stephen Bladwell, a partner of Ernst and Young and representative of the Motion Picture Distributors Association of Australia, Village Roadshow and Fox Film Distributors, had the following to say upon an invitation to comment from Senator Cooney, who asked:

Are there any comments you would care to make about some parts of it?

He was referring there to the Ernst and Young report. Mr Bladwell replied:

I know what it is about. A partner of mine, Colin White who is a specialist accountant was requested to do a review. That review was very limited in scope and it really did not address—and was specifically required not to address—the overall increases in the charges, nor was it allowed to address the correctness or otherwise of trying to recover costs. What we are saying to your committee now is that our first and foremost charge is that the whole bill is flawed. That is something that Colin White was not required to do. Indeed he was specifically required not to do it, that is, address the nature of the charge. The second point we are making to you is that the fee is excessive, again that was something that Colin White was not allowed to address.

I think that really says it all. I am indebted to Senator Cooney for his continued insightful questioning at Senate committee hearings, as indeed I am to my colleague Senator Bartlett, who presented the Democrats’ report to the Senate’s Legal and Constitutional Legislation Committee.

It appears that the government has proceeded to drafting legislation based on a report that did not address the fundamental
SPAA submits that in the short to medium term, the overall impact of these charges may lead to a downturn in film and television production levels. This could give rise to unemployment within the industry, reduced opportunities for Australian creative talent and affect Australian cultural identity.

At the very least, A New Tax System (Goods and Services Tax) Bill 1998 will impose significant pressures on an industry that functions with skeletal corporate/organisational structures and limited resources. This is not to plead for exceptional treatment in a concession tax system. Rather we seek special assistance to see this important industry through the early stages of the GST’s implementation thus ensuring the viability of Australian film and television production.

In conclusion, the Democrats will not support the charges bill and the correlating sections in the amendment bill. I foreshadow our support for the amendments as circulated by the opposition.

Freedom and responsibility of speech and publication is an important democratic tenet which should always be debated with balance in mind. For too long in this country people who disagree with explicit depictions of sexual expression have held to ransom the hearts, minds and tastes of those adults who are bestowed with a freedom of expression and opinion. That should be their birthright as Australians. If democracy is to have real meaning, then it must be based on respect for the diversity that is the human family.

In closing I would like to quote the words of our current Attorney-General:

The government is aware that some members of the community who find the portrayal of sexually explicit material on video tape offensive are unhappy with the government’s decision not to ban this material. While the government understands and accepts these views, there is a need to approach this issue from a general community perspective.

I concur with those sentiments and express the Democrats’ support for the Attorney-General’s balanced view on these matters. Given that it is my intention to support the first aspect of this legislation and not the latter, I would ask that when we get to the second reading vote on this they be moved separately.

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (12.37 p.m.)—I listened a few minutes ago to Senator Bolkus, who came into this chamber and made some very serious accusations and was very aggressive in his comments towards the National Party on the topic of hard-core pornography.

Senator Schacht—You blokes had a special showing for it. Best turn-up you have ever had, I suppose.

Senator BOSWELL—Senator Schacht, you are quite entitled to join this debate after. What, in effect, happened yesterday was not an overturning of some sort of a position that the government took—

Senator Schacht interjecting—

Senator Heffernan interjecting—

The ACTING DEPUTY PRESIDENT (Senator Murphy)—Order! Senator Schacht and Senator Heffernan, your comments and actions are disorderly. You know the Senate rules and I ask you to desist from interrupting Senator Boswell.

Senator BOSWELL—Thank you, Mr Acting Deputy President. What happened yesterday was democracy at work when a group of representatives—not only National Party representatives but also many women in the Liberal Party—responded to the concerns raised by De-Anne Kelly. I do not want to be the deep throat of the coalition party room. But let me say this: this is democracy at work and that is a position that is taken by our members.

A party room—certainly the coalition’s party room—is where the cabinet and the Prime Minister listen to the concerns of the members of parliament and the senators who represent constituencies right across Australia. In effect, what happened was that a very strong case was presented by not only De-Anne Kelly and National Party members but also Liberal members—and I will say that most of them were Liberal women members of parliament—who said to the executive,
‘We don’t want to go this far.’ The Prime Minister has responded. That is democracy. Do not come in here and say that the Prime Minister is not showing leadership. The Prime Minister is showing leadership. He is responding to the members of parliament who are responding to the electorate.

The National Party represents many families throughout this country who do not want to see society move towards accepting hardcore pornography. We are quite proud to be standing up for those families and we do it with every forum that is available to us. We believe in labelling—whether it is labelling pornography or labelling produce. If a thing is pornography, it should be labelled pornography, not nonviolent erotica—it is nonviolent pornography. I give full marks to De-Anne Kelly, who presented this to the party room. That is her duty and she did it very well. That is why we have rating systems. We should not be naming something that is X-rated pornography as nonviolent erotica. We know at the moment these particular videos cannot be sold over the counter and that they can be obtained only from Canberra and the Northern Territory. I remember when former Senator Bjelke-Petersen was here she actually named Canberra as ‘Pornberra’. That is where the pornography is coming from.

Senator Schacht—Get stuck into the Liberal government in Canberra. They tax it. They make money out of it. They are not going to close it down.

The ACTING DEPUTY PRESIDENT—Senator Schacht, your actions and interjections are out of order.

Senator BOSWELL—Mr Acting Deputy President, can you control Senator Schacht?

The ACTING DEPUTY PRESIDENT—Senator Boswell, I am. A senator sitting on my right is not helping matters either. I have asked them both once to desist from interjections that are disorderly.

Senator BOSWELL—The National Party has a proud record of standing up for these social and moral issues. There are many Australians, beyond the trendy lefties, who applaud us for doing so. That is what we are here to do. We are elected by constituencies to come down here and be their voice in this place, and that is exactly what we are doing.

I would have thought that on this International Women’s Day Senator Bolkus would give some attention to many women who find these videos absolutely degrading. I would have thought that he would have shown more sensitivity on International Women’s Day than getting up and defending in this place pornographic videos. It was a masterpiece in mistiming that he would do this on International Women’s Day. Surely he could have thought of the number of women who take a violent reaction against these sorts of videos.

I am absolutely proud of what the National Party and members of the Liberal Party did yesterday. They stood up for what they believed was incorrect and then presented a very strong argument to the Prime Minister, and he listened to their argument. So do not come in here and say that that is not democracy. Maybe you just go through the charade of having a party meeting—you all stand up and say what you think and the executive of the Labor Party take absolutely no notice of the advice that they get from members of parliament. That may be why you are in opposition and you will probably be there for a good many more years. A government that is responsible to the people takes note of what representatives of the constituencies are telling their executive, and that is exactly what happened yesterday. So the Prime Minister cannot be accused of weakness. If anything, he showed great strength in standing up for what the people said—

Debate interrupted.

MATTERS OF PUBLIC INTEREST

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

Budget Reforms

Senator McGAURAN (Victoria) (12.45 p.m.)—I would like to raise before the Senate the matter of the government’s budget approach when it first came into government in 1996. While much has been reported on the government’s reforms—such as industrial relations, which led to the reform of the waterfront; social welfare, which led to the
tightening up of social welfare, making it more responsible and accountable; and, of course, in the area of taxation, major tax reform which is under way—it is worthy to note, and for future governments to note, four other major reforms that this government has brought in. They are in the area of budget, fiscal and monetary reporting, bringing a new discipline, responsibility, accountability and transparency to government and to government accounts. These are important words in relation to our democracy and how a government runs and uses taxpayers’ funds.

I will go through the four major reforms. Firstly, the government’s Charter of Budget Honesty, which was brought in to coincide with the government’s first budget of 1996. The main purpose of the Charter of Budget Honesty was to provide for an improvement in fiscal policy outcomes by providing a framework for the conduct of the government’s fiscal policy. So the bill, made law, requires the publication, once a general election is called, of a pre-election report setting out the fiscal and economic outlook. The bill also provides that, once a general election has been called, the government or the opposition may request the secretaries to the Department of the Treasury and the Department of Finance and Administration to prepare costings of any of its publicly announced policies and for the publication of such costings. The request from the opposition must be made through the Prime Minister of the day.

The Charter of Budget Honesty came about from the National Commission of Audit, commissioned by this government. Its findings were based on requiring governments to state their objectives and assessed fiscal policy outcomes against established benchmarks, which will contribute towards enhancing fiscal transparency and accountability. The fiscal responsibility legislation, in the form of the Charter of Budget Honesty, was the outcome and made law. The background to the introduction of this bill was summed up by the Treasurer in his budget speech on 20 August 1996. To quote him:

Fiscal dishonesty of that sort of magnitude undermines public confidence in our political system. The Charter of Budget Honesty restores that confidence not just for this government but for all future governments. The charter will require any future government to set out a fiscal strategy and report against it. The charter will entrench this government’s commitment to responsible and accountable fiscal policy. Also, from the Charter of Budget Honesty, reform No. 2 outlines the requirement to produce a midyear economic and fiscal economic outlook report: a report to the nation of the government’s finances, measured up against the reality and the government’s budget. I have before me that mid-year report. It has to be brought down before January each year. This one was brought down in November 1999. It says in its foreword:

The 1999-2000 mid-year economic and fiscal outlook has been prepared in accordance with the Charter of Budget Honesty Act 1998. The Charter requires that the Government provide a report by the end of January each year which provides updated information to allow the assessment of the Government’s fiscal performance against its fiscal strategy.

Again, it is an accountability measure for this government and future governments. It provides an overview of the fiscal outlook. It discusses the economic forecasts which underpin the expenses, capital and revenue estimates of a government. It provides details of the financial position and outlook. The report should provide details of the general government revenue estimates and provide details of the general government expenses and capital estimates. It is an extensive review of the government’s management up to date. The report handed down in 1999 has been the fourth such document. This system of accountability and transparency is well and truly under way.

The third major reform that the government introduced in its very early days of government to bring about that accountability for this government and future governments—and I keep saying that because that is the importance of these reforms—was the Auditor-General’s Bill 1996. I will repeat again: we have heard of the major reforms in tax, industrial relations and social welfare.
These types of reforms are nitty-gritty. I want to make that point: they are basically uninteresting, very technical and very bureaucratic, but they will have, and have had, a profound effect upon the transparency of government, which can only strengthen, in the end, democracy.

As I said, the third reform that this government introduced was the Auditor-General’s Bill 1996. Again, it placed stronger and tougher discipline and scrutiny on governments, matching this government’s call for responsibility for taxpayers’ funds. The Auditor-General’s Bill 1996 provided for the establishment of the Office of Auditor-General under the proposed new financial accounting regimes. So it was replacing the old Auditor-General’s Act 1901. You can see what major change has occurred from just the difference in dates. The Auditor-General is now an independent officer of the parliament. That was the big change. Prior to that, the Auditor-General was an officer of the executive. He is now an officer of the parliament. He now has a more clearly defined role and powers with which he can act. In fact, he has greater independence than he had before.

The bill also provided for a range of statutory safeguards insulating the office from inappropriate interference by either the executive or the parliament, but the office is ultimately responsible to the parliament. The bill also created the Australian National Audit Office as an independent statutory body employing staff under the Public Service Act but with a capacity to contract out work where considered appropriate by the Auditor-General—a most important point. Together with the transitional provisions bill—which must have come through at the time of this bill—it makes provision for a wider role for the parliament in selecting the Auditor-General and in monitoring the performance of the Audit Office, therefore not just giving the minister of the day the sole power to appoint. Again, that diversifies more power to the parliament. It also re-establishes the Office of Independent Auditor, who is the parliament’s auditor.

The fourth big change we made to the budget process and the reporting process of this government was in relation to the Reserve Bank, and a most significant change it was. It increased the accountability of the Reserve Bank and also its independence. It gave clear signals as to the responsibility of the executive with regard to monetary policy and the responsibilities of the Reserve Bank. No longer will we have, as we had in the previous government, a Reserve Bank Governor in the Treasurer’s back pocket. That was the quote of the Treasurer of the day of a former government, that he had the Governor of the Reserve Bank in his back pocket. That really undermined the credibility of the Reserve Bank, the credibility of any of its decisions, when it was so closely linked to political decisions of the day. Here we have undertaken an agreement with the Reserve Bank and enhanced its independence. So there will not be a Governor of the Reserve Bank in any Treasurer’s back pocket anymore. That single sentence used by former Treasurer Paul Keating really motivated this government to introduce this major reform.

The statement between the government and the Reserve Bank, as I said, sets out the policy that both must undertake separately and independently. It clarifies their responsibilities and roles, and the government recognises the independence of the bank. The framework of the objectives and of the signed agreement, exchange of letters, between the Reserve Bank and the government sets out that the Reserve Bank requires the board to conduct monetary policy in a way that, in the board’s opinion, will best contribute to the objectives of (a) the stability of the currency of Australia, (b) the maintenance of full employment in Australia and (c) the economic prosperity and welfare of Australians. In addition, with a clearly defined inflation objective, it is important that the Reserve Bank report on how it sees developments in the economy, currently and in prospect, affecting expected inflation outcomes. So the Reserve Bank will set the inflationary targets, the band, and will act independent of governments in maintaining that inflation band. We have elevated the need to keep inflation down in this country, and we have given the Reserve Bank the responsibility to enact policy independent of any government to maintain that band of inflation, whatever it sees it at on the day.
In recent years, the Reserve Bank has also taken steps to conduct a far more public policy approach, making it more transparent. In fact, under the exchange of letters, it is required to come before the House of Representatives Standing Committee on Financial Institutions and Public Administration. So twice a year the Reserve Bank Governor will come before the parliamentary committee to answer questions and to restate the policy of the Reserve Bank, making it clear not just for the markets but for the government and the Australian people. So the Reserve Bank is now far more independent and far more transparent.

The final major reform to the budget, without doubt, has been in the area of accounting. Here we have the rather complex and hard to understand change of the accounting process from cash accounting—a most traditional form of accounting for governments, a very Westminster type of accounting for governments—to accrual accounting. We are one of the few governments in the world to change to accrual accounting. We believe that others, including the United States, which has not yet changed, will follow suit because it brings greater accountability and transparency to government accounts.

It is a major change. It has been a major upheaval within the bureaucracies. They have tackled it well. If you think the GST is going to be hard to introduce, try introducing accrual accounting, after all these years, into the bureaucracy. It is most difficult but it has gone smoothly. To give credit to some degree to the previous government, they had those plans on the drawing boards and we have simply taken it up in government and enacted it. I will quote Mr John Fahey, the minister for finance, in a speech he made. He sets out to explain what accrual accounting is and what it does. (Time expired)

Crime Rates in the Northern Territory: Advertisements

Senator CROSSIN (Northern Territory) (1.00 p.m.)—I rise to put on the record some accuracy with respect to false and misleading advertising about mandatory sentencing and crime figures that have been undertaken by the Northern Territory government in the last month. I want to direct my comments to two advertisements that have appeared in newspapers. The first is about crime rates in the Northern Territory, an advertisement that Mr Burke authorised the publication of, entitled ‘Northern Territory News, Saturday, February 19, 2000’. It appeared in the Northern Territory News on 28 February and last week, and also in a number of newspapers around the Northern Territory. The advertisement is false and misleading. It claims that new figures have been released about property crime in the Northern Territory. This is false. The figures the advertisement relies on were published in the Australian Bureau of Statistics publication Recorded Crime (No. 4510.0) in June 1999.

The advertisement consists of four paragraphs of an article in the Northern Territory News on 19 February. The first paragraph of the article is in bold text. It states that property crime has been reduced by 14 per cent in the Northern Territory over the last three years. This is completely untrue. The assertion made in the paragraph is based on an analysis of the change in the rate of reporting from only one category of property crime—unlawful entries—in the Northern Territory, between 1996 and 1998. The rate of reporting of unlawful entries did decrease over that period; however, it is completely misleading to suggest, as the advertisement does, that property crime, implying a range of categories of property offences, has reduced by 14 per cent.

The assertions made in the original article were refuted in an article written by Mr Gordon Renouf, the Director of the North Australian Aboriginal Legal Aid Service, and published in the Northern Territory News on 22 February. That article relied on an analysis of the most recently published data of property reporting. The original article was published at a time when there was widespread public criticism of mandatory sentencing. The advertisement has been published in the context of a by-election which the government has suggested is a referendum on mandatory sentencing. The advertisement has clearly been placed at this time in order to suggest that mandatory sentencing has had some role to play in the reduction of crime in
the Northern Territory. Such a suggestion, I put, is false and cannot be supported by any available evidence. The advertisement fails to point out that the reporting of unlawful entries was falling before mandatory sentencing was introduced in the Northern Territory, and that the reporting of unlawful entries increased after the introduction of mandatory sentencing. This is a serious omission given the advertisement appears to have been placed in order to create the impression that mandatory sentencing was working to deter and reduce crime.

The most recent figures publicly available that relate to crime reporting are those published in the Northern Territory’s Police Fire and Emergency Services Annual Report for 1998-99. Those figures do not support the assertions of, or implications made by, the advertisements. For example, the police figures indicate that the reporting of property crime, based on 14 categories of property offences, not just one category, has decreased by only 2.7 per cent over the last five years. The figures also indicate that unlawful entry of dwellings has increased by 11 per cent over the last five years.

On 18 February, the day before the article appeared in the Northern Territory News, Mr Burke made the following comments about the figures that appear in the advertisement in an interview with A Current Affair. The interviewer said:

What’s changed in the 3 years since this system has been in place.

Mr Burke’s reply:

I could tell you that there are statistics coming out today which show property crime is down by 14% and car stealing is down by 23%.

He went on to say:

But I’ve refused to put out statistics because I don’t believe them anyway. Frankly, in the NT they peak and trough at various times. What’s changed is community satisfaction that the punitive aspect of the system is applied.

The interviewer asked:

So what you’re saying is that you don’t even believe the statistics that crime has gone down ...

Over the past 3 years burglaries have not decreased.

Mr Burke replied:

Mandatory sentencing is punishment ... Crime figures go up or down. It’s not the issue.

Well, it would appear from the above comments on that interview that Mr Burke was well aware, prior to the advertisements being placed, that the statistics that were to appear in the advertisement might be misleading. So why did he then go ahead and seek to publish them and further mislead the public about it?

The second aspect I want to speak about this afternoon is the advertisement which appeared not only in Northern Territory newspapers but also in national newspapers around the country, of which people would be well aware. It referred to how mandatory sentencing works and was entitled ‘Mandatory minimum sentencing’. It is now known as minimum sentencing, a very subtle change we might notice from the Chief Minister. That advertisement first appeared on 26 February this year and it was authorised by Mr Denis Burke. The same advertisement has been published in other newspapers and other publications in the Northern Territory.

This is another advertisement which is false and misleading. Mr Burke claims in the advertisement that, under the mandatory sentencing laws, juveniles are incarcerated in the Northern Territory after ‘they have established a pattern of criminal behaviour, and offer no remorse or regard for the rights of victims of crime’. This is not true. Section 523AE of the Juvenile Justices Act 1983 governs the imposition of mandatory minimum sentencing for juvenile property offenders. That section does not refer to a juvenile’s remorse or lack of remorse. Remorse is not relevant to mandatory minimum sentencing. The provisions apply to repeat offenders. A second offence is a repeat offence for the purpose of the section. There is no requirement that the prosecution establish a pattern of criminal behaviour. The advertisement purports to set out for voters how the system works. There is a table underneath the introductory paragraphs entitled ‘Juvenile (aged 15 and 16 years): burglary, stealing, car theft and property damage’.

Property offences are not restricted to the four offences stated in the advertisement. The mandatory minimum sentences apply to robbery; assault with intent to steal; unlawful
entry of buildings; being armed with the intention of entering buildings; unlawful use of a vessel, motor vehicle, caravan or trailer; receiving stolen property; taking a reward for property obtained by means of crime; being in possession of goods reasonably suspected of being stolen and criminal damage in general.

Mr Burke claims that, except in the most serious cases, the Northern Territory Police caution juveniles they apprehend for property offences for the first time. Police officers have discretion as to whether or not to lay a charge against a person suspected of having committed an offence. This discretion operates at every level of the criminal justice system and applies equally to adults and non-property offenders. There is no provision for police cautions in the Juvenile Justices Act or any other act. In short, there is no legal requirement that a juvenile be given the benefit of a police caution on the first occasion that they have committed a property offence. In so far as I am aware, there is no evidence that juveniles are cautioned by police as a matter of practice prior to their first appearance at court in relation to a property offence. There is no evidence of which I am aware to support the assertion made in the advertisement that a juvenile who is charged with a first offence has offended in the past. Very few of our juvenile offenders report having received a police caution prior to their first appearance in court in relation to a property offence.

The advertisement then claims that a juvenile who commits a second property offence will be counselled and discharged without penalty by the court. This is false. The Juvenile Justices Act provides that a juvenile who is found guilty of a second property offence must be sent to a diversion program or convicted and sentenced to a minimum of 28 days detention. A juvenile who is found guilty of a third offence must be convicted and sentenced to a minimum of 28 days detention.

The advertisement claims that a juvenile charged with a third property offence is eligible to participate in a juvenile diversion program. This is false. Juvenile diversion is available only to second time property offenders. Once again, the advertisement assumes that a young person appearing before the court for the second time has committed other offences for which they were not charged. The advertisement also claims that the fourth time a juvenile appears in court is the first occasion when incarceration is the only option available to the court. Once again this is false.

The second table in the advertisement entitled ‘Adult (aged 17 or over)’ is also misleading. The advertisement claims that the court is not required to send a first offender to prison if the offence was comparatively trivial and he or she can prove that there were exceptional circumstances. The advertisement neglects to mention that there are seven hurdles that make up exceptional circumstances. The offender must prove that all hurdles have been satisfied—all of them. The advertisement mentions only one of those hurdles—that the offence be trivial in nature.

The other hurdles are: that the offence is the first property offence; the offence was committed in substantially mitigating circumstances; the offender is of good character; the offender cooperated with police; the offence was trivial—which is the one that is mentioned; the offender has taken steps to pay restitution; and the offender was charged with only a single property offence.

The requirement that there be a ‘single property offence’ means that only very few first offenders can even be considered for exceptional circumstances. This is because many single incidences of property offences are in fact charged as two separate charges. For example, a 17-year-old offender who opens the unlocked door of a motor vehicle and takes $5 worth of coins will be charged with unlawful interference with a motor vehicle and with stealing. Such an offender does not fall within the exceptions and must be sentenced to 14 days imprisonment.

By failing to state or describe these hurdles, the advertisement gives the misleading impression that all first-time offenders who have committed a trivial offence have the opportunity of escaping a mandatory sentence. The reality is that exceptional circumstances apply to very few first offenders. The provisions have been applied in only a hand-
ful of cases since the provision came into force in August 1999.

The advertisement also lists a number of gazetted or approved juvenile diversion programs. The advertisement fails to mention that to date the programs have not yet resulted in a single child escaping a mandatory sentence. Some of the reasons for this are that there have been very few programs available to children from bush communities; possibly a lack of support or understanding of the programs from some members of the police service; and only token government support for programs. For example, as far as the North Australian Aboriginal Legal Aid Service is aware, there is only one person hired to manage the programs for the whole of the Territory and apparently no government funding at all for communities who wish to set up a community based program. Police support for juvenile/offender conferencing is critical if that program is to be effective. However, there appears to have been little or no consultation with police or, indeed, other stakeholders about this option.

The present reality is that the diversionary programs have existed more as theory than as reality. The advertisement gives the impression that programs are widely available across the Northern Territory and this is a misleading impression. This advertisement was sent on 3 March by Denis Burke under the letterhead of the Northern Territory government to, I assume, all senators and members. Let me quote from his letter. He says:

There has been a great deal of misinformation on the mandatory sentencing regime.

I say yes, Mr Burke, indeed there has, and it is contained in your advertisement. He goes on to say:

In order to set the record straight and to provide the wider community with the facts, my government is advertising the basic facts—

not all of the facts, not the correct facts, but the basic facts—

on mandatory minimum sentencing legislation in some national newspapers.

So, Mr Burke, I say to you—and I would like to set the record straight for the nation and for those people around this country who have seen your advertisement—that perhaps the next time you choose to put an advertisement in the national newspapers at Northern Territory taxpayers’ expense you will ensure it will not be misleading; perhaps it will be a little bit more truthful than the ones you have provided.

Telstra

Senator ALISON (Victoria) (1.14 p.m.)—I rise today to speak about the expected announcement by Telstra that its half-year profit will be $2.09 billion and that at the same time it proposes to cut around 10,000 jobs from its organisation. As with the last round of job cuts, which, of course, coincided with the privatisation of the first half of Telstra, a disproportionate number of these will come from the bush. I remind the Senate that 27,000 jobs were lost from Telstra during that first round of privatisation. Today I want to pose the question of how Telstra can be expected to be in any sort of position to adequately fix telephone lines and repair faults when I hear that repair crews are already travelling enormous distances in order to reach people whose services have somehow failed.

I remind the Senate that back in March last year the Australian Communications Authority said it had consistently found that Telstra over the last few years was not meeting its performance targets in rural Australia. It said that a number of systemic factors contributed to the poor performance of Telstra, including inadequate infrastructure, partly attributable to ageing; underprovisioning of the customer access network; deficient records of cable distribution pairs; and some poor work practices and procedures. The ACA also said that it felt that Telstra’s remedial strategy might work in the longer term, but it was not confident about short-term improvement in performance. Bearing that in mind, I think when we are faced with the announcement that a further 10,000 jobs will go—that adds up to 37,000 jobs—we have to ask the question: what impact will that have on an already inadequate and poor performance for, particularly, regional and rural Australians?

As some justification for this action in cutting another 10,000 jobs, Telstra argues that their staffing ratios are higher than other countries. That should come as no surprise to
anybody. Our population, as any primary school student can tell you, is spread out and there is, of course, a concentration in capital cities and along the eastern seaboard. There is no other country comparable to Australia in that respect. We have always assumed in this country, I think, that it has been necessary for reasons of equity that people outside those capital cities should not be denied telecommunications services. It may be impracticable for them to be as good as the city areas, but nonetheless that should be one of our aims. I see us going backwards in this respect.

We all know that the more remote you are, the more critical it is that your communications with the outside world are viable. These days, with so much commerce being conducted on the Internet and by email, the bush is falling further and further behind. This is especially true for education. Just this week the Human Rights and Equal Opportunity Commission came to the Senate to report on their work on education in isolated and regional rural areas. What is coming through as a major problem for education is that Internet services are simply not reaching outlying areas. I visited a school in Glen Waverley in my home state of Victoria a week or so ago and saw the enormous advances that are being made in our education system using Internet and email. This is simply denied, by and large, to the vast majority of country schools.

I would argue that it is now time for the Prime Minister to sit down with Telstra and develop a plan for better Internet services to rural Australia, including schools. We need to see time lines and understand exactly what is possible in technological terms, be it satellite or a combination of possibilities. I am certainly not in a position to say what sorts of systems should be put in place. But I think we need to see the plan. We need to know where we are going and when we are going to get there.

We need to understand what sort of technology is best placed to serve rural and regional Australia and we need to know that those services can be delivered in an affordable way. The coalition government went to the last election saying that ISDN would be provided to country Australia. It actually meant that the facility would reach major regional centres but it would not be provided to those who want to use it unless they can afford very high connection prices and unless they can afford the cost of linking onto the Internet as well.

Telstra, in my view, with a $2.09 billion profit—a considerable increase on this time last year—should use some of that money to show the world how it can deliver the latest technology to remote areas. That would be a fine aim. I am very disappointed that the Prime Minister has thus far failed to push Telstra to do this. We have also heard this week that Telstra wants to sell off its Internet software company. There have been a lot of talks about takeovers of other Internet companies. So we are getting very mixed messages out of Telstra. On the one hand, it wants to sell off bits of its organisation and on the other hand it wants to take over organisations. It is clear that those messages are designed to suggest that Telstra is no longer appropriate in public ownership—something which the vast majority of Australians do not agree with.

This $2 billion profit comes on top of very high long-distance STD rates in this country. We all know there is no longer a connection between the distance travelled by a message on the wire, as it were, and the cost. It does not cost any more for Telstra to deliver a call from Newcastle to Shepparton than it does from South Yarra to St Kilda. Distance is no longer a factor, yet we have not seen Telstra address this question. We have not seen competition drive down those costs and still this remains a serious problem for rural and regional areas.

I refer to the study which was done of how Australia compares with overseas countries. We charge more for domestic long-distance calls than any other OECD country, bar Japan. On the other hand, we are about midway for international calls. The US, Japan and New Zealand charge more than Australia does but we still charge much more than the UK, Finland, Sweden, Canada and others, France included.

We rate rather better on mobiles but, again, this advantages city people because the
CDMA service has not yet met the coverage that the analog service previously had and digital does not reach into regional areas. When it comes to Internet calls, Australia has a very good record. We are alongside Canada in that respect with very low charging. The whole charging system of Telstra points to much greater disadvantage for people outside our city areas. When you take all of those charges into account, we are 40 per cent higher than the best performing countries in the world in terms of the costs of telecommunications.

I would argue that the profits of Telstra should not be used for takeovers. Telstra has always been a world-class innovator and its research and development has been second to none. We can develop our own technology and our own products. Telstra should be using some of this profit to move into that field with greater enthusiasm than it has done in the past year or so and not spend this money on taking over established competition. That is really what we have been talking about over the last few weeks—not moving into areas where it can develop its own products and technology but, rather, buying up and getting rid of its own competition.

I think it is time for Telstra to get down to its core business, to really reflect on the fact that it is a public company, in spite of what Senator Alston said yesterday. I quote him again. In answer to my question yesterday, he said that it is not owned by the public. My phone has run hot since that comment. People have asked, ‘What does 50.1 per cent actually mean?’ I would have thought that is majority public ownership, but apparently not. Senator Alston said:

The fact is that that company is obliged to put its shareholders’ ... first—

49.9 per cent—

and, to the extent that the company prospers, all of the shareholders, including the Australian government—

no mention of the public, of course—

are the beneficiaries.

I can tell the Senate who the beneficiaries of such attitudes are. They are big business, people in the cities and individual shareholders. They are not the broader public in Australia.

Telstra still has majority public ownership. I want to affirm today the position the Democrats have put many times over and over again—that there are no compelling reasons for selling the rest of Telstra. It matters not whether Telstra has bought up or created its own Internet offshoots. It is free to do business in a normal manner, as many other telecommunications carriers are. We are not persuaded that Telstra is constrained in its current ownership arrangements or that these profits, which continue to increase, should not be used for effective services for country Australia and to make sure that Australia stays at the forefront of innovation and that Telstra does not become yet another multinational company which has no obligation to provide services in an equitable manner.

Sitting suspended from 1.27 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Receipts

Senator CROSSIN (2.00 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Given the government’s insistence that the Howard-Lees GST be hidden from Australian customers, does the minister support the decision by Coles Myer to disclose the GST on all their customer receipts? Does the minister also agree that the decision by Coles Myer makes a mockery of the government’s repeated claims that GST disclosure would be too difficult for Australian businesses?

Senator KEMP—Thank you for the question, Senator Crossin. It is not only the Howard-Lees GST. You may not have caught up with the fact that the Labor Party now supports the GST.

Senator Cook—Wrong! Wrong! Wrong!

The PRESIDENT—Order! Senator Cook, it is totally disorderly to just sit there and shout in that fashion. There is an appropriate time to debate issues, and you know when it is.

Senator KEMP—I am making the very important point that I think the statement that Mr Beazley made some two weeks ago was
an extremely important statement—that the Labor Party supports the GST.

Senator Cook—It does not. He never said that.

The PRESIDENT—Senator Cook, this is not the time to be debating the issue.

Senator Cook—Don't lie about our position.

The PRESIDENT—Order! Senator Cook, this is not the time to debate the issue. It is Senator Crossin's question. You should remain silent and stop shouting while Senator Kemp answers it.

Senator Kemp—I know Senator Crossin is sensitive because she has just discovered that her own party supports the GST. Yes, there will be some roll-back in some limited areas, but the truth of the matter is that the Australian public have seen the hypocrisy of your party, Senator, over the last year and a half saying that it opposed the GST. Just 10 days ago, the Labor Party announced that it would support the GST, albeit with a limited roll-back.

In relation to the specific issue that Senator Crossin asked about her policy now—which is the GST, and we will remind you of this every question—the government’s policy is that displayed prices, for example shelf or rack prices, should be GST inclusive. The ACCC has indicated that retailers may be able to show the GST component on cash register receipts, provided they also show the total GST inclusive price on the receipt. Forcing all suppliers to show the GST component separately on cash receipts would place an unnecessary and high compliance cost on business.

I might point out as a footnote to all this that retailers do not currently show the wholesale sales tax on receipts. The Labor Party, having supported the wholesale sales tax until just recently when they switched over to the GST, never actually supported the wholesale sales tax being shown on receipts. I am aware that on 29 February it was reported that Coles Myer planned to identify goods subject to the GST on the cash register receipt. The GST amount included in the total amount payable would also be shown separately at the bottom of the receipt. However, I think it is important to note that the price tags on shelves or on racks will not show the GST component. We appreciate the question from the Labor Party in relation to the GST. We appreciate the fact that they have now come to their senses—although not completely, it has to be said, because they are talking about a roll-back, and that has caused great concern in the sense that they refuse to guarantee the very significant tax cuts—

Senator Faulkner—Just keep advertising the roll-back.

Senator Kemp—Madam President, Senator Faulkner has intruded with a comment. Senator Faulkner, it is going to take a lot of heat out of this debate if after question time you can stand up and guarantee that the very substantial tax cuts that the government will be delivering will be guaranteed by Labor—or will taxes rise under Labor? That is the issue before the Labor Party. Senator Crossin, the great news is that shoppers are going to have more money in their pockets to buy goods and services. (Time expired)

Senator Crossin—Madam President, I have a supplementary question. In light of the Coles Myer decision, which you finally managed to get to after a couple of minutes in answering, will the government now be actively encouraging businesses to disclose the GST on customer receipts, or will the government continue to use the ACCC to threaten businesses who want to disclose the GST on receipts by claiming that those businesses may be engaging in misleading and deceptive conduct?

Senator Kemp—I think Senator Crossin has confused a couple of issues. If people are involved in misleading and deceptive conduct, of course they will face the full powers of the ACCC. Senator Crossin, you have read the question you had prepared, but you did not listen to the answer. Let me just read again what I said. The ACCC has indicated that retailers may be able to show the GST component on cash register receipts, provided they also show the total GST inclusive price on the receipt. That is the answer to your question. But there is an overriding issue which is of great concern to the Australian public: will Labor guarantee the tax cuts that we will be bringing in on 1 July?
Crossin, don’t you worry too much about the price tags. Your public are wondering whether their tax cuts are safe from you and your ilk over there.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from the Kingdom of Nepal, led by the Speaker of the House of Representatives, the Rt Hon. Taranath Ranabhat. On behalf of honourable senators, I have pleasure in welcoming you to the Senate and trust that your visit will be both informative and enjoyable. With the concurrence of honourable senators, I propose to invite the Speaker to take a seat on the floor of the Senate.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

International Women’s Day

Senator KNOWLES (2.07 p.m.)—My question is to the Minister Assisting the Prime Minister on the Status of Women, Senator Newman. The Howard government has a very proud record of achievement in dealing with women since we came to office. On this International Women’s Day, what are the government’s key initiatives for Australian women? Will the minister advise the Senate of any forthcoming announcements that will be of benefit to women?

Senator NEWMAN—I hear a lot of male voices yelling across the chamber as usual when we try to put on record what this government is doing for women. It is a constant effort to try to speak over these male voices, but we will do our best. For this government, International Women’s Day is an important event that allows us to recognise and to celebrate the very significant achievements of Australian women. Previous generations could only have dreamt of the level of recognition and opportunity that is open to women in our country today. Australian society is strong, stable and prosperous and, as a result, Australian women are able to exercise choices in all aspects of their lives and to be respected and to be celebrated for their choices.

We should never forget the women who have gone before us and their achievements. This week, of course, we have been reminded of the high achievements of Dame Roma Mitchell. Many others have made the pathways for others to follow later. I am proud that the strong economic conditions delivered by the policies of this government have contributed enormously to the wellbeing of women. The participation rate for working women reached a record high of 66.1 per cent in December last. These women in the work force are the women who will be enjoying substantial tax cuts and other benefits on 1 July. The female unemployment rate was 6.6 per cent in January this year, the lowest level this decade. I do not think I need to remind the Senate of Labor’s woeful, dreadful record for women. This high rate of workplace participation has been helped by the government’s encouragement of family friendly work practices such as spending on child care, flexible working hours, carers leave—

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left should cease interjecting.

Senator NEWMAN—The government are allocating $5.3 billion over the next four years for help with child-care assistance, an all-time record in Australia’s history. We are also providing practical assistance to women. For example, a further $82.2 million over four years has been allocated to expand the provision of respite support for carers—most of whom are women—of people with dementia and other cognitive and behavioural problems.

The government is determined to make a difference about domestic violence. So a total of $50 million has been committed to build on the outcomes of the Partnerships against Domestic Violence. Our focus is to be on preventing harm to children as witnesses of domestic violence, community education, the need for perpetrators to take responsibility to end their violence and strengthening grassroots and practical efforts to address indigenous family violence. We have also established the Australian Domestic and Family Violence Clearing House to provide information and research on best practice. I remind the Senate of Labor’s complete inaction on this issue. They produced report after report and did not take any positive action or show
any national leadership, as Prime Minister Howard did when he convened a national summit of leaders on the subject of domestic violence.

Today I am calling on indigenous and other organisations to apply for a share of the $6 million Indigenous Family Violence Grants Program. This aims to provide practical and flexible support for grassroots projects and to trial new approaches to end family violence in Aboriginal and Torres Strait Islander communities. This $6 million is part of the Prime Minister’s $50 million Partnerships against Domestic Violence initiative. Levels of indigenous family violence across Australia are a matter of great concern to this government, and Senator Herron and I are committed to addressing the causes of this issue. For too long, indigenous communities and, in part, governments have failed to tackle domestic violence in indigenous communities. We are concerned that women and children continue to face unacceptable levels of physical and sexual violence in some indigenous communities. Indigenous women have been calling out for help with this serious issue. Our government is committed to tackling it. (Time expired)

Senator KNOWLES—Madam President, I ask a supplementary question. I ask the minister if there are any other initiatives that she would like to expand upon to inform the Senate.

Senator NEWMAN—There are plenty, and there is not enough time to tell them in. Those who are listening to this question time should know that advertisements for the grants program will appear in the national press shortly and applications will close on 19 April. I also draw attention to an announcement today by my colleague Senator Vanstone, the Minister for Justice and Customs, who launched a new program for women in Commonwealth law enforcement as part of the Women in Law Enforcement strategy. This is a significant effort to support women who are in the law enforcement business, to have mentoring and to share their knowledge and skills. It has been endorsed and supported by the heads of the Commonwealth law enforcement agencies, all of whom are men, except for Elizabeth Monto, who is head of AUSTRA. How will this government be reappointed today. This is just a small selection of some of the significant activities this government is engaged upon for the benefit of women—policewomen, indigenous women, women right across mainstream Australia. (Time expired)

Goods and Services Tax: Jobs

Senator MARK BISHOP (2.14 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Is the minister aware that Victorian truck manufacturer Kenworth Trucks has cited the GST as the main reason it may be retrenching 50 of its work force in Bayswater today after already cutting 30 employees last month? Is the minister aware that Kenworth has stated that these job cuts have been ‘induced entirely by the price reduction resulting by the abolition of the wholesale sales tax without providing adequate transition arrangements’? What action will the minister take to address these Howard government inspired job losses, given that forward orders for the manufacture of trucks have halved ahead of the introduction of the GST, and that, unlike passenger car manufacturing, truck manufacturers cannot afford to manufacture stock as each truck costs approximately $250,000 and is manufactured to particular specifications? (Time expired)

Senator KEMP—Let me make it clear that one thing that this government is particularly proud of is the fact that we are delivering to Australians a high growth economy. In fact, it is clear that Australia is virtually on the top of the growth league. That is a massive achievement. What does this mean? Above all this has meant more jobs for Australians and the very high levels of unemployment that Senator Bishop’s government left us with when they were in office have been brought down. It is still too high from our point of view and we are still working hard to bring the unemployment rate down well below seven per cent. Madam President, the truth of the matter is that this government has been able to deliver on strong growth, has been able to deliver jobs growth and, above all, has also been able to deliver rising real wages, and that is a source of pride.
The PRESIDENT—Senator Kemp, I would draw your attention to the actual question that was asked.

Senator KEMP—The question was about jobs so I am throwing this into some perspective. Thank you, Madam President, for your suggestion as always. Can I also make the point in relation to trucks that the figures I have here are that truck sales in 1999 actually outperformed 1998 and 1997.

Opposition senators interjecting—

The PRESIDENT—Order! Senator Bishop is entitled to hear the answer.

Senator KEMP—The question was about truck sales and I am providing a few statistics. As usual, the Labor Party do not want to listen. Total sales of light trucks in 1999 were 7.3 per cent above 1998 and over 32 per cent above 1997, while sales of heavy trucks were 5.4 per cent above 1998 and almost 25 per cent above 1997. Sales of light and heavy trucks in February 2000 were 11.5 per cent higher than those achieved in January 1999. Those are the overall figures, Senator, and what you are seeing here is very strong growth. As I was saying earlier on in my remarks, the government are very proud of the growth that we have been able to deliver to the Australian economy. We are very proud of the increasing number of jobs. I have quoted the number of truck sales in my response.

The final point I would make is that we are removing the wholesale sales tax, which I might say greatly increased the cost of trucks. We are very happy now that the Labor Party has signed on to the GST. As always I will look closely at the remarks raised by Senator Bishop in his question. If I can add anything further to it, I certainly will. We have the policies which are going to deliver real growth to the Australian economy. We are delivering a competitive tax system which will deliver huge benefits to industry and to consumers, and, above all, very major tax cuts—and this is the big issue today—that Labor refused to guarantee.

Senator MARK BISHOP—Madam President, I ask a supplementary question. What is the Howard government’s answer to Kenworth’s further statement:

You may say this is only a temporary setback but unfortunately the employees who have been retrenched and their families are not temporary, nor
do they have temporary family commitments. These people may suffer immediate hardship. Is the minister aware that these retrenchments will make it almost impossible for Kenworth to ramp up production to meet any expected demand over the next 12 months, with any rise in demand after 1 July likely to be met by imports?

Senator KEMP—I have heard some confused questions in my time, but that was really one of the most confused. Senator Bishop has now acknowledged that there may be rising strong demand in this area. That is your forecast, Senator, and we are pleased to hear it. Let me say this means that the people who produce trucks will certainly benefit, and I have no doubt that they will gear themselves to make sure they can take advantage of that particular demand. For the Labor Party to stand up and talk about workers being retrenched makes all of us think back to the recession we had to have and Mr Paul Keating. There has not been one word from the Labor Party on that particular issue when one million Australian workers were out of a job thanks to Labor Party policies.

Goods and Services Tax: Small Food Retailers

Senator BROWNHILL (2.21 p.m.)—My question is to the Assistant Treasurer, Senator Kemp. The Treasurer has announced new simpler GST accounting methods to make it easier for small food retailers to account for the GST after 1 July. Will the Assistant Treasurer advise the Senate how small retailers will be assisted in the transition to the new tax system?

Senator KEMP—Thank you to my old friend Senator David Brownhill for that question. I think it is true, because he is an old friend, he did give me a bit of a hint that he may be asking me a question—as friends should do, Senator Brownhill—and thank you for that. This question is of great interest to the wider community but particularly to the Labor Party, who now support the GST. So they will be very pleased with this answer as well. A key focus of the new tax system is simplicity, especially for small business. Today I am pleased to announce that the Treasurer has announced new and simple accounting methods for small food retailers without adequate point of sale equipment. These simplified accounting methods mean less paperwork, less administration and a practical, straightforward approach. The simplified accounting methods will be available to small food retailers selling a range of GST free and taxable goods who do not have adequate point of sale equipment.

Senator Schacht—What is the definition of a small retailer?

Senator KEMP—Senator Schacht may be interested in this because, if by some serious mishance and some disaster Labor gets back into office, the Labor Party now wants to keep the GST. So I would have thought that you would have been interested in this, Senator Schacht.

Senator Schacht—I want to know what the definition is.

The PRESIDENT—Senator Schacht, there is an appropriate time for you to ask a question.

Senator KEMP—The methods include the business norms method. Food retailers choose to use standard percentages of sales and purchases to estimate GST free sales and purchases. These standard percentages have been derived through consultation with industry and actual in-shop observations.

Senator Schacht—What’s a standard percentage? Just tell us.

The PRESIDENT—Senator Schacht! Senator Kemp—This government is a consultative government, and these changes reflect those consultations.

Senator Schacht—You dope. You can’t tell us the detail.

The PRESIDENT—Order! Senator Schacht. I draw your attention to the standing orders. Persistent interjecting is disorderly. If you have a question to ask, you can put your name on the list or, if you want to debate something, you can do it after question time.

Senator KEMP—I would have thought after the very good lunch that Senator Schacht had yesterday he would have been more cautious today. But, unfortunately, no such luck.

The PRESIDENT—Senator Kemp, I suggest you apply yourself to the question.
Senator KEMP—There is another method that is called the snapshot method. Food retailers choose to take a snapshot of purchases and sales to estimate GST-free purchases and sales. Then there is the stock purchases method. To further assist small business with the transition to GST, as a transitional measure, the turnover threshold for 2000-01 will be $2 million, as opposed to the ongoing threshold of $1 million. I think that deals with the interjections that Senator Schacht raised. This will give business more time to upgrade their point of sale equipment. The simplified accounting methods are provided to help retailers work out at the end of their tax period the amount of GST they have to pay or the amount they can claim as a refund. The tax office has developed a booklet for retailers which details the three new accounting methods and features practical case studies for the food industry. Let me say in conclusion this is a truly great result for food retailers.

DISTINGUISHED VISITORS
The PRESIDENT—I draw the attention of senators to the presence in the gallery of former New South Wales senator Sir Robert Cotton. On behalf of senators, I welcome you on your return to the chamber.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE
Goods and Services Tax: Australian Business Number
Senator McKIERNAN (2.26 p.m.)—My question is directed to the Assistant Treasurer, Senator Kemp. Can the minister explain why only 266,000 Australian business numbers have actually been issued out of an expected 2.1 million applications? Will the government guarantee that if all 2.1 million expected ABN applications are received by the end of May all applicants will have their ABNs by 30 June? If not, what is the government’s revised estimate of the number of ABNs they expect to have issued by 30 June?

Senator KEMP—We are very keen—let me make it absolutely clear—to make sure that every Australian business registers. The Labor Party would be very keen, because the Labor Party now supports the GST.

Senator Cook—It does not.

Senator KEMP—It is good to see an emerging bipartisan position on this issue. Let me now turn to the specifics.

Senator Hill—Cookie is trying to roll back Beazley.

Senator KEMP—A very good point, Senator Hill. There is a roll-back occurring, and it will be the roll-back of Kim Beazley. I think that is very clear. If you look at the unhappiness on the Labor backbenches—

The PRESIDENT—Mr Beazley, Senator.

Senator KEMP—in reference to Senator McKiernan’s statement, let me say that the tax commissioner has assured me of his absolute confidence that the new tax system is being and will be delivered according to plan. Some 2.5 million Australian business number application packages have been mailed out to Australian business since November last year. As expected, since the beginning of February this year applications for ABNs have increased steadily. The ATO expects that the number of applications to register will increase exponentially in the coming weeks as businesses and entities gear up for implementation of the new tax arrangements. As at 3 March, Senator McKiernan—if you are listening; I do not know whether you are interested in the answer to your question—around 23 per cent of those sent application packages have responded.

The ATO is stepping up its information campaign to ensure that businesses are aware of the need to register for the new tax system by 31 May. Letters from the tax commissioner will be sent to all businesses progressively over the coming weeks outlining the possible consequences of failing to register. The letter will include a wall chart entitled, ‘Where to go for help in implementing The New Tax System’. The chart lists all the help that is available and how to access this assistance. The tax office is also distributing ABN registration packages through major banks, post offices and newsagents. Businesses can also call the business reform info line—Senator, if you have got your pencil there, you might like to take this down: 132478; I will repeat that in case you want to pass this on to your constituents: 132478—to get an ABN registration package posted to them. At present—I think it may be of interest to
ent—I think it may be of interest to senators to know—there are some 335 staff allocated to the task of processing ABN registrations. The number will increase progressively to around 545 staff by the end of March, when the peak lodgment of ABN applications is expected.

Senator McKIERNAN—Madam President, I ask a supplementary question. The minister would be aware of the onerous requirements of the ABN application form where a company must supply not only its own tax file number but also the tax file numbers of all associated entities and all directors. Given that under the current TFN legislation disclosure of numbers is voluntary, what happens to a company’s ABN application if it cannot provide all the TFNs required? Will that company’s ABN application be accepted or rejected?

Senator KEMP—The form is quite clear and the information that is required is clear. We urge companies to make sure that those forms—

Senator Faulkner—So what’s the answer?

Senator KEMP—The answer is that the forms should be filled out correctly, and we are very keen to make sure that we assist business in every way we possibly can with this particular work. If anyone in business that you are aware of has any particular concerns I suggest they contact the info line, the number of which I gave to you in my previous answer.

Women: Commonwealth Boards

Senator STOTT DESPOJA (2.31 p.m.)—My question is addressed to the Minister assisting the Prime Minister for the Status of Women. Does the minister remember her 1997 commitment to encourage far greater participation of women in decision making in all areas and her statement that her government was ‘implementing a strategy to increase the number of women appointed to Commonwealth bodies and boards’? Could the minister outline whether she believes these strategies are working, given that there has been only a 2.6 per cent increase in the number of women holding Commonwealth board positions—positions currently held by women number 30.9 per cent—and noting that the government has total discretion over the appointment of new members for these positions? Could the minister inform the Senate how many women were actually put forward for Commonwealth board positions by the Appoint monitoring body of the Office of the Status Women over the past four years and how many of those OSW recommendations were adopted or rejected by the cabinet?

Senator NEWMAN—I am very glad that Senator Stott Despoja takes an interest in International Women’s Day. I notice that the opposition is not interested in it and doesn’t even choose to wear a ribbon to recognise the day. That is a great shame. Senator Stott Despoja has asked an important question because this is a government commitment. We remain firmly committed to increasing the number of women in leadership and decision making positions both in the public and private sectors, and there has been movement in both areas. This movement has not been nearly as much as most women in Australia would like, but it is a trend in the right direction. I think Senator Stott Despoja used the figure of 30.9 per cent—I was not quite sure what she said because of the noise in the chamber—and that is an increase from 30.3 per cent at the end of 1998 and from 30.5 per cent when the government took office in 1996. So it has been moving—but very slowly. We are implementing initiatives aimed at increasing the number of women appointed on merit to Commonwealth boards, including the Executive Search Pilot Program, which is testing the effectiveness of executive search processes for board appointments in four Commonwealth departments. In addition, we have introduced an early warning system to ensure there is early consideration of suitably qualified women for board vacancies and we have the Appoint database, which is a monitoring system to provide a whole of government status report on the representation of women on Commonwealth boards and committees.

In the private sector the proportion of women occupying board positions has doubled over the past five years. Last year’s Korn/Ferry survey of the private sector showed that women constituted 10.3 per cent
of non-executive directors and filled 8.3 per cent of private sector board positions, an increase from four per cent in 1995. That is not nearly good enough either, but it is going up at a rate which gives me some pleasure. The federal government has also provided funding to the Australian Council of Businesswomen’s National Women’s Leadership Project for private sector boards. The project is providing women with training and networking opportunities to maximise opportunities for private sector board appointment. The government has also provided funding through the National Women’s NGO Funding Program for three leadership projects—train the trainer, workshops and kits for women with disabilities—a national leadership kit for school students and regional activities with current and future rural women leaders, including indigenous rural women leaders.

Women in rural and regional areas are benefiting from other government initiatives for women in leadership. I recognise that you are not asking for that level of detail, but if we are going to increase the number of women in high positions we have to continue with the effort of encouraging leadership from the time girls go to school. Whatever efforts we can make in leadership for women will, I think, eventually pay dividends. It is slow but steady. I would like to see us have a greater increase in the number of women on boards and committees. You rightly put your finger on the fact, Senator Stott Despoja, that for many of the board and committee members that the Commonwealth government appoints the names are provided by state governments or industry bodies and the Commonwealth has no control over them. But for those that the government does have control over, the figure is 30.9 per cent. I think this government has appointed something like 16 women to head up Australia’s overseas missions and posts. Nothing like that has happened in previous years. It is significant in that we are practising what we preach to others. I cannot give you the exact number of women that have been appointed, although I know that data is somewhere in OSW. I will see what I can get for you. I think what is particularly significant, however, is that the appointments have often been at very senior levels. (Time expired)

Senator STOTT DESPOJA—Madam President, I ask a supplementary question. I note the minister referred to the OSW only very late in her answer. What is the minister’s response to the notion that the OSW’s appointment monitoring body has made recommendations for appointments to Commonwealth boards? Have any of those recommendations been heard by cabinet and either adopted or rejected? If so, how many have been considered? Has this 2.6 per cent increase in the proportion of women represented on Commonwealth boards—a minor percentage increase—anything to do with the Commonwealth’s regard for the Office of the Status of Women? Is the minister embarrassed that more than four months have now passed since the former head of the Office of the Status of Women left and that the government has yet to announce who will replace her? Is this another example of the government denying Australian women’s leadership in and contribution to public life? (Time expired)

Senator NEWMAN—It is essentially a brand-new question.

Senator Stott Despoja interjecting—

Senator NEWMAN—Let me be very succinct in this, if Senator Stott Despoja would like to hear the answer. Yes, recommendations are coming forward. My ministerial colleagues are considering them. Some of them have been adopted. I cannot give you the figures—and, anyway, I believe it is a matter of advice to ministers, which it would not be appropriate to give here. Nevertheless, as far as your new question is concerned, the appointment to the Office of the Status of Women is a public service appointment, not a governmental appointment. The public service tends to move slowly and steadily. I would like that process to be faster myself. It would be a great help to me. I hope we will be making an announcement before very long.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from France led by Senator Maurice Blin, Chairman of the Australian Friendship
Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Small Business

Senator McLUCAS (2.39 p.m.)—My question is to the Assistant Treasurer, Senator Kemp. Can the minister confirm that only some 10,000 of an expected 250,000 GST field visits have been completed to date? Isn’t it a fact that this low number of field visits can be attributed to small business fears that the government will use these field visits as an opportunity for the ATO to spy on them and draw up small business audit hit lists?

Senator KEMP—This is about one of the many ways we are assisting with the implementation of the greatest tax reform in Australian history—which arguably includes the greatest tax cuts in Australian history, which the Labor Party refuses to guarantee, and that is causing widespread concern. A major plank in the government’s tax reform business education and information campaign is visits by ATO field officers to provide personalised, on-the-spot information about the new tax system and to provide support to individual businesses. GST field officers are available now if people wish to arrange visits to their companies. I will quote the phone number again, because I think this is helpful to people—those who may listen to and view these broadcasts. Businesses can request a visit by calling the ATO on 132478. A GST field officer will then call back the business and, where possible, arrange a visit either in working hours or outside working hours. There are approximately 700 field officers available now, and this number will increase to a total of approximately 3,000 officers by April 2000. Field officers are currently located in most metropolitan areas across Australia. As field officer numbers increase in coming months, more officers will be available to visit businesses in regional, rural and remote areas. The information provided by field officers will be tailored to suit the needs of individual companies and businesses and will cover a range of topics.

I would certainly encourage people who would like this assistance to contact the ATO, because I think it does make sense. It can be a big help. In relation to the second part of the senator’s question, the Commissioner of Taxation has guaranteed that these visits are to provide advice and assistance only. They are not audits and will not be used for any other purpose. It is probably worth making that point again, because there may be some concern out there, and maybe the senator’s question reflected that concern. I repeat: the Commissioner of Taxation has guaranteed that these visits are to provide advice and assistance only. They are not audits and will not be used for any other purpose. This is a very important part of the implementation program.

Senator Robert Ray—It’s the only time this week you’ve answered a question—well done!

Senator KEMP—Thank you, Senator Ray. We are always happy to receive a compliment from you. Getting a compliment from Senator Ray these days is not what it used to be when the massive public policy failure that he presided over became apparent to us all. I will not even mention the Collins class submarines.

Senator McLUCAS—Madam President, I ask a supplementary question. What is the government planning to do about the small business perception that they are easy audit targets and that the Howard government has no commitment to targeting its mates at the big end of town?

Senator KEMP—I do not know what is wrong with this questions committee: you provide a very detailed answer, as was conceded by Senator Robert Ray, and the good senator stands up again and asks exactly the same question. Some people just cannot be helped.

Senator McLUCAS—I rise on a point of order, which is that the senator has not heard my question. What is the government planning to do about the perception that small businesses are easy targets?

The PRESIDENT—in case there was any confusion about whether you heard it, minister, you have now.
Senator KEMP—The point I was raising is that the senator did not hear my answer. Senator, to follow your practice, maybe I will stand up, take a point of order and read my answer again, but I think it would save the time of the Senate if you just read the Hansard. Talking about the big end of town, let me make the point that it was the Labor Party that put out the welcome mat for tax rorters in its 13 years of government. We need to go further and mention Senator Cook’s favourite program, the R&D syndicates, which put out that welcome mat for tax rorters, that is for sure.

Goods and Services Tax: Australian Business Number

Senator HARRIS (2.45 p.m.)—My question is addressed to the Assistant Treasurer, Senator Kemp. Given the problems arising from the transitional arrangements of the ATO generating sufficient ABN numbers in time for the implementation of the GST in July, will the minister relent in favour of small businesses who have lodged their applications for registration and have not received their ABN numbers by the commencement day? Will the minister approve the temporary use of their existing ACN numbers in that initial period, and would the senator address the issue of the costs of reprinting documents and stationery to comply with GST?

Senator KEMP—As to the first part of the question, I have already been into great detail and have even received uncustomary praise from the Labor Party for the answer to that question. It has come as a surprise to me, but in these days you welcome praise from anywhere, that is the truth. If it comes from the Labor Party, you might as well take it as well.

Senator Robert Ray—You are a very amiable bloke.

Senator KEMP—Thank you, Senator Ray. I am amazed at the compliments that I am receiving from the Labor Party today. Senator, I think you should read very closely the earlier answer I gave on this matter, which dealt very carefully with the issue of registrations of ABNs. I make the point that the government is determined to implement this tax system very effectively and efficiently. That is exactly what we are aiming to do. We are a consultative government. We work with small business. We believe in many ways small business provides the major growth in this economy, and certainly the potential for growth is there. You should not doubt for one moment our ability to work with small business. We are not the Labor Party; we are not beholden to the trade union movement. We are beholden to the Australian people, and we regard small business as a very high priority indeed.

There is no doubt that this new tax system will provide great benefits to small business. Again, if you read my remarks today, you will see that I have gone through those advantages. Just today we announced a major initiative which will help sections of small business in their accounting arrangements, particularly small food retailers. I can assure the senator that the needs of small business are very much in the forefront of our mind. As I said, we are a government that works with small business. Small business have nightmares when they look back to the 13 years of Labor and think of the red tape that the Labor Party imposed on them, the interest rates that the Labor Party imposed on them and the recession we had to have—Mr Keating’s recession. Small business are strong supporters of this government. They are not supporters of the Labor Party. And, frankly, if any small business has got any doubts about the true nature of Labor, I invite them to come down to Victoria to see the mess that has been created in my own great state after three months of the Labor Party.

Senator Troeth interjecting—

Senator KEMP—Thank you, Senator Troeth. Absolutely right. So, senator, I can assure you that we will always consult with small business, and we give a very high priority, as we naturally should, to making sure that the implementation of this great new tax system is done as smoothly and efficiently as possible.

Senator HARRIS—Madam President, I ask a supplementary question. The senator’s answer went nowhere near addressing the issue of small businesses not receiving their ABN numbers. I ask the senator whether, if a
business goes ahead and reprints their stationery and documents and, as a result of amendments passed through this chamber, those documents are no longer applicable, will the government guarantee a reimbursement of the costs of the initial printing?

Senator KEMP—I have to say that it is an extraordinary question, a hypothetical question. I make the point to you, Senator, that we are in the business of helping small business. We are not in the business of causing them detriment. We are a government which works with small business. I do not know what One Nation’s policy is on this. I know what the Labor Party’s policy is and—

Senator Ferguson—It hasn’t got one.

Senator KEMP—You are wrong; the Labor Party has announced that they support the GST—

The PRESIDENT—Senator, your remarks should be addressed to the chair.

Senator KEMP—But they do not support the tax cuts, apparently. I conclude by saying that we will be delivering very real benefits to small business. I make the point once again—I have said it two or three times but let me say it again—that we are a consultative government and we work with small business.

Goods and Services Tax: Boarding Houses

Senator DENMAN (2.51 p.m.)—My question is to Senator Newman, the Minister for Family and Community Services. Does the minister recall the government’s commitment, as part of its deal with the Democrats, to undertake a study of the impact of the GST on boarding house residents? Has the government received that report and, if so, has it passed it to the Democrats as required by the agreement?

Senator NEWMAN—Yes, there was an agreement with the Democrats on this issue. I am just trying to see where I have got, in this multitude of briefs, the answer to that question because I know I have had one, Senator Denman. It is just that I am not able to locate it at the moment. There has been work done and I understand that a report is being prepared.

Senator Faulkner—You’re making this up as you go along.

The PRESIDENT—Senator Faulkner, that sort of sledging is disorderly.

Senator Faulkner interjecting—

Senator NEWMAN—Would you kindly withdraw that? That is a slur on my honesty.

The PRESIDENT—Senator Faulkner, your behaviour is disorderly.

Senator Faulkner—Madam President, is she seriously requesting that I withdraw a comment saying to the minister, ‘You’re making this up as you go along.’ If you want me to withdraw it, I will.

The PRESIDENT—Senator Faulkner, you ought not to be interjecting in the first place, and that sort of sledging is inappropriate.

Senator Faulkner—It is certainly not unparliamentary, but I withdraw it.

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left will cease making so much noise.

Senator NEWMAN—There has been a report prepared. It has not been given to me as yet, so I am unable to say anything much about it.

Senator McKiernan—You were making it up on the run, weren’t you.

The PRESIDENT—Order, Senator McKiernan.

Senator NEWMAN—I said very clearly that a report had been prepared.

Senator McKiernan interjecting—

Senator NEWMAN—Don’t you dare talk to me like that.

Senator Alston—Madam President, on a point of order: there does seem to be a concerted campaign of sledging whenever Senator Newman gets to her feet. I do not know whether it is because she does not have the same sort of bullyboy stentorian capacity that some of these others have, but it is obviously deliberate, it is not accidental and it is led by Senator Faulkner. I think it is about time you took some action in relation to this. You have Senator McKiernan five times saying the same thing—in other words, di-
rectly challenging your authority. I think it is about time it stopped.

Senator McKiernan—Madam President, on the point of order: the record will prove that the minister was making it up on the run because she contradicted herself when she got to her feet a second time.

The President—Order! I shall have a close look at the Hansard for what has occurred. The interjection and sledging that is going on is totally disorderly and ought not to be occurring. If you have a dispute with what a minister says, there is an appropriate time to debate it.

Senator Newman—I have said several times now that a report was being prepared, and I have also said that I have not seen the report. I am now going to tell the Senate the rest of the answer, which is that it has been passed to the Treasurer, for whom it was commissioned. It will be up to the Treasurer to look at it, study it and discuss matters, if he chooses, with the Democrats—and I imagine if that was his commitment he will be doing so.

Senator Denman—Madam President, I ask a supplementary question. Minister, when you do find the report, I assume that you will undertake to release it. But can you confirm when you do release that report that boarders will be worse off under the GST package? Is that what the report has not been released?

Senator Newman—I just say that that is quite untrue.

Rural and Regional Australia: Government Support

Senator Ferris (2.56 p.m.)—My question is addressed to the Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald. The minister would be aware of the challenges being experienced by the communities, farmers and their families in the central north-east of South Australia. Would the minister provide details of any recent assistance that the government is providing to help this region and its families adjust to the structural changes and to help them plan for their future?

Senator Ian Macdonald—Senator Ferris, I am aware of the difficulties in certain parts of rural and regional Australia, and particularly in the central north-east of South Australia, as you mention—difficulties that have followed from low and highly variable rainfall, grasshopper outbreaks and high dependence on wool production at a time when wool prices continue to be very low. Senator, you particularly and your colleague Senator Ferguson and others continue to make me and other ministers aware of the difficulties and continue to approach the government and ministers for assistance in these areas. It is such a change from any of the Labor senators. I have never heard from a South Australian Labor senator in relation to these difficulties.

But, Senator Ferris, I am pleased to say that a couple of weeks ago the Prime Minister, when he visited Quorn in this area of South Australia, announced a $200,000 rural plan grant. That rural plan grant will provide a strategic plan for the southern range lands region. This contribution by the federal government has been assisted by a $100,000 contribution by the South Australian government. The strategic plan will address community, industry and environmental development issues as a second stage. The project proposes a strategic plan with a blueprint for the region and an enhancement of the regional economy, integrating social, environmental and community considerations.

Senator Ferris, this announcement by the Prime Minister of assistance to this region was complemented just yesterday by the Hon. Warren Truss, who announced an assistance package for farmers in the central north-east of South Australia—and, as I say, we are conscious of the difficulties there—and that assistance package will, in fact, help farmers deal with the problems that they face. The package will give farmers a breathing space to cope with the very pressing needs they have. Overall, this government takes a whole of government approach to rural and regional Australia in assisting it.

I particularly recognise Senator Ferris for her contribution, care and concern for those areas. I also recognise Senator Ferguson and others on this side who do that. I encourage Labor Party senators to at times look after their constituents and to approach the government for help for their constituents. Our
approach to rural and regional Australia is in stark contrast to the Labor Party’s approach. We have been waiting for over two years to get some idea of what the Labor Party’s rural and regional policy will be and nothing has come forward. The only policies we have from the Labor Party are their tax policy, which is to put up income tax, and their policy to keep the GST. The regional policy from Mr Beazley so far is that they will do ‘something’ to enhance post offices.

By stark contrast, this government has taken $4 billion of costs off exporters. We have lowered interest rates. We have lowered inflation. We are about to substantially lower income tax payments for people in rural and regional Australia. We have provided services for the bush. To date, we have provided over 79 towns in rural and regional Australia with rural transaction centre assistance, which will be of great benefit to them, and will provide transaction services in rural and regional Australia. (Time expired)

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

ANSWERS TO QUESTIONS WITHOUT NOTICE

Goods and Services Tax

Senator MARK BISHOP (Western Australia) (3.02 p.m.)—I move:

That the Senate take note of the answers given by the Assistant Treasurer (Senator Kemp), to questions without notice asked today, relating to the goods and services tax.

During the entire GST debate, the opposition made a number of comments concerning the new Howard GST. We said and still say that it is an inequitable and inefficient new tax which is bad for the economy. We said that the GST would unfairly impact upon low income earners, single income families, welfare recipients and pension recipients. We said that it would impact upon the entire community from birth to death. We repeatedly asserted—and there was mountains of evidence to the Senate committee—that there would be administrative inconvenience, a host of anomalies and huge compliance problems for small business. Indeed, almost every day new problems, additional anomalies and further conflicts arise. Problems with tampons, caravan parks, rounding up, non-business registration, exemptions for retailers and lengthy phase-in periods are simply passing examples of the problems created by the new GST.

None of these issues is made up or beat up by the opposition. Out there in the Australian community there is fear, dread and even sheer terror at the prospect of the GST. The government is responsible for this fear and dread. Millions of Australians are now unequivocally opposed to the GST. Once they were prepared to consider it and now they are opposed to it unequivocally and remain so. My electorate office in Perth has been inundated with phone calls and thousands of replies to a survey on the impact of the GST. In the last month alone, my office has been contacted in writing by a staggering 2,033 persons in the electorate of Pearce who are opposed to and concerned about the impact of the GST. Their concerns are for their financial security as the affordability of essential items decreases with the introduction of this new tax.

I will give you a summary of the thousands of written responses in that particular electorate. My constituents have raised a number of specific examples that cause them considerable anxiety, none of which has been attended to properly in recent months and all of which have been displayed in the press on repeated occasions. These include the imposition of a tax on women’s hygiene products which has never been imposed in Australia’s history. All previous governments have seen the fundamental rationale for exempting these items from taxation. Caravan park tenants and mobile home owners feel betrayed by this government which promised that no GST would be imposed upon them. Concerns have been expressed by low income earners, pensioners and self-funded retirees about the GST increasing the cost of everyday routine purchases. These increases will not be mitigated by the potential for savings on large one-off purchases, which they cannot afford, or by any inadequate, one-off compensation packages. Pensioners who can least afford it will pay the GST on food items more often than people in other sectors of the community.
as many live on pre-packaged food for ease of preparation, which has been the government’s threshold for exemption of the tax.

People make these complaints. These are the concerns that they have put in writing. These same pensioners, many of whom keep a pet, are understandably distressed that increases in the cost of pet food and veterinary services will deprive them of already rationed pension dollars. They say that the government’s promise not to tax education rings hollow to parents faced with increased school costs for such sundry items as transport, clothing, sporting items, canteen food and excursions. Never in the history of Australia has the cost of education been so heavily taxed by any government.

Small business operators are concerned. They are writing that they are appalled at the government’s laughable compensation payment for the significant costs which they will incur in becoming tax collectors for the government. Contrary to the government’s widely publicised promise that the GST would replace all existing taxes, the fact remains, as we all know, that some items will not have existing excises removed before the GST is imposed. (Time expired)

Senator FERGUSON (South Australia) (3.07 p.m.)—I can tell you that Senator Bishop is dead right: there is fear and dread out there in the community—real fear and dread. There is a fear and dread that by some mistake Labor might one day be returned to power. There is a fear and dread that the wage earners in the Australian community will not keep their tax cuts. That is what the fear and dread is about—fear and dread that the promised tax cuts, which the Howard government is going to deliver on 1 July, will be rolled back, that they would be rolled back like the GST and rolled back like the income tax cuts.

Yes, Senator Bishop there is fear and dread in the Australian community because the one thing they do not want to see is a return of a Labor government. If you need any more recent proof, Senator Bishop, perhaps you should look at the Newspoll last Tuesday. That is a sign of the fear and dread in the Australian community—the fact that they do not know what the Labor Party stands for. They have a fear and dread of what might happen to their tax cuts and what might happen to the economy in the rare event that a Labor government should be returned to office in this country.

It is all very well for Senator Bishop to come in here and ask a question and then purport to take note of the answer and read a prewritten speech—a speech probably written this morning before the question was asked and before he had heard the answer. If that is taking note of answers then I think it is an abuse of the process. He should have listened carefully to what Senator Kemp said and then made a response in taking note of answers. But I do agree with him that there is a fear and dread in the community and that is reflected in the polls and reflected in a lot of the comments that have been made by the newspapers in recent times in relation to what the Labor Party would do if by chance, some slight chance, it happened to be returned to government and was allowed to take away the income tax cuts which this government is promising—and will deliver on 1 July—and roll back the GST so that it becomes unworkable.

You can contrast what Senator Bishop had to say and make your own judgment as to the truth of his assessment by judging comments made by people such as Woolworths. Woolworths said, ‘Around half of everything that is sold by supermarkets will be GST free. Customers will get real benefits from the removal of wholesale sales tax.’ That is the wholesale sales tax that the Labor Party want to keep. That is their form of taxation—keep up the income tax rates, keep the wholesale sales tax and all the burden that it puts on the Australian business community. Where are the Labor Party on tax policy these days? To the best of my knowledge, they have only three major points: they will put up income tax given the opportunity; they will roll back portions of the GST without saying how they are going to replace that budget revenue; but they will keep the GST. That is the important part of their policy—they will do away with income tax cuts but keep the GST.

Who are the people in the community and worldwide who support the GST? One of the
greatest supporters is the new New Zealand Labour Prime Minister, Helen Clark, who recently visited this country. What did she say of the GST which was introduced in New Zealand some 10 years ago? She said, ‘It is a very well accepted tax at the moment and no one seriously thinks it would ever be changed.’ That is the attitude of the Labour Prime Minister of New Zealand to the GST and the effect it has had on the New Zealand economy. She had some advice for Mr Beazley—some advice, I hope, Mr Beazley would take, but if he is not going to determine any policy at all it is a bit hard to know whether he ever will accept that advice. Of his roll-back theory she said, ‘Once you start differentiating between classes of goods you get into anomalies, and that can be a bit hard to explain.’

I think it is about time Mr Beazley started to explain. He has been the leader of the Labor Party now for four years—four years without a policy, four years without a tax policy—and all he and the Labor Party can do is criticise the greatest tax initiative that this country has ever seen, one which will be welcomed by Australians and one which every Australian is going to benefit from in the long run. I say to the Labor Party: come clean and tell us how much you are going to roll back the GST. When you come forward with that policy and give the Australian community a chance to see it, you will find that the fear and dread that they have for the Labor Party and the Labor Party’s tax policy will be realised when they return this government because of its tax initiatives. (Time expired)

Senator LUNDY (Australian Capital Territory) (3.12 p.m.)—Isn’t it interesting the focus that the coalition senators try to put on this? We are talking about a tax that the coalition government is not happy with the deal it did with the Democrats. It wants to put it on everything. The coalition is about more GST and Labor is about rolling back the GST because we are the only party that understands the damage that the GST is going to do to this country.

We have seen from the evidence given to committees exactly how unfair the GST is. We have seen how it is going to hurt the underprivileged in this country. We have seen how it is going to hurt those on lower incomes. We have seen how it is going to hurt those Australians who are on pensions and who expend all of their weekly income. They are the people that this GST really hurts and hits hard. This is why Labor is committed to rolling it back.

I want to talk about a couple of issues that Senator Kemp raised specifically. In response to a question from my Labor colleague with respect to the boom period we are in, this period of economic growth, Senator Kemp tried to defend the position of the GST. He sung the praises of growth in one particular area of industry about the 1998-99 boom and how there is rising growth in the purchase of particular commodities. Let us look at a little bit of history here. Let us have a look at what happened to Japan in 1997 when they raised the GST from three to five per cent. Preceding the introduction of the GST, there are a number of very clear and important economic indicators that Australia can learn from. What we know about Japan was that there was a domestic consumption boom. Why? Because everyone who needed to purchase a large commodity for their home—be it a fridge, a car, a bed—did it before the introduction of the GST because they were afraid of the price increases. We know that.

The analysis following the rise of the GST in Japan at that time showed a pattern of growth in consumption demand leading up to it. This happened post the introduction of a small two per cent increase in the Japanese GST. Here we are talking about the introduction of a 10 per cent new tax. What is going to happen post introduction? Let us hear what the government have to say about the potential for a domestic consumption slump and what that will do to the local economy.
Senator Kemp, sing the praises all you like about the economic growth at the moment but, beware, the introduction of a 10 per cent GST will play havoc with the welfare not only of Australians but of Australian businesses who rely on the domestic marketplace to fuel their turnover, to buy their commodities and to purchase their services. Let us focus on the fact that this is the first time that a tax will be placed on services in this country, as well. It extends itself across a whole field of new services that people will now be paying for.

Another point I would like to focus on, Madam Deputy President, is the responses today by Senator Kemp. We have in our midst a new aspirant to fill Joh Bjelke-Petersen’s shoes when he said, ‘Don’t you worry about that.’ I heard him say it: the latest response from Senator Kemp and his pitiful attempt to try to justify the coalition’s actions with respect to the Howard-Lees GST is, ‘Don’t you worry about that.’ That is about the level of it from Senator Kemp in this chamber. Australians are fed up with this attempt by the government to now try to make out that somehow there is a concern on their part about what Labor are doing. Labor oppose the GST; Labor always have opposed the GST. Through the committee processes, we extracted evidence as to not just why we think it is a bad tax for this country and why it is a tax for times past but indeed why it will actually inflict severe damage on the economic and social prospects of so many of our citizens. Unfortunately, it is the citizens that actually rely on government and on public policy that will be the most hurt with the introduction of the GST come 1 July this year.

Senator LIGHTFOOT (Western Australia) (3.17 p.m.)—I think that the Labor Party know that the new tax system that this government is introducing on 1 July this year, in a few short weeks, is going to succeed. There is no question about that. There is not one credible organisation in Australia that has said otherwise. Why is it going to succeed? It is going to succeed in spite of your scare campaign. It is going to succeed in spite of your Senator Mark Bishop saying that there will be ‘fear, dread and sheer terror’ about this. That is reaching ridiculous depths. That is plumbing the depths like I have never seen before: trying to scare people about the GST. Why would you do that when there is no election coming? Why would you do that when you know in your hearts that this is going to work? You know very well that Woolworths said as recently as last week that the only increase in the price of food that they could see was going to be less than one cent in the dollar.

The government has undertaken to get $12 billion worth of tax cuts that come not at the end of the next fiscal year but that come in the first pay period after 1 July. The people that allegedly, you purport, serve you, vote for you or support you are going to get pay cuts, and these are net pay cuts. These are not gobbled up by inflation or created by GST. These are genuine pay cuts for those people, and they are substantial pay cuts. If you earn $50,000 a year, you are going to get a substantial pay cut. Why would you do it? Why would you not support nine taxes that we are going to remove? Why would you not support the fact that pensioners are going to get more in net value. Pensioners are going to get more—more, understand that—even with inflation. We are going to set it above that level of inflation. I find it quite stupid that you even mention the GST is not going to work. The real fear and the real terror is with you people, because you know it is going to work and you know that workers are going to be better off—

The DEPUTY PRESIDENT—Address the chair, please, Senator Lightfoot.

Senator LIGHTFOOT—and you know what that is going to extrapolate into at the next elections: it is going to extrapolate into you losing seats.

The DEPUTY PRESIDENT—Order! Senator Lightfoot, address the chair, please.

Senator LIGHTFOOT—that is where the fear, the loathing and the sheer terror is, as your Senator Bishop said. It is with you people, and you are now starting to feel uneasy.

The DEPUTY PRESIDENT—Address the chair, please, Senator Lightfoot.
Senator Lightfoot—But nowhere near, Madam Deputy President, the fear and the sheer terror that your Mr Beazley is undergoing at the moment, because you know—and you know that I know—the numbers are being done against him to roll him. Not only are you going to roll back the GST, but you are going to roll Mr Beazley too! You have two areas you are going to roll.

Senator Faulkner—Madam Deputy President, I raise a point of order. I am reluctant to interrupt this incredibly interesting diatribe from Senator Lightfoot, but I must note this. Apart from not addressing you, which is the first part of my point of order—and, Madam Deputy President, I ask you to address that—the second part of my point of order goes to Senator Lightfoot letting the cat out of the bag about ‘pay cuts’ with the GST. I want to give Senator Lightfoot the chance now to correct the record, or does he stand by the statements that he has made in this extraordinary contribution—that is the most generous I can be—to the chamber?

The Deputy President—The second part of your point of order is not a point of order. However, the first part is. Senator Lightfoot, I have asked you previously to address the chair and not use the word ‘you’ because, when you say ‘you’, you are referring to the chair. Please be careful with the use of that word and address the chair. I would appreciate that.

Senator Lightfoot—When I said ‘you’ it was in the plural, too, Madam Deputy President. Of course, I was addressing the chair. I appreciate the opportunity that the Leader of the Opposition in the Senate has given me to regather my thoughts. If I said ‘pay cuts’, that was not what I meant. There are actually going to be net pay gains and tax cuts, as everyone knows.

Let me get back to the real crux of the problem and where the sheer terror is. The sheer terror is this: when we came in here in 1996, we had a $10 billion black hole that became colloquially called the Beazley black hole. What is going to happen again? The opposition has never learnt its lesson. You cannot tamper with the economy the way the opposition did when it was in power. You cannot be trusted with your fingers in the till. Keep the other side away from the till.

What will happen when you roll back the GST? You are going to roll back the GST, you are going to guarantee payments to the states and you are going to guarantee tax cuts as well. Where are you going to get them from? You are going to put up personal income tax, you are going to put up business tax. That is where the sheer terror is—that excise will go up, fringe benefits tax will go up, death duties will be back in again and capital gains tax will go up. We know what you are going to do.

What is going to happen to the economy that this government has so assiduously rebuilt after it was damaged so badly and almost irreparably by the other side? It is going to happen all over again. The people of Australia are not that stupid. They are not that naive. They will not trust you people with your hands anywhere near the federal till. Get that out of your mind altogether. The new tax system is going to work and it is going to work well.

The Deputy President—Order! Senator Lightfoot, your time has expired. I would say to you that the ‘you’ you referred to throughout all of that speech was not the chair. Please in future address the chair correctly.

Senator McLucas (Queensland) (3.24 p.m.)—I rise today to take note of the attempted answers by Senator Kemp to the questions relating to the issues faced by small business operators, which were raised in the chamber today. First of all, may I make the point that Senator Kemp did not have any idea about the low take-up rate of the field visits program.

Senator Lightfoot—So you admit some small businesses actually support it.
Senator Faulkner—Why don’t you take your medication!

The DEPUTY PRESIDENT—Order! Senator Faulkner!

Senator McLUCAS—The question is: how many people are actually taking up the field visits program? There are not many at all.

Senator Hill—I think that statement should be withdrawn, Madam Deputy President.

The DEPUTY PRESIDENT—Senator Faulkner, would you like to withdraw that?

Senator Faulkner—Certainly.

The DEPUTY PRESIDENT—Stand up and do it properly, please.

Senator Faulkner—Yes, Madam Deputy President, I withdraw.

Senator Lightfoot—you didn’t stand up and you didn’t do it properly.

Senator Faulkner—I did do it properly.

Senator Lightfoot interjecting—

The DEPUTY PRESIDENT—Order! Senator Faulkner and Senator Lightfoot, if you wish to continue your conversation, please do so outside. Senator McLucas has the call.

Senator McLUCAS—We know that this government has failed. It has failed the whole community on the implementation of the GST, in particular it has failed our small business community. Just take the Yellow Pages Small Business Index report for February, which shows that confidence amongst Australia’s regional small businesses is in free fall, down 27 percentage points from the previous survey. This is the lowest level for nearly six years. At the same time, the survey shows that the GST is the major concern facing small business in all mainland states and territories and that nearly two-thirds of small business operators believe the federal government has done a poor job of implementing the GST.

Senator Lightfoot—you can’t trust those TLC surveys.

Senator McLUCAS—The Yellow Pages Small Business Index report, I repeat. The Liberal and National parties clearly misunderstood the task ahead when they embarked on their great tax adventure and, as a result, they have left small business ill prepared and underresourced in its efforts to cope. That the government was prepared to play down the complexity of the GST is not surprising. This government has, throughout the whole GST debate, failed to come clean on the GST to the extent that some members have been caught out telling their electorates what they know is incorrect about how the GST will affect them. We need look no further than the issue of the GST and a caravan park resident to establish that.

It is surprising that a government that has always trumpeted its support for small business, even here in this chamber today, that promised to reduce red tape for small business, that promised a simpler tax system for small business, that promised all of these things, could be so badly prepared to assist small business with this massive task of complying with the GST. I note Senator Kemp’s comments in his responses today about the phone advice line—and he gave us that number many times. I would like to give him the story of the caravan park resident from Innisfail who rang me to say that he had waited 40 minutes in a public phone box ringing the hotline—cold line—for the ATO. He waited 40 minutes in a phone box trying to get some information about whether or not he was going to pay tax on his site fees at the Innisfail caravan park. He got too tired and too bored waiting—there was probably a great line-up of people outside the phone box as well—that he rang my office.

Senator Faulkner—and got some action.

Senator McLUCAS—and at least could get some action. At the start of the GST debate, this government told business that compliance costs would be ‘minimal’. Twenty thousand dollars may be minimal in the business circles that the Liberal and National Party members mix in, but I can assure you that where I come from $20,000 will break many small businesses. I should explain that the $20,000 is an estimate from the Small Business Association of Australia.

This government must by now realise that small business is really hurting. You have only to step out the door and speak to your
local shops to work that out. Many small businesses feel overwhelmed by the task at hand, and I would briefly like to give you the example of a woman I met in the small town of Ayr some two weeks ago who runs a very efficient small business. She is 64 years old and her business is not computerised. She is absolutely daunted by the task of turning her business into a compliant tax collection point, and her answer is in fact just to close up. She employs two people, and those two people will lose their jobs, as will she. (Time expired)

Question resolved in the affirmative.

Women: Commonwealth Boards

Senator STOTT DEPOJA (South Australia—Deputy Leader of the Australian Democrats) (3.29 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Family and Community Services (Senator Newman), to a question without notice asked by Senator Stott Despoja today, relating to the participation of women on Commonwealth boards.

It is fitting that on this International Women’s Day the minister responsible for assisting the Prime Minister in these areas was questioned about this government’s commitment to women, particularly in Australian society but specifically in relation to this government’s so-called commitment to increasing the number of women in decision making bodies and on Commonwealth boards. In the last four years, despite these purported commitments, we have seen only a 2.6 per cent increase in the number of women who are represented on Commonwealth boards. Currently the proportion of women on Commonwealth boards is only 30.9 per cent. We have seen a minuscule increase during the period of time this government has been in office, and that is almost four years since the minister made a pledge and gave a commitment that she would work to encourage greater numbers of women on government boards. We should note that these Commonwealth boards are boards over which the Commonwealth government has total discretion in relation to the appointment of women.

Not only is International Women’s Day an opportunity to celebrate the gains and successes of women and the women’s movement and to look at how far women have come in public life and in private life around the world as well as in our country; it is also an opportunity to look at some of the gains that we have yet to make, some of the struggles that we have left to fight and the campaigns that we need to fight in order to ensure that women have equal rights in our society, no more so than on political boards, in political parties and of course when it comes to political representation.

I note that a report released yesterday by the Inter-Parliamentary Union demonstrated that political parties are still holding back women’s opportunities when it comes to the representation of women in politics. The United Nations study, obviously released for International Women’s Day, demonstrated that we still have appallingly low levels of representation of women in parliaments. The average in the Americas is about 15.3 per cent. In Asia, it is 14.3 per cent. For Europe outside the Nordic countries, 13.3 per cent of representatives are women. We could learn a lot from the Nordic countries. Five Nordic states, Germany, the Netherlands and South Africa have a membership in their parliaments of more than 30 per cent women. That is something that Australia can certainly learn from. Australia’s federal parliament contains 54 women: 22 in the Australian Senate and 32 out of the 148 members in the House of Representatives. This represents a ratio of 24 to 5, around a fifth. I note, however, that the Sydney Morning Herald suggests that it is a 72-strong Senate. I suggest it might be 76 members to which it is referring.

Some of us have had the opportunity, indeed the privilege, to listen to Dale Spender in her second address to the National Press Club. Senator Kate Lundy was there on behalf of the opposition. We were able to hear a woman who is not only a great feminist and a great leader in public life but also one of the most technologically literate or tech savvy people in Australia today. She is certainly a leader among women in the technology field. She urged women to take advantage of new technological opportunities as a means of gaining greater opportunities not only for us but for many generations to come.
We have a problem in this country in that we still do not have a head of the Office of the Status of Women. This is despite the fact that four months ago the previous head of the Office of the Status of Women left. Despite the fact that advertisements went out four months ago, in October last year, for that position, we are yet to see an appointment take place. I think the senator’s blustering today in her answer suggests that the government is nowhere near making that appointment and, although she lamented the slowness in action, she is doing little to facilitate that process. It is all very well for Senator Newman to lament the fact that not everyone was wearing ribbons today. I do note that one of her male colleagues suggested that the ribbon might have something to do with the Fremantle Dockers, as opposed to celebrating International Women’s Day. Indeed, it was Senator McGauran who interjected with that rather frivolous statement.

Senator Ian Campbell—Where is your sense of humour?

Senator STOTT DESPOJA—I have little sense of humour to take that interjection when it comes to women’s rights in society, Senator Campbell. (Time expired)

Question resolved in the affirmative.

PETITIONS

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

Goods and Services Tax: Sanitary Products

To the Honourable the President and members of the Senate in Parliament assembled:

The petition of the undersigned shows that from July 1, 2000 a GST will apply to sanitary pads and tampons, items currently tax exempt. Your petitioners request that the Senate call upon the Treasurer to exempt tampons and sanitary pads from the GST.

by Senator Stott Despoja (from 28 citizens).

Petition received.

NOTICES

Presentation

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

That the Senate—

(a) notes that:

(i) President Clinton prohibited all federal departments and agencies in the United States of America using genetic information against federal employees in hiring or promotion action by executive order on 8 February 2000,

(ii) no such protection is currently available for Australian employees, and

(iii) 12 months have passed since the Senate considered the Genetic Privacy and Non-discrimination Bill 1998 without implementation of any of the recommendations of the report of the Legal and Constitutional Legislation Committee on the provisions of the Genetic Privacy and Non-discrimination Bill 1998; and

(b) calls on the Government to, at a minimum, implement the following recommendations of the report:

(i) the creation of a national working party in which Commonwealth departments would hold responsibility for administration of the consultation process and the establishment of a working group including state and territory representatives, experts and representatives of stakeholder groups, and

(ii) a reference to the Legal and Constitutional References Committee to undertake a thorough examination of the issues relating to genetic privacy and discrimination including insurance, employment, provision of goods and services, clinical diagnosis and treatment, conduct of medical and other research and genetic information concerning children.

Senator Woodley to move, on the next day of sitting:

That the Senate—

(a) notes the contribution of Australian Women in Agriculture to the well-being of rural families and rural communities in Australia;

(b) commends its President, Ms Cathy McGowan, and her team for ably representing their organisation during the past few days in Parliament House; and

(c) calls on the Government to substantially upgrade its support for rural women and families in line with Australian Women in Agriculture’s call to revitalise rural Australia and recognise the special role of women on this International Women’s Day.
Senator Stott Despoja to move, on the next day of sitting:
That the Senate—
(a) notes that:
(i) on 8 March 2000 the Inter-Parliamentary Union released the results of a survey of 187 women politicians from 65 countries titled ‘Politics: Women’s Insight’ to be presented to the current meeting of the United Nations Commission on the Status of Women,
(ii) this survey is accompanied by international comparative figures which reveal that women make up only 13 per cent of international parliamentary institutions,
(iii) Australia ranks only 20th in terms of its level of female participation in Federal Parliament, behind much of Europe and New Zealand, with the percentage of women members at just 22.4 per cent and women senators at 30.3 per cent; and
(b) urges the Government to take note of the suggestions of survey respondents to improve the level of female representation in parliaments.

Senator Murphy to move, on the next day of sitting:
That the Economics References Committee be authorised to hold public meetings during the sittings of the Senate on 14 March and 15 March 2000, from 3.30 pm, to take evidence for the committee’s inquiry on the provisions of the Fair Prices and Better Access for All (Petroleum) Bill 1999 and the practice of multi-site franchising by oil companies.

Senator Allison to move, on the next day of sitting:
That the Senate—
(a) notes:
(i) that in 1992 the High Court, in what has come to be known as Marion’s case, decided that the non-therapeutic sterilisation of an intellectually-disabled minor could not be authorised without a court order,
(ii) the findings of Cathy Spicer, who reports that recent statistics show an increase in the rate of sterilisation procedures performed on women and young girls with an intellectual disability, and
(iii) that there is no comprehensive research regarding the sterilisation of women with an intellectual disability; and
(b) calls on the Government to:
(i) conduct a review of the legal, ethical and human rights mechanisms in place, or needed, to protect the rights and interests of the reproductive health of women with intellectual and other disabilities, and
(ii) commission research on the practice, effects and implications of the sterilisation of women with intellectual and other disabilities.

Senator Hogg to move, on the next day of sitting:
That the Senate notes that:
(a) it is 28 days since former Senator Parer resigned as a senator for the State of Queensland;
(b) the Queensland Liberal Party has said that it will not select a replacement for Senator Parer until 30 April 2000, another 53 days (a total of 81 days since Senator Parer’s resignation);
(c) at the Queensland Liberal Party’s request, the Queensland State Parliament will not be asked to appoint a replacement for Senator Parer until 16 May 2000 (a total of 97 days since Senator Parer’s resignation);
(d) the day of swearing-in of the successor to Senator Parer would be 5 June 2000 at the earliest (a total of 117 days since Senator Parer’s resignation); and
(e) the people of the State of Queensland have been denied their full Senate representation by the lethargy of the Queensland Liberal Party in appointing a successor to Senator Parer.

Senator Greig to move, on the next day of sitting:
That the Senate—
(a) notes the opposition to mandatory sentencing of the following prominent Australians:
former Chief Justice of the High Court of Australia, Sir Gerard Brennan,
former High Court judge, Sir Ronald Wilson,
former High Court judge and former Governor-General, Sir Ninian Stephen,

former Chief Justice of the High Court, Sir Anthony Mason,

former Chief Justice of the High Court, Sir Harry Gibbs,

former Chief Justice of the High Court, Sir Daryl Dawson,

former Chief Justice of the High Court, John Toohey,

the Right Honourable John Malcolm Fraser, and

the Right Honourable Edward Gough Whitlam; and

(b) calls on the Government to give serious consideration to the views of these eminent Australians.

COMMITTEES

Selection of Bills Committee

Report

Senator CAL VERT (Tasmania) (3.37 p.m.)—I present the second report for 2000 of the Selection of Bills Committee and move:

That the report be adopted.

Amendment (by Senator O’Brien) agreed to:

At the end of the motion, add “and, in respect of the Corporations Law Amendment (Employee Entitlements) Bill 2000, the provisions of the bill be referred to the Parliamentary Joint Committee on Corporations and Securities for report on 6 April 2000”.

Motion, as amended, agreed to.

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

Leave granted.

The report read as follows—
The committee met on 7 March 2000.

The committee resolved to recommend–

That the provisions of the following bills be referred to committees:

<table>
<thead>
<tr>
<th>Bill title</th>
<th>Stage at which referred</th>
<th>Legislation committee</th>
<th>Reporting date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customs Tariff Amendment Bill (No. 1) 2000 (see Appendix 1 for a statement of reasons for referral)</td>
<td>Immediately</td>
<td>Economics</td>
<td>4 April 2000</td>
</tr>
<tr>
<td>Excise Tariff Amendment Bill (No. 1) 2000 (see Appendix 1 for a statement of reasons for referral)</td>
<td>Immediately</td>
<td>Economics</td>
<td>4 April 2000</td>
</tr>
<tr>
<td>Dairy Industry Adjustment Bill 2000 (see Appendix 2 for a statement of reasons for referral)</td>
<td>Immediately</td>
<td>Rural and Regional Affairs and Transport</td>
<td>15 March 2000</td>
</tr>
<tr>
<td>Dairy Adjustment Levy (Excise) Bill 2000 (see Appendix 2 for a statement of reasons for referral)</td>
<td></td>
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<tr>
<td>Dairy Adjustment Levy (Customs) Bill 2000 (see Appendix 2 for a statement of reasons for referral)</td>
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<td></td>
</tr>
<tr>
<td>Dairy Adjustment Levy (General) Bill 2000 (see Appendix 2 for a statement of reasons for referral)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Australian Wool Research and Promotion Organisation Amendment (Funding and Wool Tax) Bill 2000 (see Appendix 3 for a statement of reasons for referral)</td>
<td>Immediately</td>
<td>Rural and Regional Affairs and Transport</td>
<td>10 April 2000</td>
</tr>
<tr>
<td>Telecommunications (Interception) Legislation Amendment Bill 2000 (see Appendix 4 for a statement of reasons for referral)</td>
<td>Immediately</td>
<td>Legal and Constitutional</td>
<td>11 May 2000</td>
</tr>
</tbody>
</table>

That the following bill 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>
</tr>
</thead>
<tbody>
<tr>
<td>Albury-Wodonga Development Amendment Bill 1999 (see Appendix 5 for a statement of reasons for referral)</td>
<td>Immediately</td>
<td>Rural and Regional Affairs and Transport</td>
<td>4 April 2000</td>
</tr>
</tbody>
</table>
That the following bills not be referred to committees:

- Census Information Legislation Amendment Bill 2000
- New Business Tax System (Miscellaneous) Bill 1999
- New Business Tax System (Venture Capital Deficit Tax) Bill 1999
- Timor Gap Treaty (Transitional Arrangements) Bill 2000

The Committee recommends accordingly.

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

- Taxation Laws Amendment Bill (No. 10) 1999 (deferred from meeting of 19 October 1999)
- Customs Amendment (Anti-Radioactive Waste Storage Dump) Bill 1999 (deferred from meeting of 30 November 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)
- Fisheries Legislation Amendment Bill (No. 2) 1999
- Health Legislation Amendment Bill (No. 4) 1999
- Health Insurance (Approved Pathology Specimen Collection Centres) Tax Bill 1999
- Medicare Levy Amendment (CPI Indexation) Bill 1999
- Taxation Laws Amendment Bill (No. 11) 1999
- Transport and Territories Legislation Amendment Bill 1999 (deferred from meeting of 7 March 2000)
- Corporations Law Amendment (Employee Entitlements) Bill 2000
- Medicare Levy Amendment (Defence—East Timor Levy) Bill 2000
- Primary Industries (Excise) Levies (GST Consequential Amendments) Bill 2000
- Taxation Laws Amendment Bill (No. 5) 2000

Chair
8 March 2000

Appendix 1
Proposal to refer a bill to a committee

Name of bill(s):
- Customs Tariff Amendment Bill (No. 1) 2000
- Excise Tariff Amendment Bill (No. 1) 2000

Reasons for referral/principal issues for consideration
To examine and report on how effective measures contained in these bills have been in stopping fuel substitution activities that are reported to have led to a significant loss of revenue to the commonwealth as well as damage to many motor vehicles through the dilution of fuel with high concentrations of tax-free solvents

Possible submissions or evidence from:
Australian Institute of Petroleum; Liberty Oil; Australian Automobile Association; RACV; NRMA; Australian Customs Service; Victorian Governments; and New South Wales Government

Committee to which bill is referred:
Senate Economics Legislation Committee

Possible hearing date:
4th April 2000

Possible reporting date(s):
4th April 2000

(sign) Kerry O’Brien
Whip/Selection of Bills Committee member

Appendix 2
Proposal to refer a bill to a committee

Name of bill(s):
- Dairy Industry Adjustment Bill 2000
- Dairy Adjustment Levy (Excise) Bill 2000
- Dairy Adjustment Levy (Customs) Bill 2000
- Dairy Adjustment Levy (General) Bill 2000

Reasons for referral/principal issues for consideration
Examine adequacy of legislation in meeting its stated aims

Possible submissions or evidence from:
Department, Industry, Lessors groups

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

Possible hearing date:
10 March 2000

Possible reporting date(s):
ASAP

(sign) Kerry O’Brien
Whip/Selection of Bills Committee member

Appendix 3
Proposal to refer a bill to a committee

Name of bill(s):
Australian Wool Research and Promotion Organisation Amendment (Funding and Wool Tax) Bill 2000

Reasons for referral/principal issues for consideration
Impact of rate of wool tax on Research and Development and Marketing

Possible submissions or evidence from:
Department, AWREP, Industry groups

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

Possible hearing date:
Possible reporting date(s):
(signed) Kerry O’Brien
Whip/Selection of Bills Committee member

Appendix 4

Proposal to refer a bill to a committee

Name of bill(s):
Telecommunications (Interception) Legislation Amendment Bill 2000

Reasons for referral/principal issues for consideration
Need for a new warrant
Adequacy of safeguards
Adequacy of reporting mechanisms

Possible submissions or evidence from:
AFP, ASIO, law enforcement agencies, civil liberties groups

Committee to which bill is referred:
Senate Legal and Constitutional Legislation Committee

Possible hearing date: TBA
Possible reporting date(s): Mid April (as per government proposal)
(signed) Kerry O’Brien
Whip/Selection of Bills Committee member

Appendix 5

Proposal to refer a bill to a committee

Name of bill(s):
Albury-Wodonga Development Amendment Bill 1999

Reasons for referral/principal issues for consideration
To examine the timing of the legislative provisions for closing the Albury-Wodonga Development Corporation, and to review the delivery of the original objectives of the Commission.

Possible submissions or evidence from:
Local Government
NSW and Victorian State Governments
‘Save our City’, Albury
Mr Tom Uren

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

Possible hearing date: As soon as practicable
Possible reporting date(s): As soon as practicable

(signed) Vicki Bourne
Whip/Selection of Bills Committee member

NOTICES
Postponement
Items of business were postponed as follows:
General business notice of motion no. 438 standing in the name of Senator Stott Despoja for today, relating to Australia’s education sector, postponed till 14 March 2000.

General business notice of motion no. 441 standing in the name of Senator Allison for today, relating to Telstra’s Bendigo and Morwell Call Centres, postponed till 9 March 2000.

COMMITTEES

Rural and Regional Affairs Transport References Committee

Meeting
Motion (by Senator Woodley) agreed to:
That the Rural and Regional Affairs and Transport References Committee be authorised to hold a public meeting during the sitting of the Senate on 13 March 2000, from 8 pm till 10.30 pm, to take evidence for the committee’s inquiry into air safety.

Legal and Constitutional References Committee

Extension of Time
Motion (by Senator McKiernan) agreed to:
That the time for the presentation of the report of the Legal and Constitutional References Committee on matters arising from the introduction of the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999 be extended to 13 March 2000.
Superannuation and Financial Services Committee

Meeting

Motion (by Senator Lightfoot) agreed to:

That the Select Committee on Superannuation and Financial Services be authorised to hold a public meeting during the sitting of the Senate on 13 March 2000, from 7.30 pm till 10.30 pm, to take evidence for the committee’s inquiry into the provisions of the Superannuation (Entitlements of same sex couples) Bill 2000.

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

Meeting

Motion (by Senator Calvert, at the request of Senator Ferris) 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 14 March 2000, from 3.15 pm till 5.30 pm, to take evidence for the committee’s examination of the 1998-99 annual report of the National Native Title Tribunal.

Rural and Regional Affairs and Transport Legislation Committee

Extension of Time

Motion (by Senator Calvert, at the request of Senator Crane) agreed to:

That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the Australian Quarantine and Inspection Service and the importation of salmon be extended to 12 April 2000.

Scrutiny of Bills Committee

Alert Digest

Senator O’BRIEN (Tasmania) (3.40 p.m.)—On behalf of Senator Cooney, I lay on the table Scrutiny of Bills Alert Digest No. 2 of 2000 dated 8 March 2000.

BILLS RETURNED FROM THE HOUSE OF REPRESENTATIVES

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

Migration Legislation Amendment Bill (No. 2) 1999 [2000].

COMMITTEES

Membership

Messages received from the House of Representatives acquainting the Senate of a change in the membership of the Joint Committee on Public Accounts and Audit—Mr Lindsay in place of Mr Brough, discharged—and the Joint Standing Committee on Treaties—Mr Byrne in place of Mrs Crosio, discharged.

Foreign Affairs, Defence and Trade References Committee

Reference

Senator BROWN (Tasmania) (3.41 p.m.)—I move:

That the following matters be referred to the Foreign Affairs, Defence and Trade References Committee for inquiry and report by 30 June 2000:

(a) relations between Australia and Indonesia with regard to West Papua (formerly Irian Jaya);
(b) Australian Government aid in West Papua;
(c) links between Australia’s armed forces and Indonesian armed forces operating in West Papua;
(d) Australian trade links with West Papua;
(e) the impact of Australian investment and trade on human rights and the environment in West Papua; and
(f) West Papuan immigration, including refugees, to Australia.

It is long past time that this parliament had an inquiry into our nearest neighbour. With perhaps the exception of Papua New Guinea, West Papua is the nearest neighbour Australia has. It is a nation of 1.8 million indigenous people and it has been forsaken by the rest of the world since the 1960s when, with the departure of the Dutch from the colony as they had it, Indonesian paratroopers dropped in and took over the country. This act of forced accession into Indonesia was followed by the United Nations agreeing to Indonesia’s wish that West Papua become its 29th province.

In recent times we have seen the release of documents showing that Australian and American diplomats were complicit in keeping from Australians at the time the true na-
ture of the feelings of the West Papuan people, which was that 95 per cent of them wanted independence. In the years that have followed, many thousands of West Papuans have died fighting for their country. There has been a clandestine bush army representing the military component of the never ending quest for independence which has been in the heart of the West Papuan people.

The rest of the world, and in particular Australia as part of the rest of the world—and as a neighbour that should have ascribed to the principles of democracy and the aspirations for freedom and self-determination—turned its back on these neighbours of ours, so much so that very few of them have ever been allowed into this country. You can count the number of West Papuans in Australia on your fingers and toes. Ten thousand West Papuans fled across the border into Papua New Guinea in the 1980s and 1990s, hotly pursued by the Indonesian troops. We know of massacres in West Papua like those in East Timor. We know that those people who were involved in fighting for self freedom and self determination did so only at the peril of their lives and many of them were tortured and put to death in the bad old days of the Suharto regime.

In pursing support for this motion, I can report to the Senate that things have changed for the better since President Wahid came to office in Indonesia last year. I must say that in President Wahid we have an admirable leader of the Indonesian people and a president who is giving back to Indonesians the kudos they deserve as a people for having humanity and regard for the rights of others. But this has not extended to the military which still has a great deal of say in what happens in West Papua, the biggest province incorporated into Indonesia. However, President Wahid went to West Papua on New Year’s Eve and by decree he altered the Indonesian name, Irian Jaya, to West Papua. In doing so he recognised West Papuan people in a way that Australian governments have not. He also has made it clear that he recognises the aspirations of the West Papuan people at least for a greater degree of self determination.

There is at the back of this whole debate a need for Australia to look at the economic politics of West Papua. It is a resource rich country, not least in forest, minerals and fisheries. Many people listening to this will know of the giant Freeport mine—one of the largest mines on the face of the planet—in West Papua but will not know that very little of the riches or the spin-off from this huge gold and copper mine have gone to the West Papuan people. Indeed, recently the Governor of West Papua has called upon that mine to give 80 per cent of its profits to the West Papuan people, but he is not going to get much support unless we in this parliament are listening to what is happening to our neighbours, and what is happening to a country which is largely controlled by the military and the aspirations of external investors, not least those from Australia.

Some Australians will be aware that the environment of West Papua is one of the richest on the face of the planet in terms of its species richness, rainforests, mangroves, fantastic rivers, glacier capped mountains on the equator, coastal regions and wildlife. That fantastic repository of environmental riches is under imminent and huge threat from all directions in this resource hungry age of materialism. The last people having any say as to what happens in the future to this country’s environment with which they relate so much are the West Papuan people themselves. It is time they had that say.

The Australian parliament and, indeed, the Australian media and people, cannot turn their backs on events in West Papua. We have a clear obligation to be informed about what is happening in this country and to be aware of such events as a shooting in the last month of at least four young people who were espousing freedom for their country. We have an obligation to take part in raising the debate worldwide about the future of West Papua. We have a role to follow initiatives now being taken in the Dutch parliament in The Hague to reopen the question of the sham of the referendum held in the 1960s whereby 1,100 so-called representatives of the West Papuan people were coerced into signing a document giving away the freedom of themselves and their people. We cannot turn our
backs on the fact that, if a plebiscite were held in West Papua this coming Saturday, it would give a resounding vote in favour of the freedom of the West Papuan people and the emergence of a new Melanesian nation.

The first Papuan congress ended two Saturdays ago in Jayapura, the capital of West Papua, with the unanimous rejection of that 1969 plebiscite. In a statement from that, some hundreds of leaders at that congress unanimously called for the process towards independence. Is that a call that we in this parliament are going to ignore? I am not saying, let’s endorse that through this motion today. I am saying, let’s inquire into it. Let’s find out what is going on in West Papua. Let’s at least do the right thing by informing ourselves about this important issue which is not going to go away. I put it to the chamber that this issue will become increasingly volatile. We do not want to see a repeat of East Timor in terms of the process of self-determination. In President Wahid we do have a different attitude towards the rights and freedoms of people within the Indonesian aegis, and we ought to be talking about this issue with the Indonesian authorities, as well as making sure that we are informed about the aspirations of the West Papuans themselves.

Let me say this: West Papua will be free; it is inevitable. Australia can put its head in the sand and say, ‘Let them work that out,’ or we can say, ‘We, as a neighbour, will be a facilitator.’ We have a role as a middle order power which stands for democracy and freedom to help in the new birth of this nation of West Papua, as we so belatedly did in the rebirth of the East Timorese nation. I would at this point again say to everybody in this place, particularly to the government and opposition: think again if you are going to vote against this motion. West Papua is our business. It is our duty to be informed about West Papua. West Papua will not go away simply because we do not inquire into it and do not want to know about it. It is a fundamental component of our democratic obligations that we are informed about issues in our neighbourhood. I reiterate that there has never been an inquiry into West Papua and the aspirations of the people of West Papua—and, indeed, Australian involvement, as this motion would inquire into.

I ask those who might vote against this motion: where is your alternative? Where is your specific alternative to inform us about this nation of nearly two million people on our doorstep? There are two options here: vote for this motion, or vote it down but come up with a reasonable alternative. I have not had feedback about that reasonable alternative, and I think it certainly does down the charge we have in this national parliament to be informed about what is going on in our neighbourhood and how we can help neighbours aspiring to their democratic rights, their civil rights, their environmental rights, their economic rights as a nation which is going to emerge into the light of freedom in the coming years.

Senator BROWNHILL (New South Wales—Deputy Leader of the National Party of Australia in the Senate) (3.54 p.m.)—The government does not support the motion as laid down by Senator Brown. I think it is good that we put on record some facts and figures regarding the issues that have been raised. Australia, together with all the UN members, recognises that Irian Jaya is a part of the Republic of Indonesia. Australia’s policy is to work for the welfare and human rights of the people of Irian Jaya within a strong and united Indonesia. We believe that grievances should be dealt with through a dialogue and in a peaceful way.

We are pleased that Vice President Megawati has been given special responsibility to address issues of concern to the people of Irian Jaya and that the government of Indonesia is taking steps to develop a framework for regional autonomy, covering political and economic issues. Implementation of autonomy will be the responsibility of the newly created position of Minister for Regional Autonomy, currently held by Dr Rasyid. It is important to understand that, unlike East Timor, Irian Jaya was an integral part of the Dutch East Indies. It was reunited with the successor state through the United Nations sponsored 1969 Act of Free Choice. That act was conducted in the context of broad international support for ending the last vestiges of Dutch colonial rule.
Australia’s bilateral aid projects in Irian Jaya are publicly known and are focused on the health sector and institution strengthening. The main programs include the $3 million Jayawijaya women and children’s health project; a UNICEF safer motherhood program, worth $13 million across Indonesia; and a project to strengthen quarantine and animal health infrastructure, worth $150,000. Australia has also been active in providing humanitarian aid, including through Medecins sans Frontieres, the UNFAO and Leprosy Mission Australia, and assistance to Indonesian NGOs for human rights training and water supply and sanitation.

Defence cooperation with Indonesia remains one aspect of the overall relationship. Following recent events, the government has been looking at the appropriateness of various elements of the defence relationship. The Minister for Defence announced in September that some activities would be suspended and others would be reviewed. There are, however, no ongoing defence ties specifically with Irian Jaya. Occasional cooperative military activities have included Operation Ausindo Jaya in early 1998—a major joint drought relief operation which brought vital food supplies to isolated and remote communities in Irian Jaya and saved many lives—and joint activities to retrieve World War II aeroplanes. Likewise, there is no special trade relationship with Irian Jaya or program to develop trade relations with that province.

In general, trade statistics on a province by province basis are very difficult to obtain. Australia does not maintain export statistics on a provincial basis. The bulk of Australian exports to Irian Jaya is in the mining sector, either providing machinery and services directly involved in mining or providing goods and services related to supporting mining communities. Given the limited Australian trade and investment in Irian Jaya, the human rights and environmental impacts will be limited and very difficult to gauge. There certainly is no linear relationship between Australian trade and investment and the environmental and human rights situations in Irian Jaya, which are in any event very complex and multifaceted issues. The number of Irianese applying to migrate to Australia is negligible, and Irianese do not feature strongly in refugee statistics. The government does not support the motion as moved by Senator Brown for an inquiry at this time.

**Senator O’BRIEN (Tasmania) (3.59 p.m.)**—Labor do not support Senator Brown’s proposal to establish a Senate inquiry into the situation in West Papua. As Senator Brown knows, the Senate Foreign Affairs, Defence and Trade References Committee, to which this matter is proposed to be referred, has not yet completed its inquiry in respect of East Timor and it has at least two other matters currently under consideration. Let me say, however, that for our part—as the shadow minister for foreign affairs, Mr Laurie Brereton, indicated late last year and as he has indicated more recently—Labor are inclined to favour a broad inquiry into Australia’s bilateral relationship with Indonesia. It is the shadow minister’s view that such an inquiry could be conducted in the course of this year by either the Senate committee—that is, the committee to which this matter is proposed to be referred—or the Joint Committee on Foreign Affairs, Defence and Trade. Labor’s view is that such an inquiry could make a valuable contribution to efforts to build a new relationship with a new, more democratic Indonesia. Such an inquiry could address the question of West Papua and, might I say, also address many other issues of importance. It would do so in the context of the overall relationship between our countries. So I say again, for these reasons Labor are not minded to support the reference proposed by Senator Brown but, hopefully, those matters that I have indicated to Senator Brown may satisfy him that the issues he seeks to address could be dealt with in some way in the manner that I have suggested.

**Senator BROWN (Tasmania) (4.01 p.m.)**—I thank the government and the opposition for their contributions, although I must say that I am totally dissatisfied with them. I will not go over my earlier submission, but I will say that it is my intention to continue to raise the issue of West Papua and to raise it forcibly in this chamber. Australia must face up to its responsibility to at least be informed about West Papua as a necessary basis for
taking its responsibilities seriously towards its neighbours’ civil, human and democratic rights. The government could start by catching up with the fact that the name has been officially changed from Irian Jaya to West Papua and that the formerly labelled Irianese people are now officially labelled—even by Jakarta—as West Papuans. That is a matter of very great importance to the self-esteem of the West Papuans who are Melanesian people and who identify with their Melanesian brothers and sisters in fellow populations.

We have had an indication, too, of the paucity of information available on what our relationship is with West Papua, even by the government. If I look at the figures that Senator Brownhill provided—and I thank him for those figures—Australia is providing between $3 million and $4 million in aid to the two million people on our doorstep. The mining and logging corporations and other corporations operating out of Australia—and, increasingly, tourist operations—will be doing bigger business than that. I remind the chamber that the last people to benefit from the big mining corporations operating in West Papua are the West Papuans themselves. One has only to look at the statistics on social services on such things as education to understand that that is the case. I also remind the chamber that many West Papuans have in fact been killed as a result of their opposition to the social and environmental impact of mines like the one at Freeport. So I understand, clearly, that this motion for the Senate to inquire into West Papua is lost, but I can assure the chamber that my ardour for bringing this important matter up for debate will continue, and I will return to the matter in the coming months.

Let me explain my motion. Although I think you do not need any explanation, Mr Acting Deputy President, let me explain it to the rest of the chamber. Last year, members will remember that the regional forest agreement legislation did not pass this chamber and amendments that went to the House of Representatives were effectively rejected there. Consequent upon the failure of governments to get the regional forest agreements into play around the country by the end of last year, the prospect of export woodchipping ceasing was coming down at a greater rate of knots for 31 December. To get around this the Howard government, after parliament rose in December, promulgated regulations to allow licensing of export woodchipping through to the end of March. It did not refer this matter to the parliament, the House of Representatives or the Senate and it did not bring forward these regulations for us to debate at that time when it should have. In effect, the government avoided the parliament to have these regulations brought into force without proper debate. My motion today brings forward that proper debate.

Let me tell you about the state of play as far as the forests in Australia are concerned. The regional forest agreement legislation has failed to pass the parliament. It may or may not come back before us in the coming months. Even if it does—and even if the five regional forest agreements yet to be signed are signed this month—the major point to be made about the regional forest agreement legislation is that it is a failure.

It was meant, through a process of consultation with the community, to resolve the long-running forest dispute right around Australia, from Queensland through New South Wales, Victoria and Tasmania across to Western Australia. It has simply heightened
that dispute, because the parliament and the representatives of the people have failed to face up to a simple fact—that is, the great majority of Australians do not want our native forests logged, in particular do not want our native forests woodchipped and have the intelligence to know we now have a plantation base in this country which can provide all this nation’s wood needs.

The people not only do not want the forests woodchipped but also know that it is entirely unnecessary that our wild forests and their wildlife are being destroyed and that, through the regional forest agreements, parliaments are giving away their obligation to be responsible for those forests. In effect, the national parliament is giving away that responsibility for 20 years. You will know, Acting Deputy President Murphy, that part of the regional forest agreement for Tasmania—from which two-thirds of the woodchips going to Japan each year from Australia emanate—is that, under section 7, were the federal government to intervene at any time in the next 20 years to protect for any reason the forest that is currently available to the loggers, the woodchip corporations could successfully sue for compensation. In other words, they would get millions of dollars simply for not sending in the chainsaws to destroy the people’s forests, for which they have never paid a red cent.

We have an extraordinary situation where 80 per cent of the people want the forests protected. According to serial opinion polls, they do not want the forests knocked down and woodchipped, but more than 80 per cent of the politicians are voting for that very outcome. I will not go into it at length, but my belief is this is because of the insidious and retrograde impact of the power of money and influence of those very same corporations on political parties.

The regional forest agreements have failed in all the states in which they have been signed to bring about the peace and the ecologically sustainable logging that we were told they would bring. Let us look at some of the outcomes. In the Styx River valley in Tasmania—which is an hour and a half drive from Hobart, and I was there last Monday week—the tallest trees in the Southern Hemi-

sphere, the tallest hardwoods on the face of the planet and the tallest flowering plants ever to grow in the world are being logged at the greatest rate in history and are going to be logged from end to end.

**Senator McGauran**—Can’t believe it!

**Senator BROWN**—Senator McGauran says that he cannot believe it, and that is because he has not been to see it. I invite him to come to see these trees. I will host him. In the run-up to Christmas, the Wilderness Society put lights up in a tree by Gee Creek, which runs into the Styx River, and a neon lit star at the top, 80 metres above the ground. Can you imagine? A soccer field is 100 metres long. This is nearly as long as that but vertical, into the sky. They lit up the tallest Christmas tree in the world in history. That tree and the forest with it, in which there are probably much taller trees, will be destroyed in the first few months of the regional forest agreement period—and, with it, all the wildlife.

I reiterate: the process which is undertaken here is the chainsawing of this giant, ancient forest. The woodchip logs take them out to the mills, where they are sent to the paper mills and, ultimately, the rubbish dumps of the Northern Hemisphere. Then, at the end of the season, Forestry Tasmania—at the behest of the woodchip corporations—using public money flies in with helicopters and drops hundreds of ping-pong balls of napalm-like material to set up a holocaust fire to destroy rainforest species, any remaining wildlife and any last living blade or leaf of green. The whole area is death. Then they plant their genetically modified, fast growing eucalypts in this once rich ecosystem. But they have a problem. Some of the marsupials from the existing forests next door might come in and chew on those genetically modified trees, so they then lay 1080 poison to kill the native wildlife. It is a chainsaw, firebomb and poison regime which is going to destroy this valley of the giants from end to end because the signatures of Prime Minister Howard and the then Premier of Tasmania went on a regional forest agreement in the name of woodchipping.

**Senator Forshaw**—What’s this got to do with the disallowance?
Senator BROWN—Exactly! I am sure the Labor senator from New South Wales will agree to this motion when he understands that that destruction is an outcome of woodchipping in native forests in this state. Because Senator Forshaw interjected, let me also say that the regional forest agreements in all states were predicated on the mantra from the woodchip corporations, along with the CFMEU, that they would create jobs and protect jobs. But it was a lie. Since the regional forest agreement was signed by Prime Minister Howard targeting places like the valley of the giants in Tasmania, the woodchip corporations have sacked 500 people in my state. The CFMEU has never, not once, set a foot on the footpath in front of the woodchip corporations to object to the lie perpetrated that woodchipping was going to be vouchsafed by the regional forest agreements and by the big parties—the Labor Party, the Liberal Party and the National Party—and was going to see prosperity in the regions.

Of course, it is seeing quite the opposite. It is seeing the jobs lost because, as these big corporations aggregate, they are automating, and it is seeing the money taken out of regional Australia and into the boardrooms in St Kilda Road, Sydney, Tokyo and elsewhere, where the real profits are made at the expense of Australia’s natural forest heritage. In New South Wales, where the regional forest agreements have not yet been signed—but that has to happen by the end of this month—they have even put koala breeding habitat into the prescription for destruction at the behest of the woodchippers. And who in this place is going to say that is wrong? No-one, because that is what has happened. We were told that it was ecologically sustainable logging. In fact, it is the destruction of not only ancient forest heritage in this country but the nation’s iconic flora and fauna under the signature of the Prime Minister, at the behest of the big-party-donating woodchip corporations, located not in regional Australia but in downtown, big city Australia and overseas.

We were told that in East Gippsland there would be ecologically sustainable logging, and the regional forest agreement was first signed in East Gippsland. During this woodchip licence period, habitats of the native cat, the spot-tailed quoll—the places in which this rare creature is known to exist—have been set down for destruction in the coming months and years. Heritage river regions in East Gippsland, voted in by the Victorian parliament, have already been logged. What was the response to that? When the Victorian parliament realised that their minister for the environment under the Kennett government had given the go-ahead for the chainsaws to knock down national park forests along the Goolengook River, their response was not to replace it by protecting other areas in its stead but to pass retrospective legislation to validate the criminal action of logging those forests.

In Tasmania, there are the worst clearing control laws in the country—except perhaps those of Queensland before the recent action—yet there has been no effort to move in on the rapid destruction of woodlands and private forests. Even Circular Head Council—not given to be a friend of the Greens—this week called on the government to stop this insidious destruction of the farmland and the natural backdrop beauty of Tasmania by the voracious woodchip industry.

And it is all so unnecessary because we know, and everyone in this game knows, that there are now mature plantations in Australia that are more than enough to supply all our wood needs—not just some of them, not just the woodchips or the frame timbers for houses, but the lot. The only reason for continuing this appalling destruction of Australia’s environment and wildlife is that a few people are making big quids out of it—big money, quick dollars. The parallels with the whaling industry in its worst days are very clear.

I want to speak about another matter. There are citizens in this country who have decided that they are not going to sit on their hands and let this happen in their lifetime. A lot of them are young people, real patriots, and they have gone into the forests and said, ‘We will peaceably protect the forest and the wildlife against the onrush of the bulldozers and the chainsaws under the signature of Prime Minister Howard.’ They have been
beaten up and threatened with murder and rape. They have been hospitalised and traumatised, and they have had thousands of dollars damage done to their vehicles and their property. That happened in the last few months while we were on our Christmas break. Who in this place has raised their voice about that? Can you imagine the clamour, Acting Deputy President, if it were the other way around and people were frogmarched, as they were in East Gippsland recently, out of their cars in the middle of the night at the behest of an army of thugs into a ditch and threatened with rape, having had the windows in their cars smashed, beaten with hammer handles across the road and into the gutter? I will provide a tape of the events to any member of this place who wants it. Members of the logging fraternity took their kids with them to this appalling assault on youngsters wanting to protect forests.

Before that, I went for a couple of hours to the Otways, to Riley's Ridge, where last year a group of people were effectively kidnapped for days on end, held against their will by members of the logging industry fraternity, pro-logging people, and terrorised. If you read about this sort of action happening in Brazil or Mexico, you might think that it could not happen in this country. It is happening in this country, and it is fed, ultimately, by the failure of the political community to accept the win-win alternative which would end this sort of confrontation.

I am appalled at the raid on the Otway camp which occurred the night before I went there. I did not know this had happened. I just wanted to go and see the forests and what these people were protecting. It turned out that, during the night before, at 12 o'clock, carloads of pro-logging thugs had arrived, smashed the mirrors, windows—side, front and back—and panels of cars of people camped there in the forest. They had beaten up three people, including a young woman who had gone to see what was going on. Then they had driven off. When I left that camp in the middle of the day, the police had still not arrived at that scene. A major crime had occurred, but the police had not arrived—and they did not arrive there until late in the afternoon. I believe that they would not have arrived at all, had I not put in a call asking the Victorian minister for police what on earth is going on in this country that that can happen.

Let me just say this: whatever we think about logging in forests, we cannot be silent about that sort of thuggery with people taking the law into their own hands. It is time it was stopped—and it will be stopped all the quicker if people in positions of responsibility, like all of us, speak up against it. We can argue that those who place themselves in front of bulldozers are breaking the law. But they are doing so peacefully, they know what the consequences are and they are doing so because they have a deep spiritual commitment to those forests. That is a much different matter to thugs in the middle of the night taking the law into their own hands and apparently, on some occasions at least, not only getting away with it but also being sanctioned—just for one example, read Miranda Devine in the Telegraph newspaper a couple of years ago. I have said enough about that.

I want to return to one last matter in my remaining few minutes, and that is that I hope there will be support for this motion. We have to do better than allow this destruction to continue. We have to get across to the real win-win situation. The RFA has settled nothing. It is the start of the next round of debate. So my motion which would put an end to the licensing of export woodchipping is a first step in that direction. I have not spoken yet about the impact on the New South Wales forests of the proposed silica factory at Lithgow. I will return to that at another time. (Time expired)

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (4.25 p.m.)—Unlike Senator Brown's remarks, I would like to put some facts before the Senate. The first one is that this government strongly opposes this disallowance motion. The purpose of these regulations which Senator Brown seeks to disallow is simply to ensure that existing Australian exporters of native hardwood chips are able to continue to compete on the export market while the regional forest agreement process is being completed.
It is unfortunate that the production of woodchips from native forests, which is a totally legitimate industry, has become such a controversial subject—mainly as a result of the misinformation spread by Senator Brown and his fellow travellers. The fact is that the bulk of woodchips are residue products resulting from timber harvesting or timber processing. Once a tree is felled for use as a sawlog, only a certain portion of the tree can be processed for sawn timber. The remainder is then chipped, burnt or left to decay on the forest floor. To promote healthy forest growth, small or defective trees are often harvested along with trees suitable for sawlogs—and, again, the choice is to chip this wood, burn it or leave it to rot. Waste wood suitable for chipping is also produced in the sawing process. If offcuts are not converted to woodchips, they are usually burnt. Woodchips are used for a variety of products including the manufacture of wood panels, tinsel, rayon, and pulp and paper products—such as writing paper and tissues. If woodchipping were to stop, trees would still need to be harvested to supply our demand for sawn timber. However, the waste material would not be used and we would need to import either woodchips to supply our manufacturing plants or more wood and paper products.

Let me remind honourable senators that, under the RFA process, the Commonwealth and the relevant state governments are committed to reaching agreement on the long-term management of native forests which will protect environmental and other values in a world-class reserve system. Not only that, but they will also give forest industries a firm base to create jobs and business opportunities and also ensure that the forest estate is managed sustainably for future generations.

Despite the best intentions of all parties, it was evident towards the end of 1999 that the deadline would not be met for all RFAs—in particular, the two remaining RFAs in Victoria. While the extensive research and assessment project in the west and Gippsland regions in Victoria had been completed, the Victorian election delayed the public release of some assessment material and, consequently, the next round of public and stakeholder consultations. Conservation groups and other stakeholders requested that the Gippsland and west RFAs offer the same opportunities for public involvement as were offered in the East Gippsland, Central Highlands and north-east regions.

So, rather than compromising the process adopted in other Victorian RFAs by rushing to complete the final two by the deadline of 31 December, the Commonwealth agreed that this public consultation should take place. The government’s firm view was that the integrity of the RFA process was paramount, so the parties should not be rushed simply to complete the RFAs prior to the December deadline. Similarly, enforcing the deadline for current woodchip exports would in no way advance the finalisation of the unfinished RFAs; rather, it would lead to severe disruption of the native timber industry in the regions concerned. The government, therefore, decided to amend the 1996 regulations to simply extend, from 31 December 1999 to 31 March 2000, current transitional export licences issued for regions not covered by an RFA.

This decision allows the RFA process to be concluded in full—thereby ensuring that the strong public interest in this issue is accommodated—encourages the Commonwealth and states to retain their commitment to finalising the RFA process as expeditiously as possible and ensures that the industry currently engaged in the native woodchip export sector is not adversely affected by delays over which it has no control. It is the simplest and least disruptive option in that it maintains the status quo for a short period of time. It will help ensure that, once the RFA process is completed, Australian companies will be able to compete freely in domestic and international markets, secure in the knowledge of continuity of sustainable supply.

The impact of the disallowance of these regulations would not, as Senator Brown would have us believe, fall hardest on what he likes to refer to as the multinational woodchip companies. The major woodchip exporting companies generally have adequate access to resources from areas where RFAs have already been signed or they could shift to supplies from those areas. The big losers
once again in this debate would be the small sawmills and contractors who supply waste material for conversion to woodchips. In many cases, the viability of these businesses depends on the sale of this material.

The consequence of the disallowance of these regulations therefore would be the potential loss of some hundreds of jobs in the western Victorian and Gippsland regions and north-east and southern New South Wales. Senator Brown’s home state would not, of course, be affected at all. It is typical of Senator Brown’s monomania on this subject that he would be prepared to put hundreds of jobs at risk to satisfy his obsession with destroying a perfectly legitimate part of the industry. So the motion to disallow the amendment regulations is really just another attempt to derail that process and the legitimate export of native forest woodchips, and it is strongly opposed.

Senator FORSHAW (New South Wales) (4.32 p.m.)—The opposition likewise will not support the motion for disallowance. I agree with that part of the comments of the government’s parliamentary secretary where she highlighted the fact that this motion for disallowance is really a stunt. The point she just made was that a lot of what was contained in Senator Brown’s speech relating to the situation in Tasmania is irrelevant to the particular issue before the parliament—that is, a regulation which would extend the expiry date of 31 December 1999 by three months to 31 March 2000 to enable completion of the remaining RFAs. That is the real issue before this parliament.

Senator Brown is seeking to take advantage, as it were, of a procedural regulation to extend that date by three months to allow the remaining RFAs in New South Wales and Victoria to be completed. This is for his purpose which is to, as he has clearly enunciated on more than one occasion, stop totally the logging industry in native forests throughout Australia. We are not prepared to support this disallowance because we support the RFA process. We have made that abundantly clear in the debates on the legislation that took place last year. We support the process.

We strongly oppose some of the attempts, certainly by the current minister, to distort and frustrate that process and to impose his own personal stamp upon that process. For instance, we do not support the minister with respect to his views on the position in Queensland. He opposes finalisation of an RFA in that state because, in his view, it does not meet his personal criteria as distinct from meeting the criteria for RFAs as laid down in the national forest policy statement. I digress, because Queensland is not affected either by this particular measure we are debating today. As Senator Brown has opened these issues up for debate this afternoon, I take this opportunity to put that on the record.

The particular purpose of this regulation is to extend the expiry date of the end of 1999 by three months to enable the completion and signing of the RFAs to take place. There are various reasons why those RFAs were not completed by the end of last year as they were intended to be. They are not all due, as the government’s parliamentary secretary says, to the inability of the parties to get agreement. We know, for instance, that the current minister, Mr Tuckey, was seeking to use the negotiation of the RFAs in New South Wales and to delay the finalisation of those RFAs for his own political purposes. He was trying in a crazy way to assist his coalition colleagues in the New South Wales election. It did not work. In fact, they were soundly rejected in New South Wales, but he sought to delay the finalisation of the RFAs for that purpose.

Similarly in Victoria, we have to acknowledge that there was an interruption due to the state election in that state. Fortunately, a Labor government has been elected in Victoria and indeed that election has assisted the process. The Victorian Labor government has put further measures into place which will result, we maintain—and I am sure this parliament will agree—in a better outcome through the RFAs for that state than may well have been the case under the previous Kennett Liberal government.

So there are a range of reasons—some are political interference but others are genuine—which have meant that not all of the RFAs have been completed by the due date of December 1999. Therefore, when the minister indicated he would seek an exten-
sion of that expiry date by regulation, the opposition were happy to support that. As I said, we support the process and the completion of the process in an orderly way, and we are not going to support attempts by Senator Brown to try to derail or frustrate, once again, that process. Therefore, we will not support the disallowance motion that has been moved by Senator Brown.

Senator BARTLETT (Queensland) (4.38 p.m.)—I rise to speak on behalf of the Australian Democrats to this particular motion, which is to disallow a particular regulation relating to export control of some hardwood woodchips. I think it is worth making a couple of points in relation to the issue of woodchips and the related issue of the regional forest agreement process.

The Democrats have opposed, and will continue to oppose, the national RFA legislation which has, thankfully, not passed through this parliament. We have gone into the reasons why at length in previous debates, so I will not go over them in great detail now. But I think it is worth re-emphasising that it is clear from a number of the agreements that have already been adopted in various states that many of them have significant problems in terms of meeting the basic scientific criteria, meeting the basic conditions of environmental sustainability and preserving biodiversity. It is for that reason that we, as a party, do not support that legislation and do not support the outcomes of most of the RFAs.

To highlight the inconsistent approach of the government on this issue, the only RFA, the only agreement relating to forestry in the country, that has been achieved without significant opposition from environmentalists and a large proportion of industry is in Queensland, and it is one of the achievements of the Beattie government that I would be reasonably supportive of. There are always suggestions that there could have been improvements in that agreement but, to get an agreement that brought people together from across what is often quite a large divide and to get broad support for moving in the direction of making forestry in south-east Queensland sustainable, which is what the RFA process was supposed to be about, I think that has been a significant achievement.

For that agreement, which has been one in the country which has been adopted with a minimum of community division, to be the one that Minister Tuckey does not want to support, assist and fund shows the inconsistencies in relation to the government’s approach to RFAs. I think that needs to be condemned and I would urge the federal government—if not Minister Tuckey, then some of his colleagues; perhaps the environment minister, Senator Hill—to try to get some movement on that issue. I remind the government of the Senate’s resolution that was passed here last year urging the government to support the agreement that was reached in Queensland because it is one that should be supported. It is perhaps a slightly broader issue than the regulations we are debating today, but it is an important one in the context of the broader debate about regional forest agreements and the process as a whole.

In relation to woodchips, we have had a few suggestions today that somehow or other the woodchip production process and woodchip exports are something that should be encouraged or supported because, if we did not, all these trees would be chopped down and the produce would just be going to waste and we may as well make use of it. I think that is a very misleading representation of the role that woodchips and woodchip exports in particular play in maintaining unsustainable forestry practices and unsustainable logging in many parts of Australia. That is because woodchips provide the fuel, if you like, for the viability of many of those unsustainable logging operations. It is not a matter of the woodchips being a small by-product at the end of the process; it is a matter of the woodchip profitability or the woodchip income driving the economic viability of many of the unsustainable logging practices around the country.

That is why the Democrats have always had strong opposition to woodchip production and export as it has operated in Australia. I think it is important to make that point because it is not a matter of just putting to use something that would be there and going to waste; it is a matter of the export of this
product driving and fuelling the unsustainable forestry production that continues to operate and will continue to operate in many parts of Australia under a number of the RFAs that have been agreed to. The Democrats’ position remains strong in opposition to unsustainable logging throughout Australia, and the role that woodchip exports play in that is something that needs to be highlighted and needs to continue to be opposed.

Senator BROWN (Tasmania) (4.43 p.m.)—I will briefly comment in particular on Senator Troeth’s contribution on behalf of the government. It could have been written by the woodchip corporation North or Bunnings or one of the other—

Senator Crane—But it wasn’t.

Senator BROWN—I am assured by another senator on the other side of the house that it was not. Whether or not it was, it does not need to be because the government will do the bidding of the woodchip industry even when it comes to misrepresenting the facts, and they know they are misrepresenting the facts.

Senator Troeth who, by the way, has the Otways in her neighbourhood—the place where there is currently huge contention about the impact of logging and, in particular, woodchipping—told the Senate that, in fact, exporting woodchips is necessary because they are thrown up as a residue in the waste wood and the leftovers. That was the contention of the woodchip corporations when they arrived in Eden in 1969 and then, serially, in Tasmania from 1970 onwards. If Senator Troeth does not know that that has been a total misrepresentation of the facts and is an absolute falsehood, then she should go back to her speechwriter—

Senator Troeth—I do not have one; I wrote that.

Senator BROWN—I am alarmed to hear that Senator Troeth wrote the speech she delivered to us. What I would ask her then is to indicate if she has been to Riley’s Ridge to see the logging going on in the Otways in her neighbourhood.

Senator Troeth interjecting—

The ACTING DEPUTY PRESIDENT (Senator Murphy)—I think it would be more helpful to Hansard if you made your remarks through the chair and not across the chamber.

Senator BROWN—Absolutely, Mr Acting Deputy President. She has indicated in that response, which I am sure came through the chair, that she has not. This is the problem. We have people in here who are leading this debate and who have influence but who are ignorant of what is going on, even in their own neighbourhood, like Senator Troeth, as far as logging in the Otways, in her region, is concerned. It is no wonder that we have the government representative getting up and propounding this absolute falsehood that woodchipping is necessary to clean up the residue after the sawmillers. Let me give you the facts.

Senator Troeth—Jobs are what I am interested in.

Senator BROWN—Senator Troeth, flouting your ruling, Mr Acting Deputy President, says jobs are what she is interested in. But when has she ever approached a woodchip corporation when, as you know, Acting Deputy President, they have suddenly changed their minds about contracts and put regional loggers, machinery owners and log truck drivers out of business? Of course, she has not, but I have, and I have had them come to my office. By the dozens, they have said, ‘We thought this industry would support us. They told us that they were in the business of supporting regional jobs,’ like Senator Troeth tells us she is now. But when it gets down to the reality, those jobs are sacrificed on the altar of the profits of these big corporations, and people like Senator Troeth do not get up and protest about it.

That is why I said that 500 jobs have gone west in the last two years since Senator Troeth’s leader, Prime Minister Howard, signed the death warrant—the regional forest agreement—on Tasmania’s unprotected forests, and she has not said a word about it. What sort of representation for jobs in regional Australia is that? It is a sell-out. Senator Troeth is selling out on regional Australia. She mouths the word ‘jobs’ because it is going to help the woodchippers along the line. She knows the form that is carried through in her region in the western...
districts of Victoria, as it is in East Gippsland and Tasmania: as soon as the ink is dry on the regional forest agreement, the big corporations will start the sackings, because they are in the business of making profits, downsizing and replacing people with machines.

It is not going to make much difference to her, because she can still come in here and say, ‘Woodchips are a necessary industry to clear up after the sawmillers.’ I will tell you what happens: in Tasmania’s and East Gippsland’s forests, more than 80 per cent of these giant forests being cut down, with the destruction of the wildlife, are going to the woodchip mills, the paper mills and the rubbish dumps of Japan. Senator Troeth knows that; that is why she gave no figures here. She said she wrote her own speech. Her speech, even if it was not meant to, had the effect of deceiving, because it is wrong. It is a myth. It is a misrepresentation, and it is a deliberate misrepresentation from anybody who knows about this industry to come in here and say, ‘We need woodchip exports because they are just dealing with the leftovers from the industry.’ That is false. The woodchip industry drives the whole of the logging of native forests in this country and takes over 80 per cent of the forest to destruction.

As far as those giant forests in the Styx Valley, the valley of the giants in Tasmania, are concerned, it is over 90 per cent. I was there Monday a week ago with the Australian Conservation Foundation. People who are well versed in destruction of other environmental amenities were shocked by what they saw. We went into what is called the ‘chapel tree’. It stands 86 metres high and is surrounded by other similar giants. There were five, six or seven of us in the party, and we could all quite easily stand inside the base of that tree and talk to each other. You could get 30 people in there. It is 18 metres in circumference. Under Senator Troeth’s prescription, under the prescription of the Labor Party and under John Howard, the Prime Minister of this nation, that tree is going to be destroyed by the loggers moving in next month in their chainsaw-down, firebomb and poison routine between now and next Christmas. I am ashamed to be a member of a parliament that not only lets that happen but also endorses it, fuels it and drives this heritage to destruction. That is why I feel that the true patriots in this matter are those young people who are risking their livelihoods and, as we have seen in recent weeks, even their lives. They go out to try to peaceably defend these forests from such an appalling prescription for destruction, which you would not expect to find in any First World country, any wealthy country, on the face of the planet as we go into this new millennium.

Senator Troeth said that the big losers here will be the small sawmillers and contractors. That line has been used by the Forest Protection Society, which had this deception in its own name. It has changed its name now that it is no longer being funded by the big woodchip corporations in the way it was in the past. I cannot believe that there is still a government representative who dares to use this line of ‘we’re there to protect the small sawmillers’. But here we have Senator Troeth, on behalf of the government, using this very false line of argument.

As I said earlier, she has never stepped off a footpath to protect one of those jobs of the small sawmilling industry or the bush contractors from the woodchip corporations’ determination to downsize, to sack, to get rid of jobs, to maximise profits, which is an Australian wide phenomenon. More than 20,000 jobs have been lost in this industry since the woodchippers arrived in 1970 in this great country of ours, and they are cutting the forests at the greatest rate in history. Senator Troeth, who has been part of the architecture of this job destruction in regional Australia, comes in here and cries crocodile tears about jobs. I am disgusted by that.

Senator Troeth—You’ve locked up Tasmania against jobs.

Senator BROWN—Senator Troeth is now interjecting, not about her own region but about Tasmania, and she tries to enter the debate about jobs. But let me give Senator Troeth some figures, because she came up with none at all in her misrepresentation of the position to this Senate. Since the woodchippers arrived in Tasmania, on that little island which needs jobs and needs its resource base to bring money back into the
community, 5,000 jobs have been lost. They were lost as the big woodchip corporations based on the mainland, not in Tasmania, came in and closed down the small sawmills, took the logs off to the woodchip mills and to export and reaped a big profit out of this historic destruction of the forests. They took it out of the island as well. They did not even invest that.

Senator Troeth—Because you’ve scared off investment, that’s why.

Senator BROWN—Senator Troeth is here as a mouthpiece of these woodchip corporations, maybe because North—the biggest and the worst of them all—is in St Kilda Road. I do not know, but I find that attitude totally inexcusable. To use the words of regional Australia, compounded by these captains of the woodchip industry, as an excuse for them to continue to do worse into the future I find abominable and not worthy of a senator, least of all a senator trying to defend the government position in this place.

This motion will not succeed because it is left to the Greens and the Democrats to defend regional Australia, to defend the tourist industry, which is growing in jobs while the woodchipping industry sheds them, to defend all those people on the farm lands of Tasmania who are increasingly in revolt against this industry coming out of the crown forests and now decimating private forests across the country for a quick profit and, of course, to defend this nation’s forest heritage itself. That heritage just does not belong to us alone; it belongs to all Australians, including all those to come after us.

It is important that at least we take into consideration the people who cannot vote here or for us—that is, future generations. They have rights too. I can understand that some members will not be able to concede of the concept that there are rights for fellow creatures, including the biggest living entities on the face of the planet such as those trees in the Sticks Valley. But I cannot accept that there are members in this place who do not believe their children or their children’s children’s lives will be enhanced by our keeping what is left of this nation’s wildlife and forest heritage. That is what this motion is about. It is an indictment of the failure of that imagination for future generations that the Labor Party is going to join the Liberal Party and the National Party in voting this motion down.

Question put:
That the motion (Senator Brown’s) be agreed to.

The Senate divided.  [5.02 p.m.]
(The President—Senator the Hon. Margaret Reid)

Ayes………….. 10
Noes………….. 45
—
Majority……… 35

AYES
Allison, L.
Bartlett, A.
Bourne, V. W *
Brown, B.
Greig, B.
Harris, L.
Lees, M. H.
Ridgeway, A.
Stott Despoja, N. J.
Woodley, J.

NOES
Bishop, M.
Boswell, R. L. D.
Campbell, G.
Calvert, P. H.
Chapman, H. G. P.
Collins, J. M. A.
Cooney, B.
Crane, A. W.
Crossin, P. M.
Crowley, R. A.
Denman, K. J.
Eggleston, A.
Ferguson, A. B.
Ferris, J.
Forshaw, M. G.
Gibbs, B.
Gibson, B. F.
Hoggs, J.
Hogg, J.
Hutchins, S. P.
Kemp, C. R.
Knowles, S. C.
Ludwig, J.
Lundy, K. A.
Mackay, S.
Mason, B.
McGauran, J.
McKiernan, J.
McLucas, J.
Murphy, S. M.
O’Brien, K.
Patterson, K. C.
Payne, M. A.
Quirke, J. A.
Ray, R. F.
Reid, M. E.
Tambling, G. E.
Tchen, T.
Tierney, J. W.
Troeth, J. M.
Watson, J. O. W.

* denotes teller

Question so resolved in the negative.

NOTICES
Presentation

Senator CARR (Victoria) (5.05 p.m.)—by leave—At the request of Senators Conroy and Mackay, I give notice that, on the next day of sitting, they will move:

(a) notes:
(i) the ongoing failure of the Howard Government to ensure that regional Australia...
has adequate and acceptable access to basic services, including financial and telecommunications services,

(ii) that a total of 1,149 banking branches have closed since June 1996, 318 of these in rural and remote areas, and that in the past year 257 branches have closed, 114 of these in rural and remote areas,

(iii) the Howard Government, despite committing to establish 70 Rural Transaction Centres by 30 June 2000, has to this date opened only six centres,

(iv) that the Rural Transaction Centre program is a woefully inadequate response to branch closures in rural and regional areas,

(v) that on 8 March 2000 Telstra announced plans to shed 10,000 jobs, which will have an adverse effect on service provision in regional Australia,

(vi) comments by the Prime Minister (Mr Howard) that the banks do have social obligations and the Government’s failure to take action to ensure that banks fulfil their social obligations, and

(vii) the apparent contempt that the Chief Executive Officer of the Commonwealth Bank of Australia, Mr David Murray, has for these comments, stating that, ‘regulating the banks will turn the lights out in the Commonwealth Bank’; and

(b) calls on the Government to immediately begin discussions to establish a social charter of community obligations for Australia’s banks.

COMMITTEES

Regional and Rural Affairs and Transport Legislation Committee

Membership

The PRESIDENT—I have received a letter from Senator Harris seeking a variation to the membership of a committee.

Motion (by Senator Herron)—by leave—agreed to:

That Senator Harris be appointed a participating member on the Rural and Regional Affairs and Transport Legislation Committee for matters relating to agriculture, fisheries and forestry.

Rural and Regional Affairs and Transport Legislation Committee

Report

Senator CRANE (Western Australia) (5.07 p.m.)—I present the report of the Rural and Regional Affairs and Transport Legislation Committee on the provisions of the Northern Prawn Fishery Amendment Management Plan 1999 (No. NPF 02).

Ordered that the report be printed.

Senator CRANE—I seek leave to move a motion in relation to the report.

Leave granted.

Senator CRANE—I move:

That the Senate take note of the report.

I have been involved in committee reports for this committee since 1990. This is possibly the most important one and it is also a report that has enormous implications for the conservation practices that are adopted in the various fisheries around Australia. It was a very difficult report. There were conflicting points of view but, at the end of the day, the committee came down with a unanimous report that I believe will set a benchmark for the management of fisheries around Australia. I speak of the Northern Prawn Fishery and, in terms of fisheries, that is one of the icon fisheries in this country and in the world.

I would particularly like to thank the committee for their work. I want to pay tribute to the secretariat and particularly Stephen Frappell. It was his first report. Stephen, we appreciate your efforts and we think you did a bloody good job. Thank you, Stephen and the rest of the secretariat. I thank my fellow committee members, but I wish to make reference to the participating members who took part in this. I do not think we have ever had such a team of participating members following us around and being involved. I refer to Senator McLucas, Senator Crossin, Senator Harris, Senator Bartlett and also Senator Murphy who spent some time with us. I hope you all noted that during the last debate he was elevated to Deputy Premier—I think it was probably of Tasmania but I am not sure.

I said it was one of the most difficult reports. I believe the recommendation we have
come to was the only option we had at the end of the day. It is certainly very clear from the evidence that was presented to us that the current practice was not sustainable. That is borne out very clearly from the fact that from the early 1980s the annual catch in tiger prawns in the Northern Prawn Fishery had declined from around 5,000 tonnes to around 2,000 tonnes in 1999. Clearly, the practices of today were not sustainable.

The other point that weighed on my mind in terms of changing the system to a head rope or a gear restriction was that, while we are not dealing with an exact science, by definition, adjusting the head ropes—and I will come to more detail on that in a minute or two—will get to a situation where the catch is reduced to what we can call a sustainable level and a level which can allow the Northern Prawn Fishery to rebuild, restock and breed so that it gets back to somewhere near its former days of glory.

I take heart from what has happened to the lobster in Western Australia, which is the only example we have of gear restrictions being used. Although it is a passive restriction there as against an active one, nonetheless, in my view, the same principles apply. It is worth noting that only last week the Western Lobster Fishery—and I understand the restrictions started about 10 years ago—won the first international award for ecologically sustainable practices. I hope that, through this process, one day not too many years down the track whoever is here at the time can acknowledge the same thing with respect to the Northern Prawn Fisheries.

There is no doubt that the position which has been adopted in the unanimous report and will become the regulations for the Northern Prawn Fishery will cause some people a degree of pain. From the evidence that was given to us from AFMA and others, that pain will be shared by the people who are active in all areas. There are three main areas from which people come to fish: in Queensland they are based primarily in Cairns; in the Northern Territory they are based in Darwin; and in Western Australia they are based in Perth. I have to make the point that only a couple of the boats which are Western Australian owned and whose headquarters are in Perth do not use Darwin as their major port. In fact, a number of those operators do not even take their boats back to Western Australia in the off-season. That is worth noting.

I go to the recommendations. I have already touched on the first one which deals with the fact that the committee came down with a unanimous report. The decision was to restrict the head rope—and I said I wanted to say a little bit more about that. During the inquiry the committee was informed in terms of restriction of the head ropes that the nets are turned over annually. So as long as decisions are made in terms of the adjustment process to take account of the fact that 90 per cent of the nets are turned over annually, the economic cost of making the head rope either longer or shorter would be very minimal to the operators in the industry. The other point I want to make relative to that is: if it was decided or found at the end of the 12 months that these recommendations did not work and they were going to go back to horsepower or not horsepower and they were going to change the nets, they had to be changed annually anyhow.

The message I want to give AFMA is not to take eight years to do it again. I think from 1992 to now was just too long to deal with a situation. They have to be more proactive in how they operate. The second point I want to make in terms of that aspect is it is very important that they take into consideration that these changes must be made at the changeover of the season so there is not additional economic cost put on operators and people involved in the prawn industry. I need to wind my comments up there. I cannot obvi-
ously cover all the recommendations. They are there on the record.

I wanted to at this stage say thank you to Senator McLucas. She lives in Cairns. It is a very difficult situation for her. She has a constituency to operate with. At the end of the day she put the interests of the Northern Prawn Fishery in front of some of the pressures she had put on her. At times it is fairly rare to see somebody in this place look at the overall picture and say, ‘What we have to have at the end of the day is an ecologically sustainable position.’ I think that was absolutely excellent. I understand it was her first inquiry that she has been involved in. I as chair certainly appreciate the cooperation she showed to the rest of the committee and the questions.

I also extend that in a different way to other members of the committee because we are all in terribly difficult positions. The pressures that were placed on us from time to time in making the right decision and, if you like, sorting out the wheat from the chaff were enormous. I am confident that, over a period of time and with a much more proactive AFMA in terms of dealing with the issues up there, we will see the rebuilding of the Northern Prawn Fishery. (Time expired)

DISTINGUISHED VISITORS

The ACTING DEPUTY PRESIDENT (Senator Knowles)—I would like to acknowledge the presence in the President’s Gallery of a former Deputy Speaker of the House of Representatives Mr Ron Edwards. Welcome to the Senate.

COMMITTEES

Rural and Regional Affairs Transport Legislation Committee

Report

Senator FORSHAW (New South Wales) (5.18 p.m.)—The basis for the changes in the management plan for the Northern Prawn Fishery contained in regulations lie in the concerns of expert groups and others, including the industry itself, that the Northern Prawn Fishery is seriously overfished. That is particularly the case for tiger prawns. CSIRO research indicates that the tiger prawn stock could be overexploited by as much as 35 per cent. AFMA, the Australian Fisheries Management Authority, which manages the fishery pursuant to the Fisheries Management Act of 1991, also supports this estimate of overfishing and has been engaged in a process with the industry since at least 1991 to try to improve the sustainability of the resource.

Industry representatives agree that there is a problem but there are differences within the industry on the extent of the problem and also on how it should be addressed. The report that has been tabled here today sets out the background to the issue, including details on the location and extent of the fishery, its value, the methods of trawling and the options that have been considered in trying to improve the sustainability of the tiger prawn resource.

Two important points I believe should be noted from the background to the regulation that is now being considered. Firstly, the Northern Prawn Fishery is the most valuable Commonwealth fishery in Australia with an annual production ranging up to $150 million. The overwhelming proportion of that production is exported. Secondly, there have been a number of attempts to arrest the overexploitation but those attempts in the past have not been sufficiently successful to either improve the sustainability or arrest the decline.

Some of those earlier measures included in 1977 and again in 1980 imposing a three-year moratorium on the entry of new operators into the fishery. Further, in 1983 a management plan based upon the issuing of A-class and B-class units was implemented. A-class units were related to hull size and engine power and B-class units were related to the number of licensed fishing boats able to operate in the fishery. According to the CSIRO, this plan did not prove very successful as a study in 1986 showed a continuing serious decline in the stocks of brown tiger prawns. At that time the CSIRO urged a 25 per cent reduction in the fishing effort. This in turn led to a voluntary buyback of A-class units.

Notwithstanding the changes undertaken through the 70s and 80s, the reduction in effort was insufficient and other strategies were then used throughout the early 1990s. These included closure of the fishery for certain periods of time during the year, restrictions
on towing gear and the amount of net, and a more restrictive voluntary vessel replacement policy involving the surrender of two B-class units for each new vessel.

Further, in 1993 a compulsory buyback of A-class units occurred. Then followed in 1995 the implementation of the Northern Prawn Fishery’s management plan. Under this plan the previous A-class and B-class units were reclassified as A-class and B-class statutory fishing rights, or SFRs for short. Then in 1996 and again in 1999 further reports on the status of the fishery were released which continued to show that there was a major problem with the sustainability of the resource. Indeed, the latest estimate in 1999 shows that fishing effort in the Northern Prawn Fishery is 35 per cent above the maximum sustainable yield, thus threatening the long-term sustainability of the fishery. Whilst—as I said earlier and has been acknowledged—there were differences of opinion as the extent of the overfishing and as to the likelihood of success of the measures to be introduced, it is clear that the current measures have not worked, nor have previous measures worked to the extent required to reverse the declining trend in sustainability.

We then come to the proposed changes to the management plan, which Senator Crane has referred to—that is, a change from the current system where the A-class statutory fishing rights are based on vessel and engine size to one based on gear units. Gear units are calculated having regard to the amount of headrope and footrope that tows the nets. To try to put it in simple terms: the proposal is to regulate the fishery through the amount of net that can be towed by a fishing boat, with also a continuation of the B-class units. This change has been proposed by AFMA following recommendations of a working group of the Northern Prawn Fishery Management Advisory Committee. This working group considered alternative options but ultimately recommended moving to the gear unit proposal. There has been vocal opposition to the proposal, mainly from the Northern Prawn Fishery Queensland Trawl Association, who appeared during the proceedings and strongly argued their case. Other organisations have supported the proposal. I think Senator Crane acknowledged that the committee was faced with complex arguments with strongly held views on both sides and was clearly in a position where it had to weigh up this evidence at the same time having in the forefront of its concerns the ultimate sustainability of the resource for the future.

The committee’s hearings provided an opportunity for all interested groups as well as the Australian Fisheries Management Authority, the CSIRO and expert witnesses to appear and argue their case. It is fair to say that some of these issues raised are complex, and differing opinions were put forward from people on both sides holding expertise in fishery management and prawn fishing. The committee was also advised about the possible consequences on employment in the industry and on regions where the industry operates. In particular, there was dispute over the amount of effort creep and, indeed, the manner in which effort creep is actually calculated. There was also disagreement over whether or not gear units would produce the reduction of the fishing effort that the CSIRO says is required—that is, between 25 and 30 per cent.

The Northern Prawn Fishery Queensland Trawl Association, as I said earlier, opposed the change to gear units and argued for a system based upon effort units—that is, retaining the current system—combined with time units. Time units under their proposal would allocate a certain number of nights’ fishing to each operator. The association also argued that greater enforcement of the effort units could be achieved through monitoring of vessels when fishing and also through calibration and sealing of fuel pumps to check on engine power to check that people were not illegally changing those ratios or those calibrations on their vessels. Time does not permit me to discuss in detail the various arguments and all of the evidence put to the committee.

In coming to a conclusion on whether or not the changes to the management plan should be implemented, the committee reached two major conclusions: firstly, the sustainability of the fishery is seriously threatened and action needs to be taken to
arrest the decline; and, secondly, the current system has not been successful and in the absence of any viable alternative the change to statutory fishing rights based on gear units should be implemented. However, we do not believe that it has been proven that this change will immediately solve all of the problems and, accordingly, we have recommended, particularly in recommendation 9, ongoing research work over the next two years to examine a range of issues as well as monitoring this proposed change. In conclusion, I reiterate the remarks of the chairman in expressing the appreciation of the opposition to all of those who made submissions as well as the staff of the secretariat for their assistance during the inquiry.

Senator BARTLETT (Queensland) (5.28 p.m.)—I will try to constrain my comments on this to allow a bit of time for other senators to speak. As the person who moved the motion to refer this matter to the committee, it is my fault that we are here discussing this. But I hope that all committee members feel that it was a worthwhile process. It was a difficult one, one that from my perspective and the Democrats’s perspective had a strong focus on environmental impacts, one that was very important and continues to be very important. I think the report reflects that it is an ongoing issue of significance in terms of not just the economic future of the fishery but the obvious intertwining of that with the environmental sustainability of the fishery.

I would have to say that I am far from convinced that the changes that AFMA has put forward in the new plan will lead to a significant reduction in effort which would improve the chances of sustainability of the fishery. Clearly, what the committee is faced with is what the alternative is and, if the plan were to be disallowed, what else would be put in place. As was clear through the committee process from all sides of the debate, there has been a lot of differing views about the best way to manage the fishery over most of the 1990s, if not longer. It has been clear that change is needed to be made, and it has taken a long time to get to this process in this plan—which, as I say, I am not completely convinced is necessarily the best way forward. But the alternative to going down that path would be to place a great deal of uncertainty back into the management of the fishery.

I think a lot of the recommendations the committee has put forward—beyond just simply saying to not support disallowing the plan—are important because they recommend the putting in place of a lot of measures to try to address some of the problems that have not been adequately addressed to date. I think it is also important to emphasise that one of the issues which quite surprised me that came forward—or, in a sense, did not come forward—through the inquiry was the lack of research that had been done on some crucial issues and, accordingly, the lack of information available. For a fishery of such value and environmental importance, I was, frankly, quite astonished at some of the gaps in knowledge. I acknowledge that fishery management involves some imprecise science—it can be difficult to make definitive statements and definitive judgments—but I was surprised by some of the gaps in research in this area given how long this debate has been going on and how long some of the issues and potential problems have been before AFMA. I am not sure whether that is a fault that lies with AFMA or a fault that lies with government in terms of funding for AFMA, CSIRO or other agencies, but it is clearly an area where we need, as a government and as a parliament, to step up our efforts—that is, to increase assistance to research not just in this fishery but across the board.

Hopefully, some of the changes that the Democrats have assisted in making to the environmental protection acts, which will come into force later this year, should move things towards establishing a greater requirement for all fisheries to demonstrate that they are environmentally sustainable before they are able to continue operating. I think that is the path we need to go down to lock these things in place before the fishery gets to the sort of size and requires the amount of effort that is involved in some places. Hopefully, we can move more in that direction. I realise that a number of people, particularly in my own state of Queensland, will be disappointed with the conclusions of the committee.
I would like to commend all of the people who put evidence to the inquiry. For an issue that obviously aroused a lot of passions and firm views, I think people entered into the process, by and large, in good faith and in a genuine spirit of trying to present their side of the argument in a factual way. I want to encourage people, particularly people from Queensland—many are based in Cairns—to continue to engage with the process. That process, like every process, may have its flaws, but it is important to continue to try to engage with it—even if, on this occasion, people's immediate views have not been able to be adopted through the varying government processes. I might leave my remarks there to leave some time for others. I thank all those people who were involved in the committee inquiry and thank the Senate for agreeing to my initial request for the committee to investigate this matter. I am sure that process will lead to a much greater scrutiny of the future operations of this fishery.

Senator O'BRIEN (Tasmania) (5.33 p.m.)—Let me concur with all of the comments that have been made about the exemplary performance of the committee secretariat. It has a considerable workload and is one of the busiest committees of the Senate. To do the work that has been done to assist the committee to present this report in the short time that we deliberately set for it is, I think, proof of what good work is done by the public servants who work for this parliament. Let me say that it is my intention at the conclusion of my time to seek leave to continue my remarks. There were other people who wanted to speak on this, so I would seek to preserve this matter on the Notice Paper. In the limited time that I have available to me, let me say that the committee has made findings on the evidence available to it. There was a lot of agitation about the disallowance of the regulations that, in effect, the committee supported—that is, the change from the statutory fishing right units as they existed to the 'gear units', as they are described in the report.

I think it has to be said that the committee was absolutely convinced that the existing regime, the statutory fishing right unit, had ceased to be an effective way to measure the effort of the fishing activities of individual boats. The relationship between the number of units held and their ability to catch prawns—certainly in the tiger prawn fishery—seemed to have all but disappeared. Those people who fought from 1992 until now to postpone the inevitable have postponed changes to a system which, as demonstrated in the charter on page 38, has become less and less relevant over that time. The committee was faced with the decision of approving a change from a totally inadequate system to a system which might not be said to be supported totally on all of the evidence. But that is the reason this committee suggested that the science which underpins the management of this fishery required further work. This committee has been at pains to say to AFMA and the Northern Prawn Fisheries community that that work should be done. The work that is possible should be done within the next 12 months, but certainly over the next two years significant research ought to be done in terms of the resource; the ways that resource is affected and fished; alternative proposals, which I think have been put forward in good faith by people who have different views about the management of the resource; and, of course, the legal efficacy of other regimes.

One of the problems that the committee noticed with some alternatives is that they did not seem to have the basis of legal certainty in the regimes they were proposing. Those who propose alternative regimes ought to look to what might be a deficiency in their case to date. All operators would be prudent to look closely at this report, to look at what might be described as the caveats on the system over the next two years and to make their financial decisions according to that report over that period. Members of the committee will be keen to ask AFMA just what they are doing over the next two years when AFMA come before the estimates committees of this Senate, so that we are aware as to what is happening. I seek leave to continue my remarks later.

Leave granted; debate adjourned.
Debate resumed.

Senator LUNDY (Australian Capital Territory) (5.39 p.m.)—The topic of classification has prompted much debate involving issues as provocative as basic freedoms and censorship. There is a world of difference between classifying material in order to provide information or guidelines that assist users in making informed choices and censorship, which carries with it the ability to morally dictate what we should or should not watch or view. Classification is a matter for the general community and not just an issue of commercial benefit. Given this, it is appropriate that industry meets the cost of classification for films, publications and video games whilst government meets the cost of unrelated public interest functions.

The Labor Party believes it is entirely inappropriate for the government to charge industry for the public interest functions which are performed by the Office of Film and Literature Classification. In fact, if passed, the Classification (Publications, Films and Computer Games) Amendment Bill 1998 and the Classification (Publications, Films and Computer Games) Charges Bill 1998 are expected to increase the revenue to the OFLC and the government by $2.15 million per year. In the 1997-98 budget, the Howard government committed itself to providing full cost recovery for the classification services provided by the OFLC from 1 July 1998. In order to facilitate this, the government introduced almost identical bills into the House of Representatives on 27 November 1997.

Consistent with Labor’s stance on the 1997 bills, we will be opposing the Classification (Publications, Films and Computer Games) Charges Bill 1998. Our reasons for this are simple. Whilst the bills claim to be imposing a charge for the delivery of services by the Office of Film and Literature Classification, they are in fact imposing a tax under section 55 of the Australian Constitution. The fact that this government is seeking to recover the costs of ancillary service provision, including matters such as research, policy development, ministerial support and payments to the states and territories for enforcement and other related purposes, is a clear admission on its part that these charges do not bear a legally sufficient relationship to the actual services which are provided. The services which I am referring to are, namely, the classification of publications, films and computer games.

The charges bill also provides that the level of the taxes can be varied by means of regulation. The government argues that this is a necessary measure because the charges will have to be regularly adjusted with a view to the cost structure of the OFLC. However, this also gives the government considerable flexibility to increase the relevant charges so that they bear no relationship whatsoever to future cost structures of the OFLC. At the core of the matter, this will mean that the charges will therefore cease to be a cost recovery measure, even in the grossly expanded interpretation of that term that the government has proposed.

In effect, these bills will allow the imposition of potentially punitive taxes on the publication, film and computer game industry sectors, with only subsequent Senate disallowance as a check on any government excess. My colleagues in the Labor Party and I believe this situation is entirely unacceptable because it allows the government to increase this tax at its whim. The Labor Party, however, will support some aspects of the amendment bill. Part 1 of the amendment bill removes some of the formal requirements in making application for the classification of material for the investigation and prosecution of an offence. These amendments overcome the problems associated with the failure of two prosecutions in 1997 due to the lack of compliance with all of the formal requirements of an application of the material concerned. The Labor Party support these amendments.

We will also be supporting section 91(1) of the 1998 amendment bill. This subsection permits the director of the OFLC to waive in
whole or in part the classification charges for
limited distribution special interest material
which comprises a documentary record of an
event or material which is of a cultural or like
manner. This waiver will be utilised if the
director believes it is in the public interest to
do so. I must note that it is estimated that
only 100 films per year will be excluded on
this basis at a cost to the budget of $54,000.
This exemption is indeed very limited and
bears no resemblance to the broad exemption
that the Attorney-General sought to portray
in the debate in the House of Representatives.
It will not allow, for example, religious in-
stitutions to seek an exemption for films
which have significant religious content, and
it will not provide a mechanism, for example,
for small and independent distributors of
films to gain exemptions for their works.
The effect of this legislation, and the
charges that it provides for, on independent
and small film-makers is worthy of note.
Small independent film producers, computer
game designers and publishers will be the
hardest hit under the government’s proposed
new fee structure. The fees for classifying a
publication, film or computer game are levied
on a one-off basis. So, for example, once a
film has been classified, all identical prints of
the film are also deemed to have been classi-
fied. As these charges are levied only on the
initial cost of classification, large commercial
distributors of content—be it in games, film
or publications—are able to absorb the in-
creased cost of classifying, given the consid-
erable revenues generated from multiple
copies of the product being distributed in
outlets throughout Australia. By way of ex-
ample, the new classification fees will in-
crease the costs of classifying a film for sale
or hire from the current fee structure of be-
tween $510 to $1,010, depending on the
film’s length, to a significantly higher cost
structure of $810 to $1,590. They will in-
crease the cost of classifying a computer
game from $590 to $930. This equates to an
additional and unfair burden on domestic
computer game developers, who already op-
erate on limited budgets and who may be in a
position to distribute only limited copies of
their game in a highly competitive, very
short-term market. It is a very competitive
marketplace.

As a result, the enactment of the classifi-
cation amendment bill and charges bill will
make it even harder for small and independ-
ent distributors to service niche markets and,
in particular, to encourage the development
of the creative talents of Australia’s young
and up-and-coming content producers. Inter-
estingly, the Attorney-General claimed that
these changes would have little impact on
new and small film-makers because film fes-
tivals were exempt from these fees. The At-
torney clearly fails to understand that Aus-
tralian film-makers increasingly have to
prove themselves in the commercial market
prior to their works being picked up by major
film studios or distributors. The level of fees
also gives rise to some concern about the
level of compliance with Australia’s film
classification system. Industry sources cur-
tently state that the level of compliance has
decreased since the 1997 fee increase was
established under this government. Rather
than learning from its negative real-world
experiences, this government is setting itself
up to repeat its own mistakes. Whilst the
OFLC has stated in the Senate estimates that
it was not aware of these concerns nor their
effects on Australian consumers or film-
makers, it also stated that it had never even
looked at the possible occurrences of such a
trend. Rather, the OFLC pointed to the ex-
cellent work that is undertaken by the com-
munity liaison officer in seeking to encour-
age increased compliance. However, if this
trend is accurate, then it is an extremely wor-
rying trend.
The public interest is best served by in-
dustry complying with these laws, and I un-
derstand that the principal users of the system
will continue to do so. But if increased fees
are resulting in an increased number of rogue
operators on the fringe of our classification
system, then they are not in the interests of
this government, the industry or indeed the
public. The public interest is clearly best
served by maximum compliance with the
law. By this I mean that parents have the
right to know that their children are legally
able to access only suitable material—that is
what classification is all about. The govern-
ment has an obligation to ensure that the
Australian classification system is as water-
tight as possible. The government’s interests
are served not only through compliance as a legal and moral norm but also through the increased revenue that such compliance brings. Industry’s interests are best served by having a market in which none seek to gain advantage by evading the law and in which all pay their fair share towards the provision of this important service. If these bills are passed, however, the ridiculous situation will arise where a business that complies with the law will have to pay for the cost of having the law enforced against a business which seeks to evade it. This is hardly a fair situation, nor does it provide any incentives for business to comply.

It is also extremely interesting to note that we are contemplating a bill such as this at a time when the production of digital content—be it computer games, films or in new content industries—is so critical to Australia’s place in the global market. It is very important that the government take note of ways in which they can offer encouragement and incentives to the digital content producers in Australia, and I would like to make particular mention of computer game developers. Late last year saw the inaugural meeting of the Australian Game Developers Association, which was brought together for the first time not only to celebrate the achievements of the Australian computer game industry but to promote the work that they do in exporting their product around the world. The production of computer games is an extremely competitive business in what is very much a global marketplace, dealing with the fickle market of young people who are obviously passionate about, and interested in, new products.

On a recent visit to the west coast of the USA, I found it quite inspiring to walk into an Internet cafe to inquire about a particular Australian game developer located in South Australia and whether or not they were familiar with their game. It turned out that the young man in the Internet cafe had been a tester of the Australian game, which is produced in the suburbs of Adelaide. For me, it was a great lesson in just how important this industry sector is. It has a global reach. It is about digital content and an industry which is not constrained by geographic boundaries or Australia’s isolation in terms of proximity to markets. If you can get it across the Net, if it is digital in form, there is an inherent advantage for access to a competitive global marketplace. This example highlights the fact that we are dealing with an incredibly important sector. Those in the chamber and others that look at cultural export figures for OECD countries would know that content of that nature and computer games are quite often used as exemplars of growing marketplaces. Hence, we are dealing with bills today that actively highlight the work of this industry by calling it into legislative focus. But they do so by putting a penalty on that industry, by putting on it unfair fees and charges that penalise those who are contributing to the production of content in a very proactive and important way for Australia’s economic future in the exciting and rapidly growing area of the digital content market. I think it is a very fair comment to say that Australians are excellent content producers and we have excellent global products ready and available for consumption and export. A government would be better placed putting emphasis on promoting that particular industry sector rather than looking at punitive bills like this which will not advantage the position of this industry sector in the marketplace. It will put it at a regulatory disadvantage by applying a fee structure which is nothing more than an additional tax.

Senator COONEY (Victoria) (5.52 p.m.)—We are here discussing the Classification (Publications, Films and Computer Games) Amendment Bill 1998 and the Classification (Publications, Films and Computer Games) Charges Bill 1998 which develop the scheme operating in Australia to classify films and literature. If we are to have such a classification system, there must be somebody to do the classifying and that, as is shown by debates in this area over the years and by events that have happened in very recent days, is a very emotional issue. I see that there are now present some people who do the classifying—perhaps that is the best way of putting it—and they have a very difficult task. Therefore, I believe it is important that we establish what the classification system is meant to do.
As you would know, Madam Acting Deputy President, the government has been faced with some difficulties with this. I am not suggesting for a moment that there are no difficulties elsewhere but, in particular, as this morning’s press has shown, there have been some difficulties in the government party room. Some implied criticism has been made, I think, of the Attorney-General in this area, and it is perhaps worth while reading what he has to say about it. There are a number of bills which will come before the chamber in this area. In respect of one of them, the Attorney-General has made a statement which sets out quite clearly what the underlying philosophy for Australia is. What he says is that the classification in Australia is really aimed at children; that the proposition that we in Australia go forward with is that adults should be able to read and see what they choose to read and see. People might object and take strong opposition to that proposition. But that, in fact, is what the law is and that is the law that has been agreed on not only by the Commonwealth parliament but by the various state and territory parliaments. This is one of those examples of a national scheme of legislation. In other words, one parliament alone cannot set up the system of certification that we have in Australia. The various parliaments have got together and have come to an agreement about what the system for certification in Australia ought to be—and I use the word ‘certification’ advisedly because that is the way censorship is carried out in Australia. Whether it is some publication or a film, it is not to be released to the public until it has received a classification. If it has not received a classification, then it is not released to the public. The emotional issue that is faced again and again in this area is that at times people, including parliamentarians, think that something is beyond what is right; they think something is so beyond what is reasonable that it should be banned. Then we have great discussions in this chamber about it.

If we are to have a classification system—which we do have—we have to rely on those organisations that we set up according to legislation, according to a national scheme. We have to rely on those organisations and we have to place some sort of trust in them because, if we do not, we are not going to get anywhere with these highly emotional issues. The whole system starts to go astray when a decision is made according to the law and people say, ‘Well, look, we’re not happy with that. We want a further institution put in to look at this in the hope that our position might be reached.’

I will just read from the second reading speech of a bill which I mentioned earlier, the Classification (Publications, Films and Computer Games) Amendment Bill (No. 2) 1999. In the second reading speech this was said:

The Classification (Publications, Films and Computer Games) Amendment Bill (No. 2) 1999 will make a number of procedural and other amendments to the Classification (Publications, Films and Computer Games) Act 1995.

That is a sort of formal opening to the speech. It continues:

Censorship of what adults should be allowed to read, hear or see brings forth a wide divergence of views in the community. Where views in the community are divided, government intervention in social issues is inherently difficult.

And I think that is absolutely right. It continues:

The government is aware that some members of the community who find the portrayal of sexually explicit material on video tape offensive are unhappy with the government’s decision not to ban this material. While the government understands and respects these views, there is a need to approach this issue from a general community perspective.

For over two decades now, all Australian governments, of both political persuasions, have subscribed to the principles that adults should be able to read, hear and see what they wish, that persons should be protected from unsolicited material that they find offensive and that children should be protected from material that is likely to harm or disturb them. To these the act has added the need to take account of community concerns about
depictions that condone or incite violence, particularly sexual violence, and the portrayal of persons in a demeaning manner.

That sets out the concepts, the law, the propositions that sit behind this legislation.

The legislation has been developed over the years as national scheme legislation. Violence is done to that legislation when anybody protests and does it in the way that was done in the government party room when sending it back to cabinet. It was said earlier that that is simply an expression of democratic rights. That might be so. It is right that people should be allowed to say what they want. If they find this offensive then it should go back to cabinet in the way that it has been done. In that situation, I think that the Attorney-General ought to be treated with some respect and with some consideration because he is subject to the national scheme that every state and territory has agreed to until it gets to the party room. All you can do is put forward the legislation as agreed to around the country. To have that refused at the last moment is obviously going to cause difficulties. It is my proposition that parliament should have the final say whether the proposed legislation is agreed to or not. Debates in this area should be conducted with some consideration for those who have to make the system work. They should be conducted with a deal of grace and courtesy.

If these two bills are made into law then a series of taxes will be applied in this area. It is said that those who benefit from this legislation should be the ones who pay. The people who benefit from the classification are the public. The classifications are made specifically so that that you, Mr Acting Deputy President Murphy, me and everybody else in the community have an understanding of the material we are purchasing. That is a service that should be welcomed. It seems to me that the public should pay for that on the basis of the proposition that those who are to benefit from this classification are those who should pay.

It is said that industry should pay because they are the ones who are going to get the classification. That is one way of looking at it. On the other hand, the industry generally simply wants to show its films and wants to have its books accepted, have its literature brought out to the public. It is a funny way of looking at it to say that industry is the one that is going to benefit or not benefit from all this. There is a presumption behind that proposition that somehow the making of films and the writing and publishing of books is an exercise that should, by its very nature, be censored. That is a wrong concept in my view. Most people go about writing their books, making their films and things like that to express their views on things. They certainly want to make money. It is the attitude to that expression of views that is a worry in this area. People should be entitled to express their views.

It is going back a long way, but over the last 50 years or so we have had a series of conventions and agreements made between countries. A lot of that goes back to President Roosevelt’s state of the union address in 1941 when he talked about the four freedoms. I would think that nobody would argue about the last three freedoms. The second freedom is the freedom of every person to worship God in his own way. Some of us went off to an Ash Wednesday mass today because we worship God in our own way. That is a right that we should have and everybody agrees with that. The third freedom is freedom from want. That is understandable. The fourth freedom is freedom from fear. The first freedom that President Roosevelt spoke is freedom of speech and expression. It is the threat to that freedom which is a great worry in this area.

Senator Harradine—Hear, hear! I agree.

Senator COONEY—It is the threat to that ability to express yourself that is of concern. So when we talk about the author, when we talk about the publisher, when we talk about the film-maker being the one who is serviced by the classification system, there is an inference in that that somehow they have not got a right to express themselves until their works have been classified. We had an inquiry into this, one of the many exercises that the Legal and Constitutional Legislation Committee undertook. I found out, for example, that a film of the Melbourne Cup or a film of the grand final—things I must confess that I go to; not the Melbourne Cup so much but the
It seems to me that there is an inference that ought to be immediately put aside, if it can, in this legislation that it is somehow wrong to be able to express yourself until there has been a certification that that expression is all right. Senator Harradine has done a lot of work in this area, and he would certainly be against any inhibition on expression. What he is against is gross depiction of matters that outrage the human heart and soul. That does present a problem because who is to judge what is outrageous, who is to judge whether something is pornographic or whether it is erotic. That is where we have a lot of problems. We have a classification board. That is not sufficient, so we have other bodies on top of that. There are some real problems in this area. It is in that context that we have to deal with this issue, in terms of respect for each other and for the system and for the freedoms that we all like to enjoy.

In any event, this bill is going to level charges on people who want their material classified. In my view, I think the opposition is right in the approach it has taken in this context. No doubt when we come to the committee stage there will be an opportunity to say something further on these matters.

All these freedoms are important. Freedoms are never absolute in the sense that people can just grab hold of a thing like freedom and say whatever they want they can have. Certainly there must be some restrictions in the interests of children and in the interests of public order. But it is that judgment of what is against public order, what is wrong, what is pornographic, that is a bit upsetting.

The last thing I want to say is that there is a tendency to describe literature and to describe films in a way that might well embarrass those who look at them. Whereas you might think it would be all right to go down the street and buy a ticket to a nonviolent erotic film, you might not think it would look so good if you bought a ticket to a nonviolent pornographic film—you would not want children to see you going there. If it is pornographic, then it is fair enough to label it that way. But if that word is being used as a means of embarrassing people so that they do not do what they would otherwise be legitimately entitled to do, I think that is taking things much too far.

Senator HARRADINE (Tasmania) (6.12 p.m.)—We are speaking to the Classification (Publications, Films and Computer Games) Amendment Bill 1998 and the subsequent bill, the Classification (Publications, Films and Computer Games) Charges Bill 1998. Those pieces of legislation are really about the funding of the scheme, not a great deal to do with the very important issues that were raised by my colleague Senator Cooney. But he was justified in raising them because these bills are about how that system, referred to by Senator Cooney, is going to be funded in future, and the aim of the legislation is to attempt to have it self-funded through the fees that are charged for classifications, et cetera. We will be dealing with those matters in detail in the committee stage.

I just want to make an observation to the chamber. We often listen to Senator Cooney. I am constantly not amazed but encouraged to listen to what he says because he almost always hits upon a key point which is overlooked by many others. He talked tonight about the right to freedom of expression. That is a key concept that is forgotten very often in this debate. The legislation itself does not base its provisions on that right; it bases its provisions on what it says is a right for adults to read, see and view what they wish. But, of course, adults cannot do so unless it is published. So it gets back to the question of balancing the asserted right of the pornographer’s right to freedom of expression against the protections that should apply.

We need to go back to the philosophy of these matters, and many of us recall the censorship debates of the 1960s. Those debates were about the interference of the state in what was perceived to be literature and the arts. Some saw these debates as a battle between the literati and the philistines over the survival of writings, both new and old. It was against that background that the then Attorney-General, Lionel Murphy, announced a policy on censorship which said that federal laws were to conform with the general prin-
ciples that adults be entitled to read, hear, view and do what they wish in private and public, and that persons and those in their care should not be exposed to unsolicited material offensive to them. It is ironic that this policy formed by the literati during the censorship debates of the late 1960s and announced as policy in the early 1970s should be used as a slogan in the 1990s and in the year 2000 to exempt from general censorship guidelines only one type of video in the ACT, and that is hard-core pornography, produced by the philistines to make a fast buck.

The Joint Select Committee on Video Material said:

When the principle that adults be free to see, hear and read what they choose was originally stated as public policy the number of videotapes entering Australia was insignificant and there was not the widespread availability of objectionable video publications as exists today as the result of the flood of these materials into Australia ... This principle is often stated, but not adhered to in practice, since adults are not free to view video material depicting, inter alia child pornography, bestiality, sexually explicit violent pornography as these are banned under censorship guidelines ... and prohibited from entry under the customs regulations ... The principle that adults be free to see, hear and read what they choose is dependent on the pornographers' claimed right to freedom of expression and the balancing of this claimed right against the requirements fundamental to the common good which legislators are bound to uphold. The issue is not whether there should be censorship as was the case in 1973 when the principle was first stated as public policy but where to draw the line. The Committee considers that the current line is not appropriately drawn.

The fact is that we do have film censorship in this country, with the one exception that I referred to above. In general, those who constantly parrot the Murphy policy in practice do not really regard it as a principle to be applied universally or uniformly but rather as a slogan to be used selectively and arbitrarily when it suits. The question in the real world in which we live is: where do we draw the line? For anyone who, like me, has a passionate commitment to the principles of civil liberties in public policy relating to censorship and availability, these censorship provisions must be soundly based and must not deprive persons of their liberties.

I will turn to the definition of terms. A moral philosophical analysis is required of the concept of censorship generally, and of censorship of pornography in particular, so as to determine what censorship it is and whether it can be said to have any moral philosophical justification. The study of moral philosophy involves the examination of the principles which underlie all human actions and conduct. To conduct such an analysis, therefore, we must examine the principles involved in censorship and determine if they are consistent and universal. Fundamental principles upon which human actions are based may be expressed. The words used in any analysis of this kind must be tested and rigorously examined. Therefore, it is essential that the terms used are defined and examined. To define these terms and thus transform them from rhetorical abstractions into definite principles is fundamental to moral philosophy.

Take the word 'censorship'. This is a word with prehistoric roots and rather interesting origins. Mr Acting Deputy President, this is from a paper I wrote. I would be pleased to incorporate the remainder in Hansard.

The ACTING DEPUTY PRESIDENT (Senator Murphy)—Are you seeking leave to incorporate the remainder, Senator?

Senator HARRADINE—It is my paper entitled—

The ACTING DEPUTY PRESIDENT—Normal practice, with regard to such documents, is that the parties would view it before granting approval to incorporate it. I suspect that it will be okay.

Senator HARRADINE—I have handed the paper to the officer to ask my government, opposition and other colleagues whether I could have that incorporated. It is entitled 'Censorship principles'.

What I want to say now, because the matter has been raised, is that I think it is a very healthy thing that some people have had a really good look at what is going to be in the NVE classification, the nonviolent erotica classification. I challenge anyone at all around this chamber to have a look at the material and say whether that material is pornographic or erotic. 'Erotic', of course, has
sensual human sexual love, art house and other connotations. The material that I am talking about is material that, as was said by the joint committee, treats persons, especially women, as sexual commodities—in other words, equal to the sum of their sexual parts—to be exploited for sexual gratification. Women frequently are depicted as eager and available for sexual activity of any kind, however deviant. This is frequently manifested in the group sex scenes, which incidentally is an AIDS high risk behaviour. If anybody would class those as erotica, they do not know the meaning of the term. The term ‘pornography’ is defined as material, the content, intent and theme of which is designed to arouse the sexual desires of its target audience. That same definition can be accepted by those who use the material and those who are offended by it and feel the material is objectionable.

The porn merchants have for years been trying to have the ‘X’ title removed because of the odium that is attached to that title, and it is a justified odium. They have been trying to get in ‘NVE’, nonviolent erotica, which sounds far less harmful than the ‘X’ title. What is being suggested is how this is to be done for the type of material that I described. Experts, behavioural scientists and others came before our committee and made statements about the material—that the material engendered in the minds of the habitual viewer a callused and manipulative orientation towards women and portrayed women in general as being highly promiscuous and available.

Senator Schacht—it also says that men are highly available and promiscuous.

Senator HARRADINE—Yes, I said ‘people’ or ‘persons’ but it is designed particularly for the male audience. When the plan was announced by the Attorney-General on 8 April 1997—I come back to what Senator Cooney said—the Attorney-General made a statement saying that the new classification, the new title, was required in order to remove demeaning material. How could the first law officer of the Crown seduce the public? Demeaning material is already excluded, or should be excluded, under the act, the schedule which is the national classifications code. But here you have the Attorney-General saying, ‘We have to have a new NVE title so as to exclude certain material that is currently there, a minor part of the overall because the bulk of the material will be the current X going into NVE.’ So just changing the title fixes up the election promise to do away with X, does it not? Yes, but he says in his second reading speech he is going to propose three other things: exclude the depiction of certain fetishes, exclude sexually assaultative language—do people around this chamber believe that that is not demeaning; let them get up and say, if it is demeaning, it should have been out already—and exclude the depiction of actors who are over the age of 18 as minors in sexual activity. Does anybody around this chamber think that that is not demeaning? It should have been out already, and why was it not? If any of the states or territories get up and say, ‘No, we’re not going to approve of new guidelines that will remove those three things, unless we still have the NVE,’ righto, Mr Carr, Mr Beattie, Mr Bacon, Mr Bracks, Mr Court—

Senator Robert Ray—Olsen.

Senator HARRADINE—Mr Olsen, but particularly Mr Burke and those in the ACT. We should ask them, ‘Do you not think that that material is demeaning?’ They would have to say no for the sake of giving the porn merchants what they want; their NVE. We will not allow that. We will not allow that demeaning material to stay in there. Let us be very clear on where we are going in this area. I must say that I do endorse the fact that the government is going to have another look at this matter. I think it is important that we hold faith with the public, the people who have elected us, and not have these things determined in a way which appears to be deceitful. I agree that it is a very difficult situation which the OFLC and the board of review face. I do not blame the Attorney-General. I certainly had a lot of other things on at that particular stage and indeed on that particular day.

Senator Robert Ray—It was a great day other than that.
Senator HARRADINE—Yes. But he seems to have just accepted the advice of the Attorney-General’s Department in respect of this matter. I do not envy the task of the classifiers. I must say that, having gone through many of these videos and studied them, I have become completely blase about the whole matter. You have to bring yourself back into the real world. I do appeal to the parliament and to the government to reconsider this matter in the interests of the people of Australia and not in the interests of the porn merchants. I seek leave to have the document I mentioned incorporated in the Hansard.

Leave granted.

The document read as follows—

CENSORSHIP PRINCIPLES

Many will recall the censorship debates of the 1960’s. These debates—over 20 years ago—were about the interference of the State in what was perceived to be literature and the arts. Some saw these debates as a battle between the literati and the philistines over the survival of both new and old writings.

It was against that background that the Attorney-General in 1973, Lionel Murphy, announced a policy on censorship which read as follows:

“Federal laws to conform with the general principles that adults should be entitled to read, hear and view what they wish in private and in public and that persons—and those in their care—be not exposed to unsolicited material offensive to them.”

It is ironic that this policy formed by the literati during the censorship debates of the late 60’s and announced as policy in the early 70’s should be used as a slogan in the 80’s, 90’s and new millennium to exempt from general censorship guidelines only one type of video in the ACT—hard core pornography produced by philistines to make a fast buck.

As the Joint Select Committee on Video Material observed—

“When the principle that adults be free to see, hear and read what they choose was originally stated as public policy the number of video tapes entering Australia was insignificant and there was not the widespread availability of objectionable video publications as exist today as the result of a flood of these materials into Australia.

This principle is often stated but not adhered to in practice since adults are not free to view video material depicting interalia child pornography, bestiality and sexually explicit violent pornography as these are banned under censorship guidelines and prohibited from entry into Australia under Customs Regulations.

The principle that adults be free to see, hear and read what they choose is dependent on the pornographers claimed right to freedom of expression and the balancing of this claimed right against requirements fundamental to the common good which legislators are bound to uphold.

The issue now is not whether there should be censorship as was the case in 1973 when the principle was first stated as public policy but where to draw the line. The Committee considers that the current line is not appropriately drawn.”

The fact is that we do have film censorship in this country with the one exemption referred to above. In general, those who constantly parrot the Murphy policy in practice do not really regard it as a principle to be applied universally and uniformly but rather as a slogan to be used selectively and arbitrarily when it suits.

So the question in the real world in which we live is where to draw the line. For anyone who, like myself, has a passionate commitment to principles of civil liberties public policy relating to censorship (and availability) must be soundly based and not deprive persons of their civil rights.

DEFINITION OF TERMS

A moral philosophical analysis of the concept of censorship generally and of the censorship of pornography in particular so as to determine what censorship it is and whether it can be said to have any moral philosophical justification is required. The study of moral philosophy involves the examination of the principles which underlie all human actions and conduct. To conduct such an analysis therefore we must examine the principles involved in censorship and determine if they are consistent and universal. Fundamental principles upon which human actions are based may be expressed in words. The words used in an analysis of this kind must be tested and rigorously examined. Therefore it is essential that the terms used are defined and examined. To define these terms, and thus transform them from rhetorical abstractions into definite principles is fundamental to moral philosophy.

Take the word “censorship.” This is a word with prehistoric roots and rather interesting origins.
Philologists tell us that in the hypothetical Indo-European language which is the basis of nearly all European speech, “censor’s” ultimate ancestor is the root word “kens” which meant “to assess, to set in order, to make known to authority”. This gave rise to a number of descendant words, including the Greek word: “Cosmos” (the ordered universe) and eventually the Latin verb “censere” (to judge, order or evaluate). From this “census” was derived, since the Roman census was originally a tax assessment, and finally “censor”.

This title was held by two magistrates elected by the Comitia Centuriata in Republican Rome who conducted the census. Eventually the power of these magistrates grew until they became the official arbiters of Roman manners and morals, with far-reaching authority from which not even the Senate and Consuls themselves were exempt. This word “censorship” in English tended to become associated with the act of enforcing moral standards.

CONNOTATIONS

Whilst the word’s origins are of interest, it is also useful to remember its popular connotations. These connotations are, on the whole, negative. Censorship has the association of narrow-minded, reactionary interference. It gained this mainly as a result of the rear-guard action fought by the champions of Victorian morality in the first half of this century, in a time when the perceived absolutes upon which that morality was based appeared to be crumbling. As a result censorship came to be seen by many as the enemy of art, and therefore of free expression. Books such as Joyce’s Ulysses and Lawrence’s Lady Chatterly’s Lover were banned, and as late as the Nineteen-Sixties film-makers were struggling to convince authorities that nudity does not necessarily constitute obscenity.

The result of all this is that the idea of censorship being a blinkered and dangerous threat to freedom lies in the near background of the word’s common usage. The other misuse of censorship perpetrated on a grand scale this century was its application in insidious partnership with propaganda. Thus censorship has acquired connotations of mis-information and mind control; it is often seen as a step towards a repressive totalitarianism. While both these negative connotations lie in the background (the Oxford English Dictionary does not acknowledge them) nonetheless they continue to have an effect on the word’s usage, as any examination of the censorship debate will show.

CENSORSHIP DEFINED

It is these kind of connotations which lead to semantic blurring which complicates and confuses debates such as the one over censorship; it is part of the task of the moral philosopher to make the terms of the discussion clearer. With this in mind we must move away from the word “censorship” as a rhetorical abstraction to the term “censorship” expressing a principle which will stand up to scrutiny and perhaps provide a philosophical basis for the concept of censorship. To do this we must arrive at an adequate definition of censorship. To begin with, therefore, censorship can be defined as the application of a carefully balanced and judiciously evaluated assessment of that which is conducive to the essential common good of an equal, liberal and life-affirming society. (Note that here “liberal” is used in the sense of “upholding liberty or freedom”).

It is important to consider the nature of “society” in an analysis of the justification, or lack of justification, for censorship—since many of the arguments against censorship are based on the right of the individual within society. If we take the definition provided in the Oxford English Dictionary as adequate, then society is, a system or mode of life adopted by a body of individuals for the purposes of harmonious co-existence for mutual benefit.

Thus a society is made up of a large number of individuals or groups of individuals who live within that society because it provides benefits which autonomous individuals could no provide for themselves. For example, welfare support, defence in war, legal protection and so on. In other words they strive for “mutual benefit”, the common good. These individuals try to achieve this common good through harmonious co-existence. So ideally they try to keep their individual interests from threatening that harmony.

The harmony which gives rise to mutual benefit in society is the result of a balancing of these rights. If any of these three is considered more important than the others then the balance is lost and disharmony results.

MILL MISAPPLIED

Once again, in common usage the term “society” is not usually thought of as clearly as the Oxford
English Dictionary would have us believe. It is influenced by a great many diverse and, at times, conflicting elements. Once again it is this blurring of principles into words which leads to confusion. For example, many thinkers this century have been influenced by the ideas of the utilitarian philosopher John Stuart Mill. Mill prized individualism greatly and freedom of expression was fundamental to his ideas about society. He considered the concept of “the open market-place of ideas” to be vital and that, on the whole, the enforced imposition of paternalistic majoritarian wisdom was detrimental to society. Mill was certainly a noted philosopher, but there is a tendency to apply his ideas out of their context. To begin with, Mill was writing about a future society which he hoped could be formed; one in which “individualism” meant breaking away from accepted ideas in order to strive after higher ones, one where people were thus constantly trying to better themselves and society.

It is inappropriate to apply his individualist ideas to advocate or protect a society where this is not the case, or one which is devoted not to striving for higher things but to simple self-gratification or to materialism and the profit motive. Secondly, it is a further misapprehension of Mill to suppose his discouragement of the imposition of majoritarian wisdom to be a condemnation of all interference by the society as a whole in the wishes of the individual. He himself made it clear that,

the sole end for which mankind are warranted,
individually or collectively, in interfering with the liberty of action of any of their number is self-protection. The only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others.  
(J.S. Mill, On Liberty)

Despite this, the idea that any interference by society into the affairs of the individual is an infringement of that individual’s freedom continues to be based on these popular misapplications of Mill’s philosophy.

Even if the philosophical origin of this idea is based on misapprehensions however, there may still be some substance to it. This idea is certainly the basis of almost all arguments against censorship. However, on analysis, these arguments seem to be based on a semantic blurring around the word “freedom”. Within the context of common usage “freedom”, like “society” and “censorship”, has acquired many shades of meaning: including those which tend toward meaning “autonomy”.

**“FREEDOM” AND “AUTONOMY” NOT SYNONOMOUS**

When discussing the concept of censorship in society and the freedom of the individual however it is clear that “freedom” cannot mean anything close to “autonomy”, since no-one who is in a society can be autonomous. Thus, within a society, an individual is free, i.e. he has liberty, but he cannot by definition have autonomy. The fact that he is within that society carries with it the idea that he should strive for mutual benefit with his fellow societal members through harmonious co-existence. If the purpose of society is to provide this mutual benefit through the encouragement of harmony then it follows logically that it is also its purpose to discourage anything which is disharmonious. Thus it is the responsibility of that society to aid its purpose by

(i) defining what is conducive to harmony and what is not, and

(ii) encouraging harmonic elements while discouraging disharmonic ones.

As we stated before, this harmony which gives rise to mutual benefit is based on a careful balance of equality, liberty, and dignity of life. Therefore if an individual or group acts in such a way that it encroaches on, threatens or violates any of these rights in another individual or group, they are causing disharmony.

**BALANCE TO PROTECT FROM ABUSE**

It is the responsibility of their society to protect itself, and preserve its essential purpose, by restricting the actions of those individuals. To claim that in so doing the society is denying one of those rights itself, the right to freedom (of speech), is to misapprehend societies’ function. To maintain harmonious co-existence, society must not let any of these rights dominate the others; it must maintain the balance. To curtail some aspect of an individual’s freedom is not to deprive him of that freedom, but to bring it back into line with the balance of rights which make up harmonious co-existence: which is the whole aim of society.

So, to claim censorship is unjustifiable is to

(i) deny that society’s essential function is to promote mutual benefit through harmonious co-existence (curtailing the abuse of some rights which threaten others), and to

(ii) deny that society must, by the very nature of this function, maintain this balance by curtailing aspects of some right in order to preserve others.

**EXAMPLE OF MURDER**

We can see that harmonious balance must be maintained in this way by taking the rather mor-
ally clear-cut example of murder. In a sense a murderer is an individual committing a free act—expressing his freedom within society. He is therefore exercising an aspect of one of his basic rights. An advanced society however, would not condone his action because it completely violates the rights of his victim. The murderer violates the victim’s right to the essential dignity of human life, by taking that life by force. He also violates the victim’s right to human equality since, by his action, the murderer is implying that his victim is not his equal. In addition to this, the murderer’s action threatens the rights of all individuals within society, and therefore society itself, by stating implicitly that his rights are more important than anyone else’s.

Therefore, society must protect itself by

(i) defining murder as a disharmonious and thus undesirable action, and
(ii) going to appropriate lengths to prevent murder.

By curtailing this particular expression of freedom society is to bring the murderer’s right to freedom back in line with the balance of rights upon which all societies’ benefits are based.

Now to consider the above principles in relation to the example of the censorship of pornography.

DEBATE NOT ABOUT TASTE

It is important that we are clear about the nature of the video material which is the subject of this debate. It is not typically material which is simply gratuitous in regard to sexual matters to the extent that it is crude, tasteless and vulgar, rather than pornographic. Nor is it video material which includes simulated dramatic depictions of sexual acts in the development and treatment (whether serious or humorous) of themes involving human sexuality which in context and intent are not pornographic.

The video material with which this debate is concerned can properly be described as non violent degrading pornography.

“HARD CORE PORNOGRAPHY”

“X”-rated video material is described officially by the Federal Government in its explanatory memorandum to the Australian Capital Territory Ordinance as “hard core pornography”.

In the words of the Joint Select Committee on Video material it treats women “as sexual commodities to arouse the sexual desires of its target audience” and “reduces persons to objects or occasions of sexual pleasure”. The Film Censorship Board’s bland description of material contained in the “X” classification fails to convey the exploitative and degrading nature of “X”-rated videos which promote sexually promiscuous (AIDS-high risk) behaviour. Although physically non-violent, this material cannot be described as NVE (Non-Violent Erotica) without violating the true meaning of the word erotic.

“SEXUALLY CALLOUSED AND MANIPULATIVE ORIENTATION TOWARDS WOMEN”

Evidence cited by the Joint Select Committee Majority shows that such material engenders as “sexually calloused and manipulative orientation towards women”. It mediates in the mind of the habitual viewer a perception of women in general as being highly promiscuous and available.

It is interesting to note that at least four behavioural scientists whose research was submitted to the Committee saw non-violent pornographic videos as more harmful in this regard even than the violent explicit pornography which has already been banned.

INCITEMENT TO SEXUAL HARASSMENT

The Joint Select Committee on Video Material stated—

“Women are often depicted as sexually malleable for the purposes of satisfying male sexual desires. This is sometimes manifested by themes involving workplace sexual favours.”

FUNCTIONS SIMILAR TO RACIST PROPAGANDA

Of considerable interest to me as one dedicated to upholding civil liberties and human rights are the observations of Professor Zubrzycki Emeritus Professor of Sociology, ANU, in the Canberra Times of 24 July 1988—

“Pornography functions quite similarly to anti-Semitic or racist propaganda: it serves as a tool of anti-female propaganda. The intent of all three is to distort the image of a group or class of people, to deny their humanity, to make them objects of humiliation, to use them for whatever purpose.”

PORNOGRAPHERS CLAIMED RIGHT TO FREEDOM OF EXPRESSION VIOLATES OTHER RIGHTS

Clearly the abuse of the pornographers claimed rights to freedom of expression can rightly be said to violate the rights of citizens to equality, freedom and human dignity.

This is particularly so in relation to women. It is also relevant in this debate to consider the AIDS implications of allowing pornographers to promote high risk AIDS behaviour through hard core pornographic videos.
Society therefore has a right to curtail the abuse of the pornographers claimed right of freedom of expression in order to maintain a proximate and long term harmonic cohesiveness within an equal, liberal and life affirming society.

**ELECTED REPRESENTATIVES ENTITLED TO ACT**

Whilst most people would accept that argument a problem appears to arise when the word “society” is replaced by the words “the State” or “the Government”.

It is this which leads to the objection that people do not need governments to tell them how they should live. In the practical application of censorship “society” as an amorphous whole cannot protect itself, but the state, or, to be more specific, the government of the time, which acts on behalf of society can. It cannot be denied that, as the legally elected representatives of a society it is the government which must make the balanced and judicious assessment of what is conducive to the common good and apply it. Since governments must make such assessments responsibly, they must make themselves as conversant as possible with all the relevant facts and base their assessment on them.

This is not to say that censorship cannot be abused. If a society’s assessment is not balanced and judicious, (for example, because it is not based on all relevant facts) or if it is misapplied (for example because a government wants to suppress certain kinds of expression) then it is not fulfilling its essential function. The task of objectively balancing rights to maintain the common good is certainly a difficult thing to expect our legislature and judiciary to achieve, but we already expect these bodies to decide on matters just as difficult on our society’s behalf.

**WHY NOT COURTS?**

It may be argued that the issue should be left with the Courts. The issue of “obscenity” was rarely raised in the Courts and in any event the common law offence of obscene libel in relation to material that has been classified is no longer available in the ACT. The reliance on Courts to apply the obscenity test are costly and cumbersome.

**DOES CENSORSHIP OF PORNOGRAPHY THREATEN DEMOCRACY?**

Some people argue that any kind of censorship threatens the right to free expression and, by implication, our democratic way of life. In the case of censorship, this argument is a red herring.

Because the harm with which the proposed censorship seeks to deal is generic to pornography, censoring pornography has no implications for the rights to participate in political life. To argue that it threatens the free communication of political ideas to censor images which, by their very nature, are harmful, is to debase the nature of political discourse. Such an argument confuses the nature and purpose of free political activity with the nature and purpose of pornography. But free political action and pornography are radically incompatible. The former is concerned with the preservation and development of human rights, the latter with destroying them.

Pornography takes away the dignity of women and propagandises the idea that women are fit only to be the sexual chattels and slaves of men. By thus attacking the dignity of women, pornography undermines the status due to full participants in the free society.

If women really have so little dignity that society can tolerate the mass dissemination of pornography, then women should be disenfranchised. On the other hand, if women are entitled to the franchise, then they should be treated with a dignity commensurate with their political rights. A society which tolerates pornography, and claims at the same time to be democratic, is pure hypocrisy. The censorship of pornography, therefore, does not threaten political freedom, but in reality strengthens it.

**CONCLUSION**

While it is true that censorship is a necessary element in our imperfect society, it cannot be denied that is also a difficult and challenging one. Censorship rests firmly of the principles of equality, liberty, dignity and on the concept of society itself. It has a sound moral philosophical basis of justification.

BRIAN HARRADINE

**Senator SCHACHT (South Australia)**

(6.32 p.m.)—I rise to speak on these bills. Senator Bolkus has indicated on behalf of the opposition that we will oppose the substance of the bills, which is to place a new tax regime via the Office of Film and Literature Classification. There are other parts of the bills he said that we would support. I normally would not have chosen to speak on these bills, but I think in view of certain circumstances and certain publicity in recent times, not just in the last 24 hours but over the last few years, it is about time a few more of us in this parliament stood up and declared that we do not accept the conservative view of some members in this place and some members of the government who are rolling
back the reasonable censorship regime that has worked successfully in this country for the last 30-odd years. I am one of those who oppose what Senator Harradine is doing. He knows this. We have had this debate on a number of occasions in this place and on Senate committees. I oppose what National Party members have done in the last two days, claiming great credit that they rolled the Attorney-General of this country, who had reached agreement with the state attorneys-general over the introduction of what he called the 'nonviolent erotica' classification.

There is a wider agenda that the conservative elements in this parliament and in the community are about. I think they have to be opposed. It ought to be clear to the Australian public that there are many members of this parliament who are willing to stand up and oppose that conservative, narrow-minded agenda that treats adults as children. I am proud of the fact that when I came into the Labor Party in the late 1960s-early 1970s it was at the beginning of the great leadership of Gough Whitlam and Don Dunstan, two great leaders in the last 50 years of the Labor Party. With Lionel Murphy as shadow Attorney-General, they wrote the policy for the Labor Party which was adopted at the 1971 national conference and which Senator Harradine quoted tonight. It is still in the platform, as adopted at the last convention. It states:

Labor believes that adults should be entitled to read, hear and see what they wish in private and in public, subject to adequate protection against persons being exposed to unsolicited material offensive to them and preventing conduct exploiting, or detrimental to the rights of others, particularly women and children.

That has basically been our policy since 1971. Fortunately, previously in the Liberal Party there was Don Chipp, who was a customs minister in the late 1960s, and others who took a similar view about the right of adults to choose for themselves what they read, see, hear and do in private. As Pierre Trudeau, the great Canadian Prime Minister of the 1960s said, 'The state has no right in the bedroom of adult citizens of a democratic country.' We have seen the National Party skiting here today that they rolled the Attorney-General, supported by Senator Harradine. They want to be in the bedroom conducting a moral test on what adult Australians should be able to do as consenting adults in the privacy of their homes. That is what the agenda of the conservatives is. In the press today, we have seen mention of the Lyons Foundation supporters. I have to say to you, Senator Harradine, and to those others, there are enough of us in the Australian community and in this place to stand and fight you on this, because what you are about is demeaning to adults. It has been demeaning for a long time for people to say, 'We know better than other ordinary Australians about what you can see, hear and read.'

The rules that have been established for the Office of Film and Literature Classification by a previous Labor government—by and large supported by previous Liberal attorneys-general and the present Liberal Attorney-General—have worked well in this country. Any public surveys show that 70 to 80 per cent of Australians believe the present censorship regime has got the balance about right. But there is a small minority in this parliament and in the Australian community saying, 'No, we want to roll it back to somewhere in the 1930s and 1940s.' That is when you had the joke of the customs department opening letters and checking whether they contained what they called pornography. Senator Harradine and members of the National Party have used that term here today. In the 1960s they would have banned *Lady Chatterley's Lover* as pornography.

The ACTING DEPUTY PRESIDENT (Senator Crowley)—And they did.

Senator SCHACHT—And they did. And they banned it for decades.

Senator Harradine—I rise on a point of order. Are you suggesting by your interjection, Madam Acting Deputy President, that I would have done that, as is being alleged by the speaker? I am asking you a question.

Senator SCHACHT—You are objecting to me, are you?

Senator Harradine—No, I am objecting to the interjection by the chair.

The ACTING DEPUTY PRESIDENT—Senator Harradine, there is no point of order.
I must say that I failed to appreciate that the mike was on. I was in error and I apologise.

Senator SCHACHT—There is no doubt that the people who are today trying to roll back the present rules under the guise of banning pornographic videos are the same group of people, the successors to those in the 1950s and 1960s, who would have banned *Lady Chatterly's Lover* or a whole range of books. Remember the joke of the former chief secretary of Victoria in the 1960s, Sir Arthur Rylah, saying he wanted to ban the book called *The Group* by Mary McCarthy, because I think it mentioned a few sexual things that he said his 14-year-old daughter would not have liked to read? He did not have a 14-year-old daughter. It is always the way. You see letters in the paper from ‘Concerned mother of five’ or ‘Concerned of eight’—there is always the claim that they speak on behalf of others they think they are protecting.

The regime on censorship that was adopted in this country as a result of the reform by the Labor Party going right back to the Whitlam government makes it clear that things that are illegal such as bestiality and child pornography are banned. They are banned by the Office of Film and Literature classification. If you put those things in a movie or in a book and you circulate it, it will not get a classification and you will be charged. If you are found with it, you will be taken to court and, if found guilty, you will get a severe sentence. There has never been a suggestion—by any of us in the community who believe in being able to read and see in private what we like as consenting adults—that we want any of that made available. We have completely supported the right of the Office of Film and Literature Classification to ban that type of thing by not giving it a classification.

Those with a narrow-minded view who want the videos banned try to imply that those items currently given an X classification—which I think is a reasonable description—do have bestiality and child pornography in them, but they have never been able to prove it to the Office of Film and Literature Classification. When that office does get such an example, they do not classify it and the person takes the risk of being charged if they are using it or circulating it. That is an excellent system. It is being undermined for other purposes by the National Party and by Senator Harradine. He has been consistent on this issue over the whole 25 years he has been in this place. If nothing else, he has been consistent in campaigning on it. I think he is absolutely wrong.

He talks about demeaning women. It is interesting that he only ever talks about demeaning women; he does not talk about demeaning men in these X-rated moves. He does not seem to think it is conceivable that there may be women in the world who actually like being in a blue or X-rated movie. If a woman consents to be in the movie through no force or duress, that is her business. It is in private, and she has made that decision. It seems to me that it is always the women who are being exploited. If they are being exploited and forced to do these things, that is against the law. If you have examples of that, Senator Harradine or Senator Boswell or Senator McGauran, go to the police immediately and say, ‘These people are being forced to do this against their will’, and action will be taken. So it is extraordinary that they make out that these people are being abused and are doing this against their will. That is against the law, as it should be.

The next thing I find extraordinary is that the National Party is raising this issue. There is one National Party government in this country called the Country Liberal Party of the Northern Territory. Did they ban X-rated videos? Of course not. They have accepted them. You can make them and distribute them from the Northern Territory. In 25 years of continuous Country Liberal Party government I have never seen any CLP minister, Attorney-General or Chief Minister saying they are going to ban X-rated videos, as they have in the other states. In the ACT, we have a Liberal Chief Minister, Kate Carnell. Is she moving to ban the industry that makes, reproduces and mails out the X-rated videos? Of course not. They have accepted them. You can make them and distribute them from the Northern Territory. In 25 years of continuous Country Liberal Party government I have never seen any CLP minister, Attorney-General or Chief Minister saying they are going to ban X-rated videos, as they have in the other states. In the ACT, we have a Liberal Chief Minister, Kate Carnell. Is she moving to ban the industry that makes, reproduces and mails out the X-rated videos? Of course not. She has turned it into a great little tax earner. But, again, she is doing it in accordance with the rules laid down over the last 30 years by the Office of Film and Literature Classification.
Next I hear Ron Boswell get up and say, ‘We in the National Party represent the family.’ Senator Boswell from the good old Country Party of the past says, ‘We represent the farmers. We represent rural conservatives.’ I suggest that Senator Boswell should go down to the people who distribute the X-rated videos under the law as they are entitled to by mail subscription around the country and find out how many thousands of the videos are mailed every month to his good old family people in country Australia. I bet he will be surprised.

The next thing he and Senator Harradine say is it is only for men. There is apparently some evidence in the mail subscription industry that sends these out that they are overwhelmingly going to married couples. They may be lying, Senator Harradine—by the laughter of your interjection—but apparently there is some evidence that a lot of these X-rated videos are going to married couples. Adults in private are enjoying them as they want to without any interference from anybody else. There is no evidence that they go out and create mayhem in the community.

I would be interested to hear from Senator Harradine, Senator McGauran, the National Party and others who jump up and down about this how they explain that for 3,000 or 4,000 years before X-rated videos were invented—they were invented in the last 20 years—there was always a problem in society with sexual abuse and sexual exploitation. It did not take X-rated videos to increase the rape level or child abuse in Australia or in the Western world. Unfortunately, anyone who studies history will know that these crimes have been committed regularly and consistently in society throughout the last 4,000 years of recorded history. So the argument that this leads to an epidemic of abuse just does not stand up.

I want to turn to the remarkable events of the last 24 hours—and Senator Bolkus mentioned this as well in his remarks. In today’s Sydney Morning Herald the National Party were skiting about how they had rolled the Attorney-General and forced the legislation with the nonviolent erotica category to be referred back to the Attorney-General for further consideration. The article in the Sydney Morning Herald by Margo Kingston states:

Mrs Kelly decided on Monday night she wanted to see some NVE videos. Mr Williams’s office refused because that would constitute an unlawful “public view”.

Mrs Kelly contacted Senator Harradine, who happened to have four of the most extreme examples, organised an audience, and gave them his briefing notes.

One viewer said: “This isn’t erotic. Erotica is arthouse stuff, a sensual depiction.”

I will take three guesses at which dopey National Party member said, ‘This isn’t art house stuff.’ We know which ones run around trying to find movies they can ban and so on under the guise that it is art house or not art house.

It is interesting that, when the Attorney-General said, ‘I can’t provide you with an NVE video, it is illegal,’ they went to the one person who apparently does have a collection of them—Senator Harradine. I believe in the privileges of parliament, Senator Harradine, so I do not want you arrested, but it is interesting that they did not go to those of us who actually support the principle of adults in private to see whether we had any. I do not have any and never had any. They went to Senator Harradine, who apparently has the best collection in parliament. I just think this is an obsession that some senators should get over and get back to having a more mature attitude about what adults in a modern society should do.

Unfortunately, since this government got elected we have had a persistent and consistent pattern of undermining the view that we are a mature adult democratic country. The Prime Minister and other ministers have consistently rolled over, first of all to cater to Senator Harradine when his vote was important in this place on these sorts of issues. It was exposed at the Senate estimates committee by my colleagues last year how the appointments to the review panel of the Office of Film and Literature Classification were done. The office put up a list of people whom they had interviewed after calling for nominations from the community. So what happened? Somehow or other John Howard believed that they were not conservative
enough. Out of the blue other names were found and they got appointed. So we know this government made an attempt to cater for the conservatism of Senator Harradine by rigging the appointments of people to the panel.

Debate interrupted.

PERSONAL EXPLANATIONS

Senator HARRADINE (Tasmania) (6.50 p.m.)—by leave—Senator Schacht made the astounding statement that, in order to appease me, Mr Howard had rigged the membership of the film board of review. The film board of review overturned the ban imposed by the OFLC on the film *Romance*. I thoroughly disagree with that decision, having read it.

ADJOURNMENT

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

That the Senate do now adjourn.

Sport: Funding

Senator LUNDY (Australian Capital Territory) (6.52 p.m.)—I rise tonight to talk about *Shaping up*—the government’s white paper into the future of Australian sport—and the problems facing elite sport in Australia because of foreshadowed funding cuts. First of all, the history of this white paper says a lot about a government ignorant of the problems facing elite sport and unable—or unwilling—to face the tough policy issues involved in sport and recreation. During the last federal election the coalition made a commitment to the Australian sporting community. According to their policy document, the coalition would:

... commission a White Paper on sport and recreation post-2000, to lay the base for a comprehensive policy statement that addresses principles, defined policy goals and objectives.

Given that the post-Olympic landscape is so uncertain and there is a high level of anxiety among both Olympic and non-elite sporting organisations, an inquiry into our sporting future was not unjustified. It was, in fact, in desperate need of occurring, in light of the coalition’s mismanagement of the sports portfolio since they were elected. The opposition, however, was rightly concerned about the manner in which the Minister for Sport and Tourism, Jackie Kelly, established this review, and in hindsight our concerns have been justified 10 times over. In the first place when the white paper was announced there were already a number of inquiries into sport under way, including an Australian Sports Commission internal review and a National Elite Sports Council inquiry into the organisation and delivery of funding to elite sport after the 2000 Olympics.

Then it took the minister over seven months to find four task force members to conduct the white paper review, but she allowed just four months for them to report back. That is half the time it took her to come up with the task force members. The white paper task force, which the minister subsequently renamed the Oakely review, was late in getting their report completed—understandably, I believe, given the enormous task they faced in preparing such a major document. And indeed this document was supposed to come up with a plan for the future of Australian sport.

And didn’t the minister talk up this white paper as a major government policy document. We heard more about the potential of this white paper to solve the government’s policy dilemmas with sport than anything else. Here is just a sample of what Minister Kelly has said about the *Shaping up* white paper: it will lead to the ‘greatest change in the administration of Australian sport and recreation in recent history’; it is ‘the most far reaching assessment of Australian sport in 20 years’; and it is ‘the most thorough look at sport and the sports industry in Australia in 25 years’. These are all quotes from Minister Kelly.

The white paper was eventually completed at a cost of over $270,000, an enormous amount of money considering sporting organisations are busy preparing to slash programs and services in the light of coalition funding cuts. Furthermore, the minister promised that the government would be officially responding to the white paper ‘in early 2000’. It is early 2000, and this white paper into the future of Australian sport is collecting dust on a shelf in Minister Kelly’s office.
It is a pretty expensive bookend at a total cost of $270,000.

During the last round of Senate estimates I tried to find out just when in ‘early 2000’ the government would be producing their response and why the minister is refusing to address its controversial recommendations. These were questions I asked. It will not come as a big surprise to the sporting community—who did work extremely hard in preparing their submissions for this inquiry—that the white paper actually recommends an increase in funding for sport. This is not what Minister Kelly wanted to hear. I remind you that at the time my suspicions were that indeed this whole process of a white paper was to establish some public imprimatur for a further cut to federal funding. But look what happened. The coalition is busy slashing $25 million out of the sporting program through the loss of the Olympic Athlete Program and reducing their funding for sport and recreation after the Sydney Olympics. That has led to the minister wanting to bury the white paper. It did not come up with the recommendations she was looking for. Solution: put it on a shelf and let it gather dust, and proceed with the funding cuts.

During Senate estimates Mr Robert Crick, head of the Sport and Tourism Division of the Department of Industry, Science and Resources, denied that Shaping up is a white paper, which the coalition promised at the last election, backing off at 100 miles an hour. For the record, a white paper is ‘an official report or policy proposal of a government on a specific subject’. Yet when I asked Mr Crick if Shaping up is a policy paper, he told me that is not a definition of a white paper. He then qualified his answer by saying:

I think there was an intention initially and it was foreshadowed that the government would produce a white paper. A decision was made, however, as an initial sort of step towards a process of producing a policy statement on sport post-2000, that a review would be undertaken by an independent panel of people well experienced and expert in the area ...

There it is on the public record: either Minister Kelly has broken an election promise to commission a white paper into sports funding or she has kept her promise and chooses now to bury the paper because she did not like its recommendations. Either way, it is an appalling indictment of the government and the minister, because the Australian sporting community is in desperate need of long-term policy and funding structures to be set in place before the Sydney Olympics.

There is no point in addressing the white paper’s recommendations after the next budget. Why? While the opposition has many concerns about some of the recommendations in this white paper, we certainly concur with its conclusion that Commonwealth funding is essential in the battle to increase sporting participation and encourage active lifestyles amongst individuals and the community. The most important aspect of Commonwealth funding to the sports sector is to ensure security and continuity of those community organisations which do provide the infrastructure to allow people to be active, healthy and sometimes in their competitive sport participate in compellingly interesting pastimes during their leisure hours. At the moment, elite and Olympic athletes, coaches and organisations are facing massive cuts to their programs—and at least a half a dozen will be axed from the AIS—because of funding shortfalls.

In the last round of Senate estimates the Australian Sports Commission revealed that once the $25 million Olympic Athlete Program—OAP—ceases later this year there will be a reduction in funding for all sports. The commission made it clear that they have told all fields of sport not to enter into contractual arrangements that rely on OAP funding beyond 31 December 2000. This means that, unless increased funding is provided, many Olympic coaches and athletes will head overseas. It also means that Olympic sports like gymnastics, water polo, canoeing, squash, and some track and field and swimming programs may be axed, regardless of their achievements at the Sydney Olympics. In other words, we may face the situation where Australia wins medals in Olympic sports that the AIS will later have to cut because of a lack of funds. I was also told in estimates that the Sports Commission will have to shed jobs in light of the loss of OAP funding.
I find this quite amazing because the sports industry is very much a growth industry. It provides millions of dollars in revenue for state and federal governments—as we shall see when the Olympics occur. That is why the Labor Party believes that investing in both elite, community-based and participatory sport is of essential long-term benefit to the wellbeing of the nation. There will be no Olympic legacy without a continuing investment in athletes, coaches, administrators and support staff and there will not be significant benefits from the Commonwealth investment in sport unless that investment is continuous, consistent and balanced. Unfortunately, none of these three elements is apparent in Minister Kelly’s approach to the portfolio. As I said, the white paper contains many recommendations that the opposition disagrees with. However, to simply ignore a document and hope it goes away is an abrogation of responsibility. All of these issues need to be openly discussed and debated rather than shelved. It is not enough to provide funds for the Sydney Olympics and then throw up your hands and say, ‘We won’t fund sport.’ To secure our sporting future and retain the legacy that Australia deserves from hosting the Olympics, we must retain our top athletes and coaches. I am concerned that we will lose them when they feel that they have no job security in Australia after the Olympics. Moreover, the AIS and the Sports Commission should not be placed in the position of having to cut programs and tell young athletes that they are no longer wanted because of funding cutbacks. (Time expired)

Employment: People with a Disability

Senator HUTCHINS (New South Wales) (7.02 p.m.)—Over the past decade Australians have endured massive changes to their workplace environments and working conditions. As a result of the deregulation of the labour market, the internationalisation of the Australian economy and the advent of the information technology age, the working lives of today’s men and women barely resemble the employment conditions and circumstances of past generations. Employers in search of a competitive edge are seeking increasingly higher productivity from their employees. Employees without the wage and job security of past years are continually changing jobs and reskilling just to keep pace with industrial and technological developments.

At the moment some parts of Australia are enjoying low levels of unemployment. It is to the continual shame of this government, however, that employment levels—in particular, youth unemployment levels—in rural and regional areas have remained unacceptably high while in other areas employment has surged ahead. Despite the changes to the Australian labour market, several aspects have remained consistent. One of those aspects is the difficulty that people with a disability have had in securing real employment that provides real wages, real skills and a real career. It is unfortunate in this day and age, when the Howard government is continually advocating open and equitable employment policies, that disabled people are being neglected by most employers. Over 15,000 disabled people are currently looking for employment across Australia. Their plight is being made even worse by the fact that employers are refusing to even acknowledge that people with disabilities may have had a place in their organisations. It recently came to my attention, however, that a small but significant portion of employers are actively addressing the lack of workplace opportunities currently available for people with disabilities.

A few weeks ago I was invited to attend an after-five function hosted by the Parramatta Chamber of Commerce, one of the leading business organisations in Western Sydney. It was established in 1911 and currently has nearly 400 members. I might add that my office has enjoyed the hospitality of the chamber on several occasions since I moved to Parramatta in mid-1999. This was the first after-five function hosted by the Parramatta Chamber of Commerce for the year. The function included a presentation from an organisation called EMAD—Employers Making a Difference—headed up by John and Steven Bennet of Benbro Electronics, which is based in Brookvale. Benbro Electronics is primarily involved in the construction of high technology goods. Their products include solar panel arrays for medical refrigeration units, electronic circuit boards, portable pub-
lic address systems and back-up power supply equipment. More importantly, however, Benbro has an employment policy stipulating that 25 per cent of its workers shall constitute people with a disability.

When Benbro was established in the late 1980s it started employing people with a disability because it found that they made excellent employees. After its recruitment was complete, Benbro expanded its operations to also being a training facility for people with disabilities so that they could learn new skills and be taught by people with disabilities. The benefits of Benbro’s specialised services have been appreciated by many companies and employees across New South Wales. It has even led to Benbro being engaged by the Commonwealth Rehabilitation Service to assist in the rehabilitation of people with psychiatric, brain, back, knee and intellectual impairments and disabilities. Benbro’s leadership in the field of employing and training disabled people led to several local and regional awards for business excellence. After several nominations over previous years, Benbro was eventually awarded the Prime Minister’s Small Business Employer of the Year Award for New South Wales and Australia in 1998 for providing work opportunities to people with disabilities.

The benefits Benbro found in employing people with disabilities and the recognition they received through the Prime Minister’s award led them to establishing EMAD, Employers Making A Difference, in April 1999. EMAD’s aim is to encourage the employment of people with disabilities. Specifically, its mission statement is ‘To lead the change to a positive employment environment for people with a disability by changing the perception of Employers and encouraging their good corporate citizenship’.

One example where this ethos has delivered real results involves a Western Sydney family bricklaying company, J&R Fulton of Baulkham Hills. Unable to find labour after weeks of advertising, the Fultons heard of EMAD on a morning radio program. Contacting EMAD led to a disabled applicant being successfully sourced through the Macquarie Employment Training Service at Seven Hills. He has since been trained and is assisting Fultons’ Bricklaying to undertake more projects and to catch up on a backlog of work. His disappointing years of unemployment and low self-esteem are now behind him, as he has become a fully-fledged member of the work force. Moreover, the success of their new employee led to Fultons’ Bricklaying hiring another person with a disability, this time under the Disabled Apprentice Wage Support scheme. This young man, who was facing an uncertain future with limited career prospects, is now gaining practical, on-the-job knowledge that is assisting his trade course at Granville TAFE.

The benefits of employing people with disabilities, as demonstrated by this episode and espoused by John and Steve Bennet, are also reflected in the results of several international research projects into the employment of disabled persons. They found that, on the whole, disabled people have higher than average attendance rates, higher than average on-the-job performance and higher than average awareness of workplace safety.

Some 15,000 disabled people are currently looking for work across Australia—that is 15,000 people who want to pursue a career and who want to make a real contribution to our country. These people want to lend their abilities and enthusiasm to gaining skills, to establishing a career and to improving the productivity of enterprises, companies and organisations. Enthusiasm is one attribute that all employers look for in their prospective employees. This enthusiasm, coupled with higher than average attendance rates, job performance and workplace awareness, should make the disabled an appealing prospective resource for employers.

The benefits of employing people with disabilities should not just be measured by productivity and profitability. They should also be viewed in terms of the financial situation of the entire nation. The employment of Australia’s disabled persons may mean fewer dependents on social security. If employers seriously considered employing a person with a disability, it would also install a social ethic among employers. It would demonstrate their support for giving all Australians a fair go at getting a job and an end to
the employment neglect of a significant proportion of the community.

It is time for the era of overlooking people with disabilities for job opportunities to come to an end. It is high time that people with disabilities were given the chance to compete for real jobs and real wages and were empowered to make a real contribution to our society. I urge employers right across Australia to seriously consider employing a person with a disability when they are next recruiting for their organisation. I congratulate the brothers Bennet for deciding that, in this life, no matter what the obstacles are, you can make a difference if you have the will to do so. They have enriched the lives of the people they have employed, and now that opportunity is open to others.

International Women’s Day

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (7.11 p.m.)—Acting Deputy President Knowles, may I wish you happy International Women’s Day. Today, International Women’s Day commemorates the women’s movement. This concept is only around 100 years old—although, as many people would know, in Australia and around the world the origins of the struggle are quite ancient. It is a day that has grown from the first National Women’s Day declared by the Socialist Party of America and observed in the United States on 28 February 1909. The following year, the Socialist International meeting in Copenhagen of over 1,000 women from around 17 countries established a women’s day, which was celebrated across the world to honour the women’s movement and to assist in the campaign for the women’s movement and for universal suffrage. Today, women around the world campaign for social justice in the hope that we will bring an end to discrimination.

I was honoured to attend the Global Forum for Women Political Leaders in Manila, the Philippines in January this year. The forum was a preliminary for the United Nations Beijing Plus Five conference, which takes place in New York in July this year. The forum’s objectives were to promote worldwide visibility of women’s political leadership, to access women’s participation in politics—where we are and where we are heading—and to make recommendations for further actions and initiatives for the UN Beijing Plus Five review later this year.

It was an honour to be a part of what was quite a diverse group of women. Women from divergent cultural, political and economic backgrounds contributed to discussions about how we gain, and maintain, access to decision making powers and processes. I was one of a number of representatives from Australia. Other Australian members were present, but there was no formal representation from our country.

It is interesting to note the changing role that Australia has played in the attainment of rights for women. I am very proud to come from South Australia, a state that pioneered the right not only to vote but to stand for parliament. We were one of the first places in the entire world—and, certainly, the first place in this country—to give women both those rights. That was in 1894. We followed soon after on a national level, granting women’s suffrage to all women—except Aboriginal women in some states—from 1902. So we have quite a proud ‘herstory’.

In 1902, we led the world. Yet, when we review our progress at the beginning of the 21st century, we recognise that we still have numbers lacking. Today in question time and in taking note of answers to questions without notice, I highlighted the dearth of progress—under, in particular, the current government—in the participation and representation of women on Commonwealth boards. I also referred to the Inter-Parliamentary Union’s recent report, released yesterday, that was a comparative study of women’s representation in parliaments across the world. In response to a question of mine, Senator Newman, the Minister assisting the Prime Minister for the Status of Women, admitted that we are lagging behind the private sector when it comes to the representation of women in the public sector.

Indeed, as Senator Newman said, we all wish it were better. And in Australia, and certainly in our decision making bodies, it should be. Today, 22.3 per cent of Australia’s federal parliamentarians are women. This statistic breaks down to roughly 15.5 per cent
participation by women in the House of Representatives. Of course, in the Senate it is 30.3 per cent, which is much higher, and I think that is something we can be proud of. But when you look at international comparisons on this and you see some of the Nordic states and, I believe, South Africa with representation of at least, or more than, 30 per cent, you realise that we have a long way to go. Although Australia’s participation rate for women is double the international average, we can still make progress. Certain areas such as women’s representation in positions of executive power must be addressed, and by that I mean that hopefully we will see in the short term, or at least after the next election, more than one woman in the federal cabinet.

I would like to place on record some of the issues I raised at that conference in Manila. I know that in a vast majority of nations and societies the goal of gaining power remains elusive for any group, but we as women have a long way to go before we achieve anything that approximates parity of representation. In many respects, the battles that the women before us had to start are just beginning in many societies. In Australia, I think the challenge for many women is not simply to get into these positions of power but to hang on to hard-won gains, often in the face of conservative opposition. I believe that critical mass does make a difference and that more or equal numbers of women in decision making bodies will make a difference to policy and will ultimately lead to decision making which better reflects the concerns and interests of women. In fact, research conducted in the United States by Susan Carroll shows that female legislators, even those who will not call themselves feminists, are more likely to support the introduction and retention of state programs and entitlements that benefit women.

Women’s rights are critical. Women are the largest universally discriminated against group. For every girl or young woman who receives an education and is able to realise her potential, there are dozens who will never be given that opportunity. As we enter this century, women have the illusion of equality because we have made gains. Certainly in Australia there is the sense that women can make choices about how they live, work and dress, and they can take up all the responsibility that goes with those choices. But it often means many times the workload of women of earlier generations, even if conditions have improved. We rejoice in our gains but we know that not all women share in them, locally or globally. We know that women are vulnerable in the workplace, under-represented in decision making and vulnerable to violence in the home and sometimes elsewhere. We need to remind ourselves of the facts and the figures about these matters which show us and those who need to be shown that there is a long way to go in improving the status of women. We are vulnerable to a backlash in good or bad economic times, and women are still not free to make all the decisions concerning our bodies. But it is not just women’s issues anymore. Society needs the full input of all its citizens, and the community has everything to gain from women achieving equality.

Today at the Press Club I noted that Dale Spender, that wonderful feminist writer and techno-savvy woman, commented on the role of women in public life—young women in particular. We now know that young women today are setting up their own women-friendly businesses. They are flexible to the needs of women. They are educating themselves, and they are critically rejecting aspects of the current status quo and practising their politics through the lifestyle they pursue. We also know that women leaders of the future will be from generations which practise politics in a global and a hyperlocal sense—that is, the community based politics that so many women are familiar with. We know that power this century is global, consumer oriented and technological. Of course, that women are visible on the Web and are using those technological advances is important too. Women should not just be visible on the Web, they need to be prominent. We must also ensure that women are represented in the international decision making bodies which will shape our world in this century. We need women on the ICJ. We need International Criminal Court representatives who are women. We need women in the ILO, in the
But when I speak of these techno-savvy young women, the generation X or the Net generation—or however you refer to people who are utilising these super technologies—I acknowledge that a lot of these things do not matter in some societies as much as clean drinking water. What does it mean to a woman with no control of her fertility, watching her children suffer hunger and thirst, in danger from war and natural disasters, to hear of such advances? These women put peace and the basic means of survival above anything, and the progress of women in legislative bodies and other institutions around the globe may seem but a mockery of their desperate status. Wars tear social fabric apart, and women and children are often the first and the last victims. I do not think a world in which women had equal say would lose sight of this truth. The environment must be safeguarded to ensure that the earth continues to nourish her children. I do not think a world in which women had equal say would lose sight of this nurturing need either. That is why the status of women affects women everywhere. A future that sees more women in decision making bodies is our best hope for equality of opportunity and determined action against poverty. Despite everything that women have endured and are still enduring, their achievements are great and should be celebrated—and, of course, International Women’s Day is a great day to do just that.

On a final note, it is appropriate that today of all days we recognise that this week we lost a great Australian woman, Dame Roma Mitchell. I also acknowledge the great loss to our society of Dr Malcolm MacIntosh. Many of us attended his memorial service this morning, and I give my best wishes, those of my party and those, I am sure, of everyone in this chamber to his family and to all at the CSIRO.

Labor Party Intimidation

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (7.21 p.m.)—I, like most Australians, cherish and value the right to free speech, particularly in cases where people want to say things that we do not agree with. As Australians, we would fight to the death to ensure that everybody has that right to get a message across and to have free speech without fear of victimisation or intimidation. Last Friday, I held a community meeting in Brisbane in the outer southern suburb of Acacia Ridge. I try to hold these community meetings as often as time permits because I like to meet with real Australians—Australians on the ground, so to speak—away from the restrictions that being a minister in Canberra can sometimes impose upon one’s time.

I held this meeting because I wanted to hear from people belonging to an outer suburb of my electorate of the state of Queensland their views on various things. As local government minister in the federal government, I was very interested to hear what people in Brisbane thought of local government, how the federal government might be able to help in that area, and whether the $20 million a year that the federal government gives to the Brisbane City Council was being well spent; and I also wanted to hear from constituents in that area whether there were any federal government problems that I could assist them with.

I chose the area of Acacia Ridge because it is in the federal electorate of Rankin, which is represented in the federal parliament by a Labor member. I had been told that the local Labor representative did not represent his constituents very well, and that was one reason why I thought I would hold a public community meeting there—to try to assist the people in that area with some representation on federal and other matters. I chose that area as well because I had had a number of complaints from constituents there; and as senators, as you know, Madam President, we get complaints from all over the state and we get complaints across a range of issues. I asked a friend of mine, Angela Owen-Taylor, who is the Liberal candidate for Acacia Ridge in the Brisbane City Council election which is coming up, whether she would not mind helping me to organise the meeting—booking the hall for me, taking acceptances for me and arranging the afternoon tea. She willingly
did that, and I am very grateful to her for doing so.

There were a number of people at that meeting, a number of constituents who had come along in response to my letter of invitation. Regrettably, I arrived a little late at that meeting because I had been up in Cairns looking at cyclone damage on behalf of the federal government and dealing with people there who had been affected, and my plane from Cairns to Brisbane was running late, as wont would have it. So I arrived a little late at this hall for the meeting but, as I arrived, I encountered a crowd of young people with signs and an electronic megaphone screaming at me and, I am told, at everybody else as they arrived at the meeting—six young people. I was told that the local Labor councillor had supplied these six young people with the megaphone and the signs, and that he had been seen taking these items out of his car. So as people arrived at the meeting, they were subjected to this very loud, very aggressive heckling from people who, it was said to me, had been arranged by the local Labor councillor.

As I walked in, the heckling reached a crescendo. It was all that mindless sort of stuff that you come to expect from these organised hecklers who had been sent to, I think, deter people from coming along. I have to say to those young hecklers that, if they set out to intimidate people into not attending a free and open public meeting, they succeeded—they succeeded very well. There was a phone message left for me in relation to this meeting and I will just read it out, as it is typical of what ordinary people think and how they feel and how they do get intimidated. The phone message which was left for me says:

I was to come to the meeting at Our Lady of Fatima Catholic Church, but seeing Mr Bianchi with his rent-a-crowd there, I’m sorry I would not get out of my car to attend and I apologise for not turning up.

There is definite proof that one person at least was intimidated by the tactics of these—young thugs.

I went into the meeting, which was proceeding—one of my colleagues was helping me out because I was late. I came in and started taking questions—the first one was on a veterans’ affairs matter, and the second one was on a hospital matter—and there seemed to be some antagonism between some of the guests and some of the other people there, people whom I did not particularly recognise. I made a comment in response to a question about hospitals; I said, ‘Well, look, we understand that there are problems in hospitals, waiting lists. That’s one of the reasons why we are bringing in the GST. We want to ensure that the states have plenty of money for hospitals, and of course the states get all the GST. Then some woman in the audience started screaming at me, yelling out, ‘You’re telling lies; tell the truth.’ Someone beside her then started yelling out, and the meeting really disintegrated. I then said to this lady, ‘Look, if you want to have a meeting, you have your own meeting, but these people are here to hear me, to put their questions across so stop disrupting the meeting.’ I said to someone, ‘Who is this woman?’ It turned out that she was the local state Labor member.

I then found out that the Labor councillor for the area—who does not live in the area, does not have his office in the area, so I am told—was there also. I also heard that Mr Ripoll, the Labor member for Oxley, was also at my meeting. To complete the scenario, Senator Joe Ludwig was there as well. I have to say that, of all the Labor people there, Senator Ludwig was courteous and he did not interrupt the meeting. But the other three seemed to go out of their way to scream and yell and rant in an attempt to disrupt the meeting—because they do not like people having their say, they do not like people making a point, they do not like me discussing matters with the constituents of an area.

I thought that was a disgraceful display by the three Labor members who were there and who seemed to be intent on disrupting this open, public meeting. It is a shame that in a free society like Australia, as we have grown to know it, you find members of the Labor Party deliberately setting out to disrupt these meetings and, as I say, from the reports I got back, actually succeeding. We did get a few things done. But every time something else
was mentioned or I raised an issue, there was this continuous barrage from the Labor members there—members of parliament and members of council—who, again, seemed intent on taking over the meeting and not letting the constituents—the people who had come there to hear me, to ask me questions and put suggestions to me—have their say. Instead, they chose to set out to disrupt this public meeting. I think our democracy has real problems when that sort of thing happens in society.

It gets worse. The Lord Mayor of Brisbane, Councillor Soorley, then ran to the media and tried to create, by misrepresentation of the truth, concern about the meeting. He made a certain number of allegations which were taken up by Dr Craig Emerson, the member for Rankin—the member who does not look after that electorate. He made silly allegations about me and my conduct—allegations that he knows are not correct and which he has been told are absolutely irrelevant and without foundation. This group of Labor politicians sets out to try to interrupt free speech and stop residents of an area of Brisbane having their say, making their views known to the federal parliamentarian who represents them and asking about federal government matters. It is with some disappointment that I rise in this place and put on record tonight the lengths that some people will go to to disrupt free speech in our society.

Senate adjourned at 7.31 p.m.

DOCUMENTS

Tabling

The following government document was tabled:


Index Lists

The following document was tabled pursuant to the order of the Senate of 30 May 1996, as amended 3 December 1998:

Indexed lists of departmental and agency files for the period 1 July to 31 December 1999—Statements of compliance—Treasurer’s portfolio.

Tabling

The following documents were tabled by the Clerk:

Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—Civil Aviation Amendment Order (No. 1) 2000.


Customs Act—CEO Instrument of Approval No. 1 of 2000.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

**Department of Defence: Cost of News Clippings**

(Question No. 1287)

Senator Robert Ray asked the Minister representing the Minister for Defence, upon notice, on 23 August 1999:

1. What is the annual cost to the department of news clippings purchased or produced by the department.
2. Are the clippings provided regularly to the appropriate shadow ministers; and (b) in each instance, which shadow ministers receive a copy of the department’s news clippings.
3. Are they provided to the appropriate Australian Democrats’ spokespersons; and (b) in each instance, which spokespersons receive a copy of the department’s news clippings.
4. Are the department’s clippings routinely provided to other members of Parliament; if so, which members and/or senators and in what capacity are they provided with a copy of the department’s clippings.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

1. The cost of news clippings and summaries for the financial year 1998/99 was $59,664.26.
2. (a) Yes.
   (b) Shadow Minister for Defence, the Hon Stephen Martin MP and Shadow Minister for Defence, Science and Personnel, Mr Laurie Ferguson MP.
3. (a) and (b) No – as far as the department can determine, no such request has been received.
4. Yes. In addition to Mr Martin and Mr Ferguson, copies of the department’s news clippings are provided to the following:
   - The Office of the Prime Minister, the Hon John Howard MP
   - The Office of the Leader of the Opposition, the Hon Kim Beazley MP
   - The Office of the Shadow Minister for Foreign Affairs, the Hon Laurie Brereton MP

**Minister for Defence: Departmental Liaison Officers**

(Question No. 1303)

Senator Robert Ray asked the Minister representing the Minister for Defence, upon notice, on 24 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 responsibilities.
3. What was the total cost to the department of these officers.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

1. Two
   (a) Rod Coombe; Nicola Mizen
   (b) Executive Level 2; Executive Level 1
   (c) Department of Defence
2. The total cost to the department for the period 21 October 1998 to 23 August 1999 was $142,876.02.
Minister for Health and Aged Care: Departmental Liaison Officers
(Question No. 1304)

Senator Robert Ray asked the Minister representing the Minister for Health and Aged Care, 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 Herron—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

1. At 23 August 1999 there were two Departmental Liaison Officers (DLOs) in my office.
2. (a) Ms Deborah Milner and Mr James Fox
   (b) Both officers are at Executive Level 2
   (c) The officers are responsible for ensuring effective liaison between the Department and the Minister’s office, encompassing all of the portfolio policy areas and agencies.

3. The total salary cost (including the fixed allowance in lieu of overtime) to the Department of Health and Aged Care, incurred over the period 21 October 1998 to 23 August 1999, was $136,450.00.

Parliamentary Secretary to the Minister for Defence: Departmental Liaison Officers
(Question No. 1328)

Senator Robert Ray asked the Minister representing the Minister for Defence, upon notice, on 24 August 1999:

1. How many departmental liaison officers are employed in, or were seconded to, the office of the Minister’s parliamentary Secretary 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 responsibilities.

3. What was the total cost to the department of these officers.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

1. One
2. (a) Mike Kalms
   (b) Executive Level 1
   (c) Department of Defence portfolio responsibilities of the Parliamentary Secretary

3. The total cost to the department for the period 21 October 1998 to 23 August 1999 was $56,315.09.

Parliamentary Secretary to the Minister for Health and Aged Care: Departmental Liaison Officers
(Question No. 1329)

Senator Robert Ray asked the Minister representing the Minister for Health and Aged Care, upon notice, on 23 August 1999:

1. How many departmental liaison officers are employed in, or were seconded to, the office of the Minister’s Parliamentary Secretary 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 Herron—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

(1) At the 23 August 1999 there was one permanent Departmental Liaison Officer (DLO) in my Parliamentary Secretary’s office.

(2) (a) Helen Szylkarski
(b) Executive Level 1
(c) The officer is responsible for ensuring effective liaison between the Department and Parliamentary Secretary’s office, encompassing all of the portfolio policy areas and agencies.

(3) The total salary cost (including the fixed allowance in lieu of overtime) to the Department of Health and Aged Care, incurred over the period 21 October 1998 to 23 August 1999, was $65,957.00.

Civil Aviation Safety Authority: Recruitment Policy
(Question No. 1328)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 August 1999:

(1) Does the recruitment policy of the Civil Aviation Safety Authority (CASA) require that expressions of interest must be called from within CASA for any vacancy that lasts longer than 3 months.

(2) If there are exemptions to the above policy:(a) what are those exemptions;(b) what is the basis for those exemptions; and (c) who decides that exemptions to the policy be applied.

(3) How many positions within CASA remained vacant for a period of 3 months or more in 1997, 1998 and so far in 1999.

(4) How many of the above positions that remained vacant for a period of more than 3 months were the subject of an “expressions of interest” process.

(5) Where expressions of interest were not called in relation to the above vacancies:(a) why not; and (b) what recruitment process (6) was followed in the identification and appointment of staff.

(6) (a) How many CASA staff were in receipt of higher duty allowances in 1997, 1998 and so far in 1999; and (b) in each instance, what was the duration of the payment of the higher duty allowance.

(7) (a) How many people have been engaged by CASA on a temporary basis since January 1997; and (b) what has been the duration of each appointment.

(8) How many staff engaged by CASA on a temporary basis since January 1997 were engaged through the recruitment company, Manpower.

(9) (a) How many staff employed by CASA on a temporary basis were engaged through a recruitment firm other than Manpower over the above period; and(b) What are the names of the other firms used by CASA.

(10) If some staff employed on a temporary basis were engaged by a means other than through a recruitment firm, how were they recruited.

(11) (a) Since January 1997, how many staff engaged on a temporary basis were subsequently made permanent employees of CASA; and(b) what period did each of these staff serve as a temporary employee prior to being engaged on a permanent basis.

(12) Where temporary staff were engaged on a permanent basis, were expressions of interest called for each position in CASA prior to each permanent appointment being made; if not, on how many occasions were temporary staff subsequently appointed on a permanent basis without expressions of interest being called first.

(13) In each case:(a) what was the position;(b) how long had the officer been employed on a temporary basis; (c) how was the officer recruited; and (d) how long did the officer remain in the position.

(14) Since January 1997, how many officers who have taken redundancy packages have been re-engaged by CASA.

(15) In each case:(a) when did the officer accept a package;(b) what position did the officer occupy prior to taking a package;(c) when was the officer re-engaged;(d) what position was the officer appointed to; and (e) what were the terms of the officer’s re-employment.
Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) has advised that the provision of a comprehensive response to the many questions that Senator O’Brien has asked would entail extensive and detailed analysis of CASA records retained both in its Central and Area Offices. This process would require significant resources that CASA is not in a position to commit. Where a question has not been able to be answered fully, CASA has attempted to provide information which may be of assistance. On this basis, CASA has provided the following information:

(1) Yes. CASA’s recruitment policy in respect to the advertisement of vacancies is that they must be advertised internally through CASA media unless they are temporary and for less than 3 months. External media may be used when the manager considers this necessary and may be by any appropriate media, but must coincide with internal advertising.

As a matter of course, before moving to advertise a vacancy, the manager will first consider options such as redistributing the workload amongst existing resources and adjusting project priorities.

(2) (a and b) The exemptions to the policy are: (i) when a manager decides to rotate various staff through a position for less than three months each but for an aggregate time that exceeds three months; and (ii) when a vacancy was predetermined to be for less than three months but in fact becomes longer due to unforeseen circumstances. However, if it is known that the vacancy will continue for in excess of a further three months, then the position will be advertised.

(c) The Manager responsible for the engagement of the temporary staff member.

(3) This information would require a significant commitment of resources to ascertain and compile.

(4) This information would require a significant commitment of resources to ascertain and compile.

(5) (a) The reasons would have fallen within one of the exemption cases described in the response to Question 2. Information about what would have applied in specific instances would require a significant commitment of resources to compile.

CASA is aware that there have been exceptions to the general policy and managers have been reminded of their responsibility to call for expressions of interest where the position can be reasonably assessed to continue for more than three months. This situation has been made more difficult over the past twelve months because of the time variables caused by a major restructure and associated filling of positions.

(b) Information about the process that would have been followed in specific instances would require a significant commitment of resources to compile. At the present time, CASA has a significant number of staff in receipt of higher duties allowance and significant numbers of temporary staff covering resource gaps during the restructure transition period.

(6) (a) This information would require a significant commitment of resources to ascertain and compile, noting that CASA has a total staffing in excess of 600.

(b) This information would require a significant commitment of resources to ascertain and compile.

(7) (a) This information would require a significant commitment of resources to ascertain and compile. The number of temporary staff over the past six months would average approximately 60 to 70 personnel.

(b) This information would require a significant commitment of resources to ascertain and compile.

(8) This information would require a significant commitment of resources to compile.

(9) (a) This information would require a significant commitment of resources to ascertain and compile.

(b) Acumen Alliance, Power of Ten, Effective People, Information Enterprises, Personnel Department, Interim Office Professionals, Wizard, Green & Green, Interim Technical Associates, and Staffing and Office Solutions.

(10) Temporary staff not engaged through a recruitment agency would be employed direct by CASA.

(11) (a) This information would require a significant commitment of resources to ascertain and compile. It would be necessary to review all appointments made over the period since January 1997.

(b) This information would require a significant commitment of resources to ascertain and compile.
(12) The only occasions when temporary staff are permanently appointed to CASA without advertising a vacancy are when a temporary officer is employed direct by CASA, that is, not through an Agency, and contract extensions have occurred to the extent that the officer has achieved 12 months' continuous service with CASA.

Under these circumstances, CASA's policy (Board Determination 68) is to permanently appoint the person at the base level of the classification structure (eg at ASO 1 level in the ASO classification structure) within which they were employed under their last temporary contract. There have been 15 such occurrences since the determination was made in April 1998.

(13) (a) 14 of the 15 officers referred to in the response to Question 12 were appointed at the lowest level of the ASO classification structure (ASO 1), while the other officer was appointed at the lowest level of the Information Technology Officer classification structure (ITO 1).

(b) These officers had been on continuous temporary employment with CASA for 12 months and then qualified for permanent appointment in accordance with CASA policy. The officers were engaged to meet emerging workloads at the lowest grading level in CASA's classification structure.

c) Each officer was a direct appointment by CASA.

d) This information would require a significant commitment of resources to compile. It should be noted that as these officers were appointed in consequence of the CASA policy referred to in the answer to Question 12, they were not appointed to approved budgeted positions. Instead, they were appointed at the levels indicated in response to part (a) of this question.

(14) There have been no cases of an officer being permanently re-appointed to CASA after receiving a redundancy package after January 1997. CASA's Board has recently issued a policy in respect to this issue that CASA employees who have taken redundancy cannot be permanently re-engaged as a CASA employee for an 18-month period after having taken redundancy. In special circumstances where unique skills are required, the Director may approve re-engagement.

(15) (a) Not applicable. See the answer to Question 14.

(b) Not applicable. See the answer to Question 14.

c) Not applicable. See the answer to Question 14.

d) Not applicable. See the answer to Question 14.

(e) Not applicable. See the answer to Question 14.

Civil Aviation Safety Authority: Recruitment Companies

(Question No. 1383)

Senator O'Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 31 August 1999:

(1) What recruitment companies, or other companies involved in the recruitment and placement of labour, were engaged by the Civil Aviation Safety Authority in 1997, 1998 and so far in 1999.

(2) (a) How many contracts were entered into with each company; (b) what were the terms of each contract in each of the above years; and (c) what was the value of each contract.

(3) Can a breakdown be provided of the costs covered in each of the above contracts.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

The Civil Aviation Safety Authority (CASA) has advised that the provision of a comprehensive response to the many questions that Senator O'Brien has asked would entail extensive and detailed analysis of CASA records retained both in its Central and Area Offices. This process would require significant resources that CASA is not in a position to commit. Where a question has not been able to be answered fully, CASA has attempted to provide information which may be of assistance. On this basis, CASA has provided the following information:


(2) While it is not practicable to provide the requested information over a three year period, figures for the past three months are provided below by way of a sample of CASA's activity. It should be noted
that this period was chosen because it is most contemporaneous with the information sought and offers
the most readily accessible records. These figures are in no way presented as comprehensive or indicative
figures for the three year period.

Over the past three months, the number of temporary staff contracted from companies listed in the
answer to Question (1) was as follows:

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manpower</td>
<td>40</td>
</tr>
<tr>
<td>Acumen Alliance</td>
<td>5 (plus 7 specific Y2K contractors)</td>
</tr>
<tr>
<td>Power of Ten</td>
<td>1 (plus 5 specific Y2K contractors)</td>
</tr>
<tr>
<td>Effective People</td>
<td>1</td>
</tr>
<tr>
<td>Information Enterprises</td>
<td>1</td>
</tr>
<tr>
<td>Personnel Department</td>
<td>1</td>
</tr>
<tr>
<td>Interim Office Professionals</td>
<td>1</td>
</tr>
<tr>
<td>Green &amp; Green</td>
<td>1</td>
</tr>
<tr>
<td>Wizard</td>
<td>4</td>
</tr>
<tr>
<td>Staffing and Office Solutions</td>
<td>1</td>
</tr>
<tr>
<td>Interim Technical Associates</td>
<td>5 (plus 5 Y2K contractors)</td>
</tr>
</tbody>
</table>

(b) This would require a significant commitment of resources to compile.

c) This would require a significant commitment of resources to compile. However, the total amount
paid to these companies between February 1997 and September 1999 is as follows:

<table>
<thead>
<tr>
<th>Vendor</th>
<th>Amount ($)*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manpower</td>
<td>3,401,042</td>
</tr>
<tr>
<td>Acumen Alliance</td>
<td>675,704</td>
</tr>
<tr>
<td>Power of Ten</td>
<td>843,132</td>
</tr>
<tr>
<td>Effective People</td>
<td>39,527</td>
</tr>
<tr>
<td>Information Enterprises</td>
<td>21,982</td>
</tr>
<tr>
<td>Personnel Department</td>
<td>57,422</td>
</tr>
<tr>
<td>Interim Office Professionals</td>
<td>4009</td>
</tr>
<tr>
<td>Interim Tech Assoc</td>
<td>301,089</td>
</tr>
<tr>
<td>Wizard Personnel</td>
<td>35,977</td>
</tr>
<tr>
<td>Staffing &amp; Office Solutions</td>
<td>1,213</td>
</tr>
<tr>
<td>Green &amp; Green</td>
<td>237,177</td>
</tr>
</tbody>
</table>

* In some cases, these amounts may include moneys paid for provision of scribing services in the
context of recruitment exercises in which the company was not otherwise involved.

(3) This would require a significant commitment of resources to compile.

**Department of Transport and Regional Services: Departmental Decisions Reviewed**
Under the Administrative Decisions Act

(Question No. 1437)

**Senator Faulkner** asked the Minister representing the Minister for Transport and Regional
Services, upon notice, on 21 September 1999:

(1) Since 3 March 1996, how many decisions of the department and all portfolio agencies have been
the subject of applications for review under the Administrative Decisions (Judicial Review) Act 1977.

(2) Of these applications, how many related to:
(a) agency staffing matters;
(b) agency client matters; or
(c) other (please specify general area)

(3) How many applications:
(a) have been:
   (i) finalised, and
   (ii) withdrawn by the applicant; and
(b) remain unfinalised.

(4) (a) What was the cost to the department or agency of defending each of these actions; and
(b) What was the quantum of costs where they were awarded against the Commonwealth, where appropriate.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Since 3 March 1996, no decisions of the Department or portfolio agencies have been the subject of review under the Administrative Decision (Judicial Review) Act 1977 (ADJR Act) with the exception of the Civil Aviation Safety Authority (CASA).

   CASA has had four decisions subject to review under the ADJR Act.
(2) (a) One.
   (b) Three.
(c) Not applicable.

(3) (a) (i) Two. (ii) One. (b) One.
(4) (a) $68,802.65 (b) $55,000.00

Department of Transport and Regional Services: Departmental Decisions Reviewed
Under Common Law
(Question No. 1455)

Senator Faulkner asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 21 September 1999:

(1) Since 3 March 1996, how many decisions of the department and all portfolio agencies have been the subject of applications for review under the common law, including prerogative writs;

(2) Of these applications, how many related to:
   (a) agency staffing matters;
   (b) agency client matters; or
   (c) other (please specify general area);
(3) How many applications:
   (a) have been:
      (i) finalised, and
      (ii) withdrawn by the applicant; and
   (b) remain unfinalised;
(4) (a) What was the cost to the department or agency of defending each of these actions; and
   (b) What was the quantum of costs where they were awarded against the Commonwealth, where appropriate;

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) Since 3 March 1996, no decisions of the Department or portfolio agencies have been the subject of review under the common law with the exception of Airservices Australia.

   Airservices has had two decisions subject to review under the common law.
(2) (a) Two.
   (b) Nil.
   (c) Nil.
(3) (a) (i) Two.
(ii) Resources do not permit a full response because this would require a search of all compensation related files to determine whether any action was commenced under section 45 of the Safety Rehabilitation and Compensation Act 1988 and subsequently withdrawn prior to hearing. (In 1996 alone, Airservices had in excess of 100 compensation related files which may contain information related to the senator’s questions.)

(b) Nil.

(4) (a) $32,770.35

(b) Proceedings were settled under confidential terms between the parties. Comcare Australia met other costs under the previous premium cover arrangements.

Department of Health and Aged Care: External Staff Development Courses
(Question No. 1518)

Senator Faulkner asked the Minister representing the Minister for Health and Aged Care, upon notice, on 20 September 1999:

(1) How many departmental officers have attended external staff development courses since 3 March 1996.

(2) What is the total cost of the external staff development courses attended by officers of the department, or any agency in the portfolio, since 3 March 1996.

(3) (a) How many external staff development courses attended by departmental or agency staff since 3 March 1996, have contained training on making decisions under the Freedom of Information Act; and (b) of this number, how many: (i) were specifically focusing on the subject of freedom of information decisions, and (ii) how many dealt with the issue amongst others.

(4) Of the courses relevant to (3), which agencies or consultants provided the training.

(5) What is the total cost of courses in (3).

Senator Herron—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

(1) 3753

(2) $43,505,367 *(Total costs for internal and external training from March 1996 to June 1999).

(3) (a) 22

(b) (i) 17

(ii) 5

(4) The Australian Government Solicitor’s Office provided 21 of the 22 courses. Information on the provider of the remaining course was not available.

(5) $10,100

Note: These figures cover the period from 1 March 1996 to 30 June 1999. They include data from portfolio agencies and for parts of the department up to the dates they were separated from the department or portfolio by machinery of government changes.

* The department’s expenditure includes staff time as well as presenter costs as annual report data has been used.

Aged Care Standards & Accreditation Agency Ltd (ACSAA) and Health Insurance Commission (HIC) data did not differentiate between internal and external course costs, as the information is not separately collected.

For portfolio agencies, staff time is not included, as that information is not collected.

Department of Defence: Freedom of Information Requests from Members of Parliament
(Question No. 1535)

Senator Faulkner asked the Minister representing the Minister for Defence, 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) partially 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 and/or refusing to waive charges, other than set out in (4).

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) (a) Department of Defence: 1. Other portfolio agencies: nil.
(b) Department of Defence: 1. Other portfolio agencies: nil.

(2) (a) and (b) Nil. The request referred to in answer (1)(a) was taken to have been withdrawn because the applicant did not respond to a written communication from the department asking him whether or not he wished the matter to proceed. The request referred to in answer (1)(b) was granted in full.

(3) The applicants who made the requests referred to in answers (1)(a) and (1)(b) did not ask for charges to be waived. However, no charges were imposed.

(4) Not applicable – see answers to (2) and (3).

(5) Section 15A of the Freedom of Information Act provides, in effect, that an employee or former employee of an agency may not request access under the Act to his or her personnel records unless he or she first makes a request under any internal procedures for staff to have access to their records and is not satisfied with the outcome of the request or has not been notified of the outcome within 30 days of the date the request was made.

Neither the Department of Defence, nor any of the other agencies in the portfolio that are subject to the Freedom of Information Act, is aware of any other legislation, any guideline, or any practice of the kind referred to in question (5).

Depleted Uranium
(Question No. 1691)

Senator Brown asked the Minister representing the Minister for Trade, upon notice, on 20 October 1999:

(1) Is it possible that depleted uranium used in weaponry has originated from Australian uranium mines; if so, what is the means by which it may happen; if not, what is the safeguard which prohibits such a possibility.

(2) (a) What effect does depleted uranium have on people; and (b) can it cause birth anomalies or cancer.

Senator Hill—The Minister representing the Minister for Trade has provided the following information in answer to the honourable senator’s question:

(1) No. The export of Australian uranium is permitted for exclusively peaceful purposes. Exports of Australian uranium, and nuclear material subsequently derived from these exports, including depleted uranium (a by-product of the uranium enrichment process), are subject to bilateral safeguards agreements between Australia and the country concerned, under which that country gives a treaty-level commitment that such nuclear material will be used exclusively for peaceful, non-military purposes. Australia’s safeguards agreements require our treaty partners to account for all nuclear material under these agreements to the Australian Safeguards and Non-Proliferation Office (ASNO). Information on the operation of these agreements is provided in ASNO’s Annual Reports.

(2) (a) and (b) Depleted uranium is a by-product of the enrichment process. It is 40 per cent less radioactive than natural uranium. The Australian Radiation Protection & Nuclear Safety Agency advises
that the major health concerns about depleted uranium in military applications relate more to its chemical properties as a heavy metal, rather than to its radioactivity, which is very low.

The body of literature dealing directly with the health effects of depleted uranium is small. The RAND Corporation recently has conducted a review of this literature as well as literature dealing with the health effects of natural and enriched uranium. This review can be found on the RAND Corporation’s website.

The RAND paper concluded that “there are no peer-reviewed published reports of detectable increases of cancer or other negative health effects from radiation exposure to inhaled or ingested natural uranium at levels far exceeding those likely” from Gulf War use of depleted uranium.

The RAND paper also noted that the United States Department of Veterans Affairs has been monitoring a number of Gulf War veterans who received a high level of exposure to depleted uranium. Although many of these veterans have health problems related to their injuries in the Gulf War, and those with embedded fragments of depleted uranium have elevated levels of uranium in their urine, the Rand research paper notes that to date there are “neither adverse renal effects attributable to chemical toxicity of DU nor any adverse health effects that relate to DU radiation”.

**Political Donations**

*(Question No. 1711)*

**Senator Faulkner** asked the Special Minister of State, upon notice, on 2 November 1999:

With reference to the statement by the Minister for Health and Aged Care during question time in the House of Representatives on 19 October that ‘Any money that has been raised has been raised in accordance with the Liberal Party’s fundraising guidelines and has been properly disclosed’ (*Hansard*, 19 October 1999, p.8853):

(1) Can the Minister confirm that all the donations to which Dr Wooldridge referred were in fact disclosed in accordance with the requirements of the Commonwealth Electoral Act.

(2) Given that, as is the usual practice, Dr Wooldridge filed a nil return with the Australian Electoral Commission (AEC) for the 1998 election: (a) what vehicles were used for the disclosure of the donations to which Dr Wooldridge referred; and (b) when was that return of the relevant vehicles filed with the AEC.

**Senator Ellison**—The answer to the honourable senator’s question is as follows:

(1) and (2) 1998/99 annual returns lodged with the Australian Electoral Commission by political parties and donors were released to public inspection on 1 February 2000, in accordance with subsection 320(5) of the Commonwealth Electoral Act 1918.

I am advised by the Australian Electoral Commission that the 1998/99 political party annual return lodged on behalf of the Liberal Party of Australia (Victorian Division) does not list the receipt of any donations from a Dr Jack Best, a Dr Ronald Michael or an organisation by the name of the Victorian Imaging Group. Nor have Dr Best, Dr Michael or the Victorian Imaging Group lodged donor returns for the 1998/99 financial year.

**Airservices Australia: Consultants Costs**

*(Question No. 1769)*

**Senator O’Brien** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 12 November 1999:

(1) What was the cost of legal and financial services provided to Airservices Australia (ASA) by consultants, or other advisers not directly employed by ASA as employees, in the 1997-98 and 1998-99 financial years and to date in the 1999-2000 financial year.

(2) In each case, were these consultants or advisers engaged through a tender process; if not, why not.

(3) Can the Minister provide details of: (a) the reason for engaging each consultant or adviser; (b) the cost of each consultancy; (c) the duration of each consultancy; (d) the contracted price for each consultancy; and (e) any variation between the contract price and the final price paid by ASA.

**Senator Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:
I am advised by Airservices Australia that:

(1) LEGAL FINANCIAL

<table>
<thead>
<tr>
<th>Year</th>
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<th>Financial</th>
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<tr>
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<td>$3,748,153</td>
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<td>1998-99</td>
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<tr>
<td>1999-00 (to date)</td>
<td>$2,804,238</td>
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</table>

(2) LEGAL

Airservices has two panel firms which were engaged through a tender process. Additional work is briefed to other firms/consultants on the basis of their expertise in specific areas and the ability to respond within necessary timeframes.

FINANCIAL

Financial advice to Airservices is engaged through a tender process. Advice was primarily from the Australian National Audit Office and Arthur Andersens relating to general accounting and tax advice.

I am also advised by Airservices Australia that Senator O’Brien’s line of question in relation to Question (3) requires a level of reporting that involves extensive research and labor and therefore an unreasonable call on resources. Every attempt has been made to provide as detailed information as is possible within the timeframe of this question.

(3) LEGAL AND FINANCIAL

(a) All firms/consultants are engaged as necessary to provide specific expertise and resources.

(b)-(e) Airservices has agreements with Freehill Hollingdale & Page, Corrs Chambers Westgarth, Arthur Andersens, Pricewaterhouse Coopers and the Australian National Audit Office, which include negotiated charge-out rates. Airservices is billed on a monthly basis according to number of hours worked. The costs of engaging these firms/consultants depend upon the duration and complexity of any particular issue and are ongoing.

Australian Forestry Standard
(Question No. 1776)

Senator Brown asked the Minister representing the Minister for Forestry and Conservation, upon notice, on 22 November 1999:

(1) What is the Australian Forestry Standard.

(2) (a) How will it be used; and (b) how does it relate to other standards and certification schemes both in Australia and internationally.

(3) Who has been consulted about it.

(4) (a) What is the process and time line for developing the standard; and (b) how much money is being spent on it.

(5) Does it apply to plantations as well as native forests and recycled wood and fibre.

Senator Hill—The Minister for Forestry and Conservation has provided the following answer to the honourable senator’s question:

(1) The Australian Forestry Standard (AFS) is a joint initiative of the Ministerial Council on Forestry, Fisheries and Aquaculture, Australia’s forestry industries and private forest owners. The AFS is intended to provide principles, standards and audit protocols for the management of Australian forests that are used for wood production.

(2) (a) The AFS is intended for voluntary use by public and private forest owners and managers and will provide a basis for auditing of forest management practices. (b) It is intended that the AFS be equivalent to or better than other international standards and that it be used either by itself or in conjunction with other standards.

(3) It is intended to call for public submissions on the AFS shortly and to invite public comment on a draft AFS once prepared. A Technical Reference Committee will be established to provide more detailed stakeholder input during the development of the AFS.

(4) (a) The AFS is expected to be developed over the next twelve months with a draft released for comment in about three months time. (b) The Department of Agriculture, Fisheries and Forestry has
budgeted $50,000 for the development of the Standard. Contributions are also being made by State Governments, industry and private forest owners.

(5) The AFS applies to forest management and so will cover plantations and native forests but not recycled wood and fibre.

**Employment Advocate: G and K O'Connor Pty Ltd**

(Question No. 1778)

**Senator Carr** asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 22 November 1999:

With reference to a determination made on 11 November 1999 by the Office of the Employment Advocate, in response to a letter from solicitors Gill Kane and Brophy, dated 9 November 1999 and concerning the status of certain contracts of employment entered into in 1992 by employees of G and K O’Connor Pty Ltd:

1. Is it the case that the Employment Advocate has determined that these contracts are irrelevant to the question of whether the employees are worse off under the Australian Workplace Agreements as filed by the firm O’Connor.

2. Is it the case that the Employment Advocate has determined that contracts of employment, which set out remuneration, conditions and so on, do not amount to ‘laws of the State’.

3. In that case, how does this determination tally with the Prime Minister’s guarantee that ‘no one would be worse off’ under the current industrial relations legislation and the Minister’s own assurance that, ‘Employees’ wages will not be reduced by any provision in this bill, whether in respect of awards or agreements’ (House of Representatives Hansard, 23 May 1996, p.1296).

4. If contracts of employment based on certified agreements cannot be taken into account in making these judgements then how are the judgements of ‘worse off’ to be made.

**Senator Alston**—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

1. The Employment Advocate has advised that the answer is “yes”. Any decisions on such matters are made solely by the Employment Advocate under the Workplace Relations Act 1996 (the Act).

2. The Employment Advocate has advised that the answer is “yes”. Again, under the Act, this is solely a matter for the Employment Advocate to determine.

3. The Federal Parliament has provided the benchmark for the operation of the no-disadvantage test for Australian Workplace Agreements. This is set out in the Act and is consistent with the policy undertakings given by the Prime Minister in 1996. Given the concern implicit in the honourable senator’s question, he may, however, care to review the Opposition’s position on the further amendments to the Act contained in the Workplace Relations Legislation Amendment (More Jobs, Better Pay) Bill since they would implement the policy undertakings made by the Coalition in the lead up to the 1998 Federal election.

4. The no-disadvantage test must be applied in accordance with the Act. The Employment Advocate may not take any other matters into account apart from those specified in the Act.

**East Timor: United Nations Commission of Inquiry**

(Question No. 1780)

**Senator Bourne** asked the Minister representing the Minister for Defence, upon notice, on 23 November 1999:

1. Now that the composition of the United Nations (UN) Commission of Inquiry on East Timor has been announced, can the Minister give a commitment that Australia will cooperate in full with the commission, including immediately supplying all intelligence and other information Australia possesses about violations of human rights and humanitarian law in East Timor and the chains of command and responsibility of those involved.

2. Are there ways in which the Minister foresees that he and the Government would be able to share intelligence information with the commission or any subsequent UN investigations that may be formed.

**Senator Newman**—The Minister for Defence has provided the following answer to the honourable senator’s question:
By international agreement, investigation of abuses is, rightly, now the UN’s responsibility. The Government will cooperate as fully as possible with the UN investigation and is currently in the process of making an assessment about what relevant information we have, and subsequently, what assistance we may be in a position to provide.

There may be opportunities for the Government to share intelligence material, consistent with established principles on the handling of intelligence material, and taking into account the precedents set by the UK and US with respect to inquiries into human rights abuses in the former Yugoslavia and Rwanda.

Regional Universities: Communications Network
(Question No. 1789)

Senator Tierney asked the Minister for Communications, Information Technology and the Arts, upon notice, on 29 November 1999:

With reference to bandwidth availability, access and pricing to regional universities:

1. Is there adequate potential on the ‘backbone’ communications network within Australia to meet the current and expected demands of its regional universities.

2. Is this capacity readily accessible to Australia’s regional universities, having regard to any customer network constraints and provisioning problems in terms of timely supply.

3. With respect to the University of New England, Armidale, the Southern Cross University, Lismore, and the University of Wollongong, can any information be provided about: (a) bandwidth availability; (b) conditions of access; and (c) pricing.

Senator Alston—The answer to the honourable senator’s question, based in part on advice from Telstra, is as follows:

1. Yes. Research conducted for the National Bandwidth Inquiry found that, on the basis of a sample survey of 223 towns in Australia covering all states and territories in five population bands from above 100,000 inhabitants to less than 1000 inhabitants, the potential ‘backbone’ bandwidth available to the sample towns on a per capita basis was more than adequate to meet current and expected demand.

Telstra has advised that network augmentation to meet demand is a continuous process based on forward network planning and anticipated and actual customer demand.

In the event that unusually large bandwidth requirements are sought by a regional customer, such as may occur with the development of a major new facility such as a new university or a new mine in a remote location, Telstra advise that network augmentation may need to be specially designed and provided. In general, however, it considers that its backbone network has an architecture and capability to cope with all reasonably predicted customer demand.

2. The National Bandwidth Inquiry focussed on bandwidth availability in the ‘backbone’ network, and as such the Inquiry did not investigate potential customer network constraints or provisioning problems. In particular the Inquiry did not investigate bandwidth availability to regional universities.

However, anecdotal evidence provided to the Inquiry suggests that there may be some problems with the provision of adequate bandwidth in selected areas because of constraints in the customer access network or provisioning problems.

Telstra advised that many regional universities have broadband access via direct optical fibre and new capacity can generally be provided with reasonable lead-times in response to new customer demand. Satellite based services such as Big Pond Advance via satellite can be provided on demand.

3. Maps provided to the National Bandwidth Inquiry by Telstra show, Armidale, Lismore and Wollongong to be points of connection on major optical fibre routes and in the light of recent advances in optical fibre technology, the potential ‘backbone’ bandwidth available to these centres is likely to be considerable.

The conditions of access and prices for bandwidth provided to the individual universities in these centres was not within the scope of investigations for the NBI. The issues of conditions of access and pricing are commercial matters for the carriers. As such advise was sought from Telstra and Optus. Optus provided a ‘nil’ response. Telstra provided advice as follows in relation to:

(a) bandwidth availability
(b) conditions of access, and
(c) pricing.

(a) bandwidth availability: Telstra advise that specific applications for large bandwidth requirements will require a feasibility study to provide a definitive answer and would need to specify locations, quantities and bit rate speed. However, as a general statement, it may be assumed that there are no known logistical limitations to the bandwidth that can be provided to the universities quoted.

(b) & (c) conditions of access and pricing: Telstra advises that each of the universities quoted has optical fibre access. No practical limitations on access to bandwidth into the universities exist.

As would be expected of a competitive commercial organisation, Telstra structures its pricing to meet market needs and specific customer requests.

Telstra’s understanding of the sorts of wideband services requirements that universities may have at this time would include typically Telstra’s Accelerate ATM (Asynchronous Transfer Mode) services.

These services are priced according to a points-of-presence pricing regime. Under this arrangement, part of the pricing is related to the proximity of the customer to the nearest point-of-presence. The points of presence in Australia for these services include all capital cities plus Darwin, Newcastle, Rockhampton, and Townsville.

Telstra also claims to have offered very competitive pricing recently in response to a call for Expressions of Interest by a consortium of regional universities in Queensland. It has indicated that it would be pleased to offer similar pricing arrangements to other regional universities on request by those universities in normal commercial discussions based on collective volumes of traffic or other commercial criteria.

Australian Defence Force: Recruitment Minimum Age

(Question No. 1793)

Senator Bourne asked the Minister representing the Minister Assisting the Minister for Defence, upon notice, on 2 December 1999:

(1) Does the Government support: (a) the unanimous adoption of the recent United Nations (UN) Security Council Resolution condemning the recruitment of children in war; and (b) the draft optional protocol that seeks to raise the age limit for recruitment and participation to 18 years of age.

(2) Given that the Australian army and airforce are currently recruiting 3 500 more soldiers and airmen and women, will the Minister ensure that children below 18 years of age are not recruited and that the provision of the optional protocol relating to child soldiers is accepted.

(3) Given that the majority of operations that the Australian Defence Force has been involved with since the Vietnam war have been peacekeeping operations, will the Minister ensure that the UN policy of having no-one under the age of 21 years of age will be followed.

(4) Will the Minister take a step further and follow the preference of the UN, which it to use only those over 25 years of age in peacekeeping missions.

Senator Newman—The Minister Assisting the Minister for Defence has provided the following answer to the honorable senator’s question:

(1) (a) Yes.

(b) The Government supports international efforts to reach agreement on an optional protocol to the Convention on the Rights of the Child. States negotiating the optional protocol have not yet achieved consensus as to the age at which persons may be recruited and may participate in hostilities.

(2) Government policy is that individuals below 18 years of age may not be compulsorily recruited. Seventeen year olds may be recruited voluntarily with parental consent.

The Government’s negotiating position with respect to the optional protocol is to support the age of 18 for participation in hostilities, 18 for compulsory recruitment and 17 for voluntary recruitment.

(3) No. The UN policy of 21 years, as the minimum age for national contingents, is not consistent with Australia’s national policy that was carefully considered and is suitable to the circumstances of the Australian Defence Force. The UN policy places unacceptable constraints on the overseas deployment of the Australian Defence Force.

(4) No. For the reasons outlined in the previous paragraph.
Australian Defence Force: Safety, Rehabilitation and Compensation Act
(Question No. 1797)

Senator Bartlett asked the Minister representing the Minister Assisting the Minister for Defence, upon notice, on 2 December 1999:

How many claims have been made under the Safety, Rehabilitation and Compensation Act 1988 resulting from Australia’s involvement in: (a) the British Commonwealth Occupational Force in Japan; (b) Australia’s 1944 chemical warfare experiments; (c) Australia’s nuclear tests; (d) the Gulf War; and (e) Rwanda.

Senator Newman—The Minister Assisting the Minister for Defence has provided the following answer to the honourable senator’s question:

Neither the Safety, Rehabilitation and Compensation Act 1988 nor the legislation which preceded it applied to members of the Australian Defence Force who were involved in:

(a) the British Commonwealth Occupational Force in Japan;
(b) Australia’s 1944 chemical warfare experiments; or
(d) the Gulf War.

In respect of:
(c) Australia’s nuclear tests, 316 claims have been made by members and former members of the Australian Defence Force or their dependants; and
(e) Rwanda, seven claims have been made by members and former members of the Australian Defence Force.

Logging: Electricity Generation
(Question No. 1801)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 3 December 1999:

(1) Is electricity derived, directly or indirectly, from logging of native forests on public or private land excluded from the definition of ‘renewable energy’ for the ‘2% for renewables’ initiative; if not, how will the inclusion of native forest wood as supposed ‘renewable’ energy source damage public confidence in the marketing of ‘green’ power.

Senator Hill—The Minister for the Environment and Heritage has provided the following answer to the honourable senator’s question:

(1) The Government has agreed that the biomass by-products of sustainably managed forestry operations can be included as eligible sources under the 2% renewables measure. The test for ‘sustainability’ will be conducted in each jurisdiction, taking into account existing forestry management principles such as the Regional Forest Agreements, codes of practice and relevant local government planning regulations.

Fisheries Management: Threat Abatement Plan
(Question No. 1802)

Senator Greig asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 6 December 1999:

With reference to the Threat Abatement Plan (TAP), a joint responsibility of the Australian Fisheries Management Authority (AFMA) and the Department of the Environment and Heritage being implemented under AFMA’s fisheries management legislation, and, in particular, to a crucial component of the TAP, an observer program to monitor the success of the mitigation measures prescribed in the plan:

(1) Given that the pilot observer program, marked as a high priority in the TAP, is now behind schedule due to a stalemate between government and industry over who should pay for it, why has the Minister not used his reserve power, under section 91 of the Fisheries Administration Act 1991, to direct AFMA to use the statutory devices it has available to it to ensure that there is no further delay in implementing an observer program as is required in the TAP.

(2) (a) Is the Minister aware that a Hawaiian federal district court recently decided to cordon-off thousands of square miles of the Pacific Ocean to longline fishing to reduce the impacts on threatened
wildlife; and (b) would the Minister agree that an observer program as required by the TAP seems more than reasonable in light of this much tougher measure.

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honorable senator’s question:

(1) The Threat Abatement Plan (TAP) was developed under the Endangered Species Protection Act 1992 and will be largely implemented under fisheries management legislation administered by the Australian Fisheries Management Authority (AFMA). Accordingly, the TAP is a key responsibility for both the Minister for the Environment and Heritage and the Minister for Agriculture Fisheries and Forestry.

The two key obligations of the TAP – the development of regulations and a pilot observer program – will be implemented under the Fisheries Management Act 1991.

Instructions for the regulations were lodged with the Office of Legislative Drafting on 26 October 1999. Draft regulations have now been prepared and are expected to take effect in February/March 2000.

The implementation of the observer program under the TAP is a significant commitment. AFMA established an observer working group consisting of key stakeholders and, with Environment Australia, commissioned CSIRO to design a pilot phase for an observer program. The costs associated with implementing the pilot phase are very significant being in the order of $5 million over three years. Consideration is now being given to options for funding the pilot observer program.

A partnership approach is required to ensure that the obligations of the TAP can be effectively implemented with the cooperation of all stakeholders.

(2) (a) The Minister is aware of reports that a Hawaiian federal district court recently decided to cordon-off thousands of square miles of the Pacific Ocean to longline fishing to reduce the impacts on threatened wildlife.

(b) A number of regulations for the mitigation of seabird bycatch will be implemented early in 2000 and the observer program that will be implemented under the TAP will ensure that any management responses to mitigate seabird bycatch will be based on evidence collected during the pilot phase of the program.

Commission for the Conservation of Antarctic Marine Living Resources: Illegal Fishing

(Question No. 1803)

Senator Greig asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 6 December 1999:

With reference to the Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR) which met to discuss the problems of illegal fishing and, in particular, to agree to a new catch documentation scheme:

(1) Given the threat posed by illegal fishing to fish stocks, in particular, the patagonian toothfish, why has the Australian Government decided not to proceed with the nomination of the patagonian toothfish for protection under Appendix 2 of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) to reinforce the catch documentation scheme agreed to by CCAMLR.

(2) Given that CITES would have given the CCAMLR measures the backing of 150 countries, compared to CCAMLR’s 23 member countries, how will fish stocks be adequately protected by this catch certification scheme, particularly in light of the fact that many of the countries involved in illegal fishing are CCAMLR members, but that many more perpetrators are not bound by CCAMLR regulation.

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following response to the honourable senator’s question:

(1) Australia achieved a great deal at the recent CCAMLR meeting and we will continue to build on those achievements. Australia will now concentrate on consolidating and building on the catch documentation scheme, continue to push for stronger action by port, flag and market states and will play a strong role in encouraging non-parties engaged in toothfish fishing and trade to join CCAMLR. This action should put pressure on those engaged in illegal, unregulated and unreported fishing.

(2) The CCAMLR catch documentation scheme in combination with concerted efforts by CCAMLR parties to protect the fishery will provide a high level of protection to remaining toothfish stocks.
CCAMLR parties control most of the fishable grounds for toothfish within their exclusive economic zones and comprise approximately 90% of the toothfish market. They have, over the last two years in particular, agreed on a range of measures in CCAMLR which in combination operate to make illegal and unregulated fishing for toothfish a much more risky activity than previously.

The CCAMLR catch documentation scheme applies to all toothfish destined for CCAMLR party markets. Although non-parties are not bound by the decision of CCAMLR to introduce a catch documentation scheme, they must still participate in the scheme if they want toothfish caught by their flag vessels or traded through their countries to enter these markets. CCAMLR parties, including Australia, are urging non-parties known to be involved in the catching or trade of toothfish to cooperate in implementing the scheme.

**Rural Transaction Centre: St Marys, Tasmania**

(Question No. 1805)

Senator Mackay asked the Minister Regional Services, Territories and Local Government, upon notice, on 9 December 1999:

(1) Can full details be provided of the opening of the rural transaction centre (RTC) in St Marys, Tasmania, and, in particular: (a) who was invited to the opening; (b) who was responsible for the issuing of the invitations; (c) when were the invitations posted; and (d) can a copy of the business plan, full funding breakdown and timeline be provided.

(2) Can full details be provided of all RTC funding announced, including copies of all the business plans, a full breakdown of funding (including parties to the funding), the quantum, a breakdown of the Government’s funding commitment by capital, recurrent and associated on-costs, any in-kind contribution by parties, and the timeline for Government and other funding.

Senator Ian Macdonald—The Minister for Regional Services, Territories and Local Government has provided the following answer to the honourable senator’s question:

(1) (a) The invitations were issued to:

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
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<tbody>
<tr>
<td>Senator the Hon Ian Macdonald</td>
<td>Minister for Regional Services, Territories and Local Government</td>
</tr>
<tr>
<td>Mr Tom Motherwell</td>
<td>Director, RTC Section, Department of Transport and Regional Services (DoTRS)</td>
</tr>
<tr>
<td>The Hon Dick Adams</td>
<td>Federal Member for Lyons</td>
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<tr>
<td>Senator the Hon Eric Abetz</td>
<td>Parliamentary Secretary to the Minister for Defence, Senator for Tasmania</td>
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<tr>
<td>Senator the Hon Brian Gibson AM</td>
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<td>Senator Sue Mackay</td>
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<tr>
<td>Senator the Hon Jocelyn Newman</td>
<td>Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women</td>
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<tr>
<td>Senator Paul Calvert</td>
<td>Government Whip</td>
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<tr>
<td>Senator Brian Harradine</td>
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<tr>
<td>Mr Paul James</td>
<td>Health Insurance Commission</td>
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<tr>
<td>Ms Dianne Dean</td>
<td>RTC Section, DoTRS</td>
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<td>Senator Kerry O’Brien</td>
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<td>Senator Kay Denman</td>
<td>Opposition Deputy Whip</td>
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<td>Senator Shayne Murphy</td>
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</tr>
<tr>
<td>Senator the Hon Nick Sherry</td>
<td>Senator for Tasmania</td>
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</tbody>
</table>
Representatives of the media were also made aware of the opening.

(b) St Marys Association for Community Development Inc (SMACD) was responsible for issuing the invitations.

(c) Mr Mark Bonnitcha, Secretary to St Marys Association for Community Development Inc (SMACD), advised that the invitations were issued by contacting guests by telephone or email five days before the opening.

(d) St Marys Rural Transactions Centre (RTC):
A grant of $84,190 was provided under the RTC Programme to the SMACD. The grant was paid on 22 September 1999.

The other information sought by the honourable senator is commercial-in-confidence. Under the terms of the grant agreement between the Federal Government and the SMACD, I am not in a position to publicly release this information without the agreement of the SMACD.

(2) The following applications, project assistance and business planning, have been approved under the RTC Programme as at 9 December 1999:

**APPROVED APPLICATIONS**

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* There was no cost to the RTC Programme for Medicare Easyclaim services only.

The other information sought by the honourable senator is commercial-in-confidence. Under the terms of the grant agreement between the Federal Government and the applicants, I am not in a position to publicly release this information without the agreement of the applicants.

**APPROVED APPLICATIONS**

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<th>Business Planning Applications</th>
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12434 SENATE Wednesday, 8 March 2000

Business Planning Applications

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* Payment subject to acceptance of offer by applicant.

King Island: CDMA Rollout
(Question No. 1806)

Senator Mackay asked the Minister for Communications, Information Technology and the Arts, upon notice, on 8 December 1999:

(1) (a) When will the code division multiple access (CDMA) roll-out commence and be completed for King Island; and (b) will the Government guarantee that the pager system will remain in place until the CDMA roll-out is complete and fully operational.

(2) (a) What plans are there in train for the provision of the Special Broadcasting Service to King Island; if there are no plans, why not; and (b) what funding opportunities are available, for example, the self-help concept for communities of less than 10,000 people.

Senator Alston—The answer to the honourable senator’s question is as follows:

(1) (a) King Island is in the process of applying for assistance to establish a CDMA mobile telephone service under the Remote and Isolated Islands Fund, which is administered through the Networking the Nation (NTN) program. The applicant is seeking to have the service established by 30 June 2000. Funding for the proposal will be considered by the independent Networking the Nation Board in accordance with its usual practice; and

(b) The provision of services, other than the USO and reasonably equivalent coverage for AMPS, is a matter for commercial decisions by carriers. However, Telstra has advised that, if approval from NTN is received early in the year 2000 for its CDMA network, then installation of CDMA, which has a messaging capacity, will occur prior to the closure of its paging service.
(2) (a) The Government is committed to improving the quality and range of television services available to Australians. Following the sale of the next 16 per cent of Telstra, the Government will use proceeds from that sale to implement its $120 million Television Fund. The Television Fund, a 1998 Federal election commitment, will enable the Special Broadcasting Service to be extended to transmission areas of more than 10,000 people, and will also be used to fix television reception ‘black spots’. Based on the announced criteria, King Island is not on the list for SBS extensions; and

(b) SBS is being funded by the Government to put in place a program assisting new self-help groups with their establishment costs ($450,000 in 1999-2000, and $500,000 ongoing from 2000-2001). The SBS self-help program is still being developed and inquiries about the program should directed to Mr Hugh James, SBS Manager Transmission Services. Mr James’ telephone number is 02 9430 3172.

**Proposed Naval Ammunition Facility: Twofold Bay, New South Wales**

(Question No. 1811)

Senator Brown asked the Minister representing the Minister for Defence, upon notice, on 9 December 1999:

(1) Why has the east coast Navy ammunitioning and storage facility been proposed for Twofold Bay, Eden, New South Wales, when strategic Defence analysis clearly indicates the facility needs to be sited on the central Queensland coast.

(2) Given that the Navy has stated that it requires a port licensed for 250 tonnes net quantity explosive (NEQ) to fulfil its requirements and the revised Eden proposal is for a facility licensed for 30 tonnes NEQ, why is this facility being built at great cost when it will not fulfil the fundamental requirements of the Navy in terms of national defence within the East Coast Armaments Complex.

(3) With reference to Port Alma, 60 kilometres south of Gladstone, Queensland, which is licensed for 1000 tonnes NEQ, is the port where most ammunitioning suppliers first berth in Australia and houses an existing naval facility; given that the port would fulfil strategic requirements, why is it not proposed as the location for the ammunitioning facility.

(4) Why have all communities through which the ammunitions would be transported by road under the Eden proposal not been fully informed of the possibility and given the opportunity for considered comment and participation.

(5) Given that weapons containing depleted uranium (nuclear waste) are widespread in the world arms market and implicated in horrendous on-going human suffering in Iraq and among Gulf War veterans; and given that the United States forces have used depleted uranium weapons in Kosovo, does Australia have any weapons containing any depleted uranium in its arsenal; if so, will these be transported to Eden.

(6) Is it a fact that the Secretary of the department has refused to meet the Bega Environment Network and the Bega Greens to discuss their concerns with the proposal, and has failed completely to respond to their request that the environmental impact statement (EIS) comment period be extended to mid-February 2000, rather than 17 December 1999, so that community groups have a reasonable time to participate.

(7) Is it a fact that the department was in Eden on 2 December 1999 and failed to contact the Bega Environment Network or the Bega Greens to discuss their concerns.

(8) (a) Have local Governments, members of parliament and community groups along the proposed transport routes been informed of the proposal and invited to participate in the EIS, and (b) when and how was this done.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) Defence studies do not indicate that the Navy ammunitioning facility needs to be sited on the central Queensland coast. The function of the east coast Navy Ammunitioning Facility is to provide for the Navy’s ammunitioning/deammunitioning requirements for the east coast fleet. As the fleet is based in Sydney and conducts its operational training in the East Australian Exercise Area off the coast stretching from Sydney to the Victorian border, Twofold Bay is conveniently located to reduce transiting costs.
(2) I refer the honourable senator to my answer to Question on Notice No 607 of 23 March 1999 regarding Naval Ammunition Facility Twofold Bay, NSW published in Hansard 11 May 1999, which advised that the 30 tonne licence is sufficient for Navy’s planned requirements.

(3) There is no existing Navy facility at Port Alma. Locating the Navy Ammunitioning Facility at Port Alma would increase operating costs and reduce operational efficiency, given its distance from Sydney and the exercise area.

(4) The Commonwealth Explosives Act 1961 directs how Commonwealth explosives are to be handled. Explosives Regulations and Statutory Rules 1991 No. 329 issued under the Act deal specifically with the transportation of ammunition by rail and road. The Regulations require transportation by the safest practical route and this is determined by Defence specialists in the Joint Ammunition Logistics Organisation. A route survey of the public roads system has been conducted for the Twofold Bay proposal and this indicates that the major trunk routes are safe and practicable. Under these Regulations, there is no requirement to contact communities through which the ammunition is transported. The requirement to transport explosive ordnance to Twofold Bay was addressed in the Draft Environmental Impact Statement (EIS), which was widely advertised as being available for public scrutiny and comment.

(5) No. I refer the honourable senator to my answer to Question on Notice No 1012 of 27 May 1999 published in Hansard 10 August 1999 which states that Defence records indicate that there are no depleted uranium armament stocks remaining within the Australian Defence Forces.

(6) The department responded on 10 December 1999 to a letter from the Bega Environment Network and Bega Greens requesting an extension of the Draft EIS public review period. The department’s response advised that, in accordance with the Environment Protection (Impact of Proposals) Act 1974, once a Draft EIS has entered into the public review stage, submissions relating to the Draft EIS should be directed to Environment Australia, including matters such as extension to the review period duration. For this reason, a meeting with the Secretary was deemed unnecessary. The department considers that the six week public review period is appropriate given the extensive community consultation undertaken.

(7) The Defence project team, including environmental and technical specialists, representatives from NSW Waterways Authority and Environment Australia were available throughout the day on 2 December 1999 in Eden for a community consultation day. The purpose of the visit was specifically to provide the public with an opportunity to discuss concerns and ask questions on an individual basis in relation to the Draft EIS. No specific invitations were issued, as an open invitation was widely advertised in advance in the regional press and on local radio. The visit was foreshadowed in the previous public briefing held in Eden by Defence personnel on 4 November 1999.

(8) (a) Further to paragraph 4, the local community as well as local government, State and Federal members have been kept informed through the concept development of the project and the preparation of the Draft EIS. There has been ample opportunity for all interested parties to participate in the EIS process. Public comment was invited through press advertisements on the Draft Guidelines for the conduct of the EIS and on the Draft EIS as required by Commonwealth and State legislation.

(b) The release for public comment on the Draft EIS Guidelines was announced in The Australian, The Sydney Morning Herald and The Telegraph on 27 April 1999 and in the regional (Bega Valley Shire) press on 28, 29 April 1999.

The release for public comment on the Draft EIS was announced on two occasions:

- on 6 November 1999 in The Australian, The Sydney Morning Herald and The Telegraph and on 10,11 November 1999 in the regional press; and
- 1, 2 December 1999 in the Sydney Morning Herald and in the regional press.

Department of Finance and Administration: Post-Budget Review

(Question No. 1816)

Senator Sherry asked the Minister representing the Minister for Finance and Administration, upon notice, on 10 December 1999:

With reference to page 5 of the Review of Budget Estimates Production Arrangements (the Vertigan Report), which concludes that ‘to ensure the production of stable budget estimates in which the principal users have a high degree of confidence, many agencies will—for at least in the next couple of years—be required to devote greater resources to their budgeting function’.
Has the department done a comprehensive post budget review of the ‘stability’ or accuracy of the budget estimates; if so: (a) what were the findings; and (b) what were the dollar amounts of the mid year economic and fiscal outlook (MYEFO) expenses and revenue changes in the 1999-2000 financial year and across the forward years attributable to estimation errors as distinct from verifiable parameter and demand driven changes.

If such a review has not been undertaken, why has this not occurred in light of the findings from the Vertigan report.

What validation and checking procedures were put in place to ensure the accuracy of the cash flow statement in the 1999-2000 Budget (page 25 refers).

Does the department stand by the integrity of the estimates contained in the 1999-2000 Budget and the MYEFO (page 26 refers).

For each of the recommendations contained in the Vertigan report, could the Minister: (a) specify whether the recommendation is accepted or rejected with any reasons for any modifications or rejection; (b) detail progress made to date on implementation including against any timetables laid down in the report; and (c) detail the level of resources devoted by the department and any other relevant agencies to ensuring that the deficiencies identified are addressed.

Has the implementation of the Vertigan recommendations for the 2000-01 Budget been incorporated into the employment contracts of relevant departmental senior executives, including Dr Boxall and Mr Bartos.

Senator Ellison—The Minister for Finance and Administration has provided the following answer to the honourable senator’s question:

Ensuring the ‘stability or accuracy’ of budget estimates is integral in preparing any budget update prior to release into the public arena or to Ministers for regular assessments of fiscal performance.

At various times during the budget cycle reconciliations are undertaken to check the integrity of data. In the case of the 1999-2000 Budget cycle, reconciliations prepared to date include:

- reconciliation of revised 98-99 estimates, as per the 1999-2000 Budget, to the 1998-99 Final Budget Outcome;
- reconciliation of estimates as per the 1999-2000 Budget, to the 1999-2000 MYEFO.

Between each major budget update it is standard practice for the department to identify and implement any new improvements in controls and efficiencies to smooth workloads for all concerned.

A review of the Commonwealth’s first accrual budget, however, warranted a formal higher review of examination and DOFA and Treasury initiated an independent review headed by Dr Michael Vertigan.

By its very nature budgeting is about establishing at a point in time, as informed as possible, up to date estimates of the financial impacts of changes, for instance in:

- Government priorities.
- Assumptions in financial models for economic and programme specific parameters.
- Reporting concepts under Australian Accounting Standards and Government Finance Statistics.
- The significant change in the fiscal balance between Budget and MYEFO reflects changes in policy as opposed to problems in numbers. The policy changes mainly result from:
  - additional defence and aid expenditure to support Australia’s peacekeeping and humanitarian operations in East Timor;
  - legislative changes to The New Tax System package.
  - the implementation of The New Business Tax System; and
  - an expansion of the Social Bonus measures associated with the sale of the second tranche of Telstra.

This is covered by my response to Senator Sherry’s first question.

For the 1999-2000 Budget DOFA validation and checking procedures aligned with best practice cash flow statement preparation. These validation and checking procedures ensured that the cash flow statement estimates agreed with cash balances as per projected balance sheets.
These processes were improved upon, in readiness for MYEFO, through automating them as much as possible, as recommended by Dr Vertigan.

(4) The department stands by the integrity of the estimates contained in the 1999-2000 Budget and the MYEFO.

(5a) The recommendations made by Dr Vertigan have been endorsed by all Portfolio Secretaries, subject to a number of small modifications. These modifications provide for enhanced consultation with agencies and recognise agencies’ discretion for implementing the recommendations within the context of their own accountability framework.

(5b) Dr Vertigan made some 37 recommendations dealing with all aspects of the Budget process. Work is continuing on the implementation of these recommendations, with 21 now completed. Key recommendations that have been implemented include:

- Modification of the Accrual Information Management System to improve its operating speed and to ensure that all data recommended in Vertigan’s report are provided;
- Establishment of a centre of excellence on accounting. This unit has developed a comprehensive manual on accounting and budgeting issues and extends the Department’s ability to respond to agencies’ accounting issues;
- Establishment of a centre of excellence on government financial statistics; and
- Establishment of the Budget Coordination Committee, chaired by the Secretary of the Treasury, which is overseeing the whole of the budget process.

(5c) Many of Dr Vertigan’s recommendations are being addressed by incorporating them into the day-to-day work practices of all Budget officers. In addition, the Department of Finance and Administration has set up a small team to facilitate the implementation of all of the recommendations. The Department is not in a position to comment on the resources that other agencies have allocated in relation to implementing Dr Vertigan’s recommendations.

(6) Dr Vertigan’s recommendations provide practical and sustainable measures for improving the delivery of future Budgets. The effective and timely delivery of the Budget is a key responsibility of several senior departmental executives, including Dr Boxall and Mr Bartos. This responsibility is reflected in their performance agreements.

Department of Finance and Administration: Staff Departures

(Question No. 1817)

Senator Sherry asked the Minister representing the Minister for Finance and Administration, upon notice, on 10 December 1999:

(1) For the past 5 years, can the following be provided: (a) the number of departures from the department, by Australian Public Service (APS) level, by departmental group, or equivalent relevant division; (b) the average salary per departmental staff member, by APS level, by group or equivalent; and (c) the number of consultants working on staff together with their average payments.

(2) (a) How many staff worked on the 1999-2000 Budget in the department’s Budget Group; and (b) of those staff, how many are still in the positions they held at the completion of the 1999-2000 Budget.

Senator Ellison—The Minister for Finance and Administration has provided the following answer to the honourable senator’s question:

(1) (a) The number of departures is set out in Attachment 1.

(b) The information requested in this part cannot be provided within a reasonable timeframe or without the use of excessive resources. This is due to

- the restructuring and amalgamation of the Department of Finance and the Department of Administrative Services (to form the Department of Finance and Administration);
- the use of three separate human resource information systems over the period concerned, two of which have been replaced; and
- the existence of different and agency-specific pay scales within the APS.

(c) The answer to this question is at Attachment 2.
(2) (a) Staff of the Budget Group contributed to the preparation of the 1999-2000 Budget in various capacities and for varying periods; numbers working directly on the budget (not including consultants) peaked at approximately 150 staff in the period April-May 1999.

(b) The Budget Group reorganised following the 1999-2000 Budget; as a result it is technically the case that some 120 staff from the previous Outcomes, Outputs and Agency Account Management Units are in new positions in either the Long Term Policy or Agency Advice Units. Nevertheless in the reorganisation every effort was made to ensure continuity of responsibilities of key staff who dealt with particular policy areas or agencies.

Attachment 1: Departures by Group from DAS, DOF and DOFA for the past 5 Years

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<th>APS1</th>
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1 This information has been provided by PriceWaterhouse Coopers on the basis that it is "the best available" given changes to the three departments involved and the availability of data from superseded information systems.

2 The groups have been identified as far as possible; however some older divisions of DAS/DOF cannot be described in more detail as information has been taken from old HR information systems.

3 Regional Offices include; Adelaide, Brisbane, Canberra, Darwin, Hobart, Melbourne, Perth and Sydney.

Attachment 2: Number of consultants and average payments for last 5 years

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<th>$</th>
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4. This information has been compiled from data published in annual reports by the Department of Finance and Administration (1998-99; 1997-98), former Department of Administrative Services (1994-95; 1995-96 and 1996-97) and the former Department of Finance (1994-95; 1995-96 and 1996-97).

**Air Operating Certificates: Air Operators**

*(Question No. 1819)*

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 December 1999:

1. Since 1 December 1997 how many air operating certificates have been issued to air operators in the following categories: (a) high capacity regular public transport; and (b) low capacity regular public transport.

2. In each case: (a) what was the name of the company issued with the certificate; and (b) what was the date on which each certificate was first issued.

3. Since 1 December 1997: (a) on how many occasions have the certificates identified above been reissued; and (b) on each occasion what was the date on which each certificate was reissued.

4. In each case where a certificate was reissued was there any variation to the terms of the certificate; if so, in each case: (a) who was the certificate holder; (b) what was the reason for the variation; and (c) when was the variation to the certificate formally made.

5. In relation to the reissuing of certificates, are the operators of high capacity regular public transport and low capacity regular public transport required to apply for a new certificate.

6. Since 1 December 1997 on what date did each certificate holder in the above categories apply for a new certificate.

7. If any of the above applications for the reissuing of a certificate was lodged after the date the existing certificate had expired: (a) what was the name of the airline involved; and (b) what action was taken by the Civil Aviation Safety Authority (CASA).

8. In each instance where an existing certificate expired prior to the issuing of a new certificate, was the airline allowed by CASA to continue to operate; if so, in each instance where an airline was allowed to operate without a valid certificate, what was the duration of each unlicensed operation.

9. If any of the above applications for the reissuing of a certificate was lodged prior to the date the existing certificate expired but was not approved by CASA before the existing certificate had expired, in each case: (a) what was the name of the airline involved; (b) what caused the delay in processing the application for a new certificate; and (c) what action was taken by CASA.

10. In each instance where CASA failed to reissue a certificate in a timely manner: (a) was the airline allowed to operate without a valid certificate; and (b) what was the duration of each unlicensed operation.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

1–10) The Civil Aviation Safety Authority has advised that it would require substantial resources to answer this question. It would be necessary to manually review each High Capacity and Low Capacity Regular Public Transport operator’s file and personnel licensing files for all relevant flight crew during the entire period from 1 December 1997. This would entail the examination of many thousands of electronic and hard copy documents both in CASA’s Central and Area offices and use up hundreds of staff working hours.

CASA is currently implementing recently announced structural changes to address long and unsatisfactory delays in processing requests for regulatory services, including the issue of AOC’s and licences. CASA staff working in Area offices across Australia have been instructed to allocate up to 30% of their resources to regulatory services duties and to the removal of the current back log.

Therefore, I am not prepared to allow CASA to divert resources from its regulatory services or surveillance functions, and to reduce its ability to regulate air safety effectively in order to answer these questions.
Air Operating Certificates: Flight Crew
(Question No. 1820)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 December 1999:

With reference to air operating certificates issued, since 1 December 1997, to air operators in the high capacity regular public transport category and the low capacity regular public transport category:

(1) In each case, did officers from the Civil Aviation Safety Authority (CASA) satisfy themselves that all conditions of licences held by flight crew members were in order, as is required by section 28 (1)(b) of the Civil Aviation Act 1988; if not, on how many occasions did CASA officers fail to undertake an assessment of a holder, or applicant, of a certificate, in accordance with section 28 (1)(b) of the Act.

(2) In each instance: (a) what was the name of the company issued with the certificate; and (b) was the certificate reissued despite the failure to comply with section 28 (1)(b) of the Act.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s questions:

(1) and (2) The Civil Aviation Safety Authority has advised that it would require substantial resources to answer this question. It would be necessary to manually review each High Capacity and Low Capacity Regular Public Transport operator’s file and personnel licensing files for all relevant flight crew during the entire period from 1 December 1997. This would entail the examination of many thousands of electronic and hard copy documents both in CASA’s Central and Area offices and use up hundreds of staff working hours.

CASA is currently implementing recently announced structural changes to address long and unsatisfactory delays in processing requests for regulatory services, including the issue of AOCs and licences. CASA staff working in Area offices across Australia have been instructed to allocate up to 30% of their resources to regulatory services duties and to the removal of the current back log.

Therefore, I am not prepared to allow CASA to divert resources from its regulatory services or surveillance functions, and to reduce its ability to regulate air safety effectively in order to answer these questions.

Air Operating Certificates: Compliance Statements
(Question No. 1821)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 December 1999:

With reference to air operating certificates issued, since 1 December 1997, to air operators in the high capacity regular public transport category and the low capacity regular public transport category:

(1) Was each certificate holder required to lodge a compliance statement; if so: (a) how often were certificate holders required to lodge such statements; and (b) when.

(2) In relation to certificate holders in the above categories, on how many occasions did an operator fail to lodge a compliance statement in a timely manner.

(3) In each instance: (a) who was the operator who failed to lodge a statement; and (b) what action was taken by the Civil Aviation Safety Authority.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s questions:

(1)–(3) The Civil Aviation Safety Authority has advised that it would require substantial resources to answer this question. It would be necessary to manually review each High Capacity and Low Capacity Regular Public Transport operator’s file and personnel licensing files for all relevant flight crew during the entire period from 1 December 1997. This would entail the examination of many thousands of electronic and hard copy documents both in CASA’s Central and Area offices and use up hundreds of staff working hours.

CASA is currently implementing recently announced structural changes to address long and unsatisfactory delays in processing requests for regulatory services, including the issue of AOCs and licences.
CASA staff working in Area offices across Australia have been instructed to allocate up to 30% of their resources to regulatory services duties and to the removal of the current backlog.

Therefore, I am not prepared to allow CASA to divert resources from its regulatory services or surveillance functions, and to reduce its ability to regulate air safety effectively in order to answer these questions.

Air Operating Certificates: Breaches
(Question No. 1822)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 13 December 1999:

With reference to air operating certificates issued, since 1 December 1997, to air operators in the high capacity regular public transport category and the low capacity regular public transport category:

1. Were all breaches of certificate conditions by operators in the above categories reported to the Civil Aviation Safety Authority Board Safety Committee; if so: (a) when was each certificate breach reported to the committee; and (b) when was each report considered by the committee.

2. In each case what action was taken by the committee.

3. If all breaches of certificate conditions.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s questions:

1–3) The Civil Aviation Safety Authority has advised that it would require substantial resources to answer this question. It would be necessary to manually review each High Capacity and Low Capacity Regular Public Transport operator’s file and personnel licensing files for all relevant flight crew during the entire period from 1 December 1997. This would entail the examination of many thousands of electronic and hard copy documents both in CASA’s Central and Area offices and use up hundreds of staff working hours.

CASA is currently implementing recently announced structural changes to address long and unsatisfactory delays in processing requests for regulatory services, including the issue of AOCs and licences. CASA staff working in Area offices across Australia have been instructed to allocate up to 30% of their resources to regulatory services duties and to the removal of the current backlog.

Therefore, I am not prepared to allow CASA to divert resources from its regulatory services or surveillance functions, and to reduce its ability to regulate air safety effectively in order to answer these questions.

Employment National: Performance
(Question No. 1824)

Senator Sherry asked the Minister representing the Minister for Finance and Administration, upon notice, on 15 December 1999:

1) What reporting and monitoring arrangements were used to monitor the performance of Employment National (EN) during the first Job Network tender period.

2) (a) What were the formal reporting requirements of EN to the Minister as the Commonwealth’s shareholder minister; and (b) were they adhered to.

3) (a) What were the Minister’s supervisory responsibilities of EN as the Commonwealth’s shareholder minister; and (b) were they adhered to.

4) Did the Minister at any stage become aware that EN was performing poorly; if so, what practical steps were taken to address these performance shortcomings.

5) (a) Did EN initially charge a levy of $250 to businesses for job placements, and was this dropped in 1998; and (b) after dropping this levy did EN’s performance improve markedly; if so, was this improvement taken into account during the request for tender assessment process.

6) (a) How much was paid from the consolidated revenue fund to EN in the 1998-99 financial year.

7) (a) As the shareholding minister, what outputs did the Minister expect to be delivered by EN; (b) what was delivered; (c) when did any shortfall in delivery first become apparent; and (d) what action was taken to remedy the situation.
What were the sources of the $237.9 million in sales revenue, related party for the year ended 30 June 1999 (Employment National Limited—Financial statements for 1998-99, p.12).

Given that page 18 of EN’s financial statements shows the movements in issued ordinary shares for 1998 and 1999, what are the essential terms of the share buy-back agreement, dated 23 April 1999, other than that described at note 15 (b).

(a) Who decided to exercise the share buy-back option; and (b) on what date was it decided.

On what basis was this decision taken, including any assessment of the financial viability of EN conducted by the department or other advisers.

How does the Government intend to protect its investment in EN while its corporate advisers undertake their assessment of the company.

Senator Ellison—The Minister for Finance and Administration has provided the following answer to the honourable senator’s question:

1. Reporting and monitoring arrangements used by the shareholder Minister (as distinct from the Department of Employment, Workplace Relations and Small Business (DEWRSB) or the Minister for Employment Services) to monitor the performance of Employment National (EN) during the first Job Network contract period were those required under the Governance Arrangements for Commonwealth Government Business Enterprises (the GBE Governance Arrangements), Corporations Law, and the Commonwealth Authorities and Companies Act 1997 (the CAC Act). These are spelt out in more detail in the response to question 2(a).

2. (a) The formal reporting requirements of EN to the shareholder Minister include the requirement to:

- lodge an annual corporate plan with the shareholder Minister (CAC Act s42, GBE Governance Arrangements para 2.1);
- lodge periodic progress reports with the shareholder Minister (GBE Governance Arrangements para 2.8). EN is required to lodge monthly progress reports;
- provide an annual report or annual general meeting documents to the shareholder, which are then tabled in Parliament. (CAC Act s36, GBE Governance Arrangements para 2.11, Corporations Law Part 2M.3); and
- agree a Statement of Corporate Intent with the shareholder Minister to be tabled in Parliament (GBE Governance Arrangements para 2.5).

In addition, the Board is required to keep the shareholder informed of matters of significance.

(b) Yes. In two instances the reporting requirements have been varied by the shareholder:

The shareholder accepted EN’s request for an interim corporate plan to be lodged in 1999 to cover the period to the end of the first Job Network contract period, with a full plan to be submitted in February 2000 incorporating the second tender outcomes. It was not possible for EN to submit a robust Corporate Plan covering a three year period without knowing the outcomes of the second Job Network tender and the business implications for the company.

The shareholder also decided not to table the Company’s 1999-2000 Statement of Corporate Intent (SCI), which was superseded by the outcome of the second Job Network tender. This outcome significantly changed EN’s core business from a combination of Job Matching and Intensive Assistance to Job Matching. This change will clearly require a review of EN’s business strategies before an accurate SCI can be prepared for tabling in Parliament.

3. (a) The shareholder’s responsibilities for EN, as outlined in the GBE Governance Arrangements, are to:

- appoint the board;
- receive, evaluate and respond to company reports; and
- take action where he/she prefers a different strategic direction to that proposed by the board.

(b) Yes.

4. Following the release of preliminary comparative performance information by DEWRSB to Job Network providers in April 1999, EN informed its shareholder Ministers that it was outperforming the Job Network in Flex 1 placements by about 22%, outperforming the Job Network in the placement of non-allowees by about 50%, on par with the Job Network on its Flex 3 commencements, and behind its
competitors in the Flex 3 interim and final outcomes. EN also advised that the Company had taken immediate steps to ramp up its performance in the Flex 3 placement and conversion to 13 week outcomes areas and expected significant improvements in this area.

EN subsequently advised that action taken to address the below market performance in obtaining sustainable employment for Flex 3 candidates included regional marketing campaigns and trial follow-up programs.

Shareholder Ministers queried EN’s performance and expenditure on Flex 3 candidates in April 1999. The Board advised shareholders that candidate support expenditure was increasing to put in place job seeker support facilities and that the company had built a solid foundation for higher achievements.

While EN’s performance in finding Flex 3 candidates sustainable employment improved, information provided by DEWRSB following the second Job Network tender outcome has shown that other providers improved their performance levels to a greater extent, resulting in EN’s ranking for this performance indicator remaining below market average.

(5) (a) Yes, EN initially charged $250 per basic Job Matching service. EN’s pricing was reviewed by the Company in 1998 to include a free Job Matching service.

(b) EN’s performance in Job Matching improved throughout the contract period. However, it is not possible to isolate the impact of the changed pricing arrangements on that improvement.

Specific questions regarding the tender assessment process should be directed to the Minister for Employment Services.

(6) Funds paid from the consolidated revenue fund to EN in 1998-99 were approximately $249.7m: $237.9m representing payments from DEWRSB for services delivered under the first Job Network contracts; $10.5m being payment of establishment costs representing accrued leave entitlements for former APS staff employed by EN; and $1.3m representing EN’s share of market development grants paid by DEWRSB to all Job Network providers.

(7) (a) The shareholder Ministers informed directors that they expected EN to provide a high quality and competitive employment service, which was based on an assessment of an individual’s circumstances, aimed at either enabling the person to gain employment or at improving the person’s prospects of gaining employment.

In addition, the GBE Governance Arrangements provide that GBEs are expected to add to shareholder value by operating efficiently, pricing efficiently, and earning a commercial rate of return.

(b) EN delivered strong financial performance, strong operational performance in Job Matching, but below market average operational performance in finding sustainable employment for Flex 3 or Intensive Assistance candidates.

(c) Refer to response to question 4.

(d) Refer to response to question 4.

(8) EN’s 1998-99 related party revenue was derived from payments under the current Job Network contracts with DEWRSB. The Commonwealth is both the owner of the company and its main customer.

(9) The share buy-back agreement, which has been lodged with the Australian Securities and Investment Commission in accordance with Corporations Law requirements is attached.

(10) (a) The directors of Employment National proposed the share buy back, which was agreed with then shareholders Minister John Fahey, Minister Peter Reith, Dr Peter Boxall and Mr Leonard Early at a general meeting of the Company.

(b) On 18 February 1999.

(11) As stated in the share buy-back agreement, this decision was taken on the basis of the EN directors’ assessment that it was “in the best interests of the Company to offer to buy back certain of the shares held in the Company by the shareholders, and that the buy-back will not materially prejudice the ability of the Company to repay its creditors”, consistent with Corporations Law requirements.

Shareholder Ministers’ departments also discussed and analysed the Company’s financial projections and on-going capital structure, and agreed with EN’s assessment that the company was in a position to repay this capital to the shareholder.
Wednesday, 8 March 2000

SENATE

The original $130 million capital funding appropriation available to establish EN was necessarily speculative given the nature of EN as a new business in a new market. Subsequently EN only required $47.58 million of this funding for establishment costs. Once trading began and EN was able to build up its working capital, these funds were in excess of EN’s requirements under the current Job Network contracts, and it was appropriate that they be returned to the Commonwealth.

(12) The Government’s investment in EN will be protected by the new board of directors, consistent with the requirements of Corporations Law, the CAC Act and the GBE Governance Arrangements.

The shareholder Minister will be kept fully informed of the company’s situation going forward. This will be achieved through:

weekly reports from the company on management decisions taken to resolve its affairs;
approval of expenditure and new contracts over certain limits; and
attendance of an observer at future Board meetings.

These arrangements are consistent with those that would be put in place for a private sector company under reconstruction.

**Department of Family and Community Services: Senior Executive Service Staff**

(Question No. 1834)

Senator Faulkner asked the Minister for Family and Community Services, upon notice, on 20 December 1999:

(1) How many senior executive service (SES) officers did the department, and all agencies within the portfolio, employ as at 15 December 1999.

(2) (a) What are the names of the officers; (b) what are their employment classifications within the SES band structure; and (c) what are the officers’ total emoluments, including but not limited to: (i) salary (including any salary packaging undertaken), (ii) any travel entitlements, (iii) fringe benefits tax paid on the officers’ behalf, (iv) use of motor vehicles, (v) mobile or home telephones, (vi) superannuation, (vii) performance payments, and (viii) other non-cash benefits (please specify).

(3) (a) How does the department and/or agency determine the basis for performance payments; and (b) in particular, what is the relationship between the performance payments policy and the department’s and/or agency’s actual performance.

Senator Newman—The answer to the honourable senator’s question is as follows:

(1) As at 15 December 1999 The Department of Family and Community Services including the Commonwealth Rehabilitation Service and the Child Support Agency employed 44 officers at the Senior Executive level; Centrelink employed 55 officers at the Senior Executive level; the Australian Institute of Family Studies employed 2 officers at the Senior Executive level; and the Social Security Appeals Tribunal Services employed no officers at the Senior Executive level.

The number of Senior Executive level officers at each agency excludes chief executive officer.

(2) (a) (b)
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<tr>
<th>Family and Community Services *</th>
<th>Level</th>
<th>Centrelink **</th>
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<th>Institute of Family Studies</th>
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<td>Norman Walker</td>
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### Family and Community Services * Level

- Mark Wellington
- Marcia Williams
- Luke Woolmer
- Fiona Howell
- Carmel MacGregor

* Includes the Commonwealth Rehabilitation Services and Child Support Agency

### Centrelink ** Level

** Centrelink does not use SES Bands, salary is negotiated through Australian Workplace Agreements (AWAs)

### Institute of Family Studies Level

(c) The identification and assessment of each officer’s individual remuneration arrangements and details is a major task and I am not prepared to authorise the time and expenditure to undertake it. In addition, the release of individual remuneration outcomes could raise privacy concerns. The following tables outline the salary ranges and standard entitlements for each SES level in the respective agencies.

#### Family and Community Services (including Commonwealth Rehabilitation Service)

<table>
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<th>Classification</th>
<th>Salary Band</th>
<th>Other standard entitlements</th>
<th>Benchmark value</th>
<th>Performance Pay</th>
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<td>SES Band 1</td>
<td>75000 – 102000</td>
<td>Privately plated vehicle</td>
<td>$17,326, plus parking</td>
<td>Up to 15%. Available to superior or outstanding performers.</td>
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<td>Airline Club membership</td>
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<td>Mobile Phone</td>
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<td>Home Office Equipment</td>
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<td>Entitled to this travel once every 9 years.</td>
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<td>SES Band 2</td>
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<td>Airline Club membership</td>
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<td>Accompanied Travel [overseas]</td>
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<td>SES Band 3</td>
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<td>Privately plated vehicle</td>
<td>$20,877, plus parking</td>
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<td></td>
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<td>Airline Club membership</td>
<td>$100</td>
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<td></td>
<td></td>
<td>Mobile phone</td>
<td>Incidental private use</td>
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<td>Home Office Equipment</td>
<td>Incidental private use</td>
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<td></td>
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### Centrelink

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<tr>
<th>Classification</th>
<th>Salary Band</th>
<th>AWA entitlements</th>
<th>Benchmark Value</th>
<th>Perform. Pay</th>
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<tr>
<td>SES Band 1</td>
<td>$69,251 to $161,300</td>
<td>Executive Vehicle, Home IT access, Accompanied Travel, Newspaper/Magazine All., Car Park, Home Telephone, Air Lounge membership</td>
<td>$17,683, $400, $1,623, $500, $1,569, $447, $150</td>
<td>4% p.a</td>
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<td>SES Band 2</td>
<td>$83,000 to $95,000</td>
<td>Privately Plated Vehicle, Mobile Phone, Airline Club Membership, Accompanied Travel [Domestic], Accompanied Travel [overseas], Parking</td>
<td>Can be cashed out at $13,464 parliament, Not included $100 per annum</td>
<td>5% if satisfactory in competencies, leadership and business outcomes, 10% if superior in one and satisfactory in the others, 15% if exceptional. Trimmed by 5% if CSA overall corporate outcomes not achieved.</td>
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<tr>
<td>SES Band 3</td>
<td>From $83,000</td>
<td></td>
<td>Can be cashed out at $13,464 pa. Not included $100 per annum</td>
<td>$5,000 if satisfactory in competencies, leadership and business outcomes, $10,000 if superior in one and satisfactory in the others, $20,000 if exceptional. Trimmed by $5,000 if CSA overall corporate outcomes not achieved.</td>
</tr>
</tbody>
</table>

Note: Centrelink no longer use Bands as a basis for remuneration. Salary is negotiated through Australian Workplace Agreements (AWAs).

Australian Institute of Family Studies
The salary range for SES Band 1 employees in AIFS is $72,850 to $87,159.
Other standard entitlements include a mobile telephone (value $100), a privately plated motor vehicle (value $15,867) and airline lounge membership (value $172).

Each SES officer participates in the Institute’s Performance Development Scheme.

The percentage of salary payable as a performance bonus is 4-6% for being assessed as fully effective, 7-10% for being assessed as superior and, 12-15% for being assessed as outstanding.

(3) (a)
Family and Community Services

SES employees eligibility for performance pay is based on an assessment against individual performance agreements. This assessment is undertaken on an annual basis. Performance bonus’ are limited to employees whose performance is rated as superior or outstanding.

Centrelink

. During the period of two years commencing when this AWA starts to operate, the Employee will be entitled, subject to clauses below, to a performance bonus for high performance, of an amount equal to one percent of the Employee's annual salary, payable at the end of each period of three months.

. If the Employer's opinion is that the Employee is not performing at the required high level, the Employer will notify the Employee that the performance bonus may not be payable in respect of the next period of three months unless the Employee's performance improves to the required high level.

. If at the end of that next period of three months the Employer's opinion is that the Employee has been performing at the required high level, the performance bonus will be payable in respect of that period.

. If at the end of that next period of three months the Employer's opinion is that the Employee has not been performing at the required high level, the performance bonus will not be payable in respect of that period.

CSA

Performance payments are determined in accordance with performance targets, outlined in individual performance agreements being reached. The range is 5 to 15% for band 1’s and $5000 to $20000 for band 2’s.

AIFS

Performance payments are determined in accordance with performance targets, outlined in individual performance agreements being reached.

(b) Family and Community Services

Performance agreements are required to link individual performance to the key FaCS objectives and relevant outcomes as outlined in the department’s strategic plan.

Centrelink

Each SES officer has an individual performance agreement that is linked to Centrelink’s strategic directions.

CSA

Performance payments are trimmed by 5% for band 1’s and $5000 for band 2’s if overall corporate outcomes are not achieved.

AIFS

Individual performance agreements are based on expected agency performance.

**Department of Finance and Administration: Senior Executive Service**

*(Question No. 1838)*

**Senator Faulkner** asked the Minister representing the Minister for Finance and Administration, upon notice, on 20 December 1999:

(1) How many Senior Executive Service (SES) officers did the Department, and all agencies within the portfolio, employ as at 15 December 1999.

(2) (a) What are the names of the officers; b) what are their employment classifications within the SES Band structure; and c) what are the officers’ total emoluments, including but not limited to: (I) salary (including any salary packaging undertaken), (II) any travel entitlements, (III) fringe benefits tax
paid on the officers’ behalf, (IV) use of motor vehicles, (V) mobile or home telephones, (VI) superannuation, (VII) performance payments, and (VIII) other non cash benefits (please specify).

(3) (a) How does the Department and/or agency determine the basis for performance payments; and

b) in particular, what is the relationship between the performance payments policy and the Department’s and/or agency’s actual performance.

Senator Ellison—The Minister for Finance and Administration has provided the following answer to the honourable senator’s question:

(1) 75
(2) (a) Please see attachment 1;
(b) Please see attachment 1;
(c) The identification and assessment of each officer’s individual financial arrangements and details is a major task and I am not prepared to authorise the time and expenditure to undertake it. In addition, the release of individual remuneration outcomes could raise privacy concerns. However, aggregate figures for SES salary packages were published by the Department of Employment, Workplace Relations and Small Business (DEWRSB) in the September 1999 Key Pay Indicators (online) Update No. 1999/03. The update document is located on the DEWRSB website under the Government Employment entry point (Agreement Making): www.dewrsb.gov.au/agreemak/agree.htm. These figures were prepared in December 1998 by the Australian Bureau of Statistics on behalf of DEWRSB and covers 24 agencies and approximately 75% of all SES.

(3) (a) Performance payments for all employees at all levels are determined on an individual basis in accordance with an assessment process outlined within the Department’s Performance Management Framework, and as also specified in the Department of Finance and Administration Certified Agreement.

(b) The Department’s Performance Management Framework and the Department of Finance and Administration Certified Agreement outlines that performance payments are based on achievements against branch, group and organisational objectives as determined through individual employee assessments.

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<tr>
<th>GROUP/AGENCY</th>
<th>BAND</th>
<th>NAME</th>
<th>COMMENTS</th>
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Senator Faulkner asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 20 December 1999:

(1) How many senior executive service (SES) officers did the department, and all agencies within the portfolio, employ as at 15 December 1999.

(2) (a) What are the names of the officers; (b) what are their employment classifications within the SES band structure; and (c) what are the officers’ total emoluments, including but not limited to: (i) salary (including any salary packaging undertaken); (ii) any travel entitlements; (iii) fringe benefits tax paid on the officers’ behalf; (iv) use of motor vehicles, (v) mobile or home telephones, (vi) superannuation; (vii) performance payments, and (viii) other non-cash benefits (please specify).

(3) How does the department and/or agency determine the basis for performance payments; and (b) in particular, what is the relationship between the performance payments policy and the department’s and/or agency’s actual performance.

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

Department of Education, Training and Youth Affairs: Senior Executive Service

(Question No. 1839)

Senator Faulkner asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 20 December 1999:

(1) As at 15 December 1999, DETYA employed a total of 33* SES officers.

(* This figure includes 2 inoperative SES officers (eg people on leave without pay) and excludes acting SES officers.

(2) (a) The names of the DETYA officers are at Attachment A.

(b) 26 are at Band 1; 6 are at Band 2 and 1 is at Band 3.

(c) In order to protect the privacy of individuals, individual salary packages cannot be disclosed. However, information on the total remuneration bandwidths for DETYA’s executive is included on page 182 of DETYA’s 1998-99 Annual Report. Aggregate figures for SES salary packages were also published by the Department of Employment, Workplace Relations and Small Business (DEWRSB) in the September 1999 Key Pay Indicators (online) Update No: 1999/03. The update document is located on the DEWRSB website under the Government Employment entry point (Agreement Making): www.dewrsb.gov.au/group_ws/agreemak/ecoupdate/key. These figures were prepared in December 1998 by the Australian Bureau of Statistics on behalf of DEWRSB and cover 24 agencies and approximately 75% of all SES.

(3) (a) (b) A written Performance Agreement between the individual and the individual’s supervisor is established for each business cycle. The agreement includes the business outcomes for the area; contribution to corporate strategies; demonstrated behaviours and values and work responsibilities. The
basis for performance payments is assessment against a written Performance Agreement made at the end of each business cycle.

The Australian National Training Authority

(1) As at 15 December 1999, the Australian National Training Authority (ANTA) employed a total of 10 SES officers whose names and band structure are as follows:

2 (a) (b)

SES level A – Salary Range $103,100 - $135,548
Mr Paul Byrne
Mr Chris Eccles

SES Level B – Salary Range $76,474 - $101,964
Ms Kaye Bowman
Ms Sharon Coates
Ms Margo Couldrey
Ms Jan Johnman
Ms Lesley Johnson
Mr Andre Lewis
Mr Steve McDonald
Mr Adrian Stephens

The salary ranges quoted above and the salary levels applicable to that level are as per the ANT A Certified Agreement 1999.

(c) In order to protect the privacy of the individuals, individual salary packages cannot be disclosed. However, information on salary packaging bandwidths is included in ANT A's Annual Performance Report for the 1998-99 financial year.

3 (a) (b)

ANTA does not pay performance pay to staff.

Attachment A

<table>
<thead>
<tr>
<th>NAME</th>
<th>LEVEL</th>
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<tr>
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International Air Services: Productivity Commission Recommendations
(Question No. 1847)

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 20 December 1999:

(1) How many of the recommendations made by the Productivity Commission in its report on international air services have been implemented.

(2) When was each recommendation implemented.

(3) What is the timeframe for the implementation of any outstanding recommendations.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1), (2) and (3) The Government’s response to the Productivity Commission’s recommendations is attached. Implementation of the recommendations to which the Government agreed has progressed as follows:

Bilateral: Recommendations that can be implemented bilaterally are now in our bilateral air services negotiations program.

Multilateral: Multilateral reform of air services is included in Australia’s agenda in the GATS and we have indicated our intention to participate in the mandated review of the annex to the GATS on air transport services.

Plurilateral: We are developing options for plurilateral liberalisation of air services arrangements with APEC member economies, and we will take up other opportunities as they arise.

Regulatory review: We have sought stakeholder input to a review of IASC functions and processes and we are building that stakeholder input into a proposal to amend the IASC Act, regulations and the IASC policy statement. This review is planned to be completed by the end of February.

We have sought stakeholder comment on liberalising Australia’s tariff regulations.

Aviation Policy and Processes: A consolidated statement on international aviation policy will be released by March 2000.

Direct formal consultation with major interested parties has been established and applied for air services discussions since July 1999, and the first international air services conference was held in December 1999. Conferences will be held twice a year.

We have sought permission from our 56 bilateral partners for the public release of our air services arrangements with them. To date we have received 13 responses.
ATTACHMENT
GOVERNMENT RESPONSE TO THE PRODUCTIVITY COMMISSION’S REPORT ON INTERNATIONAL AIR SERVICES

Summary of the commission’s findings

For over 50 years, the international bilateral system has governed international aviation activities. This system operates through bilateral air services arrangements and imposes restrictions on airline ownership and control, capacity, frequency and destination of flights. The Productivity Commission (PC) concluded that the system restricts competition, increases the costs of aviation activities and is unable to cope with the ever growing demands for international air services. The Australian Government, like a number of others, has been loosening the restraints but, in the view of the PC, not quickly enough.

The PC argued that, as long as the rest of the world remains committed to the bilateral system, unilateral action by Australia to remove all current bilateral access restrictions on foreign carriers would make Australia worse off. The PC instead proposed a policy of liberalising on a reciprocal basis with other countries, bilaterally, plurilaterally and eventually, multilaterally. It also recommended a package of measures to increase the scope for international air services for regional Australia.

RESPONSE TO THE RECOMMENDATIONS (IN THE ORDER THEY APPEAR IN THE REPORT) FURTHER LIBERALISATION

RECOMMENDATION 9.3

The Commission recommends that Australia should seek to negotiate reciprocal ‘open skies’ agreements on a bilateral basis. AGREE.

...which would remove restrictions on:
- capacity and frequency to, from, between and beyond Australia and the bilateral aviation partner;
- code sharing on each other’s airlines;
- routes, including points of access to the Australian and bilateral partner’s markets, intermediate and beyond points;
- multiple designation of airlines by Australia and the bilateral partner;

AGREE. We agree that bilateral ‘open skies’ arrangements should be pursued with like-minded countries. The PC considered that the sequencing of negotiations is central to maximising Australia’s national interest. The Minister for Transport and Regional Services will manage negotiations in the national interest by taking into account the views of all stakeholders, including the tourism industry, the aviation industry, State Governments, exporters and importers, airport operators and foreign policy interests. Where ‘open skies’ cannot be achieved, or is not in the national interest, the Minister will pursue the most liberal arrangements possible.

Unrestricted own stopover rights would also be included in a liberal ASA negotiated in accordance with this recommendation. The actions of the airlines designated under an ASA of this type would still be governed by the application of local competition laws.

Australia has already made significant progress in freeing up capacity, route and traffic rights, code share and regional access. Multiple designation has been Government policy since 1989 and Australia’s liberal approach to air freight, domestic aviation reform, airports, ownership and control and alliances are already at or beyond the limit of many of our bilateral partners’ tolerance. Maintaining the momentum of microeconomic reform in this sector will allow greater inroads for increased competition, lower prices and better ability to satisfy demand for international air services.

- ownership as a basis for airline designation; and…

AGREE. There is some limited scope to negotiate more flexible ownership provisions in ASAs including recognising ownership structures such as place of incorporation, principal place of business or other evidence of commitment to providing air services from the territory of the other country to substitute for the current standard substantive ownership and effective control provisions. There is also some scope for liberalisation of controls on the ownership of Australian carriers within Australian domestic law. However, given the commercial risk of international carriers being denied access to a market because their ownership and control structure is seen as too liberal, the proper forum for far-reaching ownership and control liberalisation is the GATS (see response to recommendations 9.1, 9.2 and 9.6).
AGREE. This recommendation reflects Australian practice of not interfering with the market price of tariffs. To bring the proposal fully into effect will require changes to both current bilateral arrangements and domestic regulations.

Such reciprocal agreements should also contain restrictions on Government subsidies where these are significant. …

AGREE, provided that the overall benefit of any bilateral arrangement is not jeopardised by insisting that the deal not be done because of the presence of a foreign Government subsidy.

Australia should also be prepared to negotiate, on a case by case basis, removal of restrictions on cabotage…

DISAGREED. The PC states that this recommendation will provide only marginal economic benefits. Recent public discussion of this issue has also shown that there is a possibility of major Australian domestic carriers withdrawing from regional routes if cabotage access for foreign carriers is introduced.

… and the development of ‘stand alone’ services between the bilateral partners and third countries (so called seventh freedom services).

AGREE, Australia has already sought seventh freedom services in bilateral negotiations and is prepared to consider them on a case by case basis.

RECOMMENDATION 9.5

Australia should invite like-minded countries to discuss the formation of an open club of nations committed to liberalising international aviation through a common plurilateral ‘open skies’ agreement.

AGREE, Australia should be prepared to discuss the formation of an open club committed to liberalising international aviation. This would require a substantial multilateral statement of support before such a move could be negotiated. It is likely that many of our major trading partners would remain opposed to ‘open skies’ in any form.

RECOMMENDATION 9.6

The Australian Government should promote discussion within the WTO membership to determine a process for including all air services in the GATS.

AGREE. It is important that Australia participates in this process. There are a number of significant aspects of aviation reform, including ownership and control of international airlines, non scheduled services and dedicated freight services which lend themselves specifically to the GATS process.

RECOMMENDATION 9.1

The Australian Government should join with other like-minded governments to have the ICAO Secretariat’s 1994 proposals to liberalise ownership and control requirements for national designation reconsidered for adoption on a plurilateral or multilateral basis.

In the meantime, Australia’s own ASAs should be negotiated to incorporate a more liberal means of designating airlines, which does not rely on ownership restrictions.

RECOMMENDATION 9.2

The Australian Government should invite neighbouring countries to develop, and seek ICAO recognition for, a regional arrangement that would enable relaxation of ownership and control criteria. Countries to be considered should include New Zealand and the South Pacific Forum island nations.

AGREE, Australia should be prepared to negotiate to incorporate a more liberal means of designating airlines which does not rely on ownership restrictions. However, care needs to be taken in the implementation of this policy. Ownership and control is a universal feature of bilateralism and is not readily amenable to piecemeal solutions.

Australia agrees that there is a need to reform access by international investors to the sector, but believes that this is best done in a forum with universal application like the WTO where there is at least some chance of carrying reluctant players. This submission has also recommended that Australia be prepared to incorporate more liberal means of designating airlines.
REGIONAL REFORM PACKAGE

RECOMMENDATION 9.4

As a step toward the further liberalisation of international air services, the Commission recommends reforms to ASAs to benefit regional Australia, encompassing both bilateral and unilateral elements:

Bilaterally, Australia should offer unlimited capacity to fly to all airports other than Sydney, provided that Australian carriers are offered the same routes on a reciprocal basis by their bilateral partners. The Australian Government should take up the British offer of similar opportunities.

DISAGREE. Although capacity is negotiated ahead of demand, it remains an important element of the overall packages we negotiate and while we remain in the bilateral framework we need the ability to trade access to Sydney, Melbourne, Brisbane and Perth particularly as leverage to obtain access to third country markets.

Australia will consider the UK offer during negotiations scheduled to commence later this year.

Unilaterally, Australia should offer, within negotiated capacity:

. removal of restrictions on the number of points to be served and designation of all cities in Australia other than Sydney, Melbourne, Brisbane and Perth;

. unrestricted rights for foreign carriers to code share to all points in Australia on Australian domestic airlines; and

unrestricted rights for foreign carriers to carry their own-stopover traffic.

AGREE. This could facilitate the development of new and more innovative air services to regional Australia. Regional economies and the tourism industry could benefit, at little cost to Australian airlines. In order to reap the full benefits of this reform the recommendation should also be extended to include open capacity, code share and own stopover rights to centres other than Sydney, Melbourne, Brisbane and Perth.

INTERNATIONAL AIR SERVICES COMMISSION

RECOMMENDATION 7.1

Contested capacity should continue to be allocated by the IASC using a public benefit test.

AGREE.

RECOMMENDATION 7.2

The objectives of the International Air Services Commission Act 1992 should be amended to:

‘enhance the welfare of Australians by promoting economic efficiency through competition in the provision of international air services’.

AGREE. This is a restatement of the current role of the IASC.

RECOMMENDATION 7.3

The IASC should not be involved in assessing the viability of airlines, or anticipating approvals by other Government agencies.

DISAGREE. The Government must be convinced that an entity it licences is capable of performing the services it is licensed to provide. There is both a moral hazard and consumer deception if this process is absent from licensing. Arrangements can however be streamlined.

RECOMMENDATION 7.4

When international capacity becomes available, or is applied for, it should be advertised by DTRD.

AGREE.

Where an application is uncontested (that is, only one applicant), or capacity is not constrained, the allocation of that capacity should be approved automatically by DTRD.

It should be the responsibility of the airline to meet all other regulatory and financial requirements before the commencement date.

AGREE. But determinations should still be subject to these requirements being met.

Where an application is contested, the IASC should determine the allocation of capacity.
AGREE

RECOMMENDATION 7.5
Submissions should not be called for unless a contested application is referred to the IASC.

AGREE.

RECOMMENDATION 7.6
The criteria used by the IASC to allocate contested capacity should be simplified to focus on benefits from competition.

AGREE with caution. As the PC notes in its report, there is a risk in oversimplifying the criteria for allocating contested capacity, particularly if viability tests have been removed. Current criteria also allow the IASC to target examination of the benefits of competition.

RECOMMENDATION 7.7
The start up provisions should be removed from the Minister’s policy statement.

DISAGREE. Where capacity is constrained under an ASA, start up criteria do at least provide a ‘one off’ chance to introduce Australian competition on the route through allocating an initial new entrant a level of capacity appropriate to the development of efficient, economically sustainable services.

RECOMMENDATION 7.8
Capacity allocations should be made in perpetuity and the IASC should be rigorous in enforcing the use-it-or-lose-it provisions.

DISAGREE. The present review process of determinations is based on the proper assumption that these scarce rights are not ‘owned’ by the carriers. It provides the necessary transparency for all parties concerned as well as the opportunity for capacity to be reallocated should market and policy conditions change.

AUSTRALIA’S AVIATION POLICY AND PROCESSES

RECOMMENDATION 5.1
The Commonwealth Government should publish, and keep up to date, a statement of its aviation policy.

AGREE. The Minister for Transport and Regional Services will publish a consolidated statement on international aviation policy.

RECOMMENDATION 5.2
DTRD should develop a formal direct consultation process which encompasses all major interested parties to obtain their views on ASAs being negotiated and ensure that it provides timely and informative feedback on the outcomes of the ASA negotiation process.

AGREE. The Minister for Transport and Regional Services will establish a twice yearly International Aviation Conference, to provide advice on the Government’s negotiating priorities. New feedback mechanisms have also been trialed with the outcomes of our most recent air services discussions.

RECOMMENDATION 5.3
An interdepartmental committee, chaired by DTRD, should be established to consider and endorse all proposals relating to Australia’s air services negotiating position. The committee should include the Departments of Prime Minister and Cabinet, Treasury, Foreign Affairs and Trade, and Industry, Science and Tourism.

DISAGREE. An interdepartmental committee to endorse a negotiating position would impose another layer of decision making and add little value. DFAT and DIST (now DISR) are already direct participants in the process of determining the negotiating position for air services negotiations.

Air services negotiations happen in real time and the consultation process required to modify a negotiating position would remove the flexibility currently available to negotiators and increase the number of rounds required to obtain an outcome.

RECOMMENDATION 5.4
Confidentiality of ASAs should be limited strictly to those parts of the arrangements required specifically by other Governments. The reasons for granting confidentiality of ASAs should be scrutinised closely. All other arrangements should be made public and easily accessible.
AGREE.
INQUIRY INTO AIRPORTS
RECOMMENDATION 8.1
The Commonwealth Government should commission an inquiry into airport capacity, access and pricing in 2001. Such an inquiry should, as a minimum, examine:
- constraints that airports are imposing on Australia’s air services;
- peak load pricing;
- regulation of aeronautical charges;
- the potential for the introduction of a market for slots; and
- legislated access provisions.

DISAGREE. The review has the potential to generate uncertainty amongst bidders for Sydney airport and have a negative impact on its value.

National Networks Alliance Program
(Question No. 1850)
Senator O’Brien asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, upon notice, on 20 December 1999:
(1) Have the administrative guidelines for the National Networks Alliance Program for the Australian pork industry been finalised; if so, can a copy of those guidelines be provided; if not, when will the administrative guidelines be finalised.
(2) Have any applications been received for assistance through the program; if so, in each case: (a) what are the details of the applications; (b) how many applications have been successful to date; and (c) how much money has been allocated for each successful application.

Senator Alston—The Minister for Agriculture, Fisheries and Forestry has provided the following answers to the honourable senator’s question:
(1) The administrative guidelines for the National Networks Alliance Program (NNAP) are contained in the NNAP Business Plan recommended by the National Pork Industry Development Group and approved by the Minister for Agriculture, Fisheries and Forestry on 26 August 1999. The NNAP is administered by the Australian Pork Corporation (APC).

The NNAP Business Plan is available on the AFFA pork programs website at: http://www.affa.gov.au/natpork/nnap/business-plan.html. This site also provides application details for all pork programs including the NNAP.

(2) The application process is in two stages, an initial written expression of interest and then, if successful, a full funding application. In response to advertisements, thirty six expressions of interest were received from interested potential alliances and existing alliances seeking to expand membership. Twenty of those expressing interest have been asked to prepare a full funding application including a business plan and budget, for submission to the National Networks Alliance Sub-committee by 31 January 2000. Details of the individual expressions of interest and applications are treated as ‘commercial in confidence’.

The selection of successful applicants by the Sub-committee will occur during February 2000. A public announcement will subsequently be made regarding successful applicants and this information will also be available on the website.

No particular amount of funding has been allocated for each successful submission. The amount will depend on the detailed nature of each submission, the funding requested and the benefit of the successful submission to the pork industry and the Australian public. The total grant allocated to the APC for the program is $1.5m.

Television: Captioning
(Question No. 1855)
Senator Allison asked the Minister for Communications, Information Technology and the Arts, upon notice, on 10 January 2000:
(1) What is the time line for setting captioning quotas for television.
(2) Is the Government considering a delay of 6 months on the previously agreed program to commence mandatory captioning on 1 January 2001.

Senator Alston—The answer to the honourable senator’s questions is as follows:

The determination of captioning standards under the Broadcasting Services Act 1992 (BSA) is subject to a number of legislative requirements in relation to review, tabling and Proclamation.

Under subclause 59(1)(de) of Schedule 4 to the BSA, the Minister must cause a review to be conducted of whether any amendments of Part 4 of Schedule 4 to the BSA should be made, including the captioning requirements of clause 38.

A review of the captioning requirements of the BSA was conducted in 1999, through the release of an issues paper in January 1999 and an options paper in July 1999, which sought to elicit the views of broadcasters, deafness advocacy organisations, interested parties and individuals on the determination of a captioning standard.

A report of a review undertaken under the provisions of subclause 59(1), including a review of Part 4 of Schedule 4, must be laid before each House of the Parliament.

Part 4 of Schedule 4 to the BSA has no effect until Proclamation, which must not be made except in accordance with a resolution passed by each House of the Parliament. A Proclamation must not be made before a copy of a report of a review is laid before a House of Parliament.

The Government is continuing to examine a number of digital implementation issues, including captioning requirements, and expects to announce decisions on these issues in the near future. The Government has not given any consideration to delaying by six months the commencement of the captioning requirements.

Under subclause 38(6), captioning standards do not apply to a particular commercial television broadcasting licensee or national broadcaster before the first occasion on or after 1 January 2001 on which the licensee or broadcaster broadcasts television in the digital mode.

Treasury: Grants and Programs to Gippsland Electorate
(Question No. 1870)

Senator O’Brien asked the Minister representing the Treasurer, upon notice, on 21 January 2000:

(1) What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Gippsland.

(2) What was the level of funding provided through these programs and grants for the 1996-97, 1997-98, 1998-99 financial years.

(3) What is the level of funding provided through these programs and grants that has been appropriated for the 1999-2000 financial year.

Senator Kemp—The Treasurer has provided the following answer to the honourable senator’s question:

(1), (2) and (3) There are no programs or grants administered by the Treasury that are specifically directed to people living in the federal electorate of Gippsland.

Communications: Privacy
(Question No. 9999)

Senator Stott Despoja asked the Minister representing the Attorney-General, without notice, on 7 December 1999:

On 7 December 1999 (Hansard Page 10987), Senator Natasha Stott Despoja asked me as the Minister representing the Attorney-General the following question without notice:

I ask a supplementary question. I am wondering if the minister would describe the regime that she has just outlined as ‘light touch’ as others in the community—and, indeed, her own government—have described it. And, given this so-called commitment to privacy, could the minister enlighten us as to whether or not this government is committed to securing communications privacy in Australia? Is it the case that despite the rapid advances in monitoring and surveillance technologies, it is still the policy of the government to restrict access to encryption technologies and secure communications more generally? Does this government really believe that the information economy, which Senator Ellison was
boasting about in answer to a previous question, can develop? How can that develop without increased privacy protection and security for transactions.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) The proposed private sector legislation is accurately described as ‘light touch’ in that it allows private sector organisations to develop privacy codes that meet national privacy benchmarks. However, this does not mean that the legislation will be ineffectual. A privacy code must be approved by the Privacy Commissioner and must incorporate or provide equivalent privacy protections as those provided by the National Principles for the Fair Handling of Personal Information (‘the National Principles’). Where a code does not apply to a private sector organisation, the National Principles will operate as the default rules.

(2) By taking this approach, the Government is appropriately balancing its policy to allow business to adopt privacy codes tailored to their business with its policy that national privacy benchmarks, as set out in the National Principles, are adhered to by the private sector.

(3) The proposed private sector privacy legislation will be technology neutral, applying to personal information held by the private sector whether in paper or electronic form. The proposed legislation and the Electronic Transactions Act 1999, which was introduced and passed in 1999, represent the Government’s commitment to provide a legislative framework which promotes consumer confidence in online transactions and further develops the information economy.

(4) The Government is committed to increasing the confidence of Australian businesses and consumers in the security and authenticity of their online transactions and activity. It will do this by facilitating their use of and access to authentication and encryption technologies. It is not Government policy to restrict the access, use or importation of encryption technologies generally. There are, however, restrictions on the export of encryption technologies in certain circumstances.