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Wednesday, 15 March 2000

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

HUMAN RIGHTS (MANDATORY SENTENCING OF JUVENILE OFFENDERS) BILL 1999

Second Reading

Debate resumed from 14 March, on motion by Senators Brown, Bolkus and Greig:

That this bill be now read a second time.

Senator SCHACHT (South Australia) (9.32 a.m.)—I rise to speak in this debate on the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999 and to indicate my support to the already indicated support of the opposition for the bill. I am speaking on this debate partly prompted by the speech made by Senator Tambling the day before yesterday in this place. I happened to be the duty shadow minister for the opposition in the chamber while Senator Tambling made his speech, and I felt that there were so many offensive things about his speech that, at the very least, some of the issues he raised and the way he raised them should be responded to. But broader than that, this is a very important bill on a very important principle which I think senators on all sides should express their view on.

In 1991 I had the honour to be the founding chairperson of the Australian Parliamentary Human Rights Committee. I was invited to address the National Press Club on our first report, which was made public. I remember getting a question from a journalist, after I had spoken to the report, asking whether I believed the mandatory law passed in Western Australia at that time was in contravention of our international human rights obligations. I simply said yes—a very short answer but the correct answer. I have not changed my view about the law in Western Australia and I certainly believe the law in the Northern Territory is even more stark in the way it not only contravenes our international human rights obligations but also offends any notion of fairness in the way we should conduct our affairs in a First World democracy that has a long and proud tradition of democratic rights for individuals and the rule of law.

First of all, I do not accept the arguments put by Senator Tambling and other apologists for the Northern Territory government that we can ignore our international obligations. It is clear from the very succinctly written Senate report on this bill—and I congratulate the senators who prepared the report—that this law in the Northern Territory most certainly contravenes our international obligations. And, of course, they point out that the federal parliament is the body that has the right to make declarations, to carry resolutions and to pass legislation to accept our obligations internationally and to accept United Nations covenants and conventions. The report makes it clear that the Northern Territory legislation contravenes this absolutely.

It is also clear from the report that there is now a well established precedent in Australia that the federal parliament can overrule the laws of the Northern Territory. That principle was clearly established by the Prime Minister’s action barely three years ago when he allowed legislation to be introduced to overrule the Northern Territory’s legislation on euthanasia, which was not in any way contravening—as I am aware of it—any of our international obligations. He just did not like the legislation, so he approved some of his own backbenchers introducing legislation. He said it could be a conscience vote but knew that, because of the balance of numbers at that time after the very successful 1996 election result, he had the numbers on a conscience vote to force it through the parliament, which—unfortunately from my point of view—he did. I accepted at the time and have never argued that constitutionally the federal parliament has the power to intervene in Northern Territory legislation. That is in our Constitution. I just disagreed with the way it was cynically used by the Prime Minister when it suited him on that occasion.

He established the precedent. Now he has no argument and the Liberal Party has no argument that we are not able to intervene
and that this is an interference in state or territory rights. They established the precedent, and now we have a piece of legislation before us that, even more importantly than the euthanasia bill in this parliament of nearly three years ago, is in accordance with our international obligations and which the federal parliament should express a view about. So I find it in one sense a delicious irony that the Prime Minister is now confronted with a revolt in his own party about this Northern Territory legislation and is now going to have to deal with it. I hope there are—as indicated in press reports today—at least seven members of the Liberal Party in the lower house who have the courage, and I would admire their courage, to cross the floor and vote with the opposition when the bill reaches the lower house, so that the bill can be carried.

But I now want to return to the speech of Senator Tambling, the senator representing the Country Liberal Party from the Northern Territory. Senator Tambling in all of his remarks in defending the Northern Territory mandatory sentencing legislation not once referred to the very tragic circumstances of the Wurrumarrba boy who committed suicide after being sentenced to, I think, a year's jail for an extremely minor property offence. I think at the time he was charged with stealing a small amount of property that would have been worth no more than a couple of dollars. It might not have even been worth that. A year apparently was his sentence.

At the same time, we have had corporate crooks in Australia either getting suspended sentences, not going to jail or paying some fine—getting away with robbing shareholders of literally hundreds of millions of dollars. Only last week, Mr Bond was released from jail following a ruling by the High Court, on a legal technicality, to reduce his sentence to three years. He was convicted of stealing over $1 billion from Australian shareholders, the biggest property offence in Australia’s history. He gets three years and is released on a technicality, and all the accounts in the press say they believe that he and his family have squirreled away many tens of millions of dollars of the money he stole from his shareholders, which he will now have access to in one way or the other, and the people who lost their money will not have any chance to get any of that money back. If it is three years for $1 billion but one year for a couple of dollars worth of property, it just shows why a lot of Australian people find the imbalance in these offences so troubling. Of course, we do not find in the Northern Territory that there is any mandatory sentence for white-collar crime, for company directors.

Senator Conroy—You can strangle journalists and you don’t go to jail.

Senator SCHACHT—Thank you, Senator Conroy. We noticed that a former minister tried to strangle a journalist because he disagreed with the question. He had to resign from the party in the end, I understand.

Senator Conroy—But not over that.

Senator SCHACHT—No, it was probably some other thing he fell out with his party over. But he got away with making an assault on a journalist, physically attacking him, and did not go to jail—no mandatory sentence for that in the Northern Territory. No mandatory sentence in the Northern Territory for corporate—

Senator Ian Campbell—What about Gareth Evans threatening to garrotte someone in the chamber?

Senator SCHACHT—Senator Campbell, I have to say that you only have to say the words ‘Bronwyn Bishop’ and that is an outstanding defence. Even you would agree with it.

The ACTING DEPUTY PRESIDENT (Senator Crowley)—Senator Schacht, give Mrs Bishop her proper title.

Senator SCHACHT—Mrs Bishop. I called her Bronwyn Bishop; the honourable member in the House of Representatives. However, I want to return to Senator Tambling’s speech. There was no mention whatsoever in his speech about the imbalance between a teenage Aboriginal boy going to jail for absolutely minor property offences and what other people can get away with and not go to jail—for physical assault,
which can result in a suspended sentence; for white-collar crime. If there was any consistency in the Northern Territory government they would be having mandatory sentences on those crimes. But we know they will not do that. The mandatory sentencing legislation in the Northern Territory in particular is designed to appeal to the most base motives: political purposes and to whip up hysteria to divert attention away from the shortcomings of the Northern Territory government.

As I listened to Senator Tambling’s speech I was, first of all, disgusted that he made no mention of the tragic circumstances of the Wurrumarrba boy committing suicide—no mention; not even a suggestion of an apology to the relatives, to the family; this was just completely ignored. That is why this issue is before us—because, unfortunately, a teenage boy committed suicide in jail. Senator Tambling, in defending the Northern Territory, said, ‘We don’t want meddlesome people from the southern states telling us what to do.’ On issues such as human rights—and this is a human rights issue—this parliament and this chamber have again and again passed motions in respect of which a number of countries around the world that do not have democratic governments immediately have said, ‘Don’t meddle in our internal affairs.’

As I said at the beginning of my speech, I was the first chairman of the Human Rights Committee of the Australian Parliament. We made representations again and again on human rights issues all around the world. Again, some people said we were a bunch of do-gooders, but those representations were in accordance with the principles of democratic government, of individual political human rights, and this parliament has expressed those concerns strongly. For example, I do not know how many times this chamber has carried resolutions supporting human rights and political rights for the Tibetan people. We have carried resolutions in this chamber. When I raised this matter on behalf of this parliament when leading a human rights delegation to China and Tibet in 1991, guess what the answer was? ‘Don’t interfere in the internal affairs of China or Tibet. It is an internal issue. The rest of the world has no right to express an opinion.’ And that is exactly what Senator Tambling is claiming—that no-one else outside the Northern Territory has got the right to express a view about what is fundamentally a human rights issue.

Senator Ian Campbell—He didn’t say that at all.

Senator SCHACHT—you read the speech, Senator Campbell.

Senator Ian Campbell—He didn’t say you can’t express an opinion, you dope.

Senator SCHACHT—Read the speech. He bags the Labor Party. He even bags members of your party. This is what Senator Tambling said—

Senator Ian Campbell—Where does it say you can’t express an opinion? You liar.

The ACTING DEPUTY PRESIDENT—Order! Senator Schacht.

Senator SCHACHT—He said: It amazes me, and I am sad to say disgusts me, that interfering, humbugging, busybodies from southern states cannot understand—

The ACTING DEPUTY PRESIDENT—Order, Senator Schacht! Senator Campbell, you will withdraw your remarks, please.

Senator Ian Campbell—Which ones in particular, Madam Acting Deputy President?

The ACTING DEPUTY PRESIDENT—You know full well which remarks. I let the first one go, but you will certainly withdraw them please. They are unparliamentary.

Senator Ian Campbell—Senator Schacht was misrepresenting Senator Tambling. At no stage did he say that people from the southern states can’t express an opinion.

The ACTING DEPUTY PRESIDENT—You have no capacity to debate it, Senator.

Senator Ian Campbell—I think Senator Schacht should apologise to Senator Tambling. Of course, because you have ruled so,
I will unconditionally withdraw any remark which offends against the standing orders.

Senator SCHACHT—Thank you, Madam Acting Deputy President. I certainly stand by my comments about the thrust of what Senator Tambling was saying. Again and again, Senator Tambling has complained that this is interference. I have to say that that is bad luck for Senator Tambling and for the Northern Territory government. A number of us are going to interfere when we see a human rights abuse taking place, and this is clearly a human rights abuse. We cannot be hypocritical in this place and carry resolutionscondemning human rights abuses all around the world and then, when it is identified that we have one in the Northern Territory, not carry resolutions or make our view known. We weaken our position to defend human rights elsewhere in the world when we run dead, run scared or give way to this narrow view of state rights.

I have to say that Senator Tambling and the other apologists for the Northern Territory government have proved to me that they are the heirs or the successors to those people over the last few hundred years in the British parliament and elsewhere. The same sort of speech that he made was made by those people who defended the retention of slavery 150 years ago and the retention of child labour 100 years ago. They were the people who 80 years ago said that women should not have the vote. This is the argument that he puts up to say that there is no right to interfere or express a view when, clearly, a human right has been breached. That is why I was disgusted by the tenor of the remarks of Senator Tambling and other apologists. It is time for this parliament, and it is quite appropriate for this chamber, to carry the legislation moved by Senator Brown. I hope there are at least seven courageous people in the Liberal Party in the lower house who will enable the bill to be put through there.

Until mandatory sentencing legislation is removed, our position to be able to go around the world to argue, quite rightly, about whether there are human rights abuses in other countries will be weakened. No country has a perfect record; we always have our problems. I have to say that this country is, by and large, bipartisan on many of these issues of human rights. We have raised them consistently. But I have to say that I find it demeaning that we now have to take action in this place to defend Australia's reputation against what is happening, particularly in the Northern Territory. Senator Tambling's last great defence was that it is democratic—there was a democratic vote in the Northern Territory and we should ignore any other issue and just accept that there was a duly elected government. As I just pointed out, there were duly elected majorities in the English parliament 300 or 400 years ago that actually supported the retention of serfdom; 250 years ago a majority of the English parliament was in favour of retaining the slave trade; 150 years ago a parliamentary majority was elected that favoured child labour being used in Great Britain; and 100 years ago a majority of the English parliament was against giving women the vote.

Senator Ian Campbell—Fifty years ago the Schacht family were part of the Nazi regime.

Senator SCHACHT—But there were some individual members of parliament who said that, despite the majority of what the—

The ACTING DEPUTY PRESIDENT (Senator Crowley)—Order! Senator Campbell, you will withdraw that remark.

Senator Ian Campbell—You will have to advise me very clearly what remark is unparliamentary in anything I have said by way of interjection, when you have this poor apology of a senator trying to link Senator Tambling to the slave trade of 300 years ago.

The ACTING DEPUTY PRESIDENT—Senator, I asked you to withdraw the reference to Senator Schacht's family being part of the Nazi regime. Please withdraw that remark.

Senator Ian Campbell—It is a historical fact; he knows that. He was the treasurer in the Third Reich.
The ACTING DEPUTY PRESIDENT—Senator, will you withdraw?

Senator Ian Campbell—No. Does Senator Schacht take offence at that? Is it unparliamentary?

The ACTING DEPUTY PRESIDENT—Senator Campbell, I have asked you to withdraw that remark. If you don’t, we will have to proceed. Would you please withdraw that remark.

The ACTING DEPUTY PRESIDENT (Senator George Campbell)—Does Senator Schacht take offence at it or is it unparliamentary? Is he going to apologise to Senator Tambling for saying that he supports the slave trade?

The ACTING DEPUTY PRESIDENT—It is unparliamentary, Senator—it is as simple as that. Please withdraw that remark.

Senator Ian Campbell—If you rule that that is unparliamentary, of course I will withdraw. Do you rule that it is unparliamentary for Senator Schacht to say that Senator Tambling supports the slave trade, as he has clearly inferred on two occasions?

The ACTING DEPUTY PRESIDENT—Senator, this is not the time for you to debate the points raised or any conclusions that you draw from Senator Schacht’s remarks.

Senator SCHACHT—Madam Acting Deputy President, I have never really objected to anyone calling me what they like in this place. I have to just point out to Senator Campbell that both my mother and father served in the Australian Defence Force in the Second World War. My father served 4½ years in Egypt and Italy fighting the Nazis, so I think that more than indicates where my family stands on the view of Nazi Germany, et cetera.

What I was saying, and I say it again, is that the import of Senator Tambling’s remarks and the view that he philosophically put is, ‘You leave us alone in the Northern Territory because this is popular.’ I was pointing out that, historically, others have claimed that of all the other great social issues of the British parliament, the predecessor to this parliament—others have claimed that same view for the slave trade, child labour, refusing women votes and any other social reforms. But, fortunately, there were one or two members of the British parliament at that time who stood up and argued the case to say that this had to change because it was an abuse of human rights. We are saying that the Northern Territory legislation is an abuse of human rights and that this parliament has a constitutional right to knock that legislation over. I hope the parliament of Australia shows the courage to do that—to get rid of this obnoxious piece of legislation that should be knocked over and removed from the statute books of the Northern Territory. I also think the Western Australian legislation should go as well, even though it is not quite as obnoxious in its practice, as the committee reported. But it is true that when you make speeches in this place—appealing to redneck populism as the basis of what Senator Tambling said—then some of us are going to stand up and knock it on the head. If you want to go back philosophically and read your Edmund Burke, you will find that members of parliament are here as representatives to have a wider range of views than just to automatically reflect what is the most populist view at the last second they spoke to somebody. That is what true liberalism was supposed to be about, Senator Campbell, but you gave up on that a long time ago.

This is a very important piece of legislation. If this legislation is not carried by the Australian parliament, we will have a stain on our reputation of promoting human rights not only in Australia but around the world. I commend the bill to the Senate. I express my absolute support for it and hope that by the end of this week at least the Senate will have shown that Australia has got a decent reputation on human rights. (Time expired)

Senator HOGG (Queensland) (9.52 a.m.)—I rise to support this bill today. In doing so, I am not going to traverse the arguments that have been canvassed at length in this debate so far, but there are a couple of issues that I want to put on the record in this debate. I see the mandatory sentencing
law as an unfortunate consequence of the society in which we live today. It is unfortunately the only response that our society can come up with to the problems that confront it. It impinges upon the dignity of the individual who finds themselves incarcerated as a result of mandatory sentencing. As one of my other colleagues has pointed out, some of this occurs because of the inactivity of the people in the judiciary, but that is not the issue that I am going to pursue today.

The fact of life is that there have been many cases cited here of young people who have been the subject of mandatory sentencing who will not find their dignity in any way enhanced by the fact that they have been jailed. The thing that is overlooked in this argument on many occasions is the fact that that is the response given to the crimes committed by some of these young people, yet the real response needs to be to look at what is causing these people to turn to crime in the first place. There are undoubtedly social causes, ethnic and racial causes, economic causes and education causes. Where these people have been denied aspects of their social, economic or educational development, one finds that they have been in a disadvantaged position. The answer to their problems is not to jail them. Jailing them mandatorily is not the answer. The answer is to try to redress their problems by addressing the causes of their problems. We need to remedy the causes.

There is no guarantee that mandatorily throwing people into prison will even start to address the causes of their problems. That is the fundamental problem in this. Mandatory sentencing in no way addresses the causes of the problems that many of these people face. Incarceration invariably reinforces and builds upon the negative behaviour that these people have developed over a period of time. There will be some, though, in our community and our society who will be uncontrollable repeat offenders, and I make no apology for those people. The courts have to deal with them appropriately. Their unfortunate antisocial behaviour must be addressed. Unfortunately for those people and fortunately for society, in many instances the only response to their behaviour is to incarcerate them in jail. However, not addressing the causes, particularly in the case of young people, is purely and simply going to prolong or exacerbate the problem. The ‘three strikes and you’re out’ concept is a complete abrogation of our responsibility as a society to our fellow human beings. We must give them a reasonable economic and social environment in which to realise their aspirations and in which they can grow as individuals and grow with dignity. I cannot reconcile myself in any way whatsoever to purely and simply condemning them because the circumstances have not been there for them to advantage themselves. Hence, the mandatory sentencing concept completely in isolation is an anathema to our society. It should not operate under any circumstances.

Incarceration is invariably a quick and somewhat costly response by society to crime. At the end of the day, it really proves nothing. It fails to show true compassion and understanding and to recognise that some of the people who are caught up in the mandatory sentencing laws are obviously crying out for help, crying out for assistance and crying out for the causes of the problems that affect them to be addressed. The dilemma that is faced by our society is really as much a moral issue as it is a law and order issue. This is the unfortunate aspect of the whole argument. Mandatory sentencing in the end becomes a law and order issue invariably around the time of elections. One is not advocating that there should not be law and order, but there should not be mandatory sentencing as a knee-jerk reaction when the causes that drive many people down the path of crime are not being addressed. My plea in this debate is simple. One should not simply look at mandatory sentencing as being a response to a set of circumstances in society. We also need to address actively the causes of crime, the things that drive people to crime out there in our society.

I am not denying that some people are habitual criminals. They have to be dealt with appropriately by the system. But I believe we are all entitled to our dignity. To not address the reasons why some cannot
achieve that dignity is no way at all to conduct a civilised society. Justice not only has to be seen to be done but also has to be done. It will not be done so long as the only response that we have to crime is ‘three strikes and you’re out’. Mandatory sentencing does not achieve that at all, in my opinion. Good conscience has a real part and a real role to play.

The second reading speech gets to some of the emotion that surrounds this issue. I am looking at point 4.7 of the second reading speech, which cites an article from the University of New South Wales Law Journal. The article is called ‘Mandatory sentencing laws and the symbolic politics of law and order’ and is by Russell Hogg, and I draw the attention of the chamber to the fact that the author is not related to me. It is interesting to read in the second reading speech comments made by Mr Hogg in that article. The second reading speech states:

Like many commentators, Mr Hogg was disturbed at the way public discourse on these issues has been driven largely by political rhetoric. Then there is a quote from Mr Hogg’s article:

In Australia ... the stridency of the political rhetoric, the vagueness of proposals for sentencing reform and their proximity to elections are the clearest indications of what is really at stake. They usually represent the latest attempt to lift the bar in the law and order high jump. The rationale for such measures is less an instrumental one of reducing crime than it is the symbolic one of tapping and harnessing punitive public opinion behind a new program of draconian penal measures.

That sums up this debate. It is about political rhetoric, it is about reacting at a time when elections are invariably on the horizon and it is about a perception in the public at large—which I believe is a mistaken perception—that raising the bar, as Mr Hogg describes it in his article, will resolve all the problems of society. In effect, the one thing that mandatory sentencing laws do not address is what is causing people to commit crimes in the first place. So long as we treat the symptom, we will never get to the cause of the problem. As Mr Hogg rightly says in his article, all this does is bring out ‘a new program of draconian penal measures’. Incarcerating people, particularly young people, is in no way redressing the problems that are out there in the larger society.

I believe the bill currently before the chamber is the appropriate way to deal with the mandatory sentencing laws that exist in the Northern Territory and Western Australia. I do not believe the issue needs to be glibly addressed as it has been in those jurisdictions. One has to look at the causes of the problems that are out there in our society. If one is serious in addressing the issue of the dignity of people in our community in good conscience, one has to look at the social, ethnic, racial, economic and educational considerations in our society. If those are overlooked, we will only continue to build more jails and incarcerate more people in a failed response by our society to address the issues which put those people in that position in the first place. I commend the bill to the Senate.

Senator FERGUSON (South Australia) (10.05 a.m.)—For me, the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999 is not about mandatory sentencing; it is about the ability of the Western Australian government and the Northern Territory government—democratically elected governments—to have self-government and to be able to pass laws which affect the citizens within their own state or territory. I intend to speak only briefly. Throughout the length of this debate, we have heard people arguing the case against mandatory sentencing. But we have heard on only very few occasions—and my colleague Senator Knowles was one of the people who raised this—that the bill is really about whether you believe the states have the right to govern their own state or, in the case of the Northern Territory, whether the territories have the right to govern their own territory. The bill is really about whether you believe the states and territories have the right to implement laws which have been passed by a duly democratically elected government.

We have heard ad nauseam from senators on the other side of the chamber the fact that people have been sent into juvenile detention for stealing textas or a packet of
biscuits. No-one has been placed in detention simply for stealing a packet of biscuits or textas. They have been put in detention because they are repeat offenders. Under the mandatory sentencing laws that apply in that state and that territory, only repeat offenders are sent to any form of juvenile detention or detention. We ought to delineate between someone who, for the first time in their life, commits a petty crime and someone who is a repeat offender.

In the unfortunate situation of the youth suicide in jail in the Northern Territory some month or two ago, the media beat-up and the media publicity was that this person was in detention because they had stolen textas. We all know that this person had 28 previous convictions, some of them quite major crimes, and most of them involving home invasions—which is not a term that I like. The real term is burglary. They are burglars who are breaking into people’s homes.

For a start, people who live in Sydney or in the leafy suburbs of Melbourne, Adelaide or anywhere else—many of whom are supporters of Senator Brown’s bill—probably have very few indigenous people living within their electorate, so they do not really understand some of the problems that exist once you get into areas like the Territory and some of the far reaches of Western Australia where the issue of law and order is constantly on the minds of the residents. There is fear among many people, particularly in some remote areas, of home invasions, of burglary—of homes being broken into—or of personal harm. No-one who supports this bill ever seems to give a thought to the victim of the crime, particularly the nasty crime of burglary or home invasion.

What I really wanted to say is that I wonder—I am sorry that Senator Brown is not here at present; I know he was here earlier—what changes have taken place in the minds of the proponents of this bill, Senator Bolkus and Senator Brown, because some three years ago when we were debating a euthanasia bill the same issues arose. May I preface my remarks by saying that I was a supporter of the bill to overturn the Northern Territory’s legislation on euthanasia—not because they did not have a right to make laws for Territorians but because I believe they did not have a right to make laws for every citizen of Australia, which is what they were doing in that landmark legislation in relation to euthanasia. If anyone cares to read my speech during that debate, which I am sure not many would want to—Senator Quirke may wish to—in his spare time—they will see that I said:

If the Territory law that had been passed on euthanasia said that their law applied to citizens of the Northern Territory or those that had been resident there for a certain period of time, I would have never voted to overturn that law, but they had made a law that applied to the rest of Australia. In the case of mandatory sentencing, I do not know of many people who live outside the Northern Territory that would rush up there to commit a crime so they could avail themselves of mandatory sentencing in the same way that they would have used the euthanasia legislation.

I will get back to the proponents of this bill. When Senator Bolkus was opposing the then Andrews bill that was before the chamber to overturn that legislation he used the words ‘precisely what this insidious bill will do’. That is how he referred to the euthanasia bill. He said:

It seeks to prevent the people of the Northern Territory and the ACT—in this case—through their elected representatives ... from making their own judgments about the meaning and value of life.

This is Senator Bolkus in 1997 saying that the people of the Northern Territory and the ACT, through their elected representatives, should be able to make their own judgment. I agree with Senator Bolkus. I do not know that he has ever come in here and said why he has changed his mind and feels now that the people of the Northern Territory should not be able to exercise their own judgment. Further on in his speech he says:

It treats the hundreds of thousands of Australians who live in the territories as if they were second-class citizens ...
This was Senator Bolkus’s opinion three years ago in relation to a bill that was brought into this place: he opposed the overturning of a law that was made in the Northern Territory. I wonder why it is that he has now changed his view in relation to the people of the Northern Territory and, certainly in the case of this bill, the people of Western Australia who, under the Constitution, have a right to make these laws.

I am pleased that Senator Brown has come back into the chamber, because Senator Brown was a great opponent of the Andrews bill to overturn a piece of Northern Territory legislation. In one of the speeches that he made on that bill—he made numerous speeches in the committee stage, and it took me ages to get them all out, but this speech was during the second reading stage—he said:

In this great debate we are challenged to back the people of the Northern Territory.

Senator Brown, we continue to back the people of the Northern Territory because they have a right to make this legislation. He went on to say:

We are challenged to back the breakthrough for the whole world which their courage in this legislation, brought forward by Marshall Perron, has given to the world. We are inveighed to back the vote that was carried three times in the Northern Territory Assembly, and which has shown clearly that assembly’s commitment to this legislation, backed by the majority of Northern Territorians.

I say to Senator Brown that the very same Territorians have backed this law. People who live in Darwin and elsewhere in the Northern Territory have realised that they have a considerable problem with law and order which cannot always be dealt with in conventional ways so they, as the people responsible for providing the laws within their own territory, passed the mandatory sentencing legislation. We supported self-government and, to the best of my knowledge, there are not too many people in this chamber who opposed the position of the Northern Territory in their attempt to get statehood. The people of the Territory have been given self-government and the laws they have passed which affect Territorians only—this law applies only to Territorians—should be allowed to continue without interference from the federal parliament.

It is all very well for speakers who support this bill brought forward by Senators Brown, Bolkus and Greig to talk about the issue of mandatory sentencing as though that was the major issue that we are dealing with today, but the major issue we are dealing with is whether or not we believe that the states have a right to govern. They have a constitutional right to be able to provide for law enforcement within their own states. What you are asking us to do is to invoke external affairs powers to overturn a state’s right to make legislation for its own citizens. In the case of the Northern Territory, yes, this government does have the ability to be able to overturn those laws, and I concede that we have that right to overturn those laws. But if we support self-government then it is something that we should not be doing. Senator Brown, I think you should return to the views that you held back in 1997. When the Territory government has clearly shown a commitment to a piece of legislation that has been backed by a majority of Northern Territorians, you should allow that bill to stay in place. For that reason, we should not be supporting your proposed piece of legislation.

Many of the supporters of this legislation have little or no knowledge of what it is like to live in the Territory or in some of the far-flung parts of Western Australia. Senator Brown, from your retreat on the River Lifey, where I do not imagine there are an enormous number of young offenders, it is very easy for you to be able to put this piece of legislation in place which will affect the lives of people thousands of miles away from you. These people have had tremendous difficulty in trying to provide law and order within their communities. These people have voted for this legislation because they simply know no other way to overcome the problem that has arisen which is not just specific to the Territory but, in fact, in many cases Australia wide. I understand that no more than 12 juveniles are in detention because of this particular mandatory sentencing law. In states like New South
Wales there are some 200 juveniles in detention and there is much more discretion able to be applied by the judiciary in determining what sentences should be placed on young and juvenile offenders.

I oppose this bill. I oppose it because of the number of friends I have in the Northern Territory who still bear lingering resentment of this federal government for the position it took on overturning the euthanasia legislation that they had passed. I think in this situation they see no justification for overturning a piece of legislation which their democratically elected government has put in place for Territorians and no other people. Their legislation applies only to people who live in the Territory. There is absolutely no reason they should not have jurisdiction over those people. If the people in the Territory do not like what their current government is doing then the alternative is to change it when they get the opportunity. That has not been the case over the last 25 years. It would appear that the decisions that have been made by the CLP government in the Northern Territory have the approval of a majority of Territorians because at no stage have they ever not had a majority in the Territory assembly.

I conclude with those remarks and point out that I really would like to know from Senator Bolkus and Senator Brown why they have changed their opinions on the Territorians’ law and on the ability of Northern Territorians to legislate for themselves, which they so wholeheartedly supported in 1997 and which they now feel they must take a totally different tack on. I would like to hear from them, and I hope we will in due course, on why the situation is so different in 2000 from what it was in 1997.

Senator GIBBS (Queensland) (10.18 a.m.)—I have been listening to the debate so far on the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999 with quite a lot of interest. I have heard arguments in a few broad categories. Some of the arguments I have heard have concerned states rights and the popularity of mandatory sentencing. On the other hand, some of the arguments have addressed youth suicide, successfully preventing crime and this parliament’s duty to uphold human rights in this country.

There are a few government senators who have stood up in this place and discussed the core issues surrounding this bill. I applaud them for that, but it is mostly the opposition and other parties that are spending time discussing human rights or youth suicide or successfully preventing crime. However, it is becoming increasingly clear that there are a number of government senators who support this bill. There are a number of government members who want these laws repealed. The Prime Minister owes it to Australia and to those MPs and senators to allow a conscience vote on this issue.

I am honoured to be able to say that I stand up in this place to support this bill because the situation, as it currently exists in the Northern Territory in particular and in Western Australia, is an affront to human rights. I support this bill because we in this place owe it to this country to do everything we can to prevent the human tragedy that is taking place.

I have heard two basic arguments from the government against this bill: the first has been that for us to interfere would be an affront to states rights; the other is that the law is popular. The coalition senators seem to be missing the point. There is no argument that enacting this bill would impact on states rights. That is not the debate here. But that is not a good enough reason for denying passage of this bill. If it is a case of human rights versus states rights, then surely we have a responsibility to stand up for human rights—and, of course, there is very recent evidence for acting.

In 1996, the Commonwealth struck out the euthanasia laws in the Northern Territory. Some coalition senators seem to be making a lot of noise about the fact that people on this side of the chamber voted in 1996 to stop the federal government intervening. They seem to be missing the point altogether. The issue at the time was a moral one, not a political one. The question today is the same. The question today is not so much whether we have the right to interfere
in the affairs of a state or territory, it is whether we have a moral obligation to do so.

The answer in this case is most definitely yes. I acknowledge that some opinion polls in Western Australia and the Northern Territory show that mandatory sentencing is popular. But just because it is popular does not mean that it is right. The Prime Minister on this issue, as on so many other issues, seems to have a perpetual blind spot to the concept of true leadership. Either he does not know the meaning of the word or his definition of ‘leadership’ goes something along the lines of ‘follow the pollster’. We have a Prime Minister who is content to say that the laws are silly but will not let his MPs have a conscience vote on the issue. We have a Prime Minister who will jump hurdles as soon as a few National Party MPs kick up a stink about erotic videos but does not seem to want to change a situation where our kids are dying in jail.

But another major issue here is that these laws do not work. They do not reduce crime and they do not reduce recidivism and, for that reason, they are not good for society. This sort of approach to crime has been tried for hundreds of years in many different countries and it is proven that it does not work. The cost of this practice is too high—too high in monetary terms and in human terms. It is biased against the powerless and the disadvantaged.

Crime is a big issue in our community. It is an important one which governments spend a lot of time and resources addressing. The people of Australia are understandably concerned about finding lasting solutions to the causes of crime. The Northern Territory and Western Australian governments, however, seem to be taking the easy way out. Rather than sitting down and doing the hard work to come up with programs that help young offenders and the people in their community, they are taking the easy option. Rather than saying, ‘Let’s look at allocating more resources to programs that might divert these young people from a life of crime,’ they are saying, ‘No, that’s too hard. Let’s just lock them in jail so they can learn a few more tricks of the trade.’

There are more innovative ways of tackling the problem out there. Just a few weeks ago I stood up in this place and reported on a Queensland government program called Youth Justice Services. One of the main goals of the Queensland program is to achieve a balance between encouraging and valuing participation by youth offenders while also recognising that a certain level of responsibility and accountability for their actions must accompany their participation. The youth offenders may be required to attend the service to comply with the conditions of their court orders. That attendance requires participation in a range of activities, including assessment and planning of their program needs, counselling, group work, community service, education, employment and training, skills development, and victim awareness work. This is done to help the youth gain an insight into the causes and impacts of their offending. It helps the young person develop options for meeting their needs without offending. It also helps the young person develop skills, interests and community networks to divert them from future offending.

So the Queensland government is taking the attitude, like most other governments in this country, that the problems of youth crime are not going to be fixed with a wave of a magic wand. The Queensland government knows that these problems are going to require a lot of hard work in a lot of different areas to fix. And, yes, part of that approach will include incarceration of some youth offenders. The difference is a matter of balance. Queensland’s approach seems much more realistic to me than the approach taken by Western Australia and the Northern Territory. Unfortunately, Western Australia and the Northern Territory seem to be more interested in waving the wand of mandatory sentencing, as if throwing kids in jail will solve all of their problems. The coalition seems to be just as happy watching these two governments wave away the life of a whole generation of young people.

But let me turn to the substance of the bill and the findings of the inquiry. I do not
think I need to spend time discussing the detail of this bill. I am sure everyone here is aware of its impact. Suffice to say that, if passed, this bill would invalidate any Commonwealth, state or territory law that required courts to impose mandatory detention for offences committed by children.

Some government senators have suggested that the concerns about these laws are only recent. I would like to remind the government that the opposition co-sponsored this bill when it was introduced last year. I would also like to remind the government that the inquiry formed to examine this bill was started last year.

Since the bill was introduced into the Senate, there have been a number of incidents that have brought into sharp focus the matters we are considering here today. The most serious was the suicide of a 15-year-old boy just last month who was subject to a mandatory sentence. This young Aboriginal boy was serving his second detention term under mandatory sentencing. He died on a Thursday and was due to be released the following Monday. Just a week later, on 16 February, a 21-year-old man was sentenced to a year in jail under mandatory sentencing for stealing $23 worth of cordial and biscuits from a storeroom in a mine.

No-one here is arguing that there are circumstances where a prison sentence is not appropriate for a particular crime. Exactly the opposite. We are arguing that the power to decide the matters should properly rest with the magistrate or judge hearing the case. From time to time, there will always be some argument about whether judges are handing down sentences that are too soft or too tough. I do not think that is likely to change any time soon, but mandatory sentencing seems to have thrown out of balance the justice system in Western Australia and the Northern Territory.

I would like to spend some time going over the evidence presented to the Senate Legal and Constitutional Committee inquiry into the bill and its findings. The terms of the inquiry covered the legal, social and other impacts of mandatory sentencing; Australia’s international human rights obligations in regard to mandatory sentencing laws in Australia; the implications of mandatory sentencing for particular groups, including Australia’s indigenous people and people with disabilities; and the constitutional power of the Commonwealth parliament to legislate with respect to existing laws affecting mandatory sentencing.

The committee received a total of 136 submissions and held public hearings in Alice Springs, Darwin, Perth and Canberra. Their conclusions and recommendations reflect very comprehensively the problems with the mandatory sentencing laws as they currently stand. The committee established that the Commonwealth does have the power to override legislation in the Northern Territory. The report cites the most notable example of this being the overturning of the euthanasia laws in 1996.

The committee found that the Commonwealth has the ultimate responsibility of ensuring Australia meets its obligations under international law. The committee found that the Northern Territory legislation clearly contravened Australia’s international treaty obligations. The committee found that, in Western Australia, the legislation had the potential to contravene the country’s international obligations, although in practice the situation was less serious.

The committee found a disparity between the evidence of the social impact of mandatory sentencing supplied by the Western Australian and Northern Territory governments and evidence that the social impact on children was terrible. I found one piece of evidence from the Northern Territory Legal Aid Commission particularly concerning. The commission said that, because of a high level of relatively minor crime in Aboriginal communities, there was a real prospect that the bulk of the male population between 17 and 30 would be in jail for property crimes. Their submission states:

Every time someone hops in the back of a stolen Toyota, smashes a window after an argument, breaks into the canteen to steal food because he is hungry or accepts some of that food, steals petrol from a car to sniff or accepts stolen fuel for sniffing, that person goes to jail and then goes up a rung. Practitioners in the Northern
Territory have seen all of the above cases with monotonous regularity. Soon each offender will get one year in prison.

There was also evidence from Mr Martin Flynn of the Law School of Western Australia that putting young men in prison at a time when they should be participating in ceremonies and assuming responsibility in their own community would cause lasting problems for society. The committee also found that there were several areas in relation to the Convention on the Rights of the Child that needed investigation. The problem areas included the placing of 16- and 17-year-olds in normal prisons in Western Australia and problems with interpreter services in the Northern Territory.

Article 40.4 of the Convention on the Rights of the Child requires that a variety of options, including care, guidance and supervision orders, counselling, probation, foster care, education and training programs and other alternatives to institutional care, should be available as an alternative to putting children in an institution. The committee found that the Northern Territory’s ‘one size fits all’ approach to third strike juvenile property offenders did not fit this approach.

Yesterday, the Minister for Foreign Affairs, Alexander Downer, tried to tell us that Australia had been given the all clear by the United Nations. Unfortunately, that was not quite true. The United Nations reference paper confirmed that the Northern Territory and Western Australian mandatory sentencing regimes offended a number of human rights principles. The reference paper was prepared by UNICEF and the Office of the High Commissioner for Human Rights. It found significant inconsistencies between mandatory sentencing and the UN Convention on the Rights of the Child and the UN Standard Minimum Rules for the Administration of Juvenile Justice. The reference paper found:

This matter is a very important one from the human rights perspective and all states should give the principles involved the closest attention in legislation and practice.

The Senate committee found that more work needed to be done on alternatives to mandatory sentencing, including diversionary programs, victim conferencing and the development of judicial sentencing guidelines. There was also evidence that mandatory sentencing legislation increased the physical danger to both law enforcement officers and offenders. The International Commission of Jurists said in its submission:

Legislation of this kind creates additional and foreseeable dangers to the health and well-being of our law-enforcement personnel; as well as additional risk of physical harm to the youth against whom they face off.

Offenders are put in a situation where they have nothing to lose. They are more likely to commit more serious crimes and try to fight their way out when caught, if they know they are going to jail anyway.

The committee did acknowledge that there are differences in the legislation between the jurisdictions. The practice now in Western Australia seems to indicate that some safeguards are present. But, while the legislation remains ‘on the books’ in Western Australia, there is a case for legislative action by the Commonwealth. The committee was convinced by the submissions received and the evidence heard that mandatory sentencing was not appropriate for a democracy like Australia that values human rights. The committee reported that, while it would prefer the respective governments to take action to fix the problems themselves, that was unlikely to happen. The committee’s ultimate finding in relation to the bill before the house was that parliament should pass it.

In conclusion, I would like to issue a challenge to the government, particularly the Prime Minister. I challenge the Prime Minister to commit to a time frame and a plan of action for changing these laws. Mr Howard has said they are silly laws. He says he does not think they work. He actually came out and said that. But he has also said that he would like the Western Australia and Northern Territory governments to take action on their own to make mandatory sentencing laws more acceptable, particularly in relation to how they affect juveniles.

Well, Prime Minister, when will you tell us exactly what you want to see these two
governments do? When will you tell us how long we should wait for them to do that? When will you tell us exactly what you plan to do if the two governments refuse to make any changes to mandatory sentencing laws? These are all very important questions, Prime Minister. While we wait for answers, more and more communities and the young people in them are being damaged by these laws. While we wait for an answer, the international reputation of Australia is being damaged by these laws.

Sadly, I have the impression that, if left in the government's hands, we would be waiting a very long time for answers to those questions. I do not think the people of Western Australia and the Northern Territory can afford to wait, especially the young people there. I do not think we, as the people charged with running this country, can afford to wait either. That is why I urge the Senate to support this bill.

Senator HARRIS (Queensland) (10.37 a.m.)—I rise to speak on the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999 and indicate that Pauline Hanson's One Nation will not be supporting the bill. The reason we are taking that position is that I think we need to separate the facts from the rhetoric. I believe that people in the other states should not be telling the elected members of the Northern Territory how to carry out their parliamentary responsibilities.

The issue is not about race; the issue is about the incidence of crime in the Northern Territory. This is reflected in the other states. It is not acceptable when we have elderly people locking themselves up in their homes because of crime that is being committed on the streets. As a society, we believe that with rights come responsibilities. As individuals, to live in a society we have the responsibility of adhering to the laws on which our rights are based. I believe it is fair to say that part of the decreasing interest in the police forces as an occupation in Australia is due to the hamstringing of the police in carrying out their duties.

If we look at the mandatory minimum sentencing in the Northern Territory and the juvenile portion of that legislation—this information is from the Northern Territory's own documents—in the case of burglary, stealing, car theft and property damage, which cannot in anybody's consideration be classed as minor crimes—they are reasonably substantial offences against society—for the juvenile ages of 15 and 16, for the first offence they receive a caution. On the second charge, in most cases the court counsels young offenders without penalty and they are usually not sentenced. On the third occasion on which they are charged, they are to participate in a diversionary program, if suitable, otherwise 28 days detention. It is not until the fourth offence that the 28 days detention is mandatory and the court can decide more than that minimum. So it is not until the fourth offence for burglary, stealing, car theft and property damage that a 15- to 16-year-old comes under the mandatory sentencing provision.

For an adult 17 years or older, on the first court appearance the court is required to send the first offender to prison if the offender cannot comprehensively display that there were exceptional circumstances. On the second offence, it is 90 days and, on the third offence, 12 months. Documentation from the Northern Territory reads:

Let’s look at some of the facts and myths being spread about this sentencing regime. Amidst all this hoo-ha, one would be entitled to ask how many juveniles, irrespective of their colour—and I return to my opening comments that this is not about race, so these figures include both indigenous and non-indigenous—are being held in Don Dale Detention Centre. The daily average of juveniles on remand and sentenced in 1998-99 was 27. In the six months to 31 December last year, the daily average was 17. Ten years ago it was 34. Yesterday—on the date of this transmission—there were 14 juveniles detained in Don Dale, four of whom had been sentenced under the mandatory minimum sentencing provisions. So it is clear that there are fewer juveniles being held now than there were 10 years ago.

Let us look overall at Australia's support or disapproval on a state by state break-
down. In Queensland, 72.6 per cent of the people support the Northern Territory’s mandatory sentencing law. In New South Wales, it is 55.7. In South Australia, it is 72 per cent. In Western Australia, it is 70.7 per cent. In Victoria, it is 44 per cent. In Tasmania, it is 58.3 per cent. And in the Northern Territory itself, it is 67 per cent. So the average right across Australia is 58.7 per cent—a very clear indication from the people of Australia that in actuality they support the Northern Territory’s mandatory sentencing.

In concluding, I would also like to question where the Commonwealth is going to get its head of power to carry out the enforcement. I believe that the Commonwealth having to use our obligations under United Nations treaties is a clear indication that in our Australian Constitution there is no head of power for the Commonwealth to override the legal responsibilities of the parliamentarians who are duly elected in any particular state or territory.

Senator CHRIS EVANS (Western Australia) (10.45 a.m.)—I rise today also to speak on the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999. I do so mainly to add my name to the list of those supporting the bill and to give support to my colleague Senator Jim McKernan from Western Australia, who did an excellent job on the committee inquiring into the bill and who has taken a very principled stand. I want to join him in making it known in Western Australia that, despite the political pressures, I share his view that the principles at stake here are fundamental.

In making a short contribution to the debate, I turn to where I started when I entered the parliament, which was in my first speech. I used that opportunity—I know many people would not have read it—to outline the human rights framework which has guided, and hopefully will continue to guide, my thinking about policy and justice issues that come before our parliament. In doing that, on the debate about the mandatory sentencing of juvenile offenders, I have returned always to the five principles I discussed in that speech: firstly, that there exist fundamental inalienable human rights that must be paramount in our considerations, and that those rights must be protected and enhanced by any legislative action we take; secondly, that we must defend those fundamental rights against attempts to subjugate them to propositions designed to protect privilege, property, discrimination or inappropriate power; thirdly, that notions of states rights should not be given pre-eminence over human or people’s rights; fourthly, that the federal government should not shirk exercising its full constitutional power to legislate whenever that is required to protect those basic human rights; and, fifthly, that our legislative approach must be guided and give effect to international law and Australian treaty obligations. As I said, that is where I started out in this parliament; it leads me now to how I approach this debate. I feel as comfortable six years on with that approach as I did then. It is nice to see that it has stood the test of time.

I welcome the report. I think the committee inquiry has made an important contribution to our understanding of the complex issues surrounding juveniles and the justice system. I think it is important that we continue to collect and assess data and have a debate about the evidence about these measures, so that our responses reflect an awareness of the differential impacts of mandatory sentencing laws on particular groups within the community. I think we also need to put more effort into focusing on effective approaches to rehabilitation.

The report’s key findings establish that mandatory minimum sentencing of juveniles contravenes international obligations, including those under the UN Convention on the Rights of the Child. I think that is a very important finding and a finding that this parliament ought to take very seriously. The report further identifies that the effectiveness of mandatory sentencing can be challenged on a number of grounds and has been challenged by respected legal practitioners in the justice system. For example, jail for minor property offences by children increases the chances of recidivism. It helps divert resources from strategies that are long term and is not sensitive to the needs
of different individuals and cultures and thus diminishes community safety in the longer term. I think it helps provide a distraction from issues relating to social justice and shifts the focus away from understanding causes to the pursuit of outcomes.

With respect to my home state of Western Australia, the report has found that WA laws violate principles of proportionality and the requirement under the CROC that in the case of children detention should be a last resort. It is disturbing to note that both WA and the Northern Territory during the period in which mandatory sentencing laws have been operable have recorded increases in juvenile detention rates against the national trend. The report also notes that the practice of the Western Australian legislation is less severe than the case in the Northern Territory due to a number of safeguards, including provisions such as the conditional release order and juvenile justice scheme panels which are involved in diversionary programs. It is important to note, however, that these panels do not meet the needs of indigenous juveniles.

I support my WA colleague Jim McKieran when he said:

While mandatory sentencing remains on the books in WA, regardless of the safeguards which have developed to ameliorate the harsher effects of these laws, there is a case for legislative action by the Commonwealth.

The report establishes that mandatory sentencing has a discriminatory impact with high incarceration rates for two groups for whom I have particular concern: firstly, indigenous people and, secondly, people with intellectual disabilities. It is disturbing to note that upward of 70 per cent of the three-strike cases going through the WA Children’s Court involve Aboriginal children. We need to focus on issues associated with disadvantage experienced by Aboriginal people that is associated with offending behaviour. Mandatory sentencing is not a solution and prevents all factors affecting a particular child from being taken into consideration when sentencing.

The committee also advised that mandatory sentencing discriminates against people with intellectual or some other disabilities, and therefore contravenes both the ICCPR and the UN Declaration on the Rights of the Disabled. As a group of people—those with intellectual disabilities—overrepresented in the criminal justice system, the evidence suggests that mandatory sentencing will exacerbate that impact. We need to shift the focus to support for housing, employment and specialised assistance to those people to allow for an understanding of participation in court processes. Mandatory sentencing and a focus on punishment and retribution is entirely inappropriate for a group that can not understand the wrongfulness of their actions. I urge senators who support mandatory sentencing to have a look at the number of people with intellectual disabilities who find themselves caught up in the justice system without an understanding of what is happening to them and without the ability to have their interests properly protected. It is a very important issue that is often overlooked in these debates.

In conclusion, the issue is not about the Commonwealth riding roughshod over states rights, nor about the Commonwealth being answerable to the international community above its own. It is about the Commonwealth asserting its pre-eminence of human rights and engaging with the states in developing an approach to juvenile justice which emphasises rehabilitation and fulfils our obligations under international treaties to which we are signatories. I agree that the Commonwealth has an important role to play in assisting to develop national standards for juvenile justice that reflect Australia’s international obligations and are effective in promoting rehabilitation and just outcomes.

This parliament should never allow fundamental human rights or people’s rights to be subjugated to narrow state interests. I know the politics of this issue is hard. I know in Western Australia there is a lot of public support for mandatory sentencing and tough action against offenders, but I do not think we can bow to that pressure if the solutions are not just, are not fair and are essentially discriminatory in whom they impact upon. Simplistic solutions are not the answer. We have an obligation to pro-
vide leadership as well as listening to what the public wants. I would like to end by again quoting Hubert Humphrey, and urge those in the Liberal Party to take note, because he once said to his party:

It is time for the Democratic Party to walk out of the shadow of States’ rights and into the bright sunshine of human rights.

Senator QUIRKE (South Australia) (10.53 a.m.)—There are some things in this world that are very difficult to defend. Last week Alan Bond walked out of jail after serving 3½ years, or whatever it was, for defrauding a group of old pensioners, or whoever they were, who invested in Bell Resources. I imagine that a fair amount of it was money from the large institutions, but a lot of it was also money from a number of individuals who lost a very large part of their private savings.

Senator Chris Evans—My dad.

Senator QUIRKE—Senator Evans’ father was one of the people who was ripped off by Alan Bond.

Senator Kemp—I thought Bond was a Labor mate.

Senator QUIRKE—It is good to see that the minister is awake. We were worried about him snoring before. He was asleep over there, but we know he is awake and that is good. It is very difficult to justify a kid being put in jail for stealing $23 worth of cordial and biscuits for something of the order of a matter of months—or in fact, if it is a third offence, for a year—when Alan Bond has dindled Senator Evans’ father and everyone else associated with Bell Resources out of $1 billion. It is a pretty hard ask to get up on any stump and defend that.

I can understand the desire for mandatory sentencing in a number of areas because the problem is that in many instances the magistrates and the judges impose penalties on all sorts of offenders—both juveniles and non-juveniles—which do not appear to even remotely approach the crime. In the eyes of the public in all of the states there appears to be a mismatch between what the judiciary hands down in terms of sentences, and in many instances—not all—the punishment just does not appear to fit the crime. However, it would appear that mandatory sentencing, particularly in the Northern Territory, is a problem rather than a cure. Indeed, the separation of powers makes it quite explicit and clear that the role of parliament in setting laws and the role in the executive in parliament of putting forward the various bits of legislation which carry the penalties, is the correct role of the elected representatives of the people. Then it should be up to the judiciary to take each case on its own merits.

It is going to be impossible for Mr Burke and all those in the Northern Territory to justify one of the more recent cases that has just come to light of a woman with five children who is estranged from her husband and pregnant with her sixth child. She was locked out of what was, as I understand it, originally the matrimonial home. The kids went into the home where they in fact reside with their father and took some food because they were hungry. I understand that the care order was with the father, so he had the responsibility of feeding them. Then the woman took a pram, which I presume was hers originally, although that may now no longer be so. Why did she take the pram? Did she take it down to the local Cash Converters to get a few quid? The answer is, no. She took it because she had a 19-month-old baby who was asleep. I have had four of them. They do have a habit of going to sleep and best place for them is either in their own bed, a pram or whatever. When that case comes to court and the judge has no choice but to slot this woman for a custodial sentence in this instance, it is going to be an impossible act for Mr Burke and his friends to defend.

I do not think there is any doubt that, with all the best of intentions to protect the rest of the community, we find governments embracing the idea of mandatory sentencing. The problem is that it actually takes away the escape valve from the judges and travesties of justice will definitely be committed. That flexibility must be with the judiciary. We get frustrated and I remember a couple of cases in South Australia where I thought the wrong decision was made in terms of sentencing of individuals. I re-
member one case in particular where a man robbed a bank and, indeed, the judge let him go because he had lost a lot of money on the stock market the year before. I do not know whether the judge had some sympathy with the bloke because he may have lost some on the stock market as well, but at the end of a day I thought that sent a totally inappropriate message. I was somewhat frustrated by what the judge had done and I aired those views in parliament at the time, and so did other people in the community.

But at the end of the day I have to accept the fact that I am not there listening to the case, I am not listening to the circumstances, and there are mechanisms for dealing with a whole range of these matters: to take them to further appeal, to appeal the sentences under certain conditions—unless they are before a jury, as I understand. The problem with the mandatory sentence is that you are going to catch up in the net a whole range of people you would not want to see put in prison. Senator Harris told us before that there are not that many juveniles in particular in detention in the Northern Territory. I think he gave the figures of 14 yesterday, an average of 17 and a maximum of 35. From my understanding, Northern Territory has a population of about 10 per cent of that of South Australia. On any one day in South Australia there are two juvenile facilities and, at least in the early 1990s, the average was about 35 incarcerations—and that included those who had been refused bail and were being held over for a committal proceeding. The total facilities in South Australia are about 70. I have not looked at this very closely but, if those figures are correct from Senator Harris, I am somewhat disturbed about it, because the population of the Northern Territory is one-tenth of that of South Australia and yet it would appear to have four or five times the occupancy of juvenile facilities.

I do not know where that goes. That is a matter that somebody out there is probably looking at, but I do think that the point of this bill is to say to magistrates, ‘You have the responsible discretion to deal with these matters.’ They have to have that, because not every case is the same. If the community is unhappy with the conduct and procedure of the judiciary on these matters, then indeed it is a matter to be taken up with the judiciary through forums like this but it should not be an automatic cutting out of the accused person’s rights before a court to a proper and fair trial.

Senator BROWN (Tasmania) (11.02 a.m.)—in reply—At the outset I want to thank every senator who has participated in this important debate. It has raised a whole range of issues and approaches on both sides of the argument, from the parochial to the international, from the rights of children to our responsibilities as parliamentarians responding in an elected democracy. It is an informed debate, and shortly every member of the Senate is going to have to vote as to his or her summation of the argument and response to the critical question before this Senate of whether we are going to pass up our obligation to uphold the International Convention on the Rights of the Child as well as other international conventions on civil and human rights, in particular those rights where they relate to the children of the Northern Territory and Western Australia—not least the indigenous children who today are held in detention because of the political override of the discretion of the courts in taking into account their circumstances, the circumstances of the victims of crime and the opportunity for society to have these children put back on the track to becoming fulfilled, happy and constructive members of society.

I also want to thank people outside this place who have been vital to this debate being enjoined. They include, in the Northern Territory, Ilana Eldridge, Caroline Tapp and Andy Gough who, along with indigenous communities and social justice groups in the Territory and Western Australia, brought my attention to the injustice of mandatory sentencing. I thank Louis Schetzer of the National Children’s Youth Law Centre, who has been so constructive in informing not just me but many members of parliament about the arguments for this legislation being put through the parliament. John Sheldon and Kirsty Gowans from the North Australian Aboriginal Legal Aid
Service and Cassandra Goldie from the Darwin Community Legal Service have given invaluable advice, information and support all the way through the process. Chris Sidoti, from the Human Rights and Equal Opportunity Commission, in a multi-partisan approach, has helped bring the Senate parties together and indeed to change the nature of the legislation.

I should point out that at the outset I had entertained and announced in 1998 the bringing in of legislation to do much the same as Senator Harradine’s amendment—that is, to override the Northern Territory laws on mandatory sentencing for both children and adults. However, it was with wiser counsel and a taking into account the view of the legal community in particular in Australia that I decided to repitch the legislation so that it acted to fulfil Australia’s international treaty obligations, in particular, in regard to children, and to essentially override mandatory sentencing wherever it occurs in Australia—not just the existing mandatory sentencing laws in the Northern Territory and in Western Australia but the potential for other states or territories to bring in mandatory sentencing laws in breach of the International Convention on the Rights of the Child in the future.

In 1999 I therefore proposed that we have this legislation. I am particularly indebted, for the facilitation of this legislation and the co-hosting of this legislation, to the Australian Democrats and the Labor Party, who have been so strong in advocating the legislation both here and outside in the community. I want to also add a word of thanks to the Senate committee, which travelled to the Northern Territory and to Western Australia and held hearings here in Canberra to bring together the response of the community, which is an overwhelming response saying that this law should be passed through the Australian parliament. In particular, I thank the chair of that committee, Senator Jim McKiernan, who did a remarkable job in facilitating the committee so that the report, which I think is one of the best Senate committee reports ever brought before this place, was here to inform all members of parliament about the complicated matter which is mandatory sentencing.

Before I move on to other things, I want to note that we are calling on the federal government to not just join us on this legislation but to act in accordance with its own history in this matter. In past years this government—the Howard government—has moved to override the Western Australian laws on mandatory sentencing insofar as they applied on Christmas Island, an external territory. Twice, ministers of the Howard cabinet have brought regulations to this place to override mandatory sentencing because it is against government policy. That is a fundamental point which must not be forgotten in this debate. The Prime Minister has reiterated that point of view. It is against the Howard government policy to have mandatory sentencing. The question is whether the Howard government is going to follow through on its policy, enact its policy and ensure that that policy is put into place in the community, which is where policies ultimately matter.

The question is: why the controversy? Mandatory sentencing has been controversial from the outset because of its manifest injustice. There has been a process of politicians intervening in matters that affect the bench; overriding the separation between the judiciary and the parliament; and intervening effectively to tie the hands of magistrates and judges in their time-honoured obligation to take into account all the circumstances in a trial when they move to sentencing. In particular, there is repugnance in the community at the outcome, where time after time juveniles, children, in the Northern Territory and Western Australia have been put in detention for anything between a fortnight and a year for obviously petty crimes where no harm has occurred to people in society. We all know that the outcome is a costly exercise in detention to the taxpayers and there is the probability that those children will come out of those universities of crime where they are held having learned better how to escape detection next time around.

In particular, the community has responded to the impact on the indigenous
children of the Northern Territory and Western Australia. There was a unanimous finding by the committee—it went across all parties—that when children are locked up in these circumstances they are damaged. Are we, as members of parliament, going to allow a process which damages children in our community? That is what happens if the federal parliament—and that means the federal government—ducks its responsibility to intervene to make sure that those children are not damaged but become productive members of society. I have asked the question of myself all through this: let us stand back here and see why these children offend. The overriding answer to that question—because mostly it is indigenous children who are being ensnared by these mandatory sentencing laws—is because of the destruction of their culture, of their relationship with each other and with their law and their time-honoured relationship with the land.

I just want to briefly ask is there no other response we can have to that destruction—which we, as the whole of society in Australia, bear responsibility for—but to lock these children up when they resort to petrol sniffing or glue sniffing and are caught stealing a few dollars worth of petrol to harm themselves in that way? Is there no better response than for us simply to say, ‘Go to jail’? Of course there is. We could take a leaf out of the book of the Canadians, who recently set up the state of Nunavut in the north-west territories, which is to become an indigenous controlled state in Canada. Let us look at this option, which is so far right outside the parameters of this debate, because we have to come to grips with the fundamental problem that is seeing Aboriginal kids locked up in this country. We have to treat that problem—which is of our creation; maybe not deliberately, but our actions cause it—and we have to get to the source of the problem if we are not going to be debating issues like mandatory sentencing in this place for decades to come. I want to quote briefly from an article by Peter Jull in the indigenous law bulletin of May last year which refers to the Nunavut process and project in Canada. Peter Jull had this to say:

Canada had realised long ago that indigenous policy is a political rather than a police matter and should therefore be directed towards creating full indigenous citizenship, rather than controlling a marginalised people.

With the Northern Territory not least in mind, I refer to this passage from his text:

In order to progress, northern and Canadian society had to change. The whole country grew in social and cultural awareness—as Australia has also been doing recently—but northern whites were reluctant to give up their hegemony and dreams of wealth on the back of resource extraction from indigenous lands and seas. This is typical of frontier context, where national governments and institutions—whether Norway’s Labor Party, Canada’s government, the US Congress or Russian academic institutes—are forced to anchor national policy and rein in self-serving latter-day pioneers.

In this is a message to this nation as a whole. Are we going to simply allow the destruction of Aboriginality in our country in the full face of the last 200 years? Are we going to allow ourselves to simply wash our hands of this tide of destruction which has moved across the country of the first Australians and say, ‘The best we can do is lock them up,’ when they react in some way that we do not like? Of course not. And we have to be able to respond in a better fashion than mandatory sentencing.

Just last week there was comment from a leading Australian on the matter of mandatory sentencing and about the institutions that have replaced the Aboriginal institutions but not done so in a way which is amenable to Aboriginal communities. The Prime Minister said, in speaking to young Australians:

... very much to our credit is that we have an incorruptible judiciary system. We may not always agree with the decisions made by courts and they may often be wrong because they are comprised of men and women who have human frailty. But it is a magnificent thing to feel that fundamentally this is a country where if you have a just cause if you go to court, the fundamental will be a just adjudication which is not the subject of interference by people with a political axe to grind.

That is a magnificent thing. Prime Minister, if you act to ensure that for all Australians. The Prime Minister is now charged with the
responsibility of defending this magnificent thing which he extolled to young Australians just last week. He is charged with the responsibility of getting rid of the blight of mandatory sentencing which arbitrarily locks up children, including indigenous children, in this country and does so through political interference with the rights of magistrates and judges to make the sentence fit the crime. We are facing a jailed generation of indigenous people in this country. Mandatory sentencing is but the tip of the iceberg as far as that situation is concerned. If this national parliament, of all parliaments in this country, is charged with the responsibility not just to put things right with the indigenous people of this country but to put indigenous people back in the place of celebration which they deserve as the first Australians, we must begin that process of reconciliation by invoking our obligations to the international community and to our own sense of justice to children and passing this legislation. If the Prime Minister does not defend his own sentiment towards the justice system on this occasion, we will be left with the impression that the Prime Minister is good with words but poor with action.

There is another Burke that I might cite in this, and that is Edmund Burke—far different from the Denis Burke of the Northern Territory government—who said that weakness in government leads to injustice and oppression. The Prime Minister should heed those words because weakness from the prime ministerial office in the year 2000 in failing to address this problem will lead directly to injustice and oppression in the courts, jails and detention centres in Darwin and in Perth. Insofar as the Prime Minister fails to act, what happens in those detention centres from here on is not just a matter of responsibility for the governments in Perth and Darwin; it is his responsibility—it is on his head as well.

There have been moves within government, according to the press, from Mrs Danna Vale in the House of Representatives and others to at least have government action of some sort in this matter. Let me say that I would encourage that. I do not in any way undervalue what it takes for a member of one of the big parties—not least the government party—to act against a prevailing feeling from the prime ministerial office that this issue should be put on the sideboard and forgotten. I commend those people within government who have the courage to respond to this blight of mandatory sentencing in this country. I hope that the debate in the House of Representatives will be as enlightened as the debate here in the Senate. I remain steadfast in advocating that this legislation should pass both houses of parliament. But I would follow up by saying that it would then leave us with the problem of mandatory sentencing for adults. Mandatory sentencing ensnares the majority of young Aboriginal people in the Northern Territory, ensnares them by their hundreds, and is leading to a massive increase in the number of jailed people aged from 17 through to 21. Before mandatory sentencing, Port Keats, for example, a village of 2,500 people in the Northern Territory, was contributing 2.5 per cent of the inmates of detention centres in the Northern Territory. It is now contributing 18 per cent. This is not least because Aboriginal culture has in it an inherent honesty which allows people who commit petty crimes to be so easily detected.

A moment ago Senator Ferguson said, on a personal note to me across the chamber in his deliberations, ‘From your retreat on the River Liffey, I do not imagine there are many offenders.’ In other words, he suggested that I am far away and safe from the impact of being a victim of crime. He picked the wrong example. My house at Liffey has been invaded and burgled on more occasions than I can remember because I am not there often enough. I have had almost every family heirloom I own stolen from the place. On two occasions the police have apprehended people who have had goods—including, most recently, a repeat offender who stole some books. He wanted the books to read about rainforest, matters of natural history, mushrooms and so on, apparently. After he went to jail—

Senator Abetz—About mushrooms?
Senator BROWN—Yes, mushrooms grow in forests, and they are beautiful. You can make light of this. But the fact is that I learnt that he was still interested in them, so I sent the books to him at Risdon Jail to read because therein lies a prescription for some chance of a character recognising that he is valued, despite his past misdemeanours, and that he has other alternatives to life than coming back out and thieving again. So I have been personally affected. I know there are difficulties for victims of crime, but we cannot allow the indigenous people of this country to remain the victims of this crime, which is mandatory sentencing. (Time expired)

Question put:
That this bill be now read a second time.

The Senate divided. [11.27 a.m.]
(The President—Senator the Hon. Margaret Reid)

Ayes............ 34
Noes............ 30
Majority........ 4

AYES
Allison, L.
Bolkus, N.
Brown, B.
Carr, K.
Conroy, S.M.
Crossin, P.M.
Dennan, K.J.*
Forshaw, M.G.
Greig, B.
Hutchins, S.
Ludwig, J.
McKernan, J.
Murphy, S.M.
O’Brien, K.
Ridgeway, A.
Sherry, N.
West, S.M.

Bartlett, A.
Bourke, V.W.
Campbell, G.
Collins, J.M.A.
Cooney, B.
Crowley, R.A.
Evans, C.V.
Gibbs, B.
Harradine, B.
Lees, M.H.
Mackay, S.
McLucas, J.
Murray, A.
Ray, R.F.
Schacht, C.
Stott Despoja, N.
Woodley, J.

NOES
Aberz, E.
Brownhill, D.G.
Campbell, I.G.
Coonan, H.
Eggleston, A.
Ferguson, A.B.
Harris, L.
Kemp, C.R.
Lightfoot, P.R.
Mason, B.
Minchin, N.H.
Payne, M.A.

Tambling, G.E.
Tierney, J.W.
Vanstone, A.E.

Tchen, T.
Troeth, J.M.
Watson, J.O.W.

PAIRS
Bishop, M.
Cook, P.F.S.
Faulkner, J.P.
Hogg, J.
Landy, K.
Quirke, J.A.

Newman, J.M.
Heffernan, W.
Gibson, B.F.
Hill, R.
Parer, W.R.
Alston, R.K.R.

* denotes teller

Question so resolved in the affirmative.

Bill read a second time.

In Committee

The bill.

Senator HARRADINE (Tasmania) (11.31 a.m.)—I will be moving some amendments to the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999. The amendments address the issue of mandatory sentencing not only of juveniles but also of late-teenage young offenders or young adults. The problem with the bill is that it relies upon the external affairs power. As the committee noted, this would ultimately rely on a judicial interpretation of the external affairs power as to how it would operate in a particular case to support Commonwealth legislation. There is some doubt as to whether the bill would survive the challenge which would undoubtedly be mounted by the Western Australian government, if not by the Northern Territory government.

The key question that I am asking is: why apply this only to children? The people that were down here yesterday from the Northern Territory advised that there is a worse situation in respect of young adults, and that was outlined neatly by the committee. So far as the mandatory sentencing of adults is concerned in the Northern Territory, there is a wide range of property offences. On the first sentencing, the penalty is a minimum of 14 days jail unless the offender can prove ‘exceptional circumstances’. I indicated in my speech in the second reading debate yesterday that those exceptional circumstances are almost impossible to achieve. They are cumulative and in effect discriminate against the most vulnerable, including Aboriginal young
people and those with an intellectual disability. The penalty for the second sentencing is a minimum of 90 days jail, and the penalty for the third and subsequent sentencing is a minimum of 12 months.

If we are going to do the job, we ought to do it properly. It might be said that this would leave Western Australia alone. As has been indicated in the report, the situation in Western Australia is slightly different, but it does have mandatory sentencing. I would suggest that one of the ways to clarify the situation in Western Australia would be for the Commonwealth Attorney-General, at the next earliest possible opportunity where a mandatory sentence has been imposed in Western Australia, to join in an appeal to the full bench of the High Court. It would have to be a full bench, because it would be a constitutional matter. If Kable applied, the argument would be mounted that the Western Australian legislation was such that it reduced public confidence in the integrity of the state courts—the essential principle of Kable being that the protection of public confidence in the integrity of a state court is an essential condition for the maintenance of an integrated judicial system. As a minimum, this is because these courts are invested with and liable to exercise federal jurisdiction. Arguably, public confidence can be affected equally by the conferring of non-judicial functions or the regulation of judicial functions.

We are talking about a state court which under chapter III of the Constitution is able to exercise federal jurisdiction. That situation is rather doubtful so far as the Northern Territory is concerned because, under chapter III, it is not vested with the power to exercise federal jurisdiction. People would say, 'What about the Wynbyne case in 1998 where the late Ron Caston as the QC was advancing a case to seek leave to have a matter referred to the High Court?' On that occasion leave was not granted by the two judges, Haynes and Gaudron, but this question as to whether or not chapter III would apply was canvassed in the transcript as I read it.

In respect of Western Australia, I believe that the full bench of the High Court ought to be given an opportunity to hear arguments and to decide the question. Surely, any such court worthy of its name should not countenance a politically imposed mandatory sentencing regime, because such a regime is an invasion of judiciary power and undermines the independence and integrity of the judiciary. As I indicated yesterday, justice demands that sentencing decisions fit the crime and are purposive and that those decisions are made by magistrates and judges, not by politicians who are unaware of the circumstances of each individual case. That applies to adults as well as to juniors. As I indicated, in the Northern Territory 'adults' means those from 17 years of age and up. Of course, the 17-year-olds will be covered by the current bill but the 18-year-olds, 19-year-olds and 20-year-olds will not. They are just thrown in the slammer without any appeal at all. The judges are shackled. They are unable to do anything about the pre-sentencing reports which might show that jailing these offenders would cause serious damage to the individual and indeed ultimately to society. Even if those reports show that, the judge concerned cannot do anything about it. I feel it is important that this be done. The only certain way to do this is by relying on section 122 of the Constitution, the territories power. There is no doubt that the territories power is able to be exercised by this Commonwealth parliament to overturn legislation of the Northern Territory, provided that is done in a specific way.

I have talked to my amendments as a whole and I assume that will be found to suit the convenience of the committee. In amendment No. 1, I am proposing to omit clauses 3 to 7 and substitute the following clause:

Each Act that is specified in a Schedule to this Act is amended or appealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
My second amendment concerns laws concerning mandatory imprisonment and it states:

The power of the Legislative Assembly conferred by section 6 in relation to the making of laws does not extend to the making of laws creating a mandatory sentence of detention or imprisonment.

2 Application

For the avoidance of doubt, the enactments of the Legislative Assembly contained in Division 3 of Part VI of the Juvenile Justice Act 1995 and section 78A of the Sentencing Act 1995 have no force or effect as laws of the Territory, except as regards the lawfulness or validity of anything done in accordance therewith, before the commencement of this Act.

That was necessary, otherwise, if this got through the parliament, the law would then cover all mandatory sentencing even for a capital offence such as murder. That is another argument to be had another day. But it is relevant that I include that so that we know quite specifically what laws need to be overturned in the interests of a proper, fair system of the administration of the law in the Northern Territory by the Northern Territory courts. I seek leave to move my amendments Nos 1 to 3 together.

Leave granted.

Senator HARRADINE—I move:

(1) Clauses 3 to 7, page 2 (lines 4 to 26), omit the clauses, substitute:

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

(2) Page 2 (after line 26), at the end of the Bill, add:

Schedule 1—Amendment of the Northern Territory (Self-Government) Act 1978

1 After section 50A

Insert:

50B Laws concerning mandatory imprisonment

The power of the Legislative Assembly conferred by section 6 in relation to the making of laws does not extend to the making of laws creating a mandatory sentence of detention or imprisonment.
amendments is that there are very great complexities involved when you move to override mandatory sentencing for adults—aiming to protect, particularly, indigenous 17-, 18- and 19-year-olds—in specifying which crimes you are going to prohibit mandatory sentencing for. We were very well aware of that when we changed the original approach to the one that we now have.

If Senator Harradine’s amendments built upon our bill so that it prohibited mandatory sentencing for adults in the Northern Territory, I would support them. The problem is that his amendments remove the component of the bill before the chamber which prohibits mandatory sentencing which ensnares young people in Western Australia. Moreover, it ensnares, albeit a small number compared to the Northern Territory, Aboriginal youngsters at a rate of 60 to one as against non-Aboriginal youngsters in Western Australia. In other words, the racist impact is even worse than that in the Northern Territory.

On the matter of the bill going through both houses of this parliament and then being challenged in the High Court, I refer to an opinion from Martin Flynn, a lecturer at the Law School at the University of Western Australia in Nedlands. He states:

... there is argument that the WA law does not infringe an international treaty then there is the possibility that the High Court will strike down the Bill as being beyond “external affairs” power in section 51(xxix) Constitution. Certainly, the Parliament can do what it likes to the NT as a result of power conferred by s 122 Constitution.

Mr Flynn goes on to state:

(a) As a result of decisions of the High Court in cases such as the Franklin Dam case (1983) and Polyakhovich (1991) we know that the High Court will ask one question in order to determine the validity of the Bill: “Is there material on which Parliament could reasonably have concluded that the Bill was necessary to meet an obligation arising under a treaty or an obligation arising under customary international law or to meet a matter of international concern?”

(b) the answer to (a) is clearly “yes”. The High Court would have no difficulty in seeing that the text of the Bill reasonably meets an obligation arising from Articles 3, 37 and 40 of CROC or, alternatively, meets a matter of international concern—note that the CROC Committee comments expressing concern about mandatory sentencing are relevant to defining what constitutes an international concern. Whether the High Court itself thinks that the WA law infringes a treaty is not a relevant question. What is relevant is whether the Parliament could reasonably come to the view that the Bill was necessary as a result of an international treaty or absolutely international concern.

That, I submit, is beyond reasonable doubt. This bill, if enacted by the parliament, will have the effect of overriding mandatory sentencing, as far as it applies to children in both the Northern Territory and Western Australia. Conversely, those who argue that it would not should have no worries with the bill. I have heard no legal opinion outside the Western Australian and Northern Territory governments which takes that point of view. The preponderant point of view is as expressed by Mr Flynn. I do not support the amendments, but I do support the sentiment in them. I believe that when this bill passes the parliament we have to move on to look at the awesome problem of the incarceration of young people, not children—in particular indigenous people—especially in the Northern Territory.

Senator BOLKUS (South Australia) (11.52 a.m.)—In rising to speak to Senator Harradine’s amendments, I also indicate that I can understand why the amendments have been moved and Senator Harradine’s motivation. On the one hand, as Senator Brown has indicated, the amendments offer some attraction, in that what Senator Harradine seeks to do is to extend the range of those in the Northern Territory who are protected against mandatory sentencing. As Senator Harradine also indicated, evidence before the committee and put to individual senators over recent days has indicated how hard those who are not juveniles in the Northern Territory are affected by this legislation and how injustice will continue even with the passing of the legislation that has been co-sponsored by Senator Brown, Senator Greig and me. So there is some attractiveness, and that attractiveness is something that I am sure we will have to consider at a future date.
Whereas Senator Harradine’s amendments do try to extend the range, I think the unfortunate thing is that, necessarily, because of his starting point—that is, not to use the external affairs power—his amendments also wind back the operation of this bill. Senator Harradine’s amendments are based on using the territories power and not using the external affairs power. In respect of the use of that external affairs power, the advice that Senator Brown just read out to the Senate is advice consistent with the advice available to and taken by the opposition. Our view is that the external affairs power operates in the manner that has been explained and has progressively been seen to so operate for a good part of 25 years by the highest court in this country.

What we do have here, we believe, is continued injustice but continued injustice in breach of international covenants. The paper from the United Nations just a few days ago is continuing evidence of the relevance of international covenants in this debate and the relevance of such covenants as a basis for the exercise of Commonwealth power in this particular instance. It is important for us to note that the UN stated conclusively:

The matter is a very important one from the human rights perspective and all States should give the principles involved the closest attention in both legislation and practice.

‘States’ of course means UN member states and, in this instance, Australia. The UN has specifically brought to the attention of the government and this parliament articles 37, 39 and 40 of the Convention on the Rights of the Child; articles 9, 11 and 14 of the International Covenant on Civil and Political Rights; article 5 of the International Convention on the Elimination of All Forms of Racial Discrimination; and rules 5, 6, 17, 18 and 19 of the Beijing rules.

Mandatory sentencing was also of concern in terms of breaching articles 37(b) and 37(c) of the Convention on the Rights of the Child. Our concern is that it does so by arbitrarily depriving children of their liberty, failing to use detention as a measure of last resort and failing to take the needs of a particular child into account. So there are a whole range of international covenants which the UN has listed in its reference paper as matters of concern when one is addressing the issue of mandatory sentencing. We think those international issues also should guide the Senate’s outcome in deliberations on this legislation.

The downside obviously is that, if we support Senator Harradine’s amendments, we would be neglecting a real priority concern—that is, young people in Western Australia—and we would continue to be in breach of international obligations. Ideally, in a sense, it would have been good to have had an amalgam of the two bits of legislation. Senator Harradine might argue that it would be inconsistent with what he is trying to do if we were to continue to exercise and seek to exercise the external affairs power. He would possibly argue that we should only use the territories power. But if it was a top-up to the legislation before the parliament and had we had a bit more time to consider it, then that might have been an ideal outcome. As I say, we would have needed a bit more time to consider it. In a sense, it is too late in the day for the Senate to try to work some amalgam out.

In indicating that we will not be supporting the amendments, can I also indicate that the course that Senator Harradine suggests is obviously one available to government and one that some government members are also looking at to find a way through this. In a sense, it probably opens the way for the government to find an alternative if they are so seeking. Indeed, for a Prime Minister who has a long history of rejecting advice from the Senate, probably the worst thing we could do is embrace Senator Harradine’s amendments at this particular instance in the debate and allow the field for the PM to develop in his own way. I would like to think that might happen if the government did not see fit to support the overarching legislation, but my real concern is that this Prime Minister has locked himself into a position against any intervention and that that, for cynical, base political purposes, will lead him to not even embrace the alternative suggested by Senator Harradine.
I think it is important, however, that we continue to focus on those priority areas of young people and that we continue to focus on the need to be in conformity with international obligations. I say to Senator Harradine: you have raised, I think, a gap in the legislation but one that, unfortunately, I do not think we can pick up at this late stage of the debate in the manner in which you suggest.

Senator ABETZ (Tasmania—Parliamentary Secretary to the Minister for Defence) (11.58 a.m.)—I will briefly put the government’s position in relation to Senator Harradine’s proposed amendments. While the government supports the removal of the WA laws from the bill, the government has stated throughout this debate that its concern is for the impact of mandatory detention laws on children. The government has foreshadowed that it does not support this bill.

Mandatory sentencing is, of course, a difficult and complex issue for any government. Given the complexity of the issue, the government intends to give careful consideration to the recommendations in the Senate report in preparation of its response. Unlike others, the government is not interested in grandstanding on this issue. The government is committed to achieving real results and workable solutions to the problem of repeat juvenile offending for the people of Western Australia and the Northern Territory.

The government recognises that the states and territories have a difficult job in dealing with the impact of crime and they have felt it necessary to introduce mandatory sentencing laws in order to deal with repeat offending. These are essential issues for state and territory governments to deal with on the ground, and the government is conscious of the problems they face in balancing the need to curb repeat crime and the community’s concern to protect young people.

This is particularly important where real resolutions to these problems cannot be achieved without action from the state and territory governments. Simply dictating that laws should be removed does nothing to deal with the complex and serious problems which gave rise to the perceived need for mandatory detention laws in the first place. The government is not in the business of merely dictating to the states and territories what their laws should be for the sake of it. The government is considering the Senate report and will give consideration to a response after it has had the opportunity to consider the matter in detail.

Senator GREIG (Western Australia) (12.01 p.m.)—I confess I am sympathetic to much of what Senator Harradine is presenting. It is tempting to want to embrace the notion that we should address mandatory sentencing for both juveniles and adults. But, as Senator Brown pointed out, in the initial spark which led to this point of framing and presenting legislation, there was a cooperative approach which agreed that focusing on juveniles in the first instance was the most urgent and necessary action to take. I can understand that. I was not part of the Senate at that point in time. I understand my colleague Senator Natasha Stott Despoja was representing the Democrats in that particular debate with her passion for youth issues. I think that the cooperative cross-party support that we have had for this bill has been a critical ingredient in its success thus far.

I can understand Senator Harradine’s particular concern with the Northern Territory, and we have example after example of quite horrendous mandatory sentencing applications which continue to this day. I have received yet another list of mandatory sentencing examples which continue to amaze me. I learned only today that, on 17 June last year, a youth was jailed for 28 days for stealing spring water worth $1. I understand Senator Harradine’s point there clearly, but my great fear in this—and I have articulated this repeatedly throughout the speeches and statements I have made through the process of this legislation—is Western Australia. As you know, Mr Temporary Chairman Sherry, I am a Western Australian and I speak as a Western Australian senator, and I know that opposing mandatory sentencing is not a popular position to hold if you are a Western Australian. But it has worried me all
along that there might be some kind of perceived or real fracture in terms of the process or application of this bill as it applies to both the Northern Territory and my home state.

The majority of the committee found quite clearly that, although mandatory sentencing, as it is practised in Western Australia, may not be considered a breach of international treaty obligations, the legislation itself is. It is very clear that the Western Australian legislation, as well as the Northern Territory legislation, is in breach of the Convention on the Rights of the Child. For that reason, I think that utilising the external treaties powers to deal with Western Australia as opposed to section 122 for the Northern Territory is imperative, and I could not support, therefore, any amendment which would diminish the strength and application of this bill as it applied to Western Australia.

In 1993 and 1994, I was involved in the sexual privacy debate as it largely applied to Tasmania at that time. I remember that the gay and lesbian community in Western Australia was very concerned that any federal legislation that might result from that—and that too pivoted on external treaties—must also apply to Western Australia or, to be more accurate, to the whole of the nation. There was a point in that debate at which it was mooted that the federal parliament might go down the path of designing some legislation which applied only to Tasmania and not to Western Australia. I do not know whether that was technically possible, but it was certainly considered in some debates. I remember the fear and anxiety that many of us experienced about that, and I think it is very important that we maintain the strength of unity in this cross-party bill in terms of its application to both the Northern Territory and Western Australia. For that reason, I am not inclined to support Senator Harradine’s amendment.

Senator HARRADINE (Tasmania) (12.05 p.m.)—Are we in a dream world or aren’t we? Are we living in the real life of politics and the understanding of what is going on in this place? Mr Temporary Chairman, you know as well as I do that this legislation will go through here, will go to the House of Representatives and, as it is, will not get through. It does not have a show of getting through. Even if it did get through, there is no doubt that there would be an appeal from the Western Australian government challenging this legislation as it relies on the external affairs powers. Senator Brown suggested that they would not question the use of the external affairs powers. Their actual submission certainly questioned it. That would be the first thing that they would do. But, let us face facts: this legislation is not going to get through the parliament as it is.

Senator Bolkus—Do you reckon yours will?

Senator HARRADINE—Senator Nick Bolkus asks whether I think mine will. The fact of the matter is—and I only heard this a mere hour ago—that the member for Hughes, Danna Vale, as I understand it, is proposing a private member’s bill which relies on the territories power. I am not sure whether she is going to include other mandatory sentencing so far as it applies to adults. I hope she does.

Senator Brown—She is not.

Senator HARRADINE—Isn’t she?

Senator Brown—No.

Senator HARRADINE—Well, when it comes here we can amend it, can’t we? That is a very interesting point that she is not. I do not know whether or not she is, but I think we have to look at what is happening in the Northern Territory and understand that it is all very well to say that my amendment is not covering Western Australia. If the bill is not going to get through, nothing is going to cover Western Australia. What I was proposing was that on the next occasion there is mandatory sentencing for property offences in Western Australia, leave ought to be sought to appeal to the High Court on the grounds that the state courts in Western Australia, under chapter 2, exercise federal jurisdiction. As such, the public confidence in the integrity of the states courts which do exercise such power
must be protected and it is the responsibility of the High Court to ensure that that is done.

I can see what is going to happen. My amendment is going to go down the drain. I feel strongly about this matter. I had hoped that this would have been able to be accepted by this chamber and then go to the House of Representatives to see whether or not people would be able to vote for this. Certainly nobody can deny that, if my amendment is carried, it has far more chance of being adopted by the parliament, in general, than the current bill.

I understand what has been said around the chamber about juveniles and the importance and priority that should be given to juveniles. Of course, my amendment covers the situation so far as the Northern Territory is concerned. But I have had to face reality, and reality indicates quite clearly to me that the legislation as it is at present, unless it is so amended, has absolutely no chance of getting through the parliament as a whole. There is a chance, I believe—I do not know how big the chance is—that if my amendment were carried it could meet with some approval in the House of Representatives by those who are concerned about mandatory sentencing and also by those who are concerned about the underlying scheme of things when it comes to justice.

There are a lot of people who are very, very concerned about the question of separation of powers. Is mandatory sentencing in respect of property offences regarded as an inappropriate intervention in the proper duties of the judiciary? I believe it is, and there is a great deal of concern about that matter. That concern is shared by a number of government colleagues—in fact, I heard one member of the House of Representatives talk on this in the chamber. It was he who was referring to the principle that justice demands that sentencing decisions fit the crime and that it is impossible for members of parliament to determine that there should be mandatory sentencing and determine that in a just way when it comes to individual cases. Of course, members of parliament are not in a position to know all the facts which should surround proper and fair sentencing procedures. I am afraid I face defeat, so I will sit down and allow the matters to go forward.

Senator McKIERNAN (Western Australia) (12.13 p.m.)—Perhaps you will be facing defeat on this particular amendment, but I hope that defeat will be accepted with good grace. Speaking as chair of the committee that conducted the inquiry into the issue of mandatory sentencing, I say to Senator Harradine and to the chamber that the contents of your amendment were something that I exercised my mind over when I was preparing the chair draft report for presentation to the committee for its deliberation to arrive at recommendations to be put to this chamber. It is not that we overlooked the matters you have addressed; we did address them and I addressed them before they went to the committee.

I was in a difficult position, as you would appreciate, coming from Western Australia, where mandatory sentencing applies both to children, persons under 18, and to adults, although the application of the mandatory sentencing laws in Western Australia is much different from in the Northern Territory. That does not make it good law. I quoted in my tabling statement the words of Dr Hughes, the President of the Law Council of Australia, who when he was responding to a question in the committee said that we were ‘comparing bad with bad’ and ‘trying to prioritise badness’.

The other thing that exercised my mind in regard to Western Australia is the law as it applies; the law is on the statute book. Clearly it was the will of the Western Australian parliament when it passed the law with the support, regretfully, of the Australian Labor Party in the Legislative Assembly and Legislative Council that there be mandatory sentencing for juveniles in that state and that the judiciary have no discretion to determine how the sentences be handed down. That law still applies, but what has happened is that the judiciary have exercised a discretion. They have exercised a discretion without the approval of the Western Australian parliament but with the acceptance of the government of Western Australia.
The government has accepted the practice, but the law remains.

If you get a change in the judiciary and a change in the President of the Children’s Court, who is the person who must hand down the sentencing, that new person need not accept the practice that the previous President of the Children’s Court of Western Australia has applied. A new president can come in, and we can end up with a regime that will not be as draconian as applies in the Northern Territory, but nonetheless it will be a very hard regime.

Were we to accept your amendment, Senator Harradine, you are asking me and the rest of my colleagues in this place, but me in particular—and I can only speak for myself—as a senator for Western Australia, to essentially approve bad law as it applies in my state. That was something that exercised my mind in preparing the chair’s draft report. At the end of the day, I had to stand on the principle: bad law is bad law. If it requires the use of the external affairs powers in the case of Western Australia to remove that bad law, then that obligation is upon us to do that. It is for those reasons in particular—and there are some more reasons as well, but I will not delay the process in the chamber—that I have to say that we have to act against both regimes, even though the Northern Territory regime is much more draconian than what applies in Western Australia. Nonetheless, it does not make the bad law in Western Australia a good law. We therefore cannot ignore that and we have to pass the bill as it currently stands.

Senator BROWN (Tasmania) (12.18 p.m.)—I concur with the point of view that Senator McKiernan has just put forward. But the ultimate answer to Senator Harradine’s amendment comes from the prime ministerial office, where this morning the decision has been made to stomp on the move by the member for Hughes to bring in a minimalist piece of legislation to override Northern Territory laws so far as they would save children from being locked up under mandatory sentencing.

The Prime Minister stands indicted for this attitude. This is the Prime Minister who will be remembered for his success in bringing in the GST for the big end of town and for his failure in being even able to stand up for the rights of Aboriginal kids facing jail for taking biscuits. When he takes biscuits to have with his tea, he might remember that those kids are behind bars because they wanted to take biscuits for hunger. There is one prime ministerial dictum for the big end of town and one prime ministerial dictum for the rest of Australia but, in particular, for those who are not advantaged and for the indigenous Australians of this nation.

I would measure a Prime Minister, as any democracy is measured, by the way he or she looks after minorities and, in particular, disadvantaged minorities and especially the children of the nation. This Prime Minister has failed on all counts. This Prime Minister does not add to the dignity of this nation; he steals from it. He does not add to our international reputation; he takes away from it. He can rise to the occasion when the big end of town wants to invoke the World Trade Organisation and international law as far as economics is concerned, but he is a failure when it comes to international law, which we have signed up to, to defend the rights of citizens, including children. These are basic human rights—not in China, Brazil or Iran but here in Australia.

Prime Minister Howard, this nation wants better. Prime Minister Howard, this nation deserves better. Prime Minister Howard, you will be remembered by your attitude to those children being locked up in the Northern Territory and Western Australia. That is the measure, and you are a failure. It is a terrible indictment of his prime ministership that he could not rise to the occasion for a few kids who deserve not to be behind bars.

Remember this: this Prime Minister did vote on the sexual privacy legislation less than a decade ago in this parliament, even though, on that occasion, it involved adults and the law enforcement authorities in Tasmania said that nobody had been indicted for a decade. But now he is in the position of power to do something for children who are being locked up by the dozens, and he
drops his moral code, his ethical code of opposition and says, ‘I wash my hands of it.’ Moreover, he says, ‘I will actively intervene to see they are not protected.’ When there are courageous people within the ranks of the coalition itself who say publicly, ‘We will move to, at least, address the minimalist point of view here to fix it up a bit,’ he stomps on that as well.

It is a sad day for Australia. Let me say this to Senator Harradine. We in this Senate ought not ever take our directions from the executive. We are an elected house of parliament, more democratically elected as far as voting systems are concerned than the other place. We have a duty not only to review the laws coming from the House of Representatives, but to instigate law where the executive through its numbers in the House of Representatives is failing Australians, and that is the case here.

I am proud of this legislation. I am proud of the Labor Party and the Democrats who conjointly host this legislation. I am particularly proud of the position taken by the Labor Party, and I commend them on it. They have a state component of their party in Western Australia that has tried to stop them from standing on the principle that they have in this place in their cohosting of this bill. What a difference between the leadership of Kim Beazley in this matter and failed leadership of John Howard. What a difference! May people remember that when it comes to the next poll in this nation. I will be doing everything I can to help their memory on that occasion.

Senator HARRADINE (Tasmania) (12.24 p.m.)—I do not know why Senator Brown said to me that I should make sure that we should not take our orders from the executive. I have been here for 25 years and I have never taken any instruction or order in my voting here from the executive. I know well that this house is a house of review. I point that out, and respectfully suggest that we get on with the business. I intend to vote for the bill if my amendment fails.

Senator McKIERNAN (Western Australia) (12.25 p.m.)—In response to Senator Brown, my state colleagues in Western Australia made no attempt whatsoever to stop me or, to the best of my knowledge, any other of my colleagues in this place from Western Australia from exercising our own individual views on the bill. I was allowed the privilege—and I would have exercised it in any case—of reviewing the evidence that the committee took during the days of hearings and looked through all of the submissions and evidence given to the committee. There was no coercion or attempted coercion on behalf of any of the colleagues. I did speak to some state colleagues who hold different views on this matter than I, and we respect each other’s views on that. But I did feel it important just to correct the record on that particular point.

Senator Brown—I accept that entirely.

Amendment not agreed to.

Bill reported without amendments; report adopted.

Third Reading

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

GOVERNMENT BUSINESS

Consideration of Legislation

Motion (by Senator Vanstone, at the request of Senator Ian Campbell) agreed to:

That the provisions of paragraphs (5) to (7) of standing order 111 not apply to the following bills, allowing them to be considered during this period of sittings:

- Dairy Industry Adjustment Bill 2000
- Dairy Adjustment Levy (Excise) Bill 2000
- Dairy Adjustment Levy (Customs) Bill 2000
- Dairy Adjustment Levy (General) Bill 2000
- Primary Industries (Excise) Levies (GST Consequential Amendments) Bill 2000
- Taxation Laws Amendment Bill (No. 5) 2000.

OLD PARLIAMENT HOUSE GARDENS

Motion (by Senator Vanstone, at the request of Senator Ian Campbell) agreed to:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority for capital works within the Parliamentary Zone,
being the reconstruction of the Old Parliament House gardens.

**BUSINESS**

**Order of Business**

Motion (by Senator Vanstone) agreed to:

That intervening business be postponed till after consideration of government business order of the day No. 2, Telecommunications (Consumer Protection and Service Standards) Amendment Bill 1999.

**TELECOMMUNICATIONS (CONSUMER PROTECTION AND SERVICE STANDARDS) AMENDMENT BILL 1999**

**Second Reading**

Debate resumed from 17 February, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator MARK BISHOP (Western Australia) (12.29 p.m.)—I wish to make a few points about the Telecommunications (Consumer Protection and Service Standards) Act 1999. I note in passing that the minister is not in the chamber. I have a question to go to the minister in due course. Is Senator Vanstone handling the bill?

The ACTING DEPUTY PRESIDENT (Senator Sherry)—Senator Vanstone can handle the bill until the appropriate minister arrives, if that is going to be the case. You can proceed, Senator Bishop.

Senator MARK BISHOP—The second reading speech identifies a bill about minor administrative amendments to the Telecommunications (Consumer Protection and Service Standards) Act 1999. Those amendments go only to the facilitation of collection of the national relay service levy and subsequent payment to the national relay service provider. The opposition do not oppose those amendments. We did not oppose them in the House; they went through in one or two minutes. We do not oppose those relatively minor administrative amendments in this bill.

A series of amendments were circulated by the Australian Democrats last Thursday in the chamber. Those amendments go to the issue of phone sex, an issue being whether you have opting in to phone sex provisions or opting out of phone sex provisions. The amendments circulated by the Democrats last week and shortly to be the subject of discussion were very similar but not identical to, as I understand it, amendments put and lost by the opposition in discussion of the Telecommunications (Consumer Protection and Service Standards) Act when as a bill it was before the chamber towards the end of June last year. Those amendments then put by the opposition provided for a different form of opting in for those consumers who wish to avail themselves of phone sex services, and the amendments circulated and put by the opposition last year essentially followed a path of public policy requirements, delegating an authority of government to develop appropriate regulations if consumers choose to opt in to phone sex services offered by various providers around Australia.

As I said, there was a both intensive and extensive discussion of that particular issue whilst we were discussing the series of Telstra 2 privatisation bills. The opposition forcefully argued at that stage for its amendments. They were put and were eventually defeated. The amendments were defeated on the voices because, when the vote was called, the Democrats, through their representative at the time, chose not to participate in the decision or did not vote. Consequently, the amendments put by the ALP at that stage were lost. The Democrats, somewhat after the event—the following day, from memory—indicated that they did not think that the call of the chair at that stage had been correct and they sought to reopen that debate through the Senator Margetts, who was a senator in this place at that time. The ALP took the attitude that the requirements of the chamber were that, if you were to reopen a debate which had been resolved, there had to be a substantial reason for reopening the debate. We invited both the Democrats and the Greens at that time to put their reasons publicly on the record as to why the debate should be reopened and the vote recommitted. The representatives of neither party put any reason at all as to why the debate should be re-
opened—simply saying that they had, as I recall, missed the vote and wanted to have another chance. We were of the view that that was not an adequate reason for reopening the issue, and the vote did not proceed any further. Accordingly, the original vote stood, the bill was passed in both houses as required, became an act of parliament, was proclaimed and is in operation.

Coming now to the amendments that have been circulated by the Democrats, as I said, they were substantially similar to the amendments we put last time, voted for and lost when the vote was called. When the shadow spokesperson for communications, Mr Smith, was contacted by a representative of the minister’s office some time in the last week or fortnight, we indicated that the bill then circulated went to minor administrative matters. We were of the view that it was of no great consequence; we were not opposed to the material contained in the bill as tabled by the government. We indicated to government that we were quite prepared to treat the bill as non-controversial legislation. The first we became aware that there were any matters in dispute was when the Democrat amendments were tabled in the chamber late last week or earlier this week. My office was not contacted and advised in any way that the Democrats would be circulating amendments, and Mr Smith’s office has advised me that his office or staff were not contacted in any way as to the purpose of the Democrat amendments. So when they were tabled in this place, it came out of the blue to us. Accordingly, it having been scheduled as non-controversial legislation and being the subject of dispute, necessarily the government had to adjourn the bill into government business for consideration.

That is a bit of the background. What I want to ask the minister or the minister’s representative is: if the Democrats proceed with their amendments to the bill that are on phone sex, will the government be supporting those amendments? If the government supports those amendments as circulated by the Democrats, the amendments will get up, presumably go down to the other place and get up there. If the government opposes those amendments, that means two things can occur. The opposition can vote with the Democrats, and the amendments would get up. If that is the case, they would then be returned to the upper house in the face of opposition by government, would be overturned or rejected in the House and sent back to the Senate for further consideration. The opposition is of the view that such a course of action would be a waste of time, a waste of public money and achieve no purpose at all. So I ask the minister: will the government be opposing the Democrat amendments? If the government indicates that it consents to the Democrat amendments, the opposition will go along with that. If the government opposes the Democrat amendments, the opposition will maintain the commitment it gave to treating the bill as non-controversial and will also oppose the amendments.

Senator HOGG (Queensland) (12.37 p.m.)—I rise to just very briefly speak to the Telecommunications (Consumer Protection and Service Standards) Amendment Bill 1999. I note that the bill is in respect of the National Relay Service for those who are deaf or hearing or speech impaired and have problems with access to standard telephone services. The second reading speech and the explanatory memorandum leave a few questions that I need answered. It may well be that the minister in responding in this second reading debate can answer those questions for me. I understand that the changes under this bill are simple changes in terms of the administration of the levy that is raised. The questions are simply: what will be the effect on the current service standards to the consumers of the National Relay Service? Is there any noticeable or discernible change or effect on the current standards? What guarantees are there that these arrangements will not have to be altered again? And, have the current accounting payment difficulties had any impact on service delivery? It would be handy if those could be answered by the minister rather than at some later stage in the debate. They are not difficult questions to answer.

Senator ALLISON (Victoria) (12.39 p.m.)—The Australian Democrats support
the provisions of the Telecommunications (Consumer Protection and Service Standards) Amendment Bill 1999 to the extent that they adjust the timetable for payment by the Commonwealth to the provider of the National Relay Service and the timetable for carriers to pay the levy to the Australian Communications Authority.

This bill was to be dealt with as non-controversial last Thursday. I withdrew my support for the bill being dealt with as non-controversial because I wanted to take the opportunity to correct a significant problem which has arisen as a result of the existing regime in relation to adult telephone services. Under part 9A of the Telecommunications (Consumer Protection and Service Standards) Act 1999 a person wishing to use an adult telephone service must enter into a written agreement with the adult telephone service provider and be issued with a personal identification number. This regime is colloquially referred to as an opt-in service, because the service may not be provided to a person unless they opt in by entering a written agreement.

I want to say, yet again, that the Australian Democrats support the classification of material that the community, quite rightly, sees as being in a category that should be restricted. We do not support the untramelled access of children to adult telephone services, but we do support the freedom of access of adult aged people to non-violent material at their own discretion.

Senators will recall that the last time we debated these matters the political landscape in this country was rather different. Senator Harradine and former Senator Colston held the effective balance of power. The result of the government’s attempt to appeal to the views of some in this place has been, in a word, a ‘mess’. But it has also impacted on the personal privacy and liberty of ordinary Australians. As the Senate will recall, a guillotine was applied in the closing hours of this debate, a guillotine which we attempted to revisit the following morning when it was revealed that the actual intention of the Senate was not reflected in the vote the night before. A small window of opportunity meant that a division was not called. The Australian Democrats asserted then, as we do now, that the true intention of the Senate was not reflected. When former Senator Margetts attempted to move a suspension of standing orders the following morning, Senator Harradine denied leave to have the vote recommitted.

What has happened since these laws were enacted? I am informed that the carriers are having great difficulty implementing the part 9A regime. Cable and Wireless Optus has decided not to provide the 1900 opt-in adult service. Optus announced a few days ago:

Due to the current regulatory environment surrounding the Australian 1900 premium rate industry (regarding restricted access to adult services) the financial viability of the product cannot be maintained. As a result, the InfoAccess 1900 product will be decommissioned as at 1 June 2000.

The consequence is a monopoly for Telstra, which is of great concern to the service providers. This legislation now affects a far broader section of the community and business than was first anticipated. Without the traffic that the adult material provides, the Optus 1900 premium rates service as a whole is no longer viable. Telstra has advised that less than 10 customers have completed the opt-in application. From 1.5 million callers to less than 10 effectively wipes out a complete industry. We have always suspected that this was the intention of the legislation, and I think now we have the proof, despite the assertion of Senator Alston, who at the time of this debate last year said:

The arrangements do not have the purpose of closing down the telephone sex industry or preventing adults from using these services.

Compounding this, only Telstra customers are now able to apply for access to the services. So much for competition, I think we might say. But this was never really about protecting children. Nor was it ever about effective regulation. This was about the appeasement of a senator who was, I think, driven by ideological reasons. If we need any further illustration of these matters, we just need to refer to the private video watching by members of the National
Party for the sole purpose of raising hysteria about what adult Australians should have the right to do in private in a democratic society.

The adult telephone service industry employs in the order of 3,000 people, and I understand they are mostly women. There are sensible options for achieving a balanced outcome in terms of keeping children off adult phone services, protecting jobs and allowing adults to choose whether to use the services. The amendments that I will move today when we reach the committee stage are identical to those that I moved in May last year. These amendments support the freedom of expression of Australian citizens. They allow for the education of telephone account holders so that they can choose what they and their households may access. These amendments protect access choice rights of telecommunications consumers.

Debate interrupted.

MATTERS OF PUBLIC INTEREST

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

Medical Defence Insurance

Senator EGGLESTON (Western Australia) (12.45 p.m.)—Today I would like to talk about the so-called crisis in medical defence insurance as it affects medical practitioners and the reasons for it. Because this will take me some time, in a subsequent speech I intend to propose a solution to this problem. Over the past decade medical practitioners across the country have had to contend with marked increases in their professional indemnity fees, with those providing specialist services, such as obstetrics, being particularly hard hit. This is demonstrated by a comparison of the subscription rates of procedural GPs—that is, those GPs providing services such as obstetrics and plastic surgery—and non-procedural GPs who are members of United Medical Protection, which represents some 70 per cent of all medical practitioners in the country. In 1984, UMP’s subscription rates were $300 for both procedural and non-procedural GPs. By 1994—a decade later— in contrast the rates for procedural GPs had increased to $4,050, whereas those for non-procedural GPs were only $1,450. By 1999—the most recent year that figures are available—subscription rates for procedural GPs had risen to $9,796 per annum and the rates for non-procedural GPs were $2,375 per annum.

In the case of specialists in obstetrics and gynaecology there is something of a variation across the states, but the fees paid by these specialists for medical insurance are very high. In Victoria, for instance, the Medical Indemnity Protection Society has increased fees for obstetricians and gynaecologists from $9,900 per annum in 1994-95 to $27,000 per annum in 1999-2000. Furthermore, the MIPS has recently made a call on its members, resulting in the doubling of the fees payable for this year to $54,000 for each obstetrician taking insurance with them—a very high sum indeed. A number of factors are feeding this growth in medical indemnity insurance. Medical negligence litigation is the most commonly perceived reason for the increases. Indeed, burgeoning medical litigation is commonly cited by the medical defence organisations as a major, if not the major, contributing factor to the increase in their subscription fees. The general perception, fed by the media, is that the profession is experiencing a crisis in litigation. A 1998 survey by the Medical Defence Union indicated that nine in 10 Australian doctors are afraid of being sued by patients. Although, anecdotally, medical negligence litigation is increasing, in fact there is little hard evidence of a crisis.

The 1995 Tito report found no evidence of a claimed ‘litigation explosion’ and noted the lack of publicly available data which would have sustained this conclusion. Similarly, a 1997 report by the Victorian Law Reform Committee concluded that a number of high profile cases, particularly in New South Wales, had led to a widespread belief that there was a crisis in medical negligence litigation when, in fact, there was not. The recent Senate Community Affairs References Committee report, entitled Rocking the cradle, found that the existing
publicly available data did not provide enough evidence from which to draw conclusions about the existence or otherwise of a litigation crisis. The committee went on to find that data from the County Court of Victoria, while relatively limited—being from one court in one state only—provided some support for the assertion that, overall, an increasing number of cases are being brought against doctors, though the number of cases remains relatively low.

A vast number of patients who have at least a potential action against their doctors choose to do nothing at all. Indeed, studies in the United States, which is often cited as a litigious nation, have established that only 10 per cent of the occurrences which might give rise to a claim have led to proposed or actual litigation against doctors. In addition, many threatened actions do not get to the first stage in litigation and many that are issued are abandoned. Of those actions which do make it to court, on most occasions the doctor is the successful party. As for the damages awarded in medical litigation, contrary to the impression given by the media it is only a very small number of cases that attract a massive damages award.

As previously noted, obstetrics and gynaecology are specialities that have borne the brunt of increases in medical indemnity subscription fees. The perception has been that this has been due to a rapidly increasing number of successful claims. However, a more accurate analysis is that the number of claims have remained the same or have increased only slightly but the awards of damages have increased substantially. This is especially the case in a field such as obstetrics, where a doctor’s negligence or lack of concern can have lifelong implications for the child, particularly where he or she is neurologically impaired or severely injured, and this is reflected in the quantum of damages awarded in these cases. A major factor in this burgeoning of the quantum of damages is the cost of future care and increases in life expectancy.

United Medical Protection claims that in the area of obstetrics:

Judgements involving severe personal injuries have increased from around the $1.5 - 2 million range early in the decade to a range of $7 to 12 million in the past two years.

This has meant that, while obstetricians comprise only two per cent of the medical defence organisations’ membership, 25 per cent of all claim costs can be attributed to this specialty. This situation is exemplified by the tragic case of Lipovac v. Black involving a GP rather than a specialist obstetrician. Due to a doctor’s negligence the plaintiff suffered profound brain damage. As a result, he has been left with the intellectual capacity of a 3-year-old, exhibits profoundly disturbed behaviour and has to be fed through a feeding tube. It means, for example, that the morning feed can take from 2½ to three hours. Tom’s condition is such that he is incapable of looking after himself and consequently requires 24-hour supervision.

Damages were awarded on the assumption that Tom had a life expectancy of 60 years. He was awarded total damages of $7,364,345, but the future care component of this was $3,896,807. Nearly $4 million was allocated to future care. This represents more than 50 per cent of the total award. In other words, the future care component of the damages which were awarded to this person more than doubled the total cost of the damages awarded. When seen in their proper context, such large awards are perhaps not necessarily excessive in terms of the future care component. Given this person’s condition and need of constant care, it is entirely possible that, rather than being excessive, the award might be exhausted some time before this individual dies. The future care component has greatly increased these damages awards.

The second factor in the dramatically increased subscription fees of medical defence organisations is the decline of cross-subsidisation. Previously, all doctors were charged the same subscription fee by their medical defence organisations, regardless of their area of practice. This meant that those doctors in the lower risk areas of medicine were in effect subsidising those in higher risk specialties. The Chairman of the United Medical Protection society, Dr Richard Tijong, has himself said that this has been a
relevant factor. He said, ‘Subscription fees have gone up because we’ve differentiated them.’ Different levels of fees are now being charged for people in different specialities. People in high risk specialties have to pay a higher subscription rate than people in lower risk areas of medicine.

The third reason medical indemnity subscription fees have risen so dramatically is that there has been a need to fund the long-term liabilities of the medical defence organisations, which have been largely under-funded in the past. Medical defence organisations in Australia offer ‘claims incurred’ cover. Under this form of cover, a doctor is indemnified against ‘any claim which arises from an incident which occurred’ while she or he was a member of the medical defence organisation. That means that, many years after the doctor has ceased to practice or after the incident occurred, an individual can take out a claim against a medical practitioner, and the medical defence organisation which they belonged to at the time is required to meet the damages bill, which may be very high indeed. This means that the medical defence organisations have needed to build up their financial reserves to provide sufficient funds to meet damages, which may be awarded many years after an incident occurs.

As the Senate Community Affairs References Committee stated in its report, ‘catch-up’ in terms of providing funding for reserves has played a big part in the rises in medical defence organisation premiums in the late 1980s to the 1990s. The Senate report stated that, over the preceding years, there has been a gradual increase in the number of negligence claims, which were largely underfunded by medical defence organisations. They added that, while the incidence and cost of claims rose, the contribution rates remained low.

Despite the extremely large increases in medical defence organisation subscriptions, unfortunately the level of reserves in these organisations remains of great concern. Unfortunately, the 1995 professional indemnity review considered that these reserves were quite seriously insufficient to meet likely demands in the future. Given all of these factors, the upward trend of subscription rates for medical defence fees looks likely to continue unabated. This has significant implications for medical practice around this country and is a major factor, for example, in general practitioners withdrawing from the provision of obstetric services in country areas or withdrawing from surgery and other procedures. (Time expired)

**Rural and Regional Australia: Unemployment**

**Senator FORSHAW (New South Wales)**

(1.00 p.m.)—Over recent weeks, indeed months, there has been a heightened focus upon rural and regional issues. There has been an increasing call from right across the country for this government, the federal government, to devote more resources, more attention to the needs of rural and regional communities. That call is, of course, not surprising given the record of this government since it came to office in 1996. I want to make some comments about that record in a moment, because it is a shameful one.

At the outset let me draw attention to the fact that the Prime Minister and some of his ministers have only recently discovered that rural and regional Australia is actually important, but to them it is important, it would appear, only in a political context. The Prime Minister, no doubt alerted to this fact by the opinion poll, donned his Akubra a few weeks back and set out on a highly organised tour of so-called rural New South Wales. When you look at the itinerary he undertook and the groups he met with, it is clear there was very little focus upon the real problems facing many rural communities in my home state of New South Wales and, of course, reflected in other states.

I find it rather strange that the Prime Minister was able to visit a town like Coffs Harbour and there attend a dinner which cost $100 a head—no doubt a fundraiser, but this was billed as an opportunity for the local community to meet the Prime Minister.

**Senator Mackay**—Is that right?

**Senator FORSHAW**—Yes; but if you wanted to meet the Prime Minister in Coffs
Harbour in what will be the marginal seat of Cowper at the next election, the only real chance you had was to purchase a ticket to this dinner. It is outrageous that what was trumpeted as the Prime Minister getting out there and meeting people in the bush and trying to understand their problems, really was in some respects a fundraising drive.

Let me turn to this government’s record with respect to rural and regional Australia. Numerous reports presented to this parliament both in the Senate and in the House of Representatives over the past few years have documented the dramatic decline in services, opportunities and confidence outside the major cities and provincial towns of this country. In a number of those reports, members of the government parties have equally expressed their concerns. So this is not just a view expressed by the opposition. I will come to a couple of those reports in a moment.

What was the first thing this government did when they came to office? Some people have probably forgotten by now. Certainly the Prime Minister and his cabinet ministers have obviously forgotten. They abolished the Office of Regional Development. That shows how much concern they had for regional Australia. They abolished the one discrete department that had been established to particularly focus upon the issues of regional Australia. Over the past four years this government has, for instance, slashed 32,000 jobs in the public sector. Members of the government think that if you cut the public sector continuously that is bringing in efficiency. The problem is, as we have seen—particularly in rural and regional Australia, where many towns need the presence of government services and government offices or agencies—the devastating effect that can occur when you cut jobs and close services and offices. They have shed at least 30,000 jobs in Telstra and the reports are that there will be at least another 13,000 to 16,000 to go. They cannot tell us where they will go, but it is quite clear that the bulk of those jobs will disappear in rural and regional Australia.

They have closed CES offices, Medicare offices, taxation offices. They set up Employment National as part of their restructuring of the employment service provided by government. They established some offices around Australia but within the space of less than a year they have closed a number of those offices. I was on the north coast of New South Wales only a couple of weeks ago. I went to the Employment National offices in Casino and Lismore, two major country towns, and there were signs on the doors that said ‘This office will be closed at the end of this week’. The office in Casino had been established only a few months previously. Staff had been made redundant.

You talk to some of those staff, as I have done, and they will say this was obviously a set-up from the start, that the government was never serious about ensuring that Employment National would be able to continue to deliver the much-needed service for people in rural and regional areas—people that are not able to be accessed by the private sector employment agencies that exist in the major cities, people who need in many cases special assistance, people who have to travel long distances just to have an interview with respect to job placement. Those offices have been closed. This government has stood idly by while banks have continued to shut down their branches in many regional centres and it has stood idly by while petrol prices have soared. This government cut $2.1 billion from valuable labour market programs.

This is not just the opposition speaking. If you look at two of the most respected organisations in this country, they back this up. The Australian Local Government Association has recently called for signature increases in regional road funding in the next federal budget. The Australian Council of Social Services in its budget submission this year has called on the government to appropriate more money to rural and regional areas. In its view, more than $700 million needs to be devoted to public transport, schools, telecommunications and hospitals for Australians living in rural and regional areas.

If we turn to the issue of employment, which I have already touched upon, this government boasts about its improvement
in the unemployment figures. If you go out there into the bush, you will find out what the real story is. Long-term unemployment particularly is still bad and is getting worse; it is a major crisis in this country in regional and rural areas. More than 220 areas throughout Australia now have unemployment rates above 10 per cent. In recent times, as part of my responsibility as a senator from New South Wales, I have visited some areas on the North Coast. In Nambucca, the unemployment rate is 14.9 per cent; in Bellingen, it is 13.6 per cent; and in Kempsey it is 12.6 per cent. In the Tweed area, the holiday coast for many people who live in the cities, the unemployment rate is 11.8 per cent. In Byron Bay, it is a shameful 20 per cent. The government has done little to help reduce unemployment in the regions. Its only approach was to abolish the labour market programs which were so successful in these areas, such as LEAP and the new work opportunities program, and to put in their place work for the dole schemes.

Last month Kim Beazley, the Leader of the Opposition, launched Labor’s Work Force 2010 and announced several policies which an ALP government would implement. That included key initiatives such as the establishment of a national work force forecasting council to monitor the job market and the nature of the work force. This proposal has been applauded by the National Farmers Federation. The NFF, as I know and as we all know, has never been a strong supporter of the Labor Party, yet it put out a news release on 23 February headed ‘NFF welcomes ALP focus on skills’. Under that policy, Labor will establish a national work force skills profile to identify the future skills needs of regional and industry work forces. Labor under that policy will introduce targeted training and retraining programs and it will put in place employment services necessary to deliver particularly in respect of the knowledge nation. As I said, it is a policy document, a program for the future, welcomed by the NFF. Of course, the NFF, like country Australia, has lost faith in this government. It has particularly lost faith with the National Party.

Senator Boswell—Yeah? That’s not what Ian Donges tells me.

Senator FORSHAW—Very much so. You only have to look at the representation of the National Party in this chamber. The once great Country Party that stood up for country people many years ago under Doug Anthony and others is reduced to a rump.

Senator Woodley—Don’t forget Black Jack.

Senator FORSHAW—Black Jack McEwen—reduced to a rump.

Senator Boswell—Earle Page.

Senator FORSHAW—You’ve got to draw the line somewhere. You will mention Artie Fadden in a minute; let’s not go back that far. But look at the state government election results in New South Wales, Queensland and Victoria in only the last 12 months. What has happened? In each of those states the people have resoundingly rejected the coalition and particularly the National Party in the bush. They have no faith anymore in this government and in particular the National Party.

Senator Woodley—They still vote for my mate Bob Katter.

Senator FORSHAW—Maybe the reason they vote for Bob Katter is that Bob Katter actually gets up on his feet occasionally and tells it like it is with respect to this government. Education is another area where this government has dramatically reduced the opportunities for people in rural and regional Australia. The government has cut over $170 million from regional and rural universities during its period in office in only a short four years. It has slashed TAFE funding by more than $240 million. It abolished the merit-based equity scholarship scheme, which assisted disadvantaged students, particularly disadvantaged rural students. In fact, this minister for education, Dr Kemp, really believes that there should not be regional universities; that the Southern Cross University in Lismore or in Coffs Harbour really should not exist.

I had the opportunity only two weeks ago of visiting Southern Cross University at Lismore and I know first-hand how important that university is to that region, not just
for the students, but also to the community. It provides employment opportunities. It assists business because of the fact that people are employed there and there are students attending there. Those students do not have to leave their home town to go to Sydney or Melbourne or wherever it is in the cities to attend universities. They can attend a first-rate university in their local region. The other thing that I was particularly pleased to see while I was there was that that university provides a specialist department in studying indigenous affairs. It leads the way in Australia in that respect, which is vitally important in an area where there is a significant indigenous population.

I want to come to two recent reports, one of the Senate called Riding the waves of change: An investigation into national competition policy and the other a report of the House of Representatives released yesterday, Time running out: Shaping regional Australia’s future. My time has unfortunately run out today, but I will get another opportunity to address these reports. I hope that the people of rural Australia will get an opportunity to pass judgment on this government’s lack of concern for rural and regional Australia when we next have a federal election.

**East End Mine Action Group**

Senator WOODLEY (Queensland) (1.14 p.m.)—I am happy to follow Senator Forshaw and to hear his concern for rural Australia, because I want to raise another issue that not only concerns rural Australia today but is in fact part of the reason why I am in politics. If I can very quickly tell you a little story about this, back in 1975 I was a Methodist minister in Gladstone in Central Queensland. I had a very multicultural and multidenominational congregation of people at Mount Larcom in Central Queensland. I had a very vibrant and lively congregation made up mainly of dairy farmers. Various clergy from different churches visited Mount Larcom each Sunday and we would in turn take the services there.

Then in 1974 and 1975 a disaster hit Mount Larcom in the shape of a mining company that decided that, because it was able to have access to the state government beyond anything that the farmers were able to achieve, it would therefore use its power in order to either bully or buy out the dairy farmers in that area. Unfortunately, the farmers were not compliant and they formed a group to fight eviction from their farms. I got involved in that whole issue. As a matter of fact, I suppose that was one of my baptisms in the whole area of politics, as I learnt as a minister of religion how politics can actually interfere with running a church, because in the end what happened to that little congregation is that the tensions within the community also were reflected in the congregation and it was very—

Senator Boswell—You shouldn’t mix politics with religion.

Senator WOODLEY—Senator Boswell, as I have tried to tell you many times, they mix all the time. Anyway, that little congregation was split in half and it was a tragedy because their lives had been—

Senator Boswell—That is exactly what I’m saying.

Senator WOODLEY—I was not going to pick on the National Party in Queensland or say very much about them, but if you provoke me, Senator Boswell, I will.

Senator Boswell—Oh, please don’t.

Senator WOODLEY—All right, I won’t then. This group was told they could go to the mining warden’s court. They went there after raising a large sum of money to hire a barrister. They were very ably defended in the mining warden’s court, because I attended for the five days of the hearing. At the end of the proceedings they were told the judgment would be reserved and they would be advised in due course.

Unfortunately, a day before the mining warden could hand down his report, the government said, ‘The Mining Warden’s Court only gives advice to the government, there will be no report released, we are going to issue the mining licences.’ Those farmers, although they had spent a lot of their own money and although they had tried to follow all the procedures, were denied any justice at all. So Queensland Ce-
ment and Lime moved in and began to operate in that area.

One of the farmers’ concerns was that they would lose their water. The company was quarrying for limestone and, of course, limestone, as senators know, can fracture very easily when it is affected by machinery or exposed and they were concerned they would lose their underground water supply. They were given assurances that would not happen and were told it would be monitored and so on, but unfortunately that did not happen.

I come to today, the year 2000. Some of those farmers still exist and are still fighting to get justice in that area. I am going to read some of the information they sent to me because I think it tells its own story. We jump from 1979 to February 2000. This is what they say to me:

What possible motivation could there be for 60 otherwise staid and conservative members of a community to band together and remain in dispute with a foreign owned multinational company ... and various government departments from 1995 to the present and beyond? Why tilt at windmills and perpetuate conflict?

What are the rational explanations, the origins and causes that drive this community despite emotional and financial stress, to resist the subtle and overt pressures, to persist against the odds in pursuit of their ideals and the expression of democracy in the resolution/management of a seemingly intractable dispute?

The group is now called the East End Mine Action Group. It is a group of mainly farmers. What I want to do is to give a little bit of their story so that at least this chamber of all the parliaments in Australia may know something of the struggle they have endured.

A cursory examination of this dispute might suggest a 20-year discharge of ground water as waste from the QCL East End limestone mine embodies the dispute. Upon closer examination, it can be shown the Franchise Act of 31 July 1997 between QCL and the Queensland government and the financial involvement of the government through its agency, the State Government Insurance Office, led to company complacency and a disincentive among regulating authorities to act. QCL failed to assess the water monitoring data or produce reports from 1980 right through to 1995 as required by law. This abrogation of environmental responsibility at a time when the government owned 22 per cent of the consortium, financed loans for 25 per cent of the project and legislated a 10-year contract for sole government supply of cement, resulted in entrenched water depletion on a regional scale.

The government’s investment in the consortium ceased in 1990 when Holderbank bought out and delisted the company. Holderbank received Federal Investment Review Board approval, presumably without providing an environmental assessment, and it continued at intervals to purchase land with FIRB and federal environmental department clearance without apparent assessment of environmental standards or socioeconomic impacts. That the community had to ask for an evaluation of water monitoring data in May 1995 and provide the motivation for the issue to be placed upon the agenda is a damning indictment of the company, the administrative process and the performance of regulating authorities.

To reassure Senator Boswell, we are talking about two governments of different complexions. The executive decision of government to phase out QCL’s leases for dredging of coral in Moreton Bay resulted in a fast-tracked and flawed IAS for the 1995 QCL Gladstone project. That created new frictions and fuelled existing inequality.

The EEMAG, East End Mine Action Group, published the report reproduced from authentic documents which seek to verify through letters, document, technical reports and FOI material how the Queensland government’s inappropriate investment strategy and administrative neglect led to a subsequent conspiracy within, and between, government departments and others who sought to absolve themselves from a failed duty of care by minimising recognition of impacts and insulating the company against landholder claims.
The EEMAG contend that government and its hopelessly compromised departments have, in their undignified scramble to avoid liability, knowingly sought to deny the community natural justice and bring about a closure through a series of biased interpretations and benchmarks based on false premises. The East End Mine Action Group contend that government, in its own interest, remains indifferent to the community’s welfare and, if the present benchmark of assessment of community entitlements prevails, the community will remain permanently disenfranchised.

This dispute is about much more than water. It is about good quality agricultural land and this land has been assessed as having that value. It is about restricted areas; much of the combined districts of East End, Bracewell, Hut Creek and Cedar Vale are affected by government imposed restricted areas.

The DME states the purpose of these restricted areas is to prevent mining leases or exploration activity. These government imposed constraints may be deterring QCL from purchasing properties they have impacted upon because the company has no mandate to mine. Thus, an option to resolve the conflict by buyout and leaseback on a district basis has been denied. It is about land tenure impacts. It is about declining property values. All of these problems have placed the farmers at East End in the Mount Larcom area.

This issue has gone on for many years. It has never been resolved. The farmers have never had an opportunity to present their case properly. When they did so in the mining warden’s court they were denied any kind of natural or procedural justice. After all this time, they continue to ask that their issue be one that will be taken up.

So in this place, at least, I have put some of the story on the record and, as time permits in the future, I will put more of the story on the record. The East End Mine Action Group believe that the patronage afforded to Queensland Cement and Lime, the administrative neglect, the severe environmental harm, the socioeconomic impact and the insulation of the company against claims constitute grounds for a public inquiry, and I agree with them.

**Rural and Regional Australia: Telecommunications**

Senator TIERNEY (New South Wales) (1.27 a.m.)—I have made a series of speeches addressing the challenges of, and seeking solutions to, the problems in rural and regional Australia. Given the current interests in rural and regional services it is quite timely to bring forward the matter I want to discuss today relating to communication technologies in the bush.

In my last speech I concentrated on the banks and, given some of the things that have happened in the last week or so, I am actually tempted to continue my remarks on that but I will restrain myself at this stage because I want to speak about telecommunications services that are provided to rural and regional Australia.

Of course, with the development of optic fibre in the last 10 years we have tremendous potential in terms of what can be done in telecommunications, with not only telephones but also computers, interactive TV, videos—the range and types of services are seemingly limitless. It creates great potential for our regional and rural areas, which have been fighting the problem of tyranny of distance since European settlement in this country. With this new technology there are opportunities for jobs to be created and developed in the bush; for new businesses to be established with the potential to thrive, working on markets that are not only Australia-wide but also worldwide, at the click of a button. There is the opportunity for people to work from home, and those homes in regional and rural Australia have a wide range of services that makes living out in country areas a lot more pleasant and a lot more in line with what happens in the rest of Australia—things like banking from home, shopping from home, telecommuting. These are all possibilities with this new technology.

I saw the enormous potential of this in 1994 when I was in the United States in North Carolina. The city of Raleigh-Durham was a classic case of where they
had adopted these technologies and had started, even six years ago—which is a long
time in terms of information technol-
yogy—to move very widely in areas such as
telemedicine and education, exploiting this
technology for the good of the citizens of
their state.

We have the potential here to create a
greater evenness in society, but there is the
risk that you can create greater divisions if
the benefits of this technology are not
spread rapidly enough. There is a danger
that you can have an information rich and
an information poor. Australia is particu-
larly vulnerable to this due to the structure
of its population, with 80 per cent living in
the cities and only 20 per cent outside the
major cities. There is a danger of the cre-
tation of this information underclass. But we
have the technology, if we have the will, to
overcome this.

Looking back on how this developed,
Telstra in the early nineties battled even
then to provide a decent telephone service
to much of rural and regional Australia. I
was speaking in the Senate in 1993 on the
matter of a report that had landed on our
desk from somewhere—off the back of a
truck, I think—which was a confidential
internal Telstra report on the actual level
and standard of services on the telecommu-
nications network in western and south-
west New South Wales. It was a damning
report on the reliability of the service, the
reliability of Telstra in getting repairs done,
and its failure to provide a range of things
that it was supposed to provide. We are
talking about seven years ago.

Telstra has lifted its game enormously
since that time, and with the rollout of optic
fibre and the introduction of digital tele-
phone exchanges we have come a very long
way in a very short time. But as the Prime
Minister told the heads of Telstra earlier this
week, we still have some distance to go,
particularly given the challenge of the high
bandwidth needed for some of the new
technologies that are coming in.

Back in that earlier time in the early
nineties, we saw the potential of that. I re-
member being in the estimates hearings.
Telstra was laying out its plans for im-
provement in the network, how it was going
to roll out the optic fibre, where the digital
exchanges were going to be. Telstra’s map
showed, particularly in my area, the optic
fibre going from Sydney through Newcastle
up to Brisbane and up the coast via Coffs
Harbour and then, sure enough, showed
another line going from Sydney via New-
castle up through Armidale to Brisbane.

When I saw that I thought that all those
centres on the line would obviously be con-
ected. I thought that would be the case. I
mean, it just seemed so logical that if an
optic fibre cable went through Armidale,
people in Armidale would have access to it.
So you can imagine my surprise when I was
up there a few months ago talking to people
at the university and finding out that that
optic fibre pipe actually went through Ar-
midale, but there was no connection. If we
give the analogy of building the railway
network 100 years ago in this country, this
is something like putting a railway line
through the middle of Armidale and not
putting a station there. That would have
been inconceivable at that time. I think it is
inconceivable now that Telstra has not pro-
vided links into country towns that are on
the main route. We can understand the
problems places like Nyngan and Bourke
would have, because they are not on the
main trunk route. But a lot of very large
towns, including Tamworth, Armidale,
Coffs Harbour, Lismore, and Grafton on the
north coast that we would think would be
linked up, but they are not.

There is a particular problem where high
bandwidth is needed in some of those
towns. That was particularly the case with
Armidale. It is certainly the case with
places like Lismore. These places have
universities. They need to attract high qual-
ity staff. Those high quality staff need the
proper bandwidth to get on and do their
research. Then from that research, as is the
case in Lismore, a whole range of new in-
dustries develop that are university based,
university researched, flowing through to
product in the region of what they call Cel-

eral Valley, which is their industrial park,
related to that sort of technology and jobs
springing from that. The mainspring for all
of this is having proper communications, proper bandwidth. That is what they do not have in some of these larger country towns.

Research carried out by the national bandwidth inquiry found in a survey of 232 country towns throughout Australia with populations above 1,000 that they had the communications network that would meet the current requirements and expected demand. That is the case when using faxes, email, sending letters, telephone calls—that sort of technology is catered for fairly well. But what we need to do is build beyond that as quickly as possible.

One of the major problems that we face here in the way Telstra is doing it—and we saw this right back in 1993—is that they will go to the most productive and profitable markets first. So they are likely when they put an optic fibre in between Sydney and Brisbane to be concentrating on Sydney and Brisbane in terms of the link-up and developing their market. That is understandable, as they are the major economic centres. It is just a pity that those along the way at this stage are not quite getting the service that they need.

I believe that within the current legislation they could get this service. The government does not have to change anything, it does not have to change law, for Telstra to put these people on the optic fibre network, the high bandwidth system. It really is a matter of will and priority from Telstra. Telstra has announced a half-yearly profit of over $2 billion—obviously some of that money goes to shareholders and some comes back to the government. That is great, but one wonders whether, like the banks which I was speaking about previously, Telstra’s priorities are a little bit askew in terms of the two things, what they are doing for their shareholders and what they are doing for their customers. I think perhaps it needs a bit of a tweak back in the other direction. Telstra needs to put a higher priority on the customers and, even though it is a little less profitable to work in the smaller country towns, a little more costly per unit, we really should be able to be moving very rapidly towards a universal service where higher bandwidth is available right across the country.

If I can just compare the attitude that is needed with the attitudes that existed 100 years ago on another type of communication service; that is, of course, the postal service. We introduced across this country access to postal services for everyone and with a common stamp cost, so if we send a letter from here to Manuka, which is about three kilometres away, or we send it to Perth, we still pay the same rate. That thinking that drove them 100 years ago was the tyranny of distance that existed in this country at that time and the need for people in rural and regional Australia to get the services that people in cities get on an accessible and equitable basis.

We need companies like Telstra to start applying that same thinking so that across Australia they provide quickly the highest bandwidth possible. If they do that, then in these rural and regional areas, instead of industries struggling to survive, they can get a real shot in the arm with a whole range of new markets that come not only nationally to their doorstep but also internationally. That is the promise of that new information technology and I, like many senators who are based in rural and regional Australia, would urge Telstra to move quickly on this matter.

Rural and Regional Australia: Services

Tasmania: Drought Relief

Senator O’BRIEN (Tasmania) (1.39 p.m.)—The government currently has two big ticket items before it. It is trying to find a way around National Party concerns to enable it to sell off the remaining public shareholding in Telstra. Of course the National Party will cave in on this issue, as it has in the past. I expect that the Democrats will also fall by the wayside eventually after coming to some sort of financial package to provide one-off short-term compensation to a community that really needs long-term adequate telecommunications security.

Once sold, Telstra will obviously focus on the high volume, high profit sectors in urban Australia and that will be at the expense of rural and regional Australia. Not
only will services to regional Australia stagnate or disappear, so will the people who currently provide those services, and that will further depress regional economies. This is now a familiar pattern that has been overseen by this government since it came to office. In fact, Mr Howard and Mr Costello ensured this regional decline got off to a flying start when they came to government in 1996 through an extremely contractionary budget. Regional Australia has still not recovered from that fiscal assault.

The full privatisation of Telstra is a key aspect of the government’s agenda. It wants the sale in place as swiftly as possible. While that is the fact, Telstra has already announced plans to cut some 10,000 jobs from its work force. Full privatisation would see a dramatic growth in job losses, particularly regional job losses.

I wanted to take note of the answer provided in the other place by Mr McGauran to a question from my colleague, Mr Sidebottom, the honourable member for Braddon. Mr Sidebottom actually asked the Deputy Prime Minister, Mr Anderson, whether he could guarantee, given Telstra’s announcement that it planned to cut 10,000 jobs from its work force, that a Telstra call centre in Burnie would not be closed down. Mr McGauran stepped in, it seems, to protect Mr Anderson but in answering the question, he could not provide any assurances that the government would guarantee those jobs in Burnie were protected.

In the last week there has also been considerable debate about the impact on both jobs and services of the proposed merger of the Commonwealth Bank and the Colonial Bank. This merger is of considerable interest to Tasmanians because of the position of both the Commonwealth Bank and the Colonial owned Trust Bank in that state. But the likely outcome of this proposal is that a branch of either bank would be kept open for up to five years. Some of these communities see a future beyond the next five years and all hope that their future will include access to adequate banking services. But it appears that the future will have to be without, in some cases, any bank presence if Mr Murray has his way. Mr Murray’s plan is to globalise, not regionalise, his bank. As I said earlier, I think the Treasurer will let him have his way because for the Treasurer and this government it is the big end of town, the international marketplace, that counts.

The chief executive of the Commonwealth Bank of Australia, David Murray, was quoted in the *Sydney Morning Herald* as saying that banking was now a global business. He was reported as saying that the merger of the Commonwealth Bank and the Colonial was in the national interest and he said that the merger was required to enable the bank to compete in the international marketplace.

In relation to the regional marketplaces in Tasmania and New South Wales, the only commitment Mr Murray could give was that a branch of either bank would be kept open for up to five years. Some of these communities see a future beyond the next five years and all hope that their future will include access to adequate banking services. But it appears that the future will have to be without, in some cases, any bank presence if Mr Murray has his way. Mr Murray’s plan is to globalise, not regionalise, his bank. As I said earlier, I think the Treasurer will let him have his way because for the Treasurer and this government it is the big end of town, the international marketplace, that counts.

The government will engage all the public resources necessary to ensure that this bank merger proceeds quickly and all in the name of increased profit for reduced costs and less jobs. The government’s role in such major corporate moves is that of a facilitator, not a protector, of the public interest. In the eyes of the Prime Minister and his Treasurer, the corporate interest is also the national interest and, therefore, narrow corporate goals are being placed ahead of community needs.

While this government’s attention, resources and effort is being poured into these issues, many important problems in regional Australia continue to be ignored.

Today I want to highlight one of those issues. Farms in the central highlands of Tasmania have been in the grip of drought for three years. The state government first applied for drought exceptional circumstances assistance for that region around the end of 1998. That application was refused by the government because the Federal
Minister for Agriculture considered the supporting rainfall data to be inadequate.

The Tasmanian state government then pursued the claim for assistance based on the more general exceptional circumstances criteria. A submission based on these broader criteria was lodged with the federal minister in August last year. That too was considered to be inadequate and more information was sought.

I pursued the issue further through the estimates hearings in February. I was told that the federal minister had asked the Tasmanian government for yet more information in December last year. I was told there was also a meeting of state and Commonwealth officials and farmers to discuss this application in Hobart on 19 January. I also understand a further submission from the state will be lodged in a day or so. So in sharp contrast to the priorities afforded to bank mergers, the assessment of an application for help for farmers who have been stricken by drought since mid-1997 drags on and on.

Once this further submission or amended submission is lodged, it will then have to go to the National Rural Advisory Council for assessment but it will first have to be vetted by the minister. Rather than refer the Tasmanian submission to the National Rural Advisory Council for independent assessment by properly qualified people at arm’s length from the political process, it will be Mr Truss who will make the decision as to whether or not any independent assessment will proceed.

As I understand the normal process, any application for this type of assistance is first assessed by the National Rural Advisory Council. The council in those circumstances would then make a recommendation to the minister that he may accept or reject.

I would like to illustrate this political flexibility by referring to an application for help from farmers in the north-west of New South Wales and southern Queensland. Their problem was flooding and excessive rainfall in the spring of 1998. The then RASAC found that the application did not meet the exceptional circumstances criteria and recommended to the then minister, Mr Vaile, that approval for help not be granted. Mr Vaile accepted that advice but said in a media release dated 28 May 1999:

While exceptional circumstances is not appropriate, the Federal member for Gwydir, John Anderson, has convinced the government that some assistance is warranted in relieving this hardship and this will be provided by ex gratia payments.

I do not want to comment on the merits of that claim and the decision but I ask the minister to take the same flexible approach to the application from the central highlands of Tasmania as that taken in response to the claim from farmers in Mr Anderson’s electorate. Both groups are entitled to fair treatment. The fact that there has been an assessment of this application by Mr Truss before it is referred to the NRAC also means that at best a decision is months away. While this debate about rainfall percentiles and actual or theoretical pasture growth in the central highlands of Tasmania drags on, the region’s economy continues to deteriorate and, along with it, the fabric of the community itself.

Farmers in the central highlands of Tasmania are now starting to shoot sheep who are badly wasted by the prolonged drought, and they are simply throwing them into pits. Tragically, at least one farmer has taken his own life. These sheep have little value because of their condition and, because of the cost of transporting them for slaughter, sale cannot be justified. Not only has the prolonged drought impacted directly on farmers’ incomes, it has also had a significant impact on the value of properties in the region. I have a copy of a letter written by the Central Highland Council to an officer in the state Department of Primary Industries. The letter relates to the state’s application for exceptional circumstances and is dated 7 March this year. The letter quotes a Westpac branch manager as saying:

No financiers are keen to see properties on the market as their failure to attract buyers because of the drought will devalue all others in the area even further.

According to the letter, advice from a Webster’s Rural Real Estate employee with
some 49 years experience indicates that rural properties in the central highlands are now worth 30 per cent to 40 per cent less than they were before the drought. According to Webster’s real estate—I must say that company is well placed to make such a judgment—this devaluation can be attributed to the drought directly. It is the view of that council that the approaching winter is shaping up to be worse than all others. There is no sign of autumn rain and no cover on the ground. According to the council, the weather bureau is indicating that no appreciable rain is expected before the end of April and by then frosts will be setting in and this will end any useful growth.

The council advises that destocking in the highlands continues and prices received are well down on average and barely covering transport and production costs. This region is now carrying half the number of sheep it carried. As I said earlier, many farmers now find the value of their sheep and their condition so poor that the only sensible option is to destroy them and dump them in pits. The council warns that if these trends continue, equity in properties in this region will continue to fall and management of these properties will become impossible due to lack of funds.

So the haste with which the government is seeking to progress the merger of the Commonwealth Bank and the Colonial Bank may well further increase the burden on these central highland farmers. The marriage of these banks will inevitably lead to a reduction in banking competition in Tasmania. Combined with declining farm values and declining equity, this lack of competition within the banking sector paints a grim picture if direct and immediate assistance by way of an exceptional circumstances declaration is not forthcoming.

Farmers may well be faced with more limited banking options and will be forced to take whatever they can get and pay whatever price is demanded for farmers. The least this government can do is to give the application for assistance from these farmers the same attention it is currently giving to the application from the Commonwealth Bank of Australia to take control of Colonial. The minister should also treat this application with the same flexibility afforded to the exceptional circumstances application from Mr Anderson’s constituents in the north-west of New South Wales. The Howard government should ensure that the central highlands community does not suffer, along with similar constituencies elsewhere in Tasmania and New South Wales, from reduced banking services and local job losses as a result of the Commonwealth-Colonial banks merger. Surely that is not too much to ask.

Sitting suspended from 1.53 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Nursing Homes: Workers’ Entitlements

Senator JACINTA COLLINS (2.00 p.m.)—My question is to Senator Herron, the Minister representing the Minister for Aged Care. Is the minister aware that last year the owners of the Templestowe Private Nursing Home in Victoria closed the facility owing tens of thousands of dollars to staff, including superannuation entitlements? Isn’t it also the case that the government then allowed the same operators to take over another nursing home while their former employees continued to pursue them over their lost entitlements? Why did the Howard government reject last year Labor’s amendment to protect aged care workers’ entitlements in this type of situation? Isn’t this another example of the government’s ad hoc approach on the issue of protecting workers’ entitlements? Would nursing home workers’ rights be protected only if the Prime Minister’s brother had an interest in nursing homes as well as textile companies?

Senator HERRON—The Academy Awards nominations are being called today, and I am going to nominate a new award for the Labor Party called ‘the great beat-ups award’. Senator Evans probably qualifies for that. Madam President, I suppose you saw the hot-air balloons floating around Canberra this morning. They were quite magnificent. There was one of a football, one of a house and even one of a Freddo Frog.
Senator Faulkner—Madam President, I rise on a point of order. Minister Herron has been asked a serious question on nursing homes. Let’s not have an answer about hot-air balloons. Let’s get to the question.

The PRESIDENT—There are still three and a half minutes, Minister, but come to the question.

Senator HERRON—There was not one of Senator Faulkner, but I half expected to see a hot-air balloon of Senator Evans floating around. We kept our promises in relation to the last election, and we are clearing up the mess that the Labor Party left. There are 137,000 people in nursing homes and hostels in this country. There are 3,000 nursing homes and hostels. Senator Collins has asked about a specific issue on superannuation provisions in relation to one. I alluded to the generalities the other day. That is a large number of people, but the reality is that represents about 12 per cent of people over the age of 65 in this country. Nearly 90 per cent of the aged in this country are living independently or with relatives. The overwhelming majority of nursing homes and hostels are very well run, and the overwhelming majority of people working within those nursing homes and hostels are very good people. They have a vocation to work in that area, and there is a difficulty in getting people to work within that vocation.

We introduced three major changes. We had to, as a result of the mess that the Labor Party left us when we came into government. We did away with the old care aggregated module, which the Labor Party gave us, which covered the standard of care that was in nursing homes. We introduced accreditation and, to date, over 330 homes and hostels have been accredited. We certified the buildings. The Labor Party did not do anything about the buildings. We have had the building standards of all the nursing homes and hostels in the country checked. They did nothing. We also introduced a complaints mechanism.

Senator Chris Evans—What happens when they complain? What did you do about it?

The PRESIDENT—Order!

Senator Chris Evans—People died—30 days and nothing happened.

Senator HERRON—Even anonymous calls from Senator Evans—

The PRESIDENT—Senator Herron, I have called you to order. There are far too many people interjecting, and it is difficult to hear the answer. I would ask you to abide by the standing orders.

Senator Chris Evans—Tell us about the complaints system!

The PRESIDENT—Senator Evans, when I am speaking and drawing your attention to the standing orders, you should refrain from speaking.

Senator HERRON—Even Senator Evans can call up anonymously and make complaints. That is how open it all is. So those complaints are being investigated. Those facts need to be put on the table. In relation to the specific nursing home that Senator Collins asked about, I do not have a brief here. I am happy to refer that to the minister so that we can get a reply.

Senator JACINTA COLLINS—Madam President, I ask a supplementary question. Perhaps if I narrow the question, the minister might be able to assist. Why are nursing home operators who have misused Commonwealth funds allowed to continue to operate in the aged care sector? Why doesn’t the Minister for Aged Care actually use her statutory powers to protect residents and employees in the aged care sector?

Senator HERRON—The answer to that is to get Senator Collins to name them. Come out publicly!

Senator Kemp interjecting—

Senator HERRON—What did you say, Senator Kemp? ‘Ten yards to courage.’ Name those people, they will be investigated and we will see what occurs as a result.

Economy: Growth

Senator TIERNEY (2.06 p.m.)—My question is to the Assistant Treasurer, Senator Kemp. Will the Assistant Treasurer inform the Senate on what today’s national account figures indicate about the ongoing...
strength of the Australian economy? Will the Assistant Treasurer also outline the positive economic outcomes that have been achieved and how the government’s reforms will continue to deliver strong economic growth?

Senator KEMP—I thank Senator Tierney for that very important question. As usual, he is right on the ball because this is a very appropriate question. This is very good news for the Australian economy. I am very pleased to announce to the Senate that today’s national accounts confirm the very strong performance of the Australian economy and provide further evidence of the success of the policies followed by the Howard government. The actual figures are that real GDP growth in the December quarter was one per cent, giving a full-year growth figure for the year to December of 4.3 per cent, which by any standards is a great result. In fact, it is correct to say that Australia is one of the fastest performing economies in the OECD area. I would have thought the Labor Party would be pleased with that but, no, they are not. The one thing the Labor Party hate is good news.

The exceptional result has been achieved through a variety of factors, including a rise in household consumption and a very solid rise in exports in the December quarter.

Senator Sherry—All with a wholesale sales tax.

Senator KEMP—Importantly, Senator Sherry—

Senator Sherry—With a wholesale sales tax.

The PRESIDENT—Senator Sherry, you are repeatedly shouting.

Senator KEMP—Importantly, this shows that the growth is taking place in a low inflation environment. Moreover, this good news comes on the back of the February employment figures, which senators will recall I announced recently to the Senate. They showed that almost 60,000 new jobs were created, with the unemployment rate falling to an almost 10-year low of about 6.7 per cent.

These figures are no accident. They are the result of hard work and good policy. It is the Howard government which brought the budget back into surplus; it is the Howard government which has reformed the labour market; it is the Howard government which has been able to reduce Commonwealth debt as a percentage of GDP; and it is in the process now of delivering major tax reform to all Australians. One bit of very good news which is coming up is that it is delivering the largest tax cuts in Australian history. The wholesale sales tax will be abolished, and pensions and allowances will rise by four per cent.

I am pleased to inform the Senate that all this good news is included in the first edition of ‘The New Tax System: Essentials’, which will be distributed to all Australians. I would recommend that the Labor Party, which have now adopted the GST as their policy, have a good read of what is in here because they will see why they have adopted it. It is good news for Australians.

Opposition senators interjecting—

Senator KEMP—Someone queries that issue. I have made the comment four or five times this week already that the Labor Party has adopted the GST as its policy and I have waited for someone to stand up and say I am wrong. We have had lots of contributions. Stand up after question time and state your policy, because we all know very clearly what the Labor Party policy is. The coalition government are determined to inform the public of the good news about this new tax system. We are a party of reform, and today’s figures show that we are delivering results to the Australian community.

Nursing Homes: Riverside

Senator CROWLEY (2.10 p.m.)—My question is to Senator Herron, the Minister representing the Minister for Aged Care. Can the minister explain what was in the report of 2 March, the report which Minister Bishop cites as the reason for closing down the Riverside Nursing Home, which was not in the earlier reports of 18 February and 24 February?

Senator HERRON—It is obvious that Senator Crowley does not read the transcript of the other chamber, because the minister gave a very detailed statement
yesterday in the House. I would suggest that she read that, and she will get an answer to the question.

Senator CROWLEY—Madam President, I ask a supplementary question. Isn’t it the case that all of the damning information—the gangrenous wounds, the immersion of open wounds in the kerosene solution and the maggot infested sores—was contained in the very first report of 18 February? Why did the minister have to be told the same thing three times before acting?

Senator HERRON—One thing I have learnt about the Labor Party: check the accuracy of the facts before you ever respond to a question. As I said previously, the minister made a detailed response, and I would suggest that Senator Crowley read that answer of yesterday.

Tax Reform: Welfare Recipients

Senator KNOWLES (2.12 p.m.)—My question is addressed to the Minister for Family and Community Services, Senator Newman. As we know, the new tax system comes into operation on 1 July. Minister, there has been so much misrepresentation in your portfolio about the effects on those receiving welfare, would you be kind enough to inform the Senate and the people of Australia exactly what will happen to those people receiving welfare benefits?

Senator NEWMAN—I am glad that Senator Knowles is prepared to take an interest in this, because the Labor opposition is not prepared to take an interest in, or to have a serious concern about, people on low incomes and benefits at all. It was very significant that there was only one Labor staffer at the launch today of the national public awareness campaign for families and income support recipients. It is a pity that the spokesmen for associated areas in the Labor Party were not present, because the launch was not only about the $2.5 billion in extra benefits that will come under the new tax system but also about important information on changes to some payments and how they are accessed.

We all know that up to now the public campaign has focused on business readiness. Today that focus has turned to the benefits for families and individuals, especially those who receive income support from Centrelink. Beginning today, millions of Australians will receive information on the changes—first, in their letterboxes; second, at the weekend in newspapers; and next week on their TV screens. The mail-out will be staggered over the next two months to householders who currently receive a variety of family payments. There will be 2.2 million households in all. They will each receive a 20-page booklet—this is the booklet—explaining the simplification of 12 often confusing payments into three simple and clear ones but with enhanced pay rates.

More than 90 per cent of Australian families with dependent children will receive increased payments as a result of the 1 July changes to family assistance. Most of these families will also receive an application form to apply for the new simplified payments. They will also find out about where to go to access these payments from the new Family Assistance Office, which will operate in over 500 locations around the country from Monday, 3 July. There will be a hotline for inquiries about the changes. That hotline number is 13 6150 and open for business today.

The tax changes will result in a four per cent boost to all Australians on income support payments of some kind—almost five million people in total—including age and disability pensioners, people on Newstart, youth allowance, parenting payment and a variety of other social security benefits. Older Australians—that is, age pensioners and self-funded retirees—will also receive information in the mail over the next several months explaining to them the benefits of tax reform and their eligibility for a savings bonus of up to $1,000 for pensioners and up to a further $2,000 for self-funded retirees.

Pensioners will also be made aware that the four per cent boost to their rates is only part of the benefits of tax reform. Other benefits include increases in assets and income test thresholds; reduced taper rates for those who have private income, from a loss of 50 cents for each dollar earned down to 40 cents; and a maximum increase of $250
to the pension tax rebate. The result will be that a single pensioner will pay no tax until their income reaches more than $14,000 a year. Another consequence will be that an estimated 50,000 more people will qualify for various payments, particularly the age pension, due to the raising of thresholds. All Australians will benefit from lower rates of tax. Of course, these are likely to be scrapped under Labor because they are planning to put back the wholesale sales tax, they are planning to roll back the GST, they are planning to roll over for the sake of cheap political point scoring. This government is committed to ensuring that all Australians, especially those on low and fixed incomes, share in the benefits from the overdue reform of this country's taxation system.

Nursing Homes: Riverside

Senator HOGG (2.16 p.m.)—My question is directed to Senator Herron, the Minister representing the Minister for Aged Care. Given that Minister Bishop personally intervened at Riverside Nursing Home on 15 February, what evidence is there in the reports of 18 February, 24 February and 2 March that there was any material change in the quality of patient care at Riverside? Does not the report of 2 March demonstrate there was no improvement whatsoever?

Senator HERRON—I think the press gallery use the phrase, ‘Get the egg-beaters to it.’ I am surprised that Senator Hogg is running the egg-beaters too to this issue. The minister made a very detailed statement in the House yesterday. I would refer Senator Hogg to that statement as it contains the answer to his question.

Senator HOGG—Madam President, I ask a supplementary question. The minister did not address the question. He might like to do so in answering my supplementary question. Do not the three adverse reports highlight Minister Bishop's abject failure to remedy the appalling inadequacies at Riverside, despite her personal intervention 20 days before the home was finally closed down?

Senator HERRON—It should be fairly obvious that the minister’s actions in relation to Riverside were impeccable. I am consistent with the requirements of the minister. I know the Labor Party and Senator Evans have got great mileage out of this issue with the assistance of their friends in the Canberra press gallery.

Opposition senators interjecting—

Senator HERRON—Dennis Shanahan says that there are 245 of them. Dennis Shanahan says that there are only about five on our side of politics. With their assistance you are going very well in relation to the issue. The questions have all been answered correctly and impeccably by the minister.

Telstra: Fault Restoration

Senator ALLISON (2.19 p.m.)—Fault RestorationMy question is directed to the Minister for Communications, Information Technology and the Arts.

The PRESIDENT—Order! Senators on my left are making far too much noise.

Senator ALLISON—I refer to the letter this week from Telstra to members of parliament in which Dr Switkowski said: We get on time connection right in 90 percent of cases and fault restoration right in 83 percent of cases. This is not perfect, but it is demonstrably better than during any period of total government ownership in the modern era. Does the minister acknowledge that this statement is untrue? Is it not the case that in the December 1996 quarter, Telstra was clearing 89 per cent of faults within two days—that is, a five per cent higher rate before privatisation than now? Will the minister insist that Telstra writes to each member of parliament correcting the record?

Senator ALSTON—I do not have those particular statistics at my fingertips. What I do know is that Senator Allison has got these figures comprehensively wrong on so many occasions it is hard to take her seriously. The last time she was on her feet in this chamber, I suggested that we had achieved a world’s first in introducing the customer service guarantee. She immediately called out that it was a Democrat proposal. When I looked at the Democrat policy after question time I found that they actually said in explicit terms, ‘We support
the coalition’s proposal for a customer service guarantee.’ It is absolutely ludicrous. It constitutes a misleading of the parliament and it deserves a full apology.

Senator Bourne—Have a look at the Hansard.

Senator ALSTON—Have a look at the Hansard. Have a look at our policy, come in here and tell me where I am wrong and then we might have a sensible discussion on the subject. The fact is that right through the 1990s Telstra’s performance in terms of quality of service was very lacklustre. We made that point on a number of occasions. That is why we proposed the introduction of a customer service guarantee.

Democrat senators interjecting—

Senator ALSTON—Stop giggling and listen, will you.

The PRESIDENT—Senator Alston, direct your remarks to the chair and ignore the interjections.

Senator ALSTON—Under the Labor Party all that you had was the ability to arrange for an appointment. If the linesman was not there on time you had to go lamenting. That was totally unsatisfactory. We therefore took the view that you needed to have performance criteria enshrined in legislation. We introduced the customer service guarantee accordingly.

Dr Switkowski’s letter, as I recall it, made the point that in the modern era Telstra’s performance has been better. Certainly, if you go back to March 1998 and look at the Australian Communications Authority’s statistics on this subject, you will find that they have been improving significantly over that period. That is why Mr Smith, the shadow minister, put out a press release on 20 December last actually congratulating Telstra on the improvement in service. That is why Col Cooper, from the CEPU, was on radio a couple of weeks ago saying just the same thing.

The nub of this issue is whether or not you can continue to require improvements in quality of service irrespective of any changes in employment levels. What those figures show is that over the last two years Telstra’s level of employment went down from something like 60,000 to about 52,000 at the same time that their service levels were improving. In fact, if you go back a decade, you find that they had 93,000 employees and their performance levels were very poor. So quite clearly there is no correlation.

In fact, the only way you could bring about significant improvement, apart from on a voluntary basis, by Telstra, which I think will be supplemented by our legislative arrangements, is to have a customer service guarantee arrangement not only setting the standards but backed up by a regime that requires rebates to be paid to customers, as of recent times, automatically—not simply to those who ask for it—and of course exposing Telstra to up to $10 million in fines for systematic breaches. That is what this is all about. If you had read that letter, you would have understood a lot more about it, rather than nitpicking to try to find some little aspect of it that you do not think is quite good enough at the present time. Well, come out now and acknowledge that our customer service regime is a very good one indeed, that we invented it, that it has been in place very successfully, that we keep improving on it and that it is only a pity you did not think of it first.

Senator ALLISON—Madam President, I ask a supplementary question. I ask the minister to acknowledge that the consumer guarantee was in the coalition policy but not put into the legislation, and I ask him to acknowledge publicly that it was the Democrats’ amendment which put it there. Minister, isn’t it also true that, when we look at the rural figures only, 90 per cent of faults were repaired within two days before privatisation and now the figure for country towns is only 88 per cent and for remote areas this figure is 60 per cent? Minister, are you saying you disagree with the ACA figures? Doesn’t this failure to improve services suggest that the customer service guarantee is not enough to bring Telstra into line and that you should direct the board of Telstra to fix the problem before 10,000 people are sacked from Telstra?

Senator ALSTON—Once again, Senator Allison seems to just want to persist in
this fiction that somehow a reduction in employment levels has got something to do with performance in terms of service. It simply has not. Telstra is 15 per cent off world’s best practice. It needs to improve its output in a highly competitive marketplace. Unless it does that, it will go backwards.

This mob opposite would have it actually in formaldehyde. They would turn it into a museum piece with all the interventions they want to achieve, and you would of course go further. You would be wanting to tell Telstra how to run its business and what levels of service you prefer. You would be going out there, presumably, and digging into the trenches and saying, ‘No, that hasn’t been done well enough. I want you to come back and have another go.’ It is a ludicrous proposition. If you look at those statistics, you seem to be ignoring the fact completely that the ACA’s figures from March 1998 do show significant improvements virtually across the board. I read them out to you a week ago; you seem to completely ignore those.

Senator Chris Evans—Madam President, I rise on a point of order. Senator Ludwig asked a very specific question about how many spot checks had been carried out under the government’s new system. Minister Bishop has admitted there were none prior to 15 February. Can the minister answer the question or not? The diatribe he is reading has nothing to do with the question at all.

The President—The information is relevant to the question but there are some specifics that Senator Ludwig asked and I am sure the minister is still coming to it.

Honourable senators interjecting—

The President—There are far too many senators making a noise in the chamber and it is difficult for everybody to hear.

Senator Herron—Over 330 aged care facilities have been accredited, and by January 2001 all will have gone through this process. In relation to the specifics of the number of visits that have been made, I will have to refer that to the minister so I can give—

Opposition senators—Ha, ha!

Senator Herron—They can laugh on the other side, but they really should hold their heads in shame because of what they left for us to fix. We are doing something about it. We are doing spot checks. We are checking facilities.

Senator Robert Ray—Name them.

Senator Herron—I am happy to name one, Senator Ray. Alchera Park has had a spot check. Senator Ray is probably not aware of that, but it has had a spot check. There are others that have been done
as well. I do not have the specifics in the brief in front of me, so I am happy to refer that to the minister and come back to the senator.

Senator LUDWIG—Madam President, I ask a supplementary question. I understand the minister’s answer but, to be sure, can he take it on notice and get back to me about the two parts of the question in respect of the number of inspections? In addition, in light of that response, would the minister agree that the only reason the surprise inspections are now being carried out is the bagging the government has been receiving in the media since 15 February?

Senator HERRON—In relation to the last part of the question, that is a laughable suggestion. It is absolutely laughable. Senator Evans would like to beat that up. I know he is a young man, and he has a good career ahead of him in the parliament if he sticks to his last. You have to hand it to him. With the help of his friends up there, he has beaten this up with the egg beater, and good luck to him. That is politics. But the reality is he is playing with elderly people in this community and their lives. He does not realise the damage that he is doing to the aged care providers of this country—the people who provide the aged care and the people whose vocation is in aged care facilities—by denigrating the standard of care that they are giving, by denigrating the provision of care that they give throughout the country. It does him no good when he has that record to stand by.

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from Samoa, led by the Hon. Tuiatua Tupua Tamasese Efi. You are most welcome, and I trust that your visit to this country will be both enjoyable and rewarding.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Goods and Services Tax: Body Corporate Payments

Senator HARRIS (2.32 p.m.)—My question is to the senator representing the Treasurer. Will the government exempt the unjust GST levy on strata title unit holders payable on the transfer of their quarterly body corporate administration and sinking fund units payments? Senator, 75 per cent of the outgoings from those funds are GST exempt. Will the government continue to be a party to this unjust, undemocratic, discriminatory, Sheriff of Nottingham type legislation?

Senator KEMP—The underlying assumption in the question is totally wrong. This is a very fair system that we are bringing in. I have no doubt that, when you talk about the overall tax cuts, which I have mentioned—and we are not sure what the Labor Party policy is on tax cuts; we know that Senator Cook’s policy is that the Labor Party is a high tax party—

Senator Cook—That’s not true.

Senator KEMP—Senator Cook, that is your third most famous quote, that the Labor Party is a high tax party. I am prepared to stand up later on and dig out the exact quote for you, Senator, if you want me to do that.

Let me just discuss the fairness of the system. The point I am making is that, as a result of this overall package, the Australian people are going to be substantially better off. Senator Harris should be mindful of the fact that we are delivering the largest tax cuts in Australian history. We are delivering real rises in pensions and benefits.

Whatever issue you wish to raise, Senator, you have to look at the whole equation. You should be aware that the people in units and flats and people who own their own homes and so forth are going to benefit very substantially from these changes. So it is wrong for you to say it is unfair. This is a fair system and, above all, it will deliver very real benefits to the Australian people.

I have mentioned the tax cuts. I have mentioned in previous answers the very substantial benefits which are flowing to Australian families. I have mentioned the real rise in pensions and benefits, Senator. I would make the point that, when you are speaking to these people, you have to check whether in fact they will register their cor-
porate body or not, because there will be changes if they are registered or not registered. This will deliver very real benefits to the Australian people, and I think that is the message you should give to them.

Senator HARRIS—Madam President, I ask a supplementary question. Senator, where is the fairness? In their 1999-2000 budget, there is a $594 GST component on a gross figure of $27,524. When that is broken down into the quarterly payments that are made of $404.77, it is then exposed to another GST payment of $40.48. Will the minister follow the suggestion of the members of those particular units and either remove the GST from the quarterly payments or allow the unit holders to claim a full tax rebate for the entire amount?

Senator KEMP—I think the senator is faced with what can only be described as overenthusiastic research staff. I take all questions in this chamber seriously, with the sole exception of those from the Labor Party. If you want that sort of detailed reply to a question, it is sometimes of assistance to give us a hint that you may be asking that so we can look very closely at the figures that you have prepared, Senator. If you would like to send me those figures, we can work out exactly what you are driving at and we will see if we can provide you with an answer.

Nursing Homes: Kensington Park

Senator CHRIS EVANS (2.37 p.m.)—My question is directed to Senator Herron in his capacity as the Minister representing the Minister for Aged Care. Can the minister confirm that the Perth nursing home involved in the allegation of maggots in a bandaged foot, as reported in the West Australian today, is the Kensington Park Nursing Home? Can the minister advise whether there have been any spot checks carried out on this home since 1998? Can the minister advise whether there have been any accreditation or review audit reports on Kensington Park in the last two years? If there have been reports, why are they not publicly available?

Senator HERRON—I suppose we are going to go through the 3,000 nursing homes and hostels in this country. I have worked in many nursing homes and hostels and inspected them. It sounds terrible, but it is a fact that flies get into wounds on occasions. Those on the other side, apart perhaps from Senator West and Senator Crowley, who will confirm what I have just said, have probably never worked in a nursing home or hostel. While sounding horrific, that is an event that does occur. Fortunately it is not very common, but it does occur. It is one of the effects of having a gangrenous wound. These are ill, disabled people in many cases who have ulcers which get infected. It is a reality that sometimes that occurs.

Whether that occurred in this place or not I have no idea because I have not read that newspaper report, and I do not have a briefing here in relation to Kensington Park. But I have briefings in relation to a number of others, but they do not include that particular one. So I will refer that to the minister and get back to Senator Evans with a specific report.

I make the point to Senator Evans: if you go to every nursing home in this country, which we are doing with the accreditation process—something that Senator Evans’s party did not do over the 13 years—you will see that we are bringing up the standards of nursing homes in terms of both the building facilities and the standards of care and, as I said previously, we have introduced a complaints mechanism. So we are doing something about it. I can tell Senator Evans that, if he would care to accompany me to some of the nursing homes, I can show him where events occur quite out of the control of the providers because of the nature of the people who are in them.

There is nothing that can prevent disease and illness, Senator Evans, and they do occur. So I am sure that we could multiply these events that you are getting complaints about. They may well have come through the complaints mechanism which we established—I repeat: we established—so that people could complain about events which may or may not be related to the specifics of the home itself but may be related to the disease processes that are occurring in the
people in those nursing homes. So, on behalf of the minister, I would welcome any specific complaint so that it can be investigated because we are the first government to do that and we are quite proud of it.

Senator CHRIS EVANS—Madam President, I ask a supplementary question. I appreciate the minister taking the original question on notice because I would like an answer. I note that his view about the maggot infestation is not shared by the AMA, who express serious concern. Can the minister also investigate allegations that nurses have resigned from that particular nursing home because of their concerns over the management’s decision to roster only one qualified nurse on night shift to care for 60 residents? Would the minister consider that this staff to patient ratio would be adequate to provide adequate patient care?

Senator HERRON—I would like to correct one statement of Senator Evans. I share the concern too. I just made the point previously that it does occur. It is impossible to prevent the event I referred to from occurring. It is impossible to prevent. If Senator Evans has a mechanism for preventing flies getting in wounds, apart from the general measures that are available to everybody, please let us know.

The point I was making was that these events do occur. They should be investigated so that all the appropriate mechanisms can be put in place to try to minimise that to an irreducible minimum. I share the concerns of the AMA. I share the concerns of the medical profession. I share the concerns of the nursing profession. I share the concerns of the providers of nursing home care as well. In relation to that specific place, as I mentioned previously, it is not in the briefings I have in front of me and I will refer that to the minister and get an answer to Senator Evans.

Rural and Regional Australia: Telecommunications

Senator BROWNHILL (2.41 p.m.)—My question is to the Minister for Communications, Information Technology and the Arts, Senator Alston. Minister, how is the government delivering on its unprecedented commitment to regional and commitment to regional and rural communications through Networking the Nation and the Telstra 2 social bonus? In particular, how much money can regional communities expect to be spent in the first half of this year? Is the minister aware of any alternative policy approaches and the impact on regional Australia if these were implemented?

Senator ALSTON—I thank Senator Brownhill for a very important question which I think highlights the fundamentally different approaches adopted by the major parties in this country. Our approach in relation to the proceeds of sale from the second tranche of Telstra involves something like $671 million worth of communications and IT related initiatives. That builds on the $250 million from Networking the Nation that resulted from the first tranche. All of those initiatives, as we all know, were absolutely opposed right down to the wire by the Labor Party. So Labor never stood for spending one red cent in rural Australia on upgrading telecommunications initiatives.

In terms of progress, a number of these programs are very much advanced. A number of the multi-year programs are well under way. Planning is either completed or almost completed on others such as the mobile base stations on 11 major national highways. In fact, in this current financial year we will spend $179 million. That is in addition to the money spent on the Natural Heritage Trust. SBS will this week receive more than $60 million to fund the rollout of SBS to another 1.2 million Australians.

Round one applications for the local government, BARN, isolated islands and Internet access funds closed on 8 March. The assessment process for the incubator program is complete and the successful tenderers will be announced in the next few weeks. Rural transaction centres are up and running. The first one was opened by the Prime Minister last October.

So there is a great deal of activity out there—all of it, as I say, simply opposed by the Labor Party. Of course, when Mr Beazley wanders down to Tasmania and sees one of the outcomes of this approach, an online access centre in Tasmania, he
says, ‘That’s great. We would like to have more of those.’ Well, where do you get the money from? They are not prepared in opposition to allow the privatisation of Telstra—of course they would do it in government, as former Senator Kernot reminded us at the time, but not in opposition. What they would do would be to run Telstra from the minister’s office. That is essentially their proposal. So they would pretty much lock it up. They would hold both its hands behind its back. They would be telling it what to do and how to do it. They would be waiting for a phone call from a marginal seat. Meanwhile, Telstra’s share price would be going south.

What do we find in terms of an alternative approach to providing these services in rural areas? We read in the *Financial Review* today that they are going to see the universal service obligations substantially upgraded and its application broadened. We had a review of the standard telephone service a couple of years ago, and if you went to the point of mandating the delivery of a digital data capability, it would cost you in the region of $8 billion to $12 billion. You could spend as many billions as you like, but where is it going to come from? Once again, not one red cent would come from the Labor Party in government. This would all be funded by industry. Currently the USO is about $253 million; Telstra actually says it is $1.8 billion. You want to substantially upgrade it: multiply it by three or four and turn it into a genuine billion dollar outfit. In other words, you want to quadruple the contribution from all the other players—pretty much kill them stone dead. You would chill the competition—

The PRESIDENT—Minister, your remarks should be to the Chair, not across the chamber.

Senator ALSTON—Sorry, Madam President. The Labor Party would not only freeze competition but put Telstra in a straitjacket. You would have the worst of all possible worlds. They would not spend one cent in rural Australia. They would try to put the burden on others. They would decide what people out there want—in other words, the classic Labor formula: you decide what people want, and then you impose it on them, but not at your cost. *(Time expired)*

Senator BROWNHILL—I ask a supplementary question, Madam President. I did not quite get the answer about what would be the impact on regional Australia. I do not think you have actually elaborated enough on those alternative policies.

Senator ALSTON—You do not have to be a Rhodes scholar to follow this one. If we can have full attention for just a moment, I will explain it. If you imposed that crippling burden on all the other carriers, you would provide a fundamental disincentive for them to get out into rural areas. As a result, you would not have any competition or any downward pressure on prices, so prices would rise. You would not have the same choice of services, so once again you would have to take a one size fits all approach. The end result would be going back to the bad old days whereby you would have Telstra run as a government plaything. You would decide what services it provides. If it wants to get efficient, if it wants to rationalise, if it wants to unload underperforming aspects of the business, your shadow minister says, ‘I would tell them no. I would tell them what they can sell. I don’t mind what they buy; I would tell them what they can sell.’ Just imagine how you would run a company like that. It is no wonder that senior executives like Lindsay Yelland are jumping ship. *(Time expired)*

Nursing Homes: Departmental Restructure

Senator FAULKNER (3.07 p.m.)—My question is directed to Senator Herron, the Minister representing the Minister for Aged Care. Can the minister confirm that the Minister for Aged Care has severely criticised her department for failing to remedy the many defects that have been brought to light in the nursing home sector? What steps has the minister taken to restructure her department, given her view that the department has comprehensively failed to achieve the government’s objectives in the nursing home sector? How many SES officers working in the aged care section of the
department received performance pay in the financial year 1998-99?

Senator Herron—Senator Faulkner is giving a plug to the Bulletin magazine today and more power to him, but I would suggest to him, in formulating his questions, that he does not believe everything he reads in the press. I would suggest that he check with Senator Ray—he is a bit more careful about these things—before taking things out of the press, formulating a question and coming to the Senate in the afternoon. I suggest to Senator Faulkner that he check with Senator Ray and the tactics committee to see whether it is a good idea to take it without checking it.

The Aged Care Standards and Accreditation Agency and the delegate of the secretary, those legally responsible under the act, acted entirely properly and expeditiously while observing due process in accordance with legal advice. That is something that Senator Faulkner would not probably understand, but that is the process that was followed. It was followed with legal advice. The minister was appropriately advised that appropriate action was being taken. The Aged Care Standards and Accreditation Agency is charged with inspecting aged care facilities. The delegate of the secretary is charged with imposing sanctions. The residents of the Riverside Nursing Home were attended regularly from the time of the first inspection by nurses from the Aged Care Standards and Accreditation Agency and the Department of Health and Aged Care.

Imposition of sanctions and revocation of licences are very serious and grave matters. They cannot be taken lightly or capriciously and will not be made in response to inconsistent baying from the opposition, which is all we are getting. It is the Senator Evans beat-up—the egg-beater on this issue. If they were consistent and if we had done what the Labor Party wanted a week ago, we would not have moved the residents from Riverside at all.

Senator Faulkner—I rise on a point of order, Madam President. Apparently Senator Herron has found some brief to answer a question in question time today. Madam President, of course, as you would appreciate, given the nature of my question about restructuring the Minister for Aged Care’s department and the SES officers’ performance pay bonuses, the brief has absolutely no relevance at all to the question I asked. I would suggest, Madam President, in this circumstance that either you direct the minister to answer the question or he should sit down and take the question on notice.

The President—The answer is not totally irrelevant to the question that has been asked, even though it has not specifically dealt with all the matters that you have raised. There is still time for the minister to do that, and I ask that he do so.

Senator Herron—Madam President, I can understand Senator Faulkner not wanting to hear the answer, because he was a member of the guilty party that left this debacle for us, which we are fixing up. Commonwealth expenditure on residential aged care has increased by 42 per cent since we came to government. It has gone up from $2.5 billion in 1995-96 to a projected $3.5 billion in 1999-2000. More importantly, we have delivered that increase without increased taxation—without one cent of increased taxation. We have increased it by 42 per cent. The Commonwealth payments for residential aged care places have increased—

Senator Faulkner—I raise a point of order, Madam President. My question specifically went into the Minister for Aged Care’s criticisms of her department and what she might have done with it. Then I asked a specific question about SES officers and their performance pay bonuses. This answer has absolutely nothing to do with the question I asked. Again, I would say to you, Madam President, that this minister should try and answer the question if he cannot take it on notice, but you should not allow him to rave on with this irrelevant answer.

The President—I do not accept that the minister is raving on.

Senator Kemp—Madam President, on the point of order raised by Senator Faulkner: Senator Herron was explaining in detail the reasons why some of these problems
have emerged and, of course, some emerged when the previous government had responsibility and we are fixing those problems. So I put it to you, Madam President, that the answer that Senator Herron is giving is entirely relevant.

The PRESIDENT—I think the minister has drifted from the question that was asked, even though he was dealing with the relevant topic. I draw your attention to the substance of the question, Minister.

Senator HERRON—Thank you, Madam President. I would like to respond to the first part of that point of order in the context of the answer, because it was obvious that Senator Faulkner did not listen to the first part. He is correct in a sense that I have not answered the second part of the question in relation to SES officers, but I was getting to that. This is a democracy. We have four minutes to answer questions. It does not satisfy Senator Faulkner’s criteria, but I would be interested to look at the Hansard to see how many times he has gone into spurious points of order this year, because I do not think he has taken one valid point of order. In relation to the SES officers, I will take that through to the minister. It is not in my brief and I am happy to come back to Senator Faulkner with the answer to that question.

Senator FAULKNER—Madam President, I ask a specific supplementary question. Will the Minister for Aged Care be requesting the Secretary to the Department of the Prime Minister and Cabinet to take into account her department’s alleged failures in the nursing home area when evaluating the performance agreement for the secretary to the department? If it transpires that the secretary to the department receives his performance bonus, won’t this indicate that the department is not in fault, but it is Mrs Bishop who should get the pink slip?

Senator Abetz—It’s hypothetical.

Senator HERRON—As my friend, Senator Abetz said, it is a hypothetical question. I am happy to refer that to the minister. It is a good try from Senator Faulkner to tease something more out of this issue—let’s go off into another little avenue so that we can keep the issue going with the egg-beater. I am happy to take that through to the minister and report back to Senator Faulkner when an answer is ready.

Welfare Reform: Parenting and Disability Pensions

Senator BARTLETT (2.55 p.m.)—My question is to the Minister for Family and Community Services and I refer to the current welfare reform process. As part of that process one of the options which may be put to the government is to roll unemployment benefits and disability and parenting pensions into a single payment, which, as the minister would know, currently have different levels of payments. Whatever the government eventually decides in relation to welfare reform, can the minister prevent needless community concern by ruling out any possibility of a reduction in the payment rates of parenting and disability pensions?

Senator NEWMAN—I notice that one newspaper today was carrying a story, which seems to have had very strange percentage, about the welfare reform process, if I can put it like that. The independent committee has finalised their report and it is, of course, their report and they will be releasing it shortly. Everybody will then be able to see what they have been proposing. It is only their first stage. They will then go out to consultation with the wider community before they bring in their final report in June, on which the government will then respond. I do not intend to canvass the issues that are in their report when it does become public, because it is very much an opportunity for the wider community to take a further step along the route of looking at long-term welfare dependency, what better things we can do for people and what greater opportunities we can provide. Do we look at the capacity of people or only their incapacity to be part of the economic or social parts of the community?

These are all issues which, as the senator would understand, I drew to the attention of the reference group both in my speech at the National Press Club last year when the senator was present, and also in the discus-
The government will be given a copy of the report as a courtesy by the committee and then the public will have the opportunity to comment on it then, and so will anybody who chooses to, including yourself.

Senator BARTLETT—Madam President, I ask a supplementary question. I appreciate the minister’s answer, but I was not asking her to canvass what may or may not be in the report. I was asking her to specifically outline the parameters of what the government’s action may be in this area, and ruling out a particular action which would be of concern to many Australians, which is cutting the rates of parenting and disability pensions. I would ask her to at least rule out that possibility of government action. Could she also at least indicate if she is willing to stand by the statement she made in the Bulletin in February 1999 that there are no plans to extend mutual obligation to payments such as parenting payments? Will she stand by her statement and rule out introducing activity tests or other compulsory obligations for parenting and disability pensioners?

Senator NEWMAN—The Prime Minister and I have both made it very clear that we are not about slashing payments and, if that was the gist your question really, then that is a very clear answer to you. I do believe that people have the right to be involved in our society, and whether they do this through social participation or economic participation depends very much on the abilities and circumstances of an individual. Beyond that I could not comment. But let us make it quite clear that we are not about slashing pensions and benefits. We have not done that, despite misinformation put about by some of our political opponents. We have not done that and we do not intend to.

Nursing Homes: Ministerial Responsibility

Senator CARR (2.59 p.m.)—My question without notice is to Senator Herron, the Minister representing the Minister for Aged Care. I ask: can the minister explain the surprising lack of action of the senior portfolio minister, Dr Wooldridge, in relation to the nursing home fiasco? Isn’t it usual for the senior minister to step into the breach when a junior minister is demonstrating gross incompetence?

Senator HERRON—The first point I would make is that the premise on which that question has been asked is completely false. There is no fiasco whatsoever. And if there were even the hint of a fiasco, it is because the Labor Party left that terrible mess in the nursing homes and hostels of this country—the fact that they were underfunded, the fact that there were 10,000 places underfunded. That is what we inherited. So I reject totally both assertions made in that question. I repeat: there is no fiasco. The minister has handled the situation impeccably. It may not be to the delight of the Labor Party that it has been handled impeccably but it has been. They can go on babbling and ranting and using the egg-beater up there to keep the issue going, but the only people that will end up with egg on their face will be the Labor Party.

Senator CARR—Madam President, I ask a supplementary question. Given that this government has now been in office for four years and that the organisation of the Health and Aged Care portfolio is a sharing of responsibilities between a senior and junior minister, where does the buck actually stop for maladministration in the portfolio?

Senator HERRON—I am pleased that Senator Carr asked me a supplementary question on our record in relation to aged care in this country. Payments for residential aged care places have increased from an average of $18,135 per place in 1995-96—that was Labor’s last year in office—to $23,648 per place in 1999-2000. Those increases will continue. Over the next six years, funding for nursing homes high care is projected to grow at an average of over five per cent nationally. So we are fixing the problem that we inherited.
that election. Let us look at what we have done for the economy. Let us look at what we have done about gun control. Let us look at what we have done in relation to East Timor. Our record is proud and we are fixing up the problems. (Time expired)

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

ANSWERS TO QUESTIONS WITHOUT NOTICE

Australian Taxation Office: Information Response Service

Senator KEMP (3.02 p.m.)—In response to a question without notice from Senator Cook on Monday 13 March, I undertook to provide further information. I now seek leave to incorporate this information in response to the question in Hansard

Leave granted.

The response read as follows—

On Monday 13 March 2000, (Hansard page 12360) Senator Cook asked me:

Can the Minister confirm that the information response service (IRS) is being established from existing resources in the Tax Office?

Will the Minister indicate from which sections of the Australian Taxation Office that the 800 staff required to operate IRS will come?

I have been advised by the Commissioner of Taxation that at the commencement of the replyin5 service in February 2000, approximately 160 existing staff from GST Technical Advice teams were identified as the available resource base to respond to client requests. To supplement these staff, volunteers were drawn from the Individuals and Small Business lines. Approximately 80 staff from other lines are now on loan to support the replyin5 service. Primarily on-loan staff provide response to ABN and PAYG queries as they relate to Individuals and Small Business clients. Without the single client contact point provided by replyin5 these requests would otherwise need to be addressed by the Individuals and Small Business lines respectively.

Current staff numbers operating the replyin5 service stand at a total of 200.

Applicants for new GST Technical positions are selected through assessment centre processes and it is expected that a proportion of successful applicants will include existing ATO staff together with staff from other Government agencies and the private sector. Current and planned staff numbers for replyin5 have been addressed in staffing and funding forecasts for reform implementation.

Australian Taxation Office: Sydney to Hobart Yacht Race

Senator KEMP (3.02 p.m.)—In response to a question without notice from Senator Denman on Tuesday 14 March, I undertook to provide further information. I now seek leave to incorporate this information in response to the questions in Hansard

Leave granted.

The response read as follows—

On Tuesday 14 March 2000, (Hansard page: 12436) Senator Denman asked me:

Can the Minister inform the Senate of the reason that the Australian Taxation Office took six months to finalise tax exemptions needed to establish the trust fund for families of those killed during the 1998 Sydney-Hobart yacht race?

The Commissioner of Taxation advises me that the time taken to approve the CYCA Sydney Hobart Yacht Race Safety of Life at Sea Trusts Assistance Fund was not nearly as long as the six month period that has been suggested recently both in this Chamber and in the press. The Commissioner stated that while the period from the initial contact from the Fund organisers to completion of the approval process was in the order of six months, the organisers only submitted the final documentation for the proposed fund a few days before approval was given. Once that final documentation was provided to the ATO, approval was given within four (4) days.

For obvious reason the ATO is unable to grant approval for a fund until such time the final documentation is available.

Nursing Homes

Senator CHRIS EVANS (Western Australia) (3.02 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Aboriginal and Torres Strait Islander Affairs (Senator Herron), to questions without notice asked today, relating to aged care.

Senator CHRIS EVANS—I think only Senator Herron could describe Minister Bishop’s performance in handling aged care in this country as impeccable. You have to
give him his due: he put on a very brave front with that description. But it is absolutely ludicrous. It is a view shared by nobody else in this parliament, a view shared by nobody else in the Australian community. But what he did do today, which I want to take up in this motion to take note, was defend the government’s complaints mechanism, the system by which people can complain about the treatment they receive in nursing homes or the treatment their relatives receive in nursing homes. I think it is a key issue.

The minister would have us believe that one of the great achievements of this government is the current complaints resolution mechanism. First of all, he seeks to deny that there was already a complaints system in place before the changes were made—we all know that is not true. But what we have now on the record is two very clear examples of the government’s complaints resolution scheme in operation. We have the Riverside Nursing Home and, in Queensland, we have the Alcera Park Nursing Home complaint. You could not get more serious complaints. In Riverside we have a coroner investigating six deaths. We know from the government’s own report that at least one of those was connected to the kerosene bath incident. In their own reports they provide a link between the death of a palliative care patient and the kerosene bath. So we have six deaths being investigated at Riverside. We have complaints of three deaths at Alcera Park from people who came into the public hospital suffering gangrene, dehydration, mouth ulcers, et cetera, where the nurses broke down because they were so upset at the condition of the patients being admitted.

What we want to know and what the government have to defend is how their complaints mechanism works in practice. In the situation of Riverside, the complaints were lodged in the middle of January by nursing staff involved at the home. It took 30 days before it came to light that the complaints resolution office had done nothing with those complaints. I mislead the Senate there. They had done something: they had contacted the provider to discuss the matter. These are the most serious allegations that could be made about serious mistreatment of residents and, in 30 days, the complaints office had done nothing to pursue those most serious complaints. They had not referred them to the agency, as was required under the minister’s explanation of the system. They had taken no serious action. So we had to wait 30 days. Nursing staff directly involved complained to the complaints office and to other authorities as well—no action. It is a disgrace. It is a clear sign the system has failed. The resulting evidence subsequent to the investigation reveals what a horror story existed at Riverside and yet, under the government’s system and for 30 days, nothing was done to protect those residents.

In the instance of Alcera Park, we had the relatives of deceased residents making formal complaints properly within the complaints system in the middle of November about the deaths of their relatives in October. We also had complaints from nurses who nursed at Alcera Park and also those who nursed at the public hospital where these patients were admitted. The minister concedes that the three died in appalling condition. What happened to the complaints? Absolutely nothing. The daughter of one of the deceased is still waiting for a response to her complaint. She wrote a very disturbing and heartfelt letter. What happened to it? It seems nothing. She still has not had a response to her complaint—this is one made in November—and she has had no report on the death. She rang the minister’s office in frustration on 28 February. They said they would get back to her. They never did. They obviously did not consider it serious enough.

The government’s complaints system has totally failed. The minister has totally failed. Surely someone raising a serious concern about the death of a loved one deserves better than they got out of this complaints system. There is still no report available on these deaths that occurred in October, deaths of people in appalling conditions, deaths that concern the nursing staff, concern the GPs and greatly disturb the relatives. The complaints system has failed
them. The minister has failed them. They still do not know what happened in terms of the death of their loved ones. They still have not had the courtesy of a response. They still have not had a response from the complaints department. This is the complaints system Senator Herron defended today. If he thinks it is not failing, I do not know where he has been. (Time expired)

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (3.07 p.m.)—I just find Labor’s behaviour totally unacceptable when it comes to issues of nursing homes. If you go back through their record and you go back through the crisis state that Labor left nursing homes in when we came to government, it is evident that this is opportunistic, populist nonsense they are going on with. I do not blame Senator Chris Evans. He was not here in 1994 and 1995, but he was here later on. Labor over 13 years left us with a legacy in nursing homes that was totally unacceptable.

 Throughout 1994 and 1995, when Labor was in government, there were serious problems in nursing homes across Australia. They were revealed in press report after press report. They included incidents resulting in mistreatment, mismanagement, pain and suffering for residents. In two cases fires resulted in the death of residents. None of us likes that sort of thing to happen. None of us would want to put in place a system where that occurs. But there are always problems, and there will always be problems.

 Labor did not have an appropriate complaints mechanism. Labor did not have an appropriate mechanism for inspecting these places. We saw, for example, in the Herald Sun of 3 July 1994 a report of fires in aged care facilities. There were reports that in March 1994 two women were killed in a fire in a special accommodation home in Melton. The Sunday Herald Sun of 3 July 1994 also stated that an elderly man had died in a Warrnambool home in December 1993.

 When Professor Gregory did his report, commissioned by the Labor government, he actually indicated that nursing home funding needed $540 million to bring nursing homes up to standard. The Labor government had no plans, no way of addressing that issue, no way of raising capital, other than most probably adding to the $10 billion black hole debt that they left us. Professor Gregory said that there were appalling conditions in nursing homes, that places were not up to scratch in terms of fire safety, that building stock had run down. His report was an indictment of Labor’s 13 years in government.

 When these reports came in—and there was a number of them; I have just mentioned one of them, but there was another one—about various incidents of mismanagement in nursing homes, and particularly mismanagement that meant that some residents were not as well cared for as they ought to have been, did we run around scaring old people? No. We did not run around. There were reports in the Age. There were reports in the Herald Sun. There were reports in the Sydney Morning Herald.

 No, we highlighted some of the issues that needed to be addressed, but we did not run around highlighting and repeating, repeating, and repeating the problems in order to scare everyone, in order to degrade and downgrade the large number of providers who give very good care to people in nursing homes, despite the legacy that the Labor Party left us.

 As I said, when we came into office four years ago 75 per cent of homes did not meet building standards; 13 per cent did not meet fire safety standards; and 11 per cent did not meet basic health standards. The Labor Party have a hide coming in here, when they were the ones that overturned the legislation that would have given us the funding which would have enabled us to upgrade at a faster rate nursing homes. They had the guts to bite the bullet to provide funding through ingoings for hostels, but they did not have the guts to assist in working in a bipartisan way—a way in which we worked in the policy on hostels—with nursing homes. Their legacy continued, because we inher-
The Labor Party can come in here and they can bleat all they like. They can go on about what has happened. You cannot turn the Titanic around in four years. There have been enormous changes made to accreditation. Only the other day I went out to one of the first nursing homes that has been accredited under the new system. They are introducing innovative programs in staff development and training. They are very proud of that accreditation. They are very proud that they have been leaders in the field—that is a nursing home out in Dandenong—in the accreditation process. The Labor Party did absolutely nothing to remedy the appalling state of nursing homes, the lack of training in nursing homes, the facilities that were run down and put older Australians at risk.

(Time expired)

Senator QUIRKE (South Australia)
(3.13 p.m.)—The interesting thing is that in all the questions that—

Senator Hill—How do you explain 13 years of negligence?

Senator QUIRKE—I think we can answer that one very easily, Minister. You had four years. We were just told that you cannot turn the Titanic around. Presumably, that is before it hits the iceberg. You have had four years. You have done nothing. You have got a minister that is doing nothing. You have got a department that has 29 standards and when you fail 26 of them you do not even get a visit there, and it is our fault? I think you people have got an incredible hide to come in here and sell that line.

The DEPUTY PRESIDENT—Order! Address the chair, please, Senator Quirke.

Senator QUIRKE—If you could sell that line you could turn the Titanic around before it hit the iceberg.

The DEPUTY PRESIDENT—Order! Address the chair, please, Senator Quirke.

Senator QUIRKE—The bad luck for you is that it has already hit the iceberg; a kerosene-soaked one. Sorry, Madam Deputy President: I think I answered that. I think I will get back to the address that I was going to make. We got some real little gems today from the minister. We asked him seven questions and, look, we got a few great ones. The first one we got was that we were going to get the beat-up award at the next academy presentation. In fact, what we were told is this really was not a serious issue. This minister could not care less about it and neither could the other one down in the other place. It was just a beat-up and we were going to get the award. Then we were told that some of us were in a hot-air balloon this morning. What that has got to do with this I do not know.

We were then told something that was relevant—that is, that 90 per cent of people do not go into aged care facilities, and I wonder why given the way this lot administer this particular system. I wonder why there is such a feeling of aggression out there in the community about this particular question and why, with the prospect of your loved ones being put in a place like this, you have this crowd looking after it. Then we were told that anyone could make a complaint through the new system this crowd had set up—even Senator Evans could make an anonymous phone call to them. He could make it anonymously or he could say who he was, but no-one would do anything about it. There is no problem with making the phone call because no-one is going to do anything about it. They have no intention of doing anything until someone dies or the issue gets raised in here.

Senator Faulkner—By us.

Senator QUIRKE—Of course. We asked them how many inspections had taken place. We knew that none had taken place before 15 February. We were told that they were not sure how many had taken place since that date. But one was eventually named by Senator Herron and, of course, that was the one that we named last week. So he did not get that information from his staffers; he got that information from us. The biggest gem of all was that we were then told about ‘patients with gangrene’, and one would question why things had been allowed to reach that stage; that ‘flies do get into buildings’, particularly ones that, I note, do not have flyscreens, which I understand was one of the 29 issues
that this particular crowd, the Riverside mob, failed on; and that in fact 'you will get maggots in wounds', and I do not have any doubt about that.

We were then told that this new Aged Care Standards and Accreditation Agency worked quickly. I do not know what the time frame for that was, but it did not work too quickly in any of these instances. If I had been the minister or anyone else, I would be asking a few questions of this agency. What does the term 'quick' mean to these people? How long does it take before issues are taken seriously? But I must commend Senator Herron. It took until question seven before he found the real culprit in the whole debate: it was our fault. The Labor Party was responsible for this. It took him until question seven to make that statement in here. The buck stops at the next election, and indeed it certainly does. He will not, I think, be in charge of this show that long, and hopefully Mrs Bishop will be out on her ear a lot sooner in the interest of the aged care community in this country. This is a shabby story of neglect, a shabby story of incompetence and a shabby story of where the Prime Minister has literally just stood by and let all of this happen.

Senator EGGLESTON (Western Australia) (3.18 p.m.)—We have been hearing a lot about the Titanic today—about whether or not it was being turned around or whether it had hit the iceberg. Let me say that the Titanic hit the iceberg under the Labor government. The current government, the Howard government, has been repairing it and I assure you that it is not going to sink under this government; it is going to keep sailing on. Let us have a look at what happened under Labor with its nursing home and aged care policy. I will just repeat some of the figures which Senator Patterson quoted at the beginning of her speech. The Labor government left an appalling legacy in terms of the care of the frail older section of our community. In 1993 Labor commissioned Professor Gregory to review the state of the nursing home sector, but Labor refused to act on its own report. One would have to say that that is an example of the Titanic hitting the iceberg.

Let us have a look at what Professor Gregory found. He found that after over a decade of Labor misgovernment, 75 per cent of nursing homes did not meet Australian design standards; 38 per cent of residents shared their bedroom with four or more people—that is getting pretty crowded, I think; 13 per cent of nursing homes did not meet fire regulations, which is quite outrageous; and 11 per cent of nursing homes did not meet health regulations. These cold figures are bad enough in themselves, but let us have a look at some of the press reports about problems in nursing homes under the Labor government. Throughout 1994 and 1995 serious problems in nursing homes across Australia were revealed in press reports around this country. These included incidents which referred to the mistreatment, pain and suffering of residents and, in two cases, fires that resulted in the deaths of residents—nothing for the Labor Party to be proud of there. Let us look at some of the worst incidents. The Sunday Herald Sun of 3 July 1994 carried a report on fires in aged care facilities. The report said that in March 1994 two women were killed in a fire in a special accommodation home in Melton in Victoria. That comes back to the fact that 13 per cent of nursing homes under Labor did not meet fire regulations. The Sunday Herald Sun of 3 July 1994 also carried a story that stated that an elderly man had died in a Warrnambool nursing home in 1993. The deaths in these two nursing homes led to fire sprinklers being installed. This was very much too late to save the people who had died and is an appalling indictment of the kinds of standards which the ALP permitted to persist while they were in government.

The Age of 13 February 1995 carried a story stating that the then federal Department of Human Services and Health found that in a nursing home in Victoria, which it named, 18 of the 40 residents had experienced significant weight loss over a nine-month period due to a lack of care and attention. Again, that is a problem which would have been established to be the case under our accreditation and assessment system but which, under the Labor Party,
which had no system of checking what was going on in nursing homes, was allowed to happen without any kind of action being taken. The *Sunday Telegraph* of 5 June 1994 found that in nursing homes in New South Wales patients commonly had untreated scabies and inadequate supplies of hot water and had been assaulted by the staff. These are appalling things which happened under the Labor Party, yet when we came into office we did something about these sorts of problems, establishing an accreditation scheme and a complaints scheme. As a result, the nursing home sector is vastly improved. *(Time expired)*

**Senator McLucas (Queensland) (3.23 p.m.)**—I would also like to take note of the answers given by Senator Herron on aged care in question time today. I would like to first of all note the compliments that Senator Herron paid to Senator Evans for his work over the last six months or more in raising the community’s concerns about aged care. He was very generous, and I must say I concur with him. I also congratulate Senator Evans because I believe he has given the serious concerns raised by this community over many months the public prominence and the public discussion that they deserve. It is because of the work of Senator Evans that the community now has knowledge of the mismanagement of this portfolio by Minister Bishop and is much more informed about the components of aged care.

I note Senator Herron today said in an answer to a question that the minister’s actions were ‘impeccable’. I found that comment rather extraordinary. The residents of Riverside and their families would not agree. They do not agree because it took three separate reports before the minister responded to the concerns of community members and in particular to the concerns expressed by the nursing staff at Riverside. Those reports might still be coming except that Senator Evans raised these issues both in this parliament and in the media. It took Senator Evans alerting us to these matters to make the minister respond.

I do not think that the residents of Riverside and their families would agree that the minister’s actions were impeccable. They have not at all been comforted by the minister’s comments on the activities at Riverside. They are also not comforted by the minister’s comments on spot checks or the complaints line. Senator Herron referred at length today to the accreditation process, telling us that over 330 homes had been inspected for accreditation and had been accredited. There are over 3,000 nursing homes in Australia. I do not know that 330 is a very good record. I might also add that the inspection process has very little to do with the ongoing monitoring process. The inspection process is basically to benchmark the aged care home’s structural components. It has very little to do with the quality of the care provided. It looks at the components and the physical arrangements at the aged care facility and the physical facilities that are provided. It does not look at the quality of care that is being provided on a day-to-day basis.

We are now aware through the raising of these issues that no spot checks were done until we raised the issue in this parliament. In fact, there is no commitment, in my view, from this government to monitoring aged care on an ongoing basis and no commitment to providing comfort to the community members who have made the big decision to place their loved ones in an aged care facility. This government is providing no comfort to those people that their aged relatives will be cared for properly. The spot check process should work well. It should provide excellent support and comfort to family members but, if it is not working, it is not going to happen.

Senator Herron also referred to the complaints line. I was astonished that he seemed to hold it in some sort of esteem. The complaints line has just not worked. It is no comfort to people, especially nurses, who want to know that they can anonymously provide details of the mishandling of aged care facilities, to know that their complaints will not even be heard. Nothing happens at all when people ring up the complaints line. That is what we have heard over the last few months. Concern is growing in the community because the systems that are
being trumpeted in this place are in fact not working. There is no safeguard or support for families who have made the decision to place their family members in an aged care facility. I note Senator Herron did not answer the question about entitlements to staff members at all. That raises the quandary that nursing staff are left in if they are in a position where they are knowledgeable about inappropriate care provision. They are left with a personal conflict. (Time expired)

Question resolved in the affirmative.

Telestra: Fault Restoration

Senator STOTT DESPOJA (South Australia—Deputy Leader of the Australian Democrats) (3.28 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Communications, Information Technology and the Arts (Senator Alston), to a question without notice asked by Senator Allison today, relating to Telestra’s services in regional Australia.

This relates to Telestra’s services, their availability in rural areas and the fact that this government and Telestra seem to insist that job losses and reductions will not result in service diminution. Over the past decade, Australians generally as a community have greeted with incredulity the massive profit announcements of various corporations. The exponential growth in the profits of banks and telecommunications companies in particular is testament to the fundamental shift in this nation’s corporate culture. As the proportion of shareholders in our corporations has grown, so too has this emphasis on profit making to increase returns. However, the consequences of this new focus have often been widespread changes in the services offered and in the workplaces of these companies.

Last week’s announcement by Telestra of its after-tax profit of $2.1 billion was the latest example of this trend. It was probably met with a degree of incredulity from a number of Australians. For many Australians, the capacity for Telestra to generate such wealth is further evidence that it should remain in public hands. Telestra continues to increase its revenues, even in the face of increasing competition. That announcement also contained the news that labour costs remained low and were expected to continue their downward trend. The demand for continuing high returns to shareholders has led Telestra to undertake a wide-scale reform of its workplace arrangements. A large proportion of employees have moved from full-time, permanent arrangements to casual contracts. Despite these changes and the low labour costs, Telestra has also announced it will shed 10,000 jobs by June 2002. How it proposes to reconcile this magnitude of staff cuts with its stated aim of retaining and improving services remains to be seen. How this mass job shedding will be achieved without severely impacting on rural and regional services is similarly mystifying. Even if Telestra manages to cut thousands of staff without one job loss in these areas, the effect on urban labour markets will be pronounced. This is an issue that Senator Lyn Allison and Senator Woodley have highlighted in question time over the last couple of days.

In seeking to ascertain the likely impact of the proposed cuts, my office inquired of Telestra where their call centres were located. The answer from Telestra was that the information was not publicly available—so they were not going to make available to the public, their shareholders, the information as to where their call centres were located—and that further inquiries should be directed to Minister Alston’s office. After our persisting with the inquiry, a list of call centres was forwarded to us. This contained the addresses of 58 call centres, 45 of which are located in regional and rural centres.

Whether this represents the total list of Telestra call centres is unclear. My office has been assured that this is the case, despite that number being at odds with reports in the media of much greater numbers of call centres.

If the minister is able to clarify this issue and perhaps to explain Telestra’s reluctance to provide that information, I would be most grateful. However, assuming that list is exhaustive, it poses some interesting questions. How do the government and Telestra expect to quarantine regional and rural areas from job losses when such a large proportion of call centres are located in these ar-
I note the Tasmanian Premier, Mr Bacon, is meeting with the Prime Minister today to raise his concerns about the effect of the proposed job losses on his state. Tasmania has increased its employment rate through attracting call centres to that particular state. The South Australian government has pursued a similar strategy, with banks and telecommunications companies in particular locating their facilities there. With South Australian unemployment rising and outflanking all other states, the loss of any Telstra jobs will have quite a damaging effect on our already weakening labour market. This will happen whether the job losses are regional or urban.

I stated earlier that many Australians are sceptical about the privatisation of Telstra, rightly viewing its massive profits as belonging more to the country than to its shareholders. If the minister for communications were of that view, we might have better service delivery in this country, not to mention the fact that we would not be anticipating the number of job losses that Telstra has indicated. Since the announcement of job losses, I believe many Australians now oppose outright any further privatisation. Both the government and Telstra need to recognise that Australia cannot afford it. (Time expired)

Question resolved in the affirmative.

PERSONAL EXPLANATIONS

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (3.33 p.m.)—Madam Deputy President, I seek leave to make a short personal explanation.

Leave granted.

Senator PATTERSON—In taking note of answers to questions without notice earlier today, I referred to two facilities, and I have not been able to check whether they are nursing homes or not. I indicated that some places had problems under the Labor government. I do have some examples from the Age of 13 February 1995 and the Sunday Telegraph of 5 June. Of the other examples, one or two to which I referred may not have been. I am not sure, and I cannot confirm it. I wish to clarify that point.

PETITIONS

The Clerk—A petition has been lodged for presentation as follows:

Goods and Services Tax: Complementary Medicines and Services

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

The petition of certain citizens of Australia draws to the attention of the Senate, decisions by the Howard Government to apply a 10% goods and services tax to vitamin, mineral and herbal remedies which are listed, along with pharmaceutical medicines, on the Australian Register of Therapeutic goods.

This decision will disadvantage all Australians who use or provide alternative and complementary HealthCare products to maintain and improve their health and wellbeing, to prevent disease and to manage chronic illness. This is a new tax on those who, by taking care of their health with products and services which are not subsidised, reduce the burden on the health budget. A tax on health is a bad tax. Your petitioners therefore pray that the Senate recognises that imposition of the HGST on therapeutic goods which are listed on the Australian Register of Therapeutic Goods is contrary to the maintenance of our good health and well-being. Our petition requests the Senate to call on the Government to zero-rate these products.

by Senator Lees (from 8,099 citizens).

Petition received.

NOTICES

Presentation

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

That the Senate—

(a) welcomes the acknowledgment by the Leader of the Opposition (Mr Beazley), as reported in the Sydney Morning Herald of 11 February 2000, that “Telstra has to conduct its affairs as it sees fit”;

(b) supports the Leader of the Opposition in recognising the right of the Telstra Board to determine the best course for the company.

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

That the time for the presentation of the report of the Standing Committee for the Scrutiny of Bills on search and entry provisions in Com-
monwealth legislation be extended to 6 April 2000.

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

That the time for the presentation of the report of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund on the consistency of the Native Title Amendment Act 1998 with Australia’s international obligations under the Convention on the Elimination of All Forms of Racial Discrimination be extended to 7 June 2000.

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

That the time for the presentation of the reports of the Foreign Affairs, Defence and Trade References Committee on:

(a) the examination of developments in contemporary Japan and the implications for Australia be extended to 17 August 2000; and

(b) the economic, social and political conditions in East Timor be extended to 8 June 2000.

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

That the Senate—

(a) notes that:

(i) the Advertising Standards Board has upheld complaints that billboard advertising for Windsor Smith shoes is offensive and not in line with community standards, and

(ii) previous advertisements produced by the same company have attracted similar complaints;

(b) notes, with concern, the lack of sanctions available to the board to enforce this decision; and

(c) calls on the company to abide by the decision of the board and withdraw the billboards.

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

That the Senate notes that:

(a) it is 35 days since former Senator Parer resigned as a senator for the State of Queensland;

(b) 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 COONAN (New South Wales)

(3.36 p.m.)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that, six sitting days after today, I shall move:

That the Notice of Approval of Amendment No. 27 of the National Capital Plan, made under section 21 of the Australian Capital Territory (Planning and Land Management) Act 1988, be disallowed.

I seek leave to incorporate in Hansard a short summary.

Leave granted.

The document read as follows—

Notice of Approval of Amendment No. 27 of the National Capital Plan made under section 21 of the Australian Capital Territory (Planning and Land Management) Act 1988

Under the Australian Capital Territory (Planning and Land Management) Act 1988 amendments to the National Capital Plan are disallowable instruments and either House may give notice to disallow them within 6 sitting days of tabling. Amendment No. 27 to the National Capital Plan was tabled on 6 March 2000 and the Committee has not had an opportunity to scrutinise the instrument. In order to protect its options in relation to this instrument, the Committee considers it prudent to give this notice as this will give it sufficient time to properly consider the instrument.

COMMITTEES

Selection of Bills Committee

Report

Senator CALVERT (Tasmania) (3.37 p.m.)—I present the third report for 2000 of the Selection of Bills Committee.

Ordered that the report be adopted.
Senator CALVERT—I seek leave to have the report incorporated in Hansard.

Leave granted.

The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 3 OF 2000
1. The committee met on 14 March 2000.
2. The committee resolved to recommend—
   That the following bills not be referred to committees:
   Road Transport Charges (Australian Capital Territory) Amendment Bill 2000
   Interstate Road Transport Charge Amendment Bill 2000
   Interstate Road Transport Amendment Bill 2000
   Therapeutic Goods Amendment Bill (No. 2) 2000
3. The Committee deferred consideration of the following bills to the next meeting:
   (deferred from meeting of 19 October 1999)
   Taxation Laws Amendment Bill (No. 10) 1999
   (deferred from meeting of 23 November 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
   (deferred from meeting of 15 February 2000)
   A New Tax System (Tax Administration) Bill (No. 2) 1999
   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 (Defence—East Timor Levy) Bill 2000
   Primary Industries (Excise) Levies (GST Consequential Amendments) Bill 2000
   Taxation Laws Amendment Bill (No. 5) 2000
   (deferred from meeting of 14 March 2000)
   A New Tax System (Fringe Benefits) Bill 2000
   A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Amendment Bill 2000
   A New Tax System (Family Assistance and Related Measures) Bill 2000
   Aviation Legislation Amendment Bill (No. 1) 2000
   Child Support Legislation Amendment Bill 2000
   Family and Community Services Legislation Amendment Bill 2000
   Jurisdiction of Courts Legislation Amendment Bill 2000
   (Paul Calvert)
   Chair
   15 March 2000

NOTICES
Postponement

Items of business were postponed as follows:

General business notice of motion no. 340 standing in the name of Senator Allison for today, proposing an order for the production of Commonwealth-State agreements, postponed till 4 April 2000.

General business notice of motion no. 440 standing in the name of Senator Bartlett for today, relating to immigration, postponed till 4 April 2000.

General business notice of motion no. 444 standing in the name of Senator Stott Despoja for today, relating to genetic privacy, postponed till 16 March 2000.

COMMITTEES
Privileges Committee

Motion (by Senator Robert Ray) agreed to:
That the Senate:
(a) endorse the findings contained at paragraph 27; and
(b) adopt the recommendations at paragraphs 25, 26 and 30, of the 84th report of the Committee of Privileges.
Privileges Committee

Report

Motion (by Senator Robert Ray) agreed to:

That the Senate:
(a) endorse the findings contained at page 8; and
(b) adopt the recommendations at paragraph 26, of the 85th report of the Committee of Privileges.

TELSTRA: ALL CENTRES

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

That the Senate—
(a) notes:
(i) a resolution by Bendigo Council opposing any cuts to, or closure of, Telstra’s Directory Assistance Call Centre in Bendigo,
(ii) concerns that up to 65 jobs are earmarked for cuts over the next 6 months, and
(iii) concerns that up to 140 jobs at Burnie and Hobart Call Centres may be at risk; and
(b) urges the Federal Government to intervene in order that current staffing levels be maintained at Telstra’s Call Centres in Bendigo, Morwell, Burnie and Hobart.

FIRST INTERNATIONAL YOUTH SERVICES MODELS CONFERENCE

Motion (by Senator Stott Despoja) agreed to:

That the Senate:
(a) notes that:
(i) the First International Youth Services Models Conference is being held in Adelaide in the week beginning 12 March 2000, and
(ii) this conference is being attended by 100 delegates from 27 countries, who will discuss means by which young people can best be assisted in overcoming problems which they may face and in achieving their potential; and
(b) endorses the comments by the keynote speaker of the conference, the head of UNESCO’s Youth Co-ordination Unit, Maria Helena Henriques, that young people make enormous contributions to society and efforts must be made to reach out to those who find themselves alienated from society.

COMMITTEES

Economics Legislation Committee

Extension of Time

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

That the time for the presentation of the report of the Economics Legislation Committee on annual reports be extended to 6 April 2000.

Legal and Constitutional Legislation Committee

Extension of Time

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

That the time for the presentation of the report of the Legal and Constitutional Legislation Committee on annual reports be extended to 4 April 2000.

EMPLOYMENT: SOUTH AUSTRALIA

Motion (by Senator Stott Despoja) agreed to:

That the Senate:
(a) notes that:
(i) according to the Australian Bureau of Statistics labour force statistics for February 2000, South Australia has the highest seasonally-adjusted unemployment rate of any state in the country, a position it has not held since February 1996, and
(ii) South Australia was the only state to record an increase in its unemployment rate in February 2000, contrary to a national trend of declining unemployment; and
(b) urges the Federal Government to consider the impact of all Cabinet decisions on South Australian employment and examine means by which employment opportunities in that state may be improved.

EMPLOYMENT: WORK FOR THE DOLE PROJECTS

Motion (by Senator Brown) agreed to:

That there be laid on the table by the Minister representing the Minister for Employment, Workplace Relations and Small Business (Senator Alston), by the close of business on 16 March 2000, the following:
(a) documentation of the procedures used by the Department of Employment, Workplace Relations and Small Business to establish that work for the dole projects meet the requirement ‘to liaise with their communities and with unemployed people to ensure enthusiasm and support
for the proposed projects’ (Work for the Dole Handbook, 2000);

(b) the Government’s response to the report of the Australian Capital Territory (ACT) Legislative Assembly on work for the dole in primary schools, which expressed strong concerns with the quality of the proposed program and the lack of workplace and community support; and

c) documents demonstrating that the proposed placement of work for the dole participants in certain ACT schools meets all criteria specified in the handbook, including evidence of the liaison with communities which has ensured ‘enthusiasm and support’ for the project.

STERILISATION OF WOMEN WITH AN INTELLECTUAL DISABILITY

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

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.

TOBACCO: FORMULA 1 GRAND PRIX ADVERTISING

Motion (by Senator Allison) put:

That the Senate:

(a) notes that:

(i) the Formula 1 Grand Prix held in Albert Park, Melbourne, on the weekend of 11 and 12 March 2000, has in 4 years used $100 million of public money that could have been diverted to Victoria’s hospitals, schools or public transport,

(ii) the race broadcasts a pro-tobacco message to millions of viewers worldwide, and

(iii) Government contracts with the organisers and between statutory authorities, in particular the levels of taxpayer subsidy, are shrouded in secrecy;

(b) condemns the Minister for Health and Aged Care (Dr Wooldridge) for granting the event an exemption from the ban on tobacco advertising, despite an annual 18 000 smoking-related deaths in Australia; and

(c) urges the Government to retract this exemption.

The Senate divided. [3.47 p.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes………… 12
Noes………… 37
Majority……… 25

AYES
Allison, L.
Bartlett, A.
Brown, B.
Greig, B.
Harradine, B.
Harradine, B.
Harris, L.
Lees, M.H.
Murray, A.
Ridgeway, A.
Stott Despoja, N.

NOES
Bishop, M.
Brownhill, D.G.
Calvert, P.H. *
Campbell, G.
Campbell, I.G.
Chapman, H.G.P.
Collins, J.M.A.
Conroy, S.M.
Coonan, H.
Cooney, B.
Crowley, R.A.
Crossin, P.M.
Crowley, R.A.
Carr, K.
Collins, J.M.A.
Conon, H.
Crossin, P.M.
Denman, K.J.
Ferguson, A.B.
Gibbs, B.
Hogg, J.
Hutchins, S.
Kemp, C.R.
Knowles, Ludwig, J.
Ludwig, J.
Mackay, S.
Mason, B.
McKer-nan, J.
McLucas, J.
O’Brien, K.
Patterson, K.C.
Payne, Ray, R.F.
Wednesday, 15 March 2000

M.A. Reid, M.E. Schacht, C. Sherry, N. Tchen, T.
J.M. Troeth, West, S.M.

* denotes teller

Question so resolved in the negative.

COMMITTEES

Scrutiny of Bills Committee

Report


Ordered that the report be printed.

Rural and Regional Affairs and Transport Legislation Committee

Report

Senator CAL VERT (Tasmania) (3.50 p.m.)—On behalf of Senator Crane, I present the report of the Rural and Regional Affairs and Transport Legislation Committee on the management of airspace and the decision to terminate the class G airspace trial, together with submissions.

Ordered that the report be adopted.

Senator CAL VERT—I seek leave to continue my remarks later.

Leave granted; debate adjourned.

DAIRY INDUSTRY ADJUSTMENT BILL 2000

First Reading

Bills received from the House of Representatives.

Motion (by Senator Ian Campbell) agreed to:

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

Bills read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia)—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.52 p.m.)—I table a revised explanatory memorandum relating to the Dairy Industry Adjustment Bill 2000 and move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

DAIRY INDUSTRY ADJUSTMENT BILL 2000

In April 1999 the Australian Dairy Industry Council presented the industry’s case to the Commonwealth Government that, in their view, deregulation of the domestic market milk arrangements was inevitable. This view was based on their analysis that commercial pressures would undermine any regulatory regime and that it was in the interests of the dairy industry in competing against imported product and in being able to expand into the vital export sector.

The industry proposed a package of assistance, coupled with the need for systemic and simultaneous deregulation of the market milk sector to enable structural adjustment within the industry with least possible disruption.

The Government responded to the industry’s proposal on 28 September 1999, announcing details of a structural adjustment package which would be implemented should all States deregulate their market milk schemes. This proposal represents the single largest deregulation and adjustment process of any rural sector.

Commercial pressures for deregulation have been growing in the dairy industry for a number of years. This is evidenced by the extent of merger and acquisition activity, the impact of UHT milk on domestic market milk prices and the growing dependence of the dairy industry on exports, which last year brought more than $2 billion to the Australian economy.

All state dairy farmer organisations have accepted that deregulation is inevitable.

In December 1999, a plebiscite of Victorian dairy producers, who collectively represent 63% of all milk produced in Australia, voted overwhelmingly to accept deregulation - 84% of all dairy farmers voted and 89% of those recorded...
their views in favour of the deregulation proposal.

The Victorian Government in responding to this overwhelming mandate announced it would proceed with deregulation. Polling in NSW indicates support of 65% of producers.

The Senate Committee Report into Deregulation of the Australian Dairy Industry which reported in October 1999 concluded that "sooner rather than later the market would force deregulation" and that "a soft landing is preferable to a commercially-driven crash". The Senate Committee’s Report has assisted in providing informed debate on the deregulation issue.

There is general agreement that if deregulation is to occur, it needs to be done in an orderly way. The Commonwealth’s package provides a substantive response to the industry’s request for support while it adjusts to deregulation, and responds to the recommendations in the Senate Committee’s Report. I will outline the detail of this $1.74 billion package shortly.

Against the background that market milk arrangements were State run systems and the responsibility of the States, the Commonwealth responded in September 1999, with details of a structural adjustment package it would be prepared to implement, should all States agreed to deregulate their arrangements.

The condition the Commonwealth imposes upon the package that all States must deregulate arises from the Commonwealth’s obligation to ensure that all dairy farmers across Australia are treated fairly and equally, and the necessity to avoid significant market distortion. The Government was also mindful of the fact that introduction of a levy of 11 cents per litre on consumers in States which maintained high regulated market milk prices would place an intolerable burden upon consumers in those States as well as provide an adjustment package to those producers who still benefited from high regulated prices.

I wish to emphasise a very important point. The levy of 11 cents per litre will commence on 8 July 2000. There is no other introductory date option because to do otherwise would cause major disruption and uncertainty in the dairy market and to consumer prices. The Commonwealth Domestic Market Support Scheme terminates on 30 June 2000. Deregulation in States needs to have effect from that date.

Any State which does not meet the deadline of 30 June to deregulate will be responsible for denying producers across Australia timely access to the benefits of the package and will risk an unacceptable impost upon consumers of milk in that State. It will be at their peril for them to ignore the critical timing deadlines we all have to accept as immovable.

This Bill provides for payments to producers to commence from a date to be fixed by proclamation. I would intend that such a proclamation would be made as soon as the Government is satisfied that appropriate deregulation arrangements have been made by all States. Hopefully this will be possible by July 2000, but if it is not, entitlement rights will, in any event, accrue from 1 July regardless of the exact date of commencement of the payments.

This package is not about providing compensation for removal of quotas and regulation, or about providing income support. The adjustment flowing from this package will lead to better industry performance than would otherwise be possible and which in turn will assist in maintaining and, in the long term, increasing job opportunities and incomes in regional dairying areas.

To ensure the focus is on structural adjustment the Government is requiring that each producer undertake a farm business assessment before they are eligible for a payment. While these assessments will remain confidential to each producer, their preparation ensures that the producer has fully considered the impact of deregulation on his or her individual enterprise, with the benefit of independent, expert financial advice, and taken their own decision on the most appropriate response.

Impact on regions

Before I turn to the detail of the Bill and the specifics of how this adjustment assistance is to be delivered to producers, let me briefly point out some key facts about how regions will benefit, for this package is not just for dairy farmers. Deregulation without a package would be devastating for some regions. What the package does is assist to sustain the viability of the dairy industry in those regions by maintaining viable dairy enterprises, with the subsequent maintenance of employment. The essential service industries which support dairy farm enterprises will also be able to remain viable because of the survival of their customers. Rural communities will be provided with a major, and real, contribution which will help maintain the basic fabric of their economies.

Let me give substance to this. It is estimated that WA will receive $108 million, SA $127 million, Tasmania $76 million, Queensland $220 million, NSW $337 million and Victoria $765 million from this package.
As examples of regions where dairying is concentrated, the Gippsland region of Victoria, the North Coast of New South Wales and the South East Queensland, will receive over $220 million, $100 million and $166 million respectively. These are very significant injections to regions which would otherwise suffer the impact of commercial market restructuring without support.

Structural Adjustment payments

The Dairy Industry Adjustment Bill 2000 provides the framework for two programs which will be the delivery responsibility of a new Dairy Adjustment Authority established for this purpose.

A Dairy Structural Adjustment Program will provide in total $1.632 billion to producers based on their deliveries of manufacturing and market milk in 1998/99. These payments will be calculated for market milk deliveries at the rate of 46.23 cents per litre and for manufacturing milk on a fat and protein basis with a national average of 8.96 cents per litre. The higher payment available for market milk reflects the premium associated with market milk delivery under the current regulated arrangements. Payments will be made in quarterly instalments over 8 years and are transferable to primary producers.

To be eligible for payment under the package producers must have had an interest in an eligible dairy enterprise on 28 September 1999, the date of the Government’s announcement of the package. Where a producer can show that due to severe and abnormal circumstances deliveries in 1998/99 were 30% or more below the average of the previous three years, the Authority may consider providing a supplementary payment. In addition, it is recognised there may be a few producers who were dairying in 1998/99 and remain in the industry and yet, for one reason or another, do not meet all the criteria for a standard entitlement. In such cases the Authority would have some discretion to consider their claim and may allocate an entitlement based on their ‘anomalous’ circumstances.

It is the Government’s intention that all eligible participants in the industry – owner/operators, sharefarmers, lessees and lessors – share these payments. The entitlement determined for each party will reflect their share of the revenue received from milk sales from the enterprise in question as at 28 September 1999. Consideration will also be given to the extent to which each party contributed to the enterprise. For example, where a party contributes elements considered essential to achieving access to the market milk premium, such as quota, or in its absence, land and livestock, they would be eligible to share also in the premium payment associated with the market milk payment.

The Authority will be closely examining sharefarmer arrangements to assess whether they meet eligibility requirements. It is not intended normal employer/employee-type arrangements, or payment for service contract arrangements, will create an eligible interest in a dairy farm enterprise. In leasing arrangements, the lease payment will be used to determine the share of income from milk sales.

It is also the Government’s intention that payments above $350,000 flow only to those who are primarily dairy producers. To achieve this objective, claimants for amounts in excess of $350,000 will need to verify that more than 70% of their income is derived from dairying.

Exit from Dairying

While the package is basically designed to provide adjustment assistance to dairy farmers who are potentially viable and profitable suppliers of milk after this transition, it also addresses the needs of some farmers who may need to seriously consider leaving the industry. It is not intended entitlement holders will be required to remain involved in the farm which generated their entitlement and they can exit and continue to receive their payment stream or dispose of it to another primary producer. Equally, sharefarmers would be in a position to invest in their own enterprise if they so chose.

The package also includes a specific $30 million Dairy Exit Program to allow farmers who choose to leave their farms and agriculture to do so with some dignity and prospects for the future.

The exit program will run for the first 2 years of the package and will provide payments of up to $45,000 tax free. Conditions for an exit payment will be the same assets test and eligibility requirements which apply under the Restart Re-establishment Grants of the Farm Family Restart Scheme.

Producers may access this exit payment as an up-front payment or may switch from the structural adjustment program to the exit program within the first 2 years. Where a producer chooses to switch to exit, the assessed exit payment will be net of any funds already received under the structural adjustment program and only that component taken as an exit payment will be assessed as non-taxable income.
While it is not known how many producers will seek to access the exit program, the Government is conscious that the adjustment to deregulation will be particularly difficult for some and farmers will need to seriously consider their options.

The Levy

The package will be funded from a levy of 11 cents per litre on the sale or equivalent transaction of all liquid milk products – these include whole-milk, modified milk, Ultra Heat Treated (UHT) milk and flavoured milk. The details of the imposition of the levy are contained in the accompanying Levy Imposition Bills. Sales of imported milk will also be covered by the levy, as the levy will apply to all liquid milk products sold domestically at the point of use. Liquid milk products destined to be exported will be exempt.

The 11 cents per litre levy commences on 8 July 2000 and is expected to run 8 years. The money raised from this levy will enable payments to producers under the package. The levy will also meet all administration and borrowing costs associated with the package, costs associated with collection of the levy, as well as costs incurred by the Australian Competition and Consumer Commission (ACCC) in monitoring of retail price activity. The levy will cease when all payments are made and costs are met.

This Bill provides for efficient and cost-effective levy collection arrangements which have been developed in close consultation and with the full cooperation of dairy industry processors.

The 11 cents per litre levy is not expected, of itself, to lead to increased retail milk prices, with deregulation. While there will be variability between regions, depending on market factors, the farm gate price for market milk is expected to fall towards the manufacturing milk price, with margins expected to reflect distance, environmental and seasonal factors and the ability of producers to negotiate supply contracts with manufacturers. The industry’s estimate is that the deregulated price will fall by up to 15 cents per litre. The levy is less than this anticipated fall in price to farmers. The ACCC will monitor retail milk prices before and for 6 months after introduction of the levy to ensure any price changes are in accordance with acceptable competitive practices.

The Dairy Adjustment Authority

A statutory Dairy Adjustment Authority will be established which will be responsible for administration of the package. The Authority will be supported in its operation by the Australian Dairy Corporation (ADC). However the Authority will operate independently of the Corporation. The main role of the Authority will be to assess applications for payments in accordance with statutory eligibility criteria and to direct the ADC in delivering payments. Decisions of the Authority will be appealable to the Administrative Appeals Tribunal. The management of the package will, of course, be subject to the normal Commonwealth accountability, audit and reporting requirements of statutory bodies.

The Board of the Authority will comprise five persons. There will be two dairy industry members, two who have specific qualifications in the fields of business management, finance, legal or actuarial practice, one of whom will be the Chair, and a government member. Once the initial assessment of applications has been finalised and the payment arrangements are well established (after about 2 years), I anticipate the Authority will be phased down to a smaller body.

Producers will be given a strict three-month period in which to register their interest in an entitlement. Initially, the Authority will endeavour to contact all producers whose names are on delivery records of companies, cooperatives or State milk authorities. During this period the Authority will undertake an extensive public advertising campaign to ensure there is widespread awareness of the package and alert anyone who may have an interest in a payment about how they should go about establishing eligibility. Importantly, any application for an entitlement needs to be lodged in this period as it will not subsequently be possible to adjust entitlements after they have been allocated by the Authority.

This package assists producers of all scales of operation, to adjust their enterprises to the new market realities. The Government is committed to ensuring dairy farmers have the choices and the support to either continue in the industry profitably or exit agriculture with dignity. The result of this adjustment will be that the Australian dairy industry’s production base will be more efficient, more competitive and our dairy product export prospects further enhanced. Consumers will ultimately benefit from the deregulated market.

DAIRY ADJUSTMENT LEVY (EXCISE) BILL 2000

The purpose of this Bill is to provide for the imposition of the Dairy Adjustment Levy only so far as that the levy is a duty of excise. This Bill is part of a package of four Bills that will
establish the Dairy Industry Adjustment Program.

This Bill imposes a levy of 11 cents a litre on leviable milk products as defined in the Dairy Industry Adjustment Bill 2000.

This Bill, in association with the Dairy Adjustment Levy (Customs) Bill 2000 and the Dairy Adjustment Levy (General) Bill 2000, will raise the revenue to fully finance the Dairy Industry Adjustment Fund, as established under the Dairy Industry Adjustment Bill 2000.

DAIRY ADJUSTMENT LEVY (CUSTOMS) BILL 2000

The purpose of this Bill is to provide for the imposition of the Dairy Adjustment Levy only so far as that the levy is a duty of customs. This Bill is part of a package of four Bills that will establish the Dairy Industry Adjustment Program.

This Bill imposes a levy on leviable milk products as defined in the Dairy Industry Adjustment Bill 2000. The levy imposed by this Bill will only be payable according to the Dairy Industry Adjustment Bill 2000, and will be applied on the use, and not the importation, of leviable milk product.

The rate at which the levy imposed by this Bill will be the same as that imposed by the Dairy Adjustment Levy (Excise) Bill 2000.

This Bill, in association with the Dairy Adjustment Levy (Excise) Bill 2000 and the Dairy Adjustment Levy (General) Bill 2000, will raise the revenue to fully finance the Dairy Industry Adjustment Fund, as established under the Dairy Industry Adjustment Bill 2000.

DAIRY ADJUSTMENT LEVY (GENERAL) BILL 2000

The purpose of this Bill is to provide for the imposition of the Dairy Adjustment Levy only so far as that the levy is neither a duty of excise nor a duty of customs. This Bill is part of a package of four Bills that will establish the Dairy Industry Adjustment Program.

This Bill imposes a levy on leviable milk products as defined in the Dairy Industry Adjustment Bill 2000.

The rate at which the levy imposed by this Bill will be the same as that imposed by the Dairy Adjustment Levy (Excise) Bill 2000.

This Bill, in association with the Dairy Adjustment Levy (Excise) Bill 2000 and the Dairy Adjustment Levy (Customs) Bill 2000, will raise the revenue to fully finance the Dairy Industry Adjustment Fund, as established under the Dairy Industry Adjustment Bill 2000.

Debate (on motion by Senator O’Brien) adjourned.

APPROPRIATION BILL (No. 3) 1999-2000

APPROPRIATION BILL (No. 4) 1999-2000

First Reading

Bills received from the House of Representatives.

Motion (by Senator Ian Campbell) agreed to:

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

Bills read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.53 p.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

APPROPRIATION BILL (NO. 3) 1999-2000

It is with great pleasure that I introduce Appropriation Bill (No. 3) 1999-2000. Together with Appropriation Bill (No. 4) 1999-2000, which I shall introduce shortly, these Bills comprise the Additional Estimates for 1999-2000.

In keeping with the introduction of accrual budgeting in the 1999-2000 Budget, this will be the first Additional Estimates presented on an accrual outcome basis.

In the Bills, the Parliament is asked to appropriate monies to meet essential and unavoidable expenditures from the consolidated revenue fund. These monies are additional to the appropriations made for 1999-2000 in Appropriation Acts (Nos 1 and 2) 1999-2000, last Budget.

The additional appropriations in these two Bills total some $2,496m; $1,847m is sought in Appropriation Bill (No. 3) and $649m in Appropriation Bill (No. 4).

These amounts are partly offset by savings made against Appropriation Acts (Nos 1 and 2) 1999-
These savings, amounting to some $949m in gross terms, are detailed in the document entitled “Statement of Savings Expected in Annual Appropriations”, which has been distributed to Honourable members.

After allowing for prospective savings, the provisions represent a net increase of $1,547m in appropriations in 1999-2000, an increase of 3.7% on amounts made available through annual appropriations at the time of the 1999-2000 Budget.

It should be noted that these figures relate only to expenses financed by annual appropriations, which comprise about 25% of Budget total expenses. These figures do not include revisions to estimates of expenses from special appropriations.

I now turn to the main areas for which the Government seeks additional provisions in the Appropriation Bill (No. 3).

This Bill provides authority for meeting payments or expenses on the ordinary annual services of Government. Details of the proposed appropriations are set out in the Schedule to the Bill.

Principal factors contributing to the increase are:

An additional $61m across the portfolios of Defence, Health and Aged Care, Immigration and Multicultural Affairs and Attorney General’s for the provision of assistance to East Timor.

An additional $80m across the portfolios of Defence, Health and Aged Care and Immigration and Multicultural Affairs for the provision of assistance to Kosovar Refugees.

An additional $740m is attributable to the Department of Defence, and is the result of the transfer of funds from the Capital Investment Programme to fund operational expenditure and the reprofile of the acquisition programme. These changes are being made under the Defence global budgeting arrangements.

An additional $118m to the Australian Tax Office for various administrative costs associated with the implementation of the GST and other reforms associated with A New Tax System.

An additional $43m to the Department of Defence related to Foreign Exchange and Price movements.

An additional $46m to the Department of Foreign Affairs and Trade as part of the property reforms agreed by the Government last Budget. This will be offset by increased returns and dividends on the Commonwealth’s property portfolio.

An additional $92m to the Department of Health and Aged Care resulting from a review of the accounting treatment of grants and personal benefit liabilities for all programmes, in line with ANAO advice.

An additional $20m has also been provided to the Department of Health and Aged Care for rephasing incentive funding under the General Practice Strategy. The funding will be returned to the Budget in the forward years.

An adjustment of $41m to the Department of Immigration and Multicultural Affairs to account for the significant increase in illegal immigrants during the 1999 calendar year.


The balance of the amount included in Appropriation Bill (No. 3) is made up of minor variations in most departments and agencies.

I commend the Bill to the Senate.

APPROPRIATION BILL (NO. 4) 1999-2000

Appropriation Bill (No. 4) provides additional revenues for agencies to meet:

Expenses in relation to grants to the States under section 96 of the Constitution and for payments to the Northern Territory and the Australian Capital Territory;

Administered expenses; and

Equity injections and loans to agencies as well as administered capital funding and carryovers.

Additional appropriations totalling $649m are sought in Appropriation Bill (No. 4) 1999-2000. This is additional to the appropriations made in Appropriation Act (No. 2) 1999-2000 last Budget.

The principal factors contributing to the increase are:

An additional $25m in Transport and Regional Services for the Darwin-Alice Springs rail link.

An additional $36m to the Department of Finance and Administration for funding to the States and Territories under the Natural Disaster Relief Arrangements, including a small component of ex gratia payments for disaster relief.

An additional $50m for an equity injection to the Australian Federal Police to enable it to extin-

The balance of the amount included in Appropriation Bill (No. 4) is made up of minor variations in most departments and agencies.

I commend the Bill to the Senate.

Debate (on motion by Senator O'Brien) adjourned.

TAXATION LAWS AMENDMENT BILL (No. 5) 2000

PRIMARY INDUSTRIES (EXCISE) LEVIES (GST CONSEQUENTIAL AMENDMENTS) BILL 2000

First Reading

Bills received from the House of Representatives.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts)—I indicate to the Senate that those bills which have just been announced are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question resolved in the affirmative.

Bills read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.54 p.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

TAXATION LAWS AMENDMENT BILL (NO. 5) 2000

The Bill amends the sales tax law to ensure that certain modifications relating to vehicles driven by, or used for transporting disabled persons, are not subject to sales tax. This measure will be of particular significance to the Paralympic Games in Sydney this year by helping to ensure that the transportation needs of the participants are met. This measure was previously announced and has application from 26 June 1998.

It also amends the employee share scheme provisions in Division 13A of the Income Tax Assessment Act 1936 as announced by the Treasurer on 2 September 1999. The proposed change to the law recognises that the market value of shares and unlisted rights to acquire shares, under an employee share scheme offered in association with a secondary or subsequent public offer of shares, is more equitably reflected in the public offer price of the share. This will provide certainty to both employers and employees as they will be in a better position to assess the tax consequences of their investment decision. The amendment will apply to shares and unlisted rights acquired from 2 September 1999.

The Bill will also amend the Income Tax Assessment Act 1936 by allowing extensions of time for the lodgement and correction of ultimate beneficiary statements. It provides trustees of closely held trusts with the power to recover the ultimate beneficiary non-disclosure tax they paid (including any additional tax or penalty) from ultimate beneficiaries, trustee beneficiaries, or interposed trustees or partnerships whose provision of incorrect information, or refusal to provide information, led to the liability to ultimate beneficiary non-disclosure tax, but only where the gross amount has been distributed in certain circumstances. Further, it clarifies that section 254 extends to ultimate beneficiary non-disclosure tax obligations.

The amendments apply to present entitlements created after 4pm on 13 August 1998 Australian Eastern Standard Time.

Full details of the measures in this Bill are contained in the explanatory memorandum.

I commend the Bill and present the explanatory memorandum.

PRIMARY INDUSTRIES (EXCISE) LEVIES (GST CONSEQUENTIAL AMENDMENTS) BILL 2000

The purpose of this Bill is to prevent the unintentional increase of two primary industry levies arising from the introduction of the GST and to clarify the meaning of the terms ‘price’ and ‘amount paid’ in the Primary Industries (Excise) Levies Act 1999. The Bill excludes the GST from the base for calculating the Deer Velvet and Goat Fibre levies.
Section 9-75 of A New Tax System (Goods and Services Tax) Act 1999 defines the term ‘price’ as an amount including GST. In conjunction, Section 177-12 of this Act attributes this definition to references to ‘price’ in all other Commonwealth Acts, unless the specific legislation specifies that ‘price’ and/or similar terms does not include GST. The Deer Velvet and Goat Fibre levies are calculated on the basis of ‘price’ or ‘amount paid’. If there were no legislative amendment, the amounts collected would rise when the GST is introduced because the base used for calculation of that levy will include GST. The following hypothetical situation demonstrates the rationale behind these amendments.

A deer producer sells $5,000 worth of deer velvet. Currently, the 5 percent levy on that sale would total $250. After 1 July, the producer sells the same amount of deer velvet for $5,500, assuming of course that there is no adjustment to the cost base and profit margin, and remits $500 GST to the Australian Taxation Office. If the Primary Industries (Excise) Levies Act 1999 were not changed, the levy on the sale would be $275, as it would be calculated at 5 percent of $5,500. To avoid such a situation from occurring, the proposed amendments to Schedules 8 and 11 of the Primary Industries (Excise) Levies Act 1999 will expressly provide that the ‘price’ of Deer Velvet and the ‘price’ of or ‘amount paid’ for Goat Fibre, for the purpose of calculating levies, would exclude the ‘net GST’ in that amount. The amendments will override the definition of ‘price’ and similar terms as outlined in Section 177-12 of A New Tax System (Goods and Services Tax) Act 1999. The same principle will be extended to 12 other levies through amendments to the appropriate regulations.

These amendments have a precedent in A New Tax System (Indirect Tax and Consequential Amendments) Act (No 2) 1999, which amended the Wool Tax Administration Act 1964. The Wool Tax is also calculated as a percentage of the sale price of wool and the amendments passed by Parliament have excluded the GST from the base for calculating this tax. This Bill will provide similar intent for the Deer Velvet and Goat Fibre levies.

This Bill is of a technical nature, designed to correct an unintended consequence of the definitions listed in Section 177-12 of A New Tax System (Goods and Services Tax) Act 1999 applying to other Commonwealth Acts. However, this Bill is important, as it will prevent an unnecessary cost increase for deer velvet and goat fibre producers.

Ordered that further consideration of the second reading of these bills be adjourned to the first day of the 2000 budget sittings, in accordance with standing order 111.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

COMMITTEES

Legislation Committees

Reports

Senator CALVERT (Tasmania) (3.55 p.m.)—Pursuant to order and at the request of the chairs of the respective committees, I present reports on annual reports tabled by 31 October 1999 from all legislation committees, except the Community Affairs, Economics and Legal and Constitutional legislation committees.

Ordered that the reports be printed.

DAIRY INDUSTRY ADJUSTMENT BILL 2000

DAIRY ADJUSTMENT LEVY (EXCISE) BILL 2000

DAIRY ADJUSTMENT LEVY (CUSTOMS) BILL 2000

DAIRY ADJUSTMENT LEVY (GENERAL) BILL 2000

Report of Regional Affairs and Transport Legislation Committee

Senator CALVERT (Tasmania) (3.56 p.m.)—On behalf of Senator Crane, I present the report of the Rural and Regional Affairs and Transport Legislation Committee on the provisions of the Dairy Industry Adjustment Bill 2000 and three related bills, together with the Hansard record of the committee’s proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator O’BRIEN (Tasmania) (3.56 p.m.)—by leave—I move:

That the Senate take note of the document.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.
Second Reading

Debate resumed.

Senator FORSHAW (New South Wales) (3.57 p.m.)—I rise to speak on the Dairy Industry Adjustment Bill 2000 and associated bills which are finally before the Senate. I say ‘finally’ because today represents the point when we have to consider in this Senate legislation to give effect to the package plan developed by the Dairy Industry Council to take account of the effects of deregulation of the dairy industry from 1 July this year.

This legislation has been some time in the making. However, I have to say at the outset—and I will return to this later in my remarks—that we in the opposition and, I know, people in the industry and in the states are extremely concerned about the approach adopted by the federal government with respect to this most important issue.

The federal government knew, firstly, that from 1 July this year the Domestic Market Support Scheme—the DMS Scheme, as it is known—would cease to operate by virtue of legislation that had been carried some years ago; and, secondly, that the move to deregulation was inevitable. They had known that for some time—for at least the last year or more. But the Minister for Agriculture, Fisheries and Forestry sat on his hands and did virtually nothing to try to draw together all of the various interests in the industry and the states to bring about an orderly process of deregulation of the dairy industry so that those affected right across the board would be able to cope with that situation.

In October last year, the Senate Rural and Regional Affairs and Transport References Committee handed down its extensive report on deregulation of the Australian dairy industry. This report followed the committee’s lengthy inquiry into the likely deregulation of the dairy industry and the plans by the Dairy Industry Council to cope with that situation. The committee has been complimented across the political spectrum from all sides and, indeed, it has been acknowledged by the industry itself and by the various parliaments that the report we issued on that occasion was of invaluable assistance in considering the complex problems and complex issues arising out of deregulation.

We highlighted when debating that unanimous report of the committee our concerns about this government’s lax attitude to, and its failure to take a leadership role in, this most important question. I do not need to go over all of that again today, and time does not permit. But, since that report was handed down, we have seen a continuing failure by the government to grab the reins of this issue until the very last possible moment and try to bring about an orderly process of deregulation.

At that time, the industry and the parliament were faced with a situation where the previous Victorian government under Mr Kennett had indicated it would deregulate come hell or high water, if I can use that metaphor for the dairy industry. That, of course, would inevitably—as we found—lead to deregulation in other states. The new Labor government in Victoria decided to consult the dairy farmers in that state as to whether or not they wanted to deregulate. The farmers in that state voted overwhelmingly in favour of deregulation, and that occurred just before Christmas last year. Since that time, the other state governments, particularly in New South Wales and Queensland, have recognised that, given that position in Victoria and given the end of the DMS Scheme, deregulation would have to occur. It has really been only in the last couple of months that the government finally understood how urgent it was to get an agreed process in all states across this industry.

It was only a few weeks ago that the federal minister and the state ministers finally reached agreement on some of these im-
portant issues. That is why in the last sitting week before this scheme is due to commence operation—from 1 April this year—we are here today dealing with this legislation. This is legislation that should have been on the table months ago.

Further to that, as we noted in our legislation committee report on the bill itself that was handed down today, we really only had a chance to look at this complex and detailed legislation in the last two weeks. Indeed, we were still sitting as a committee on Monday and we had to sit again last night to get more information in respect of this legislation.

Senator Murray—We still haven’t got it all.

Senator FORSHAW—We do not have it all. All we have received in respect of the ministerial orders that will be attached to this legislation where the detail of how this scheme will operate is drafting instructions. We wanted to see those ministerial orders because the devil will be in the detail. As we also know, it was only yesterday that we were apprised of the very late decision of the government to finally acknowledge one of the concerns that we raised in our report back in October last year of the need for assistance for those regions that would be affected by deregulation. I understand that the minister and the parliamentary secretary will be enlightening us on that, hopefully, shortly. We have pressed that issue about assistance for regions affected time and time again.

As we also know, it was only yesterday that we were apprised of the very late decision of the government to finally acknowledge one of the concerns that we raised in our report back in October last year of the need for assistance for those regions that would be affected by deregulation. I understand that the minister and the parliamentary secretary will be enlightening us on that, hopefully, shortly. We have pressed that issue about assistance for regions affected time and time again.

So we find ourselves here today having to debate this legislation because we have to get it through this parliament if this scheme is to be introduced from 1 April. It has to be done hurriedly and in such a short space of time. I know that many members of this Senate would like to have had more time to consider the implications of all that is contained in this plan. This is the biggest single adjustment package or compensation package—as I think probably more correctly describes it—that has ever come before this parliament with respect to an industry. This is a package which comprises $1.8 million of assistance to be paid over the next eight years to people affected by deregulation. That is a huge amount of money. As we know, that $1.8 billion is going to be raised by the imposition of a new tax—called a levy but, in effect, a tax—on consumers of milk of 11c per litre, and that will continue to exist for the next eight years to fund this package.

Time does not permit me to go into all of the complex arrangements as to how this package will operate. But so people understand what we are talking about I want to say that as a result of deregulation—such as the abolition of the quota in quota states and the deregulation of the market milk sector of the industry—dairy farmers will no longer receive a guaranteed price for milk. Competition in the market will take the place of the regulated system we have had for some time. That will inevitably mean that the income from milk producers will fall as a result of there no longer being a guaranteed payment in respect of market milk and manufacturing milk. The manufacturing milk sector has for a number of years had the payment through the DMS Scheme. As I said, that will cease to operate from 1 July.

In order to assist dairy farmers to cope with that adjustment, that significant drop in income, this package has been put together and payments to people who have an entitlement will be made out of that fund, as I said, on a continuing basis over the next eight years. In effect, it is an income supplement or a payment to compensate, using my words, for that reduction in income, but funded by the consumers through that levy.

Whilst it is said that deregulation will lead to lower milk prices for the consumer, thus offsetting somewhat the 11c per litre levy, we have no guarantee that that will occur. Previous deregulation in the industry has not necessarily led to reduced milk prices. In fact, if you ask any consumer of milk over the last few years, they will tell you that the price has gone only one way and that is up, notwithstanding deregulation in other parts of the industry beyond the farm gate. As I said, the legislation for this scheme is very detailed and very complex. We are not able to go into all of that detail.
in speeches on the second reading, but it is set out very well in the committee’s report of last October and also in the material provided by the Department of the Parliamentary Library.

There are a number of points I want to make today and I will be moving a second reading amendment, which has been circulated and which, whilst indicating that the opposition does not oppose the passage of this bill, nevertheless condemns the government on a number of counts. The first point I want to make is: it is still not clear just who will be the winners and losers out of this package. What we do know is that a range of situations are likely to arise where, for instance, lessors—owners of dairy farms who lease their property to others to carry on the milking enterprise—could well find themselves severely affected, firstly, through a drop in the value of their property, because the income that can be earned from the dairy enterprise is no longer guaranteed through regulation, and, secondly, because the leaseholder in certain circumstances would qualify for the majority of the entitlement of the package. We have sought to clarify this, but it still has not really been clarified.

What we do know is that there can be situations where such leaseholders may take the money and leave the industry and continue to receive that payment over the next eight years. We are concerned that that could lead to some serious inequities arising where the owner of the enterprise—the person who has put up a lot of the capital and years of hard work and investment into that property—because they do not technically qualify for the entitlement because they were not the person or the entity receiving the income from the dairy, will nevertheless be seriously affected. This is an issue that has come to light only in more recent times. To be fair to the department, when we questioned them about it they said, ‘Yes, this can occur. But the scheme is not designed to attach the entitlement to the property or to compensate for changes in capital value; it is directed to the effects of lost income.’

We also note that one winner out of this package is the federal government. Originally the package was $1.3 billion. It has now been increased to $1.8 billion approximately, and the additional $500 million has been added essentially so that the government can continue to collect tax on the entitlement—in other words, the government is not going to miss out. Those who receive the entitlement will pay tax. That is fair enough, one could say. But this federal government, whichever way it goes—whichever the winners and losers in this industry will be, and I am not too sure that there will be too many winners—is one group that will not miss out through deregulation. It will continue to ensure that it receives its tax revenue.

There are many other points that I could make, and we may get to those in the committee stage. We are also concerned that no real work has been done, as I said, on the impact on regions. We pointed to a study during our inquiry last year that had been conducted in the Bega district. We have called for the government to promote an investigation of the real impact upon regions and on regional communities. It is not just the dairy farmers that will be affected by deregulation; it will be entire communities, whether they be employees on dairy farms or businesses in towns that depend upon the income derived from that industry.

I move:

At the end of the motion add “but that the Senate, whilst supportive of Australia’s dairy industry, condemns the Government for:

(a) seeking to push this important bill through the Parliament at the latest possible time, given that it has had the industry package in its hands since April 1999 and endorsed it in September 1999;

(b) failing to articulate a clear vision for the future of the dairy industry;

(c) failing to carry out a proper assessment of the likely impact of deregulation on dairying regions;

(d) imposing a new tax on milk;

(e) failing to make any provision to assist workers in the dairy industry who may lose their jobs as a result of deregulation;
(f) failing to assist in the re-training of farmers and others displaced as a result of deregulation;

(g) failing to include measures specifically aimed at encouraging investment in new plant and equipment, either on farm or beyond;

(h) failing to include measures aimed at opening up and expanding overseas markets;

(i) failing to include a research and development component within the package;

(j) poor targeting of assistance to farmers;

(k) failing to develop an adequate mechanism to ensure that consumers benefit from any fall in the price farmers receive for milk, in the face of price increases that have accompanied the removal of state-based regulatory arrangements in the past; and

(l) failing to ensure an equitable distribution of the package among all those involved in the dairy industry, and particularly between lessors and lessees”.

In conclusion, I want to thank all of those people that have made representations to our committee on this issue over many months. It is a complex and difficult issue. I believe that those representations from right across the industry have certainly assisted us in developing our approach to this legislation. Finally, whilst we support the implementation of this package because it has essentially been developed by the industry, we have reservations about many aspects of it. We can only await how it operates in practice over the following months and years, and I feel sure that we will be back in this parliament having to review parts of it. (Time expired)

Senator WOODLEY (Queensland)

(4.18 p.m.)—One usually begins a speech such as this by saying, ‘I welcome the opportunity to speak in this particular debate on these bills,’ but I do not welcome that opportunity. I really believe that this is a disaster that we are facing. The bills that we are debating now—which I know most members will vote for—will nevertheless be simply like giving someone who is about to be shot the opportunity to take a pill so that they might survive for another eight years, but in the end their demise is certain. I know that is a very negative way to begin a speech, but that is how I feel about it.

The Democrats remain implacably opposed to deregulation. Let me give you the reasons for that. There will be a loss of farmers from rural Australia—according to ABARE, between another 3,000 and 5,000 farmers. I do not know what this chamber thinks about that, but as far as I am concerned there is no way that rural Australia can continue to sustain those kinds of losses. They are the ABARE figures. Some weeks ago in estimates, I asked the Department of Agriculture, Fisheries and Forestry what their calculation was, and they admitted that there are probably 4,000 farmers who are ‘vulnerable’—that was their word. ‘Vulnerable’ is a softer word than saying that 4,000 farmers are about to ‘cop it in the neck’, but ‘vulnerable’ was their word. They indicated to me that they do not believe that all of those 4,000 will go, but if we take either ABARE’s or DAFF’s figures, then we are facing a disaster in rural Australia. That is a disaster which will happen in spite of the package which we are voting into legislation now. If we did not have the package, there may have been more farmers. This is devastating to rural Australia, and it continues policies which guarantee the continuation of a loss of people and services from the bush and a loss of income amongst rural industries.

I am not pointing the finger at anyone, because I believe no political party has yet taken account of this issue. We continue policies which will guarantee the continuation of the loss of people and services, yet we all wring our hands and are good at the rhetoric. But where are the policies which in fact will reverse this trend? They are not in place in any political party. I am doing my best within my party to make sure they take account of this, but even there it is a bit of a battle at times.

The Prime Minister recently did a trip around rural Australia. I commend him for that; I am not going to criticise him. In fact, I believe that was a very genuine attempt to listen to people in rural communities. He made a promise to rural Australia—again, I believe his promise was completely genuine; he meant it—but it is impossible to keep a promise not to take services out of
rural Australia if we continue to see this exodus of people from those communities. At the end of the day, how can you deliver services to communities that do not have any people in them? That is why I say to the Prime Minister: I believe that you are concerned, but all of us are going to have to develop policies that will reverse the trend which is going on, or it will simply continue.

The second reason why I remain implacably opposed to the deregulation of the dairy industry is that deregulation means a loss of income for dairy farmers. I do not know if there are any exceptions. There may be one or two, but all of the indications, all the evidence we received and everything that we have been told indicates that there will be a loss of income for dairy farmers, but not for processors, not for manufacturers and not for supermarkets. In fact, all of the money which will be lost to dairy farmers will be transferred to the pockets of those who are in charge of processing, manufacturing and supermarkets. The evidence we were given was not denied at any point. That is what will happen. I am opposed to that. I do not believe that we can continue to fatten those in the middle while farmers continue to lose income in this country.

Let me give you what the explanatory memorandum says. This is what the government itself has written and it uses the ABARE figures. I know that there is some dispute about those figures, but I can only accept what the government itself puts in its own legislation. The ABARE figures say that the average restructure payment will be $118,192 over eight years. That equals an average payment to each farmer of $14,774 per year. But ABARE also calculates—and it is in the explanatory memorandum—that the average fall in income per year to each farmer will be $28,350. Even with the package and an average payment of some $14,000, to each farmer who receives that package there will be a loss of $28,000-odd. If you would like it in exact figures, it is a loss of $13,576 per year.

Averages are deceptive, but let me give you some real examples. Dairy Farmers, which is one of the large cooperatives in Queensland, in the Courier-Mail on 1 March 2000 announced that the increase in the price of milk at the retail outlets would be another nine cents a litre. This follows an increase of 6c and 8c a litre in a little over 12 months—a total of 23c a litre increase in the retail price of milk since deregulating post-farm gate last year. That was on 1 March 2000. The next day, on 2 March 2000, a letter was sent to farmers in Queensland telling them the price they would be receiving on 1 July 2000 for their milk. Farmers in North Queensland—and that is the letter I have—were advised that the price per litre for market or liquid milk would drop on 1 July 2000 following deregulation to 41.5c per litre, a drop of around 17c a litre for market or liquid milk. So the next day after the processor was announcing there would be a further increase in the retail price, bringing the retail increases in a little over 12 months to 23c a litre, it was telling farmers that they are going to get a drop of 17c a litre in the price they get for their milk. That is outrageous. It is a scandal and there is no way I can endorse that kind of market power being used in a bullying way towards the people at the bottom of the heap.

Let me tell you about a real farmer. This farmer was in favour of deregulation. He is a very efficient farmer with a high-tech farm. He has actually been overseas on a number of occasions to study genetics and farm technology in order to improve his farming. He told me that six months ago he was in favour of deregulation. He has now done the sums for his farm. He got briefings from his bank and a whole lot of different sources. He gave me a written briefing on his situation. The briefing is backed up by a number of pieces of information. He says:

Current farm situation
546 acre dairy farm supporting four families—and I will not give you the names—and farm worker. Milking 260 cows in a 50 stand rotary dairy. Supplemencing feeding cows maize silage, grain, whole cottonseed and molasses. Pastures are tropical grasses in summer and rye grass clover in winter, which is planted every year. Annual production of 1.8 million
litres supplied to Dairy Farmers operation in Malanda on the Atherton Tablelands. Current lifestyle is getting up at 4.00am in the morning, milking cows, seeing the children half an hour before they go to school, working all day, milking cows again at 4.00pm and getting home about 6.30pm. Every second Sunday afternoon is free. Annual holidays are taken sporadically. Time spent with family is extremely limited. The farm has been in that family for three generations. He continues:

The farm was gearing up to milk 300 cows in July moving closer to 330 in late December with a target production of 2 million litres. The farming enterprise had the ability to lease land close by and expand its operations further with a potential to milk 400 cows as the infrastructure is already established to milk those numbers.

We are not talking about a struggling farmer with little prospect of expanding. We are talking about someone who is right up there at the very top of the farming enterprise. This is what he has decided to do:

This family enterprise is going to move out of the dairy industry over the next 12 - 18 months. This decision has been arrived at after attending Dairying Beyond 2000 workshops, discussions with our bank manager, financial adviser and accountant. As we see no future in the dairy industry and the ability for us to get a reasonable return on our capital investment and to have a reasonable lifestyle there is no future for this farming family. It would also mean that the farm workers employment would have to cease, therefore bringing to bear a larger workload and pressure on family members.

Then he goes on and talks about some of the issues that brought him to this decision. He says:

It is imperative to this farming family that we get the compensation package so that we can restructure our lives and move on. Although you will see from the guide—

and he has a lot of other papers attached to this letter—

that our income will drop approximately $90,000,00, the compensation will give us roughly $50,000,00, which is a shortfall of $40,000,00 a year in income.

You can understand why he will take the restructure package, but in fact it will only help him to get out of dairying. This is not a struggling farmer, not somebody who would have exited farming anyway because he was becoming very marginal, but somebody who was expecting in fact to take advantage of deregulation until he did the sums for himself. When he did, this was the decision he made about it.

Like Senator Forshaw, there is an awful lot I would like to say. I want to refer briefly to the Senate Rural and Regional Affairs and Transport References Committee report which, as Senator Forshaw said, was a unanimous report. There are a number of recommendations in that report, but it is interesting that the only phrase I ever heard used by the UDV, the ADIC and many other groups pushing deregulation was one single phrase: ‘The committee believes that deregulation is inevitable.’ They quoted that ad infinitum, but never once did they quote the recommendations of that inquiry; never once did they say that we absolutely slammed the review done in Victoria by the National Competition Policy Review Group. None of that was ever mentioned. I find that very interesting.

As a matter of fact, last Friday at the hearing I asked a member of the ADIC, who is also an employee or a representative of Bonlac—not of the farmers—about that. I said, ‘Well, you’ve just told us,’ as he did, ‘that you commend the report.’ I said, ‘Do you also agree with all the recommendations?’ He said, ‘Which one?’ I said, ‘The one which talks about investigating the accountability and transparency of cooperatives’—meaning Bonlac and Goulburn. All of a sudden he was in retreat. The report we had made was not so attractive after all when he heard what some of the recommendations really were. I could say a lot of things about what I think about that but I can see my time is running out.

I turn my attention to the package. I agree that the package is very large. It will raise in the vicinity of $1.8 billion and it will go some way to helping those farmers who will receive a drop in income in Queensland, New South Wales and Western Australia—they will also lose real property rights in the sense of losing their quotas. It will do something for them, so obviously I have to support it. But that package is inadequate. It will be paid for by farmers at
the end of the day. It will be paid for by farmers, because the 11c a litre levy will be all taken up by the fact that farmers will lose somewhere between 11c a litre and, in the case I quoted, 17c a litre. So let us not make any mistake: this package is being paid for by the farmers themselves. That is why, in the second reading amendment I am moving, I have actually picked up some of the recommendations from the Senate report and made them into second reading amendments. I know that that does not have a lot of force, but I want to remind the government of what that Senate report said.

One of the important things the government have picked up at the last moment—and let me give them perhaps half a tick for that—is the issue of regional assistance. We have had overwhelming evidence that the impact on some communities that are heavily dependent on dairying for their income will be seriously affected by deregulation. I want to pay a tribute here—it has not been done before, and I apologise to him for that—to Henry Palaszczuk, the agriculture minister for Queensland in the Labor government. He has done a lot of work on this whole issue of the impact on regional communities. I pay tribute to him that he took to the ARMCANZ meeting a proposal which was not taken up—or I thought it wasn’t. I sought to put that into an amendment, but late yesterday afternoon the government came to me and said they agreed that Minister Palaszczuk’s idea should be taken up. They have proposed an additional $45 million which will be taken out of the money collected by the levy, because it is not all going to be spent on reimbursing farmers. I pay tribute to Henry Palaszczuk, because he did a lot of work on this because of his concern not only for farmers but for all the other people in these communities who depend upon farming, who give all of the support services. His proposal was worked out in great detail and was a very rational one. I do not know if the government want to recognise the work he did, but I certainly do. I apologise to him that when I was drafting the amendment I had not notified him of that or given him as much credit for it as perhaps I should have. I am glad that the government have agreed themselves to amend the legislation and that that amendment will put another $45 million back into those communities which will be so seriously affected by deregulation.

At the end of the day, I know that the Labor Party and the government will vote for this package. I must say I really felt so angry about this that I was going to vote against the package, but my vote would have been irrelevant and, certainly, I want to support the package in the sense that if there is no other way of helping farmers we would want to at least help them to the extent that the package will. But I register again that both the Democrats and I are opposed to the proposition that we deregulate an industry and transfer millions of dollars from farmers straight to processors, manufacturers and probably supermarkets as well and the fact that consumers will get no benefit from that deregulation. Although I know there are some people sort of saying perhaps they will benefit, the cow might fly over the moon. (Time expired)

Senator CRANE (Western Australia) (4.38 p.m.)—I too rise to speak on the Dairy Industry Adjustment Bill 2000 and related bills. I want to say at the very start I do not believe there was anybody on the committee who, if they had had another choice, would have ended up with a situation where the dairy industry was being deregulated. That is a simple fact. Mr Kennett announced it some time ago. Mr Bracks when he became Premier fiddled around at the edges of it and had a referendum on the issue, knowing full well that the Victorian dairy farmers would vote for the package and vote for deregulation. That is the reality that we have to face. That is a simple fact. Mr Kennett announced it some time ago. Mr Bracks when he became Premier fiddled around at the edges of it and had a referendum on the issue, knowing full well that the Victorian dairy farmers would vote for the package and vote for deregulation. That is the reality that we have to face.

This parliament, this government, or any party had no say whatsoever in terms of that. Our position, our role, as a government was to look at the issue and determine how we could assist in what was being foisted on the industry because of the action at that
time by the Victorians. I do not blame the Victorians for that because, obviously, there is a commercial benefit to them in it. They do produce two-thirds of the total milk produced in Australia, and they were in a totally different situation to the rest of Australia. Once that decision was made by the Victorians it was inevitable, as Senator Woodley has mentioned, that the dairy industry in Australia would be deregulated in a price sense.

Every other state could have remained regulated if they had so chosen and ran an authority in their own state, but the fact is that as milk moved across the border and around Australia the price would be set by that Victorian milk. While the domestic market price, as I believe it probably always will do, remains above export prices—of course the first and only most attractive market, starting with New South Wales, is Sydney, then probably South Australia or Queensland and then, last of all, Western Australia—the milk would come in. So there is no doubt that we were facing a situation whereby the dairy industry was going to be deregulated regardless of what the other states did, regardless of what the Commonwealth government did.

So we, as a government, really had just one choice. We could decide to stay back, stay away from it, do nothing and wait for the outcome, or we could develop—as was done mainly with Mr Pat Rowley on behalf of the industry—a package to assist the transition from an industry that had been regulated by the states for many years to a situation where the industry was going to be deregulated right across Australia. I think when people debate this they need to recognise that simple fact. If you cannot recognise that, then the comments made in terms of the changes in the Australian dairy industry get totally distorted. And I think that is one of the sad things about politics, because everybody has to put their particular angle to suit their political situation at that time, and I am quite certain if we were actually having this discussion over a beer in one of the bars downtown everybody would agree with what I have just said. I just wish in terms of bringing this debate to the fore that people would recognise this. And I will repeat it: once Victoria made the decision to deregulate, the whole country was going to be deregulated, and the date just happens to be 1 July.

The Commonwealth has responded to requests from the industry with a $1.8 billion package. It is unprecedented in Australian history. We heard mentioned earlier on—I think it was from Senator Forshaw—that it was a tax under the guise of a levy. I think that is what he said, to be quite correct. The dairy industry is quite familiar with levies. It has had them for a whole range of schemes over the years. Of course, under the new circumstances I believe this will be the last levy in this form applied nationally, right across Australia. As has already been said, it is an 11c levy for eight years.

But can I also say that while there are going to be some huge difficulties for a whole range of people in terms of this, I believe that the dairy industry in Australia—and I particularly refer to my state—has a very sound long-term future. I believe the dairy farmers in Australia are so efficient and so good at what they do that they will adjust to the requirements. They will become much more dependent over the years on the development of the export market. They will become much more like our grains industry, our beef industry, our wool industry, and they will bring a lot of wealth to this country. This package is designed to help them get to that situation, to help them get through the tough times.

Not everybody is going to survive. We know that. It is impossible to expect everybody to survive. But let me just say it is my understanding that the Victorian industry was on the edge of major reform and the necessity to expand in terms of the ratio between exports and what is consumed domestically. If we look at the Victorian situation, 93 per cent of that milk—the 66 per cent of the total Australian production that they produce—was export milk anyhow. It was made into product to go overseas. Only seven per cent was consumed locally. That figure may not be precisely right, but it is right fair square in the ballpark. Obviously they made some flavoured milks and other
Let me say that, going back to the Kerin plan, the aim of that plan was to prepare the Australian industry for the fact that they had to focus more on the export market and the growth of that export market if they were going to expand and continue to grow, and of course that is what happened. Had there not been an Asian crisis, as there was, and the breakdown of many of those economies where our industry had focused their efforts in exporting, the situation today would not be quite as difficult as it is. But I think we can see many of the countries in Asia coming out of some of their particular problems, improving their economies and starting to grow again. Of note is that about a month ago, or maybe three weeks ago, I happened to read in a press statement from one of these companies—I think it was in Victoria, but that does not matter—that it had signed a $6 million milk powder agreement for additional exports to Japan. That is the way of the future, and I think we need to recognise that.

Senator Woodley said many things and we could go over and over them again, but I particularly wish to go over some of the report recommendations—which Senator Woodley mentioned very briefly—from the committee that he chaired. The fact that we had that inquiry at that particular time certainly made my job as chair of the legislation committee and the jobs of the members of that committee, who are substantially the same people as were on Senator Woodley’s committee, much easier because a lot of the groundwork had been done. Recommendation 1 stated that:

The Deputy Prime Minister and Minister for Transport and Regional Services and the Federal Minister for Agriculture, Fisheries and Forestry call, as a matter of urgency, a meeting of state Agriculture and Regional Development Ministers to determine a framework, and a timeframe, for the co-ordinated deregulation of the Dairy Industry.

Our minister—and I particularly refer to Minister Truss—responded to that recommendation very positively, but it took until 23 December for all the agricultural ministers to agree to attend that meeting. It is well and truly publicly known that there were other attempts, going back to Minister Vaile, to convene a meeting of state ministers. Some chose not to cooperate—not to come—and I have dealt with that issue before, so I will not repeat it. Recommendation 2 stated:

That should administrative arrangements not be in place in time to make the first payments by 1 July 2000, that appropriate compensatory arrangements are factored into the payment schedules, in order that dairy farmers do not suffer any more financial hardship than is presently envisaged.

I thank the people in this debate—from the Labor Party and the Democrats—for the fact that we are getting on to this legislation today in a very short time in terms of delivering the legislation report so that these arrangements do happen and the first payments are ready to go on 1 July. The first payments, as I understand it, will start on 28 September. Recommendation 3 stated:

That the states of Queensland, New South Wales and Western Australia consider the issue of quota entitlements and any form of compensation that may be appropriate for the resumption of quota entitlement, including the possibility of using NCP payments as compensation. What has happened there? One state has responded: my state, Western Australia. At this point in time an additional $37 million has been put on the table—$27 million of that will be direct from government resources and the other $10 million, which is held in the statutory authority, the Dairy Industry Authority, has been delivered. No other state, including Victoria, New South Wales, Queensland and South Australia—I might as well name the lot—has responded at all to add to what the Commonwealth has done. I say to the people involved in this, concerning the pressures they could have applied as federal members to their state governments, that they have let their dairy farmers down. That disappoints me enormously. But we, in Western Australia, engaged with our Premier and the Minister for Agriculture, Monty House—as did, obviously, the dairy industry—and I think we...
have produced quite a remarkable result in terms of our state responding to the particular situation there.

On recommendation 4, which Senator Woodley mentioned, concerning the regional adjustment packages, once again the Commonwealth has responded to that. While I note what Senator Woodley said about the agriculture minister for Queensland—and I certainly recognise his efforts—there were a lot of other people who were also in negotiation with the government from our side of the parliament. I do not know what the other side did or what the Democrats did, but certainly our people, who represent dairy farmers, put in a lot of effort in terms of our party room, our minister and the Prime Minister to make sure that, having recognised there were going to be some difficulties as far as regional adjustment was concerned, we got a package up that will be administered through the program that Mr Reith is responsible for. That needs noting.

Recommendation 5 refers to the Australian Competition and Consumer Commission. While the government has not responded exactly to that recommendation, in this bill we have put in place a mechanism whereby there will be funding to the ACCC to monitor retail prices. Once again, the government has responded to that particular resolution, although not in the precise manner as set out in that recommendation. Recommendation 6 is outside the particular legislation before us, so I will not deal with it at this particular time.

In winding-up my comments, because I know I have other colleagues who wish to speak on this particular legislation, I want to reiterate some of the comments that I made at the beginning—that is, that while I recognise that things will be difficult and I would have preferred not to have had a situation of deregulation, that was not the reality of life. We, as a government, have responded in a way that reflects the reality of life, and that is one of the things that you have to take on in being the elected government of the country. Other people can take a different attitude or a different position, but in our particular case we did not have that choice.

I would also like to raise a couple of other points about lessors and lessees. We were notified at a very late stage of our deliberations that there might be some problems with their particular situation. I have certainly taken note of that and I have listened. I am not sure how the government could have responded differently from the way it has done, but I am quite certain that if anomalies and problems come up in terms of that and if there is unfairness—I am not sure that there is but, equally, I cannot say that I am certain that there is not—we will find a way to deal with it.

In dealing with that particular aspect, I want to make the point here right now that, in terms of lessors and lessees and the exit package, both parties will be eligible for the full $45,000 in terms that they choose if they both choose to exit. If only one chooses to exit, then one will get the $45,000 and the other will continue in the industry or do something else with his money.

**Senator O’Brien**—Subject to the means test.

**Senator CRANE**—Yes, we know that. It is all consistent with other relief measures. It has to be. I did not think it was necessary to re-emphasise that particular point because I know the people involved in this chamber and the people listening to this particular debate are aware of that. With the time we have left, the detail of many things that we would like to do cannot be done today. Having said all of that, I am certainly very appreciative of my minister for agreeing almost totally with the recommendations that we put forward as a references committee in a unanimous report. It is not a committee that the government has the majority on, but it nonetheless looked at the issue very carefully. I wish to reiterate what I said earlier: despite the difficulties that will be faced initially by the dairy industry, I think if I were still going to be here in 10 years time—and I will not be—I could make a speech or my successor could make a speech about the success of the dairy in-
dustry and how it has become a giant in terms of export capacity in this country.

Senator O'BRIEN (Tasmania) (4.54 p.m.)—I can agree with a number of things that Senator Crane has said today. I certainly have the view that there are parts of the existing dairy industry which will blossom under the deregulated regime. I do not think, during all of the Senate references committee inquiry, the view was ever taken—certainly not from the committee’s point of view nor from the point of view of the majority of witnesses—that deregulation would lead to the total collapse of the industry. Nevertheless, it was accepted by everyone that deregulation without an adjustment package would be a disaster for many sectors of the dairy industry. That is the reason the opposition are supporting this legislation. We are also mindful, given that deregulation takes effect on 1 July this year, that it is important for the timely passage of this legislation. The opposition, however, would not take the view that just any piece of legislation should pass, given that we are talking about something in the vicinity of $1.8 billion being levied against consumer milk over the next eight years to pay for the adjustment package, which is the subject of this legislation. Of course that should be given proper consideration. I think the officers of the department have done a very good job in the time that they have had available to them of putting in place, through legislative measures and sublegislative measures, the policy of the government. Unfortunately, the policy of the government has taken a long time to come together.

Listeners to this debate should be aware that the genesis of the timetable for this deregulation was established in 1995. It was decided in 1995 that the DMS scheme, a financial support scheme that provided compensation for the continuation of regulation of market milk in certain states, would be discontinued on 1 July this year. It was clearly known that the pressures were very strong, certainly in Victoria but also in other places, for the deregulation of the market milk market and of the industry generally. When this government came to power in early 1996, it had before it an agenda for the deregulation of the dairy industry. One would have thought, given the importance of this sector to Australian rural industries and to rural and regional Australia—what this government purports is one of its important constituencies—that this government would take it upon itself to drive the transition to deregulation, to establish policies to consider the impact of deregulation, to look at the impact on regional and rural Australia, to look at the impact on our export performance and to look at measures which might make the implementation of deregulation easier in the parts of Australia which inevitably would be worst affected by the deregulation measures. Did that happen? No. There was no action from this government.

We have the situation where the Australian Dairy Industry Council, representing dairy farmers, processors and manufacturers, has been forced to use its resources to put together what is essentially the package of measures, though obviously with some amendment, that is contained in this piece of legislation. It drove government policy because no-one in the government was driving it. It put to this government in April last year its proposal for an adjustment package. One would have to say that the Australian Dairy Industry Council has done a very good job for the constituencies that it represents. It took into account the issues that face the dairy industry and rural and regional Australia and came up with a measure which it thought would moderate the most severe effects of deregulation and provide an adjustment package which would enable the dairy industry to continue to grow and to remain a significant part of Australian rural industry, a significant exporter and an efficient industry.

The Dairy Industry Council put a package to the government in April last year, and it took the government until September to decide that they could support that package—with some changes, but it was essentially that package. In the context of that, what else was happening? The opposition proposed that there be an inquiry into the dairy industry to look at the issues; to lay
them out for the government. Whatever the government knew, it was clear that there was not enough information on the public record to drive a public debate on this issue, given that we are talking about—and have been since at least April last year—a very large adjustment package which involves the implementation of a measure which is essentially a tax on the white milk market, the drinking milk market, which has to flow into the price effect for milk over the next eight years. It is a tax on milk.

The opposition is supporting it because there is no alternative. The driving of this policy by the industry was met with a response from the government which was essentially to say, ‘You come up with a package and, if we find it acceptable, we’ll support it.’ When the government found it acceptable, they said, ‘Now, you go and sell it to the states.’ There is no question who was driving this policy. It was not the government; it was the dairy industry. Alongside that, the actions of the opposition, with the support of the Democrats—and Senator Crane and other government members of the committee—ultimately played an important part in laying out the facts and in taking to the dairy industry and the people of Australia the issues with which they would be faced from 1 July this year and for the ensuing eight years.

The opposition amendment moved by Senator Forshaw, which condemns the government, is supported by the facts. I reject Senator Crane’s suggestion that somehow the government was doing its best to process this package. It clearly has not done enough. It has put the department in the invidious position of trying to meet the policy objectives of the government in the processing of this legislation in an extremely short time. It has also put the Senate legislation committee in an invidious position. Let me tell the chamber of the timetable for the legislation—and there are four bills; this is substantial legislation. The legislation was passed by the House of Representatives on 2 March. Under the processes of the parliament, it went to the Selection of Bills Committee in the Senate on 7 March, where it was referred to the Senate legislation committee, which held a hearing on 10 March, three days after the bill was referred.

It was necessary to hold a further hearing last night, at 6 o’clock, to take further evidence about measures which are not contained in the bill but which relate to the package to be implemented and for the committee to report today so that we could debate the bill this afternoon. The opposition and the Democrats have facilitated an early debate of this bill because we understand the need for urgency and we understand the need for the proposed timetable to be met if it is at all possible. We believe that it can be met. But it should be on the record that that is no thanks to the government. There are aspects of the package—and I think Senator Crane touched upon them in part—which are not, in the view of many members of the Senate committee, properly or adequately dealt with in the legislation.

I now want to touch briefly on the question of the package as it relates to lessors and lessees in the dairy industry—that is, the owners of dairy properties and those who have operated them under lease for the past period and certainly at the critical time at the end of September last year. When the committee brought this matter on for inquiry, the only group which did not support the totality of the legislation was a group of people representing lessors in the dairy industry, particularly in the pooled milk states, such as Victoria and to an extent Tasmania. Those states where the bulk of compensation relates to milk which is not used for the white milk market but is used for manufactured products—butter, cheese, powdered milk, et cetera—feel that the package is inequitable, that it leaves them in a situation where they will not be able to hang on to properties in the dairy industry and that the compensation designed as adjustment payments for the dairy industry will, in many cases, go to people who had no long-term commitment to the industry and who are effectively treating the payments that they will receive from this legislation as a lottery or Tattslotto win, something that they did not expect to receive. In particular cases, those people had
already determined that they would leave the dairy industry and were then finding, having made that decision, that a payment would be made to them from the adjustment package because they happened to be in the industry at the end of September 1999. I believe in some cases they may have been in the industry for only a very short period of time and may have had no intention of remaining in the industry for any foreseeable period in the future.

I do not want to be critical of the Dairy Industry Council. They have had a difficult job in preparing a package, negotiating a package with the government and seeking to refine that package, particularly in the light of the comments made by the Senate references committee on the treatment of sharefarmers and lessees. They have done a good job in difficult circumstances, but the fact of the matter is that the legislation committee had drawn to its attention anomalies which, in my view, are not adequately dealt with in the legislation and which do not appear to have been addressed satisfactorily in the drafting instructions for the ministerial orders which, we are told, will be made consequent upon this bill to flesh out the package for the purpose of its implementation.

I will be returning to that matter in the committee stage of this bill to make some inquiries of the Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry, who will be handling the debate for the government, and perhaps even to make some suggestions as to how that matter might be resolved. Some may ask: why isn’t the opposition moving amendments now to correct that problem? Indeed, this is a matter that I have addressed directly with the Dairy Industry Council. The opposition’s view is that this is complex legislation, and the relationship between the various parts of the package referred to in the legislation ought not to be tampered with without great care lest there be unintended consequences from an amendment proposed in the short time the opposition had to consider any amendment to this legislation.

However, we would be proposing that the government accept finally its responsibility for dealing with this issue equitably and properly; that it look at the type of evidence which the Senate Rural and Regional Affairs and Transport Legislation Committee received; that it discuss with the industry alternative measures which might be put in place to deal with those concerns; that it consider the relevance of the measures in the bill to those circumstances; that it consider the case of the lessor-lessee arrangements, particularly as it relates to the non-premium milk component package; and that it perhaps take into consideration, for the purpose of assessing eligibility, issues such as the timing of the cut-off date, the period during which any lessee might have reasonably expected to have been in the dairy industry, given the lessor-lessee arrangement, and any capital contribution by the lessor as opposed to the capital contribution by the lessee. There were clearly differences in the evidence before the committee which, in some cases, might militate in favour of a change to the distribution of the adjustment package. And, obviously, using the expertise of the department, the government should consider how that might be addressed without making some unintended adjustment to other aspects of the package.

It may be that the Dairy Industry Council is prompted to say, ‘If you are going to do these things in one area, you might do them in another.’ They are matters that the Minister for Agriculture, Fisheries and Forestry has to consider, but the minister has to take his government’s responsibility for getting this measure right. We have to understand that this package—a measure involving $1.8 billion—is going to be implemented in this legislation and, once implemented, it would be very difficult, if not impossible, to change it by the time the first payment is made. The government needs to act and act quickly. If it believes that changes are necessary, it needs to advise the dairy industry and the Australian public that perhaps the bill is going to have to be amended—if that is the case—before people develop an expectation that they are going to receive payments as of 1 July when it might be found that the current proposal ought to be changed in some respects. The government
has time to do that. Only the government has the time and the opportunity to do that. Just as the government has had the cooperation of the opposition in relation to the expeditious passage of this legislation, the government can expect that any fair and equitable proposal it might bring before the parliament will be given the same favourable treatment by the opposition—on the basis, of course, that it is fair and equitable.

I think it is appropriate, given the short amount of time that I have left, to say this: the government should not receive a pat on the back for what it has done with this legislation because, as I said, the government has been allowing this major policy issue to be driven by the industry without giving it much assistance. It has put its own department in the invidious situation of implementing a greatly delayed government initiative in a very short timeframe and in circumstances where delay would have been costly to the Australian dairy industry. The figures we were given were that, for every day of delay, we are talking about hundreds of thousands of dollars being lost to the dairy industry. The government should not be patted on the back.

The opposition has moved an amendment which condemns the government. I think the list of items in that amendment are all appropriate. The time that I have remaining this afternoon does not allow me to address them all. However, one that should be addressed in the last 60 seconds of my speech goes to this very issue of the impact of the levy on the price of milk for consumers. I think the government should act—and should have acted before today—to develop an adequate mechanism to ensure that consumers, as well as farmers, benefit from any fall in the price farmers receive for their milk in the face of price increases that have accompanied the removal of state based regulatory arrangements in the past. In other words, let us not have a deregulation which leads to all of the benefits going not to the farmers and not to the consumers but to the companies in the middle who take a price or to the supermarkets who may, because of their market position, be able to drive the price to them down but keep the price to consumers up.

Senator McGauran (Victoria) (5.14 p.m.)—I wish to make some brief comments on the Dairy Industry Adjustment Bill 2000 that is before the Senate. I would have thought those final comments by Senator O’Brien were somewhat of an argument not to have deregulation. The government cannot be criticised for their timing of this legislation. We have done everything right. To say that the government have not consulted with the industry is wrong. The industry has been in constant consultation with the current Minister for Agriculture, Fisheries and Forestry, Mr. Truss, and with Minister Vaile before him. There have been doors opening and shutting on this issue for the past 12 months. The fact that the legislation will pass through the Senate this evening—that is, in March—and deregulation occurs on 3 July will mean that there is plenty of time to put the package in place and prepare for deregulation.

What we have before us is the largest package of compensation or restructure—whatever you want to call it—in the history of primary industry. This is the largest deregulation in primary industry history. It would dwarf any of the former deregulations in the tobacco industry, the citrus industry or the pig industry. It is worthy that this package matches the size of the industry. It is perhaps the largest and last. It would probably match the wool industry deregulation when the floor price scheme was abolished. The wool industry, regrettably, received no compensation, no adjustment package, when those opposite were in government. It was a disgraceful effort that the industry is still suffering from. There was no thought given to an adjustment package at that time. This government has in place the largest adjustment package in primary industry history.

Perhaps we have learnt the lessons of the past. One thing wrong with the winds of deregulation that have run through primary industries over the last 15 to 20 years is that governments present and past and parliaments present and past have not had a sufficient adjustment, safety net package in
place for the rural sector to meet those changes. I particularly point out the citrus industry. It did not have the sort of adjustment package it should have had when those opposite were in government. That is something I have always thought about. The pig industry did, because we were in government and increased their package.

The point is that this package should not be criticised but be praised, Senator Forshaw. It is a package of $1.74 billion. It tips over the $2 billion mark with the recent announcement by the minister that there will be a $45 million Dairy Community Assistance Program on top of the $1.7 billion package. Funding will be delivered through the federal government’s Regional Assistance Program and will assist dairy communities with new industry development and adjustment programs. The funds will be raised through the eight-year 11c levy on milk prices. The funding will be available for seeding new industries, supporting counselling services and retaining community infrastructure. It will go to the estimated 15 regional communities most affected by this deregulation.

It needs to be said that we are dealing not only with one of the largest primary industries in Australia but also with an efficient industry. Over the last 20 years this industry has gone through adjustment and great change. It has had to keep pace with technology, with rising costs and with very static returns. There has already been a reduction in the number of dairy farms. I believe it has declined from some 30,000 in 1974 to 14,000 in the year 2000. Herd sizes have increased from an average of 77 in 1975 to around 150 in 1998. Of significance are improved herd genetics as well as the advances in pastoral management and supplementary feeding regimes which have seen the average annual yield per cow increase.

This is already a very efficient industry. So it would beg the question, as the infuriated Senator Woodley asked: why are we deregulating? Why would you tamper with such an efficient industry? That was a question I asked also, and I am from the state of Victoria. Why would you tamper with an efficient industry and an industry that epitomises so much the family farm? There is no other primary industry that is made up so much of family farms, which are efficient, economic and social units. It is where my party started from. It was the dairy industry in Victoria which created the Country Party in 1920.

The answer to that question lies with the industry in Victoria. There is no question about it: this is a Victorian driven issue. I do not think the other states, least of all Queensland, and the dairy farmers in Bega, want deregulation. It has been thrust upon them by the Victorian industry, as pronounced by the industry body, the UDV. They were out there some time ago pushing the virtues of deregulation because they felt the Victorian industry was very much restricted. It was only able to produce seven per cent of the market milk. In a nutshell, they wanted to be able to cross the border into the very lucrative Sydney market.

With the Commonwealth domestic market support scheme terminating in July 2000, and with obligations with regard to national competition, they felt it was time to act. During Doug Anthony’s time, we saw a push by the Victorian industry to cross the border into the lucrative Sydney market. That has been halted. This time it looks like it is really going to happen. The atmosphere and the economy have changed. The UDV, which represents the Victorian dairy farmers, has now decided that deregulation is on the cards. It has now become inevitable. You can argue about the question, but the result of the referendum that went around the Victorian farmers was a unanimous yes for deregulation.

The two Victorian state governments—the previous Liberal-National Party state government and the existing Labor state government—you would have to say support deregulation. So that is a pretty convincing case for all those who may have been sceptics and for all those who will not accept that deregulation will be beneficial for the industry as a whole, and I would have to say to Senator Woodley that that is a pretty convincing case for why deregulation has become inevitable.
But there will be a social cost, and that is even recognised in the explanatory memorandum. We know there will be a social cost, no less than across the border in New South Wales in the Bega Valley, where they could lose as many as 30 per cent of their dairy farmers. In Victoria, over a certain time that we are not sure of—perhaps five years—as many as 2,000 farmers could exit the industry. That is exactly why we have this package in place. This package’s broad regulatory objective is to facilitate and coordinate a very orderly adjustment in the dairy industry so as to maximise the long-term benefits of deregulation while minimising the very short-term costs that will be brought about, such as through the many farmers exiting the industry and facing income reductions.

The payments to farmers are to be administered by an independent statutory body known as the Dairy Adjustment Authority. This authority will receive administrative support from the Dairy Corporation but retain full independence in its decision making and accountability. A key feature of the adjustment package is that it will be funded from a Commonwealth levy on sales of liquid milk products over a target period of up to eight years. The levy is to be imposed at retail with collection by milk processors. Full deregulation is expected to initially result in significant reductions in farm incomes, with some consequential level of industry dislocation.

The key stakeholders likely to be affected by deregulation are the farmers. ABARE estimate that the impact of deregulation would be an average annual per farm fall in income of $28,000. So the package is designed to assist farmers to adjust to this fall in income and, in doing so, secure the long-term benefits of deregulation. It is estimated that in my own state of Victoria the package will on average pay $95,000, while in Western Australia it is expected to average $240,000.

While the farmers are winners and losers in this, the manufacturers and processors are the winners, I would think. That is why they have been very much at the forefront of pushing deregulation, although a little too much. I must say that one of the things that came out of this that I was surprised at—and perhaps I should have known, but I confess my ignorance—was that the federal body that represents the dairy farmers, the farm gate, is actually made up not just of farmer representatives but of processors. I would have thought, particularly on this issue, that there was a conflict of interest.

At our last committee hearing, when we were discussing the intricacies of this particular package, the nuts and bolts of it, no less than the issue of lessors and lessees, we had before us not a representative of the dairy industry—far from it—but a representative of the cooperatives, Mr Hughes. I would have thought they could have at least found a dairy farmer representative to come before us. I recognise Mr Hughes in the gallery, but I have to make that point. I would have thought the ADIC should have a greater representative of dairy farmers or there should be a separate dairy farmer federal body.

As explained in the explanatory memorandum, there will be a shift of income towards the manufacturers and the processors. In regard to the wholesalers and retailers, the explanatory memorandum states:

> It is anticipated that wholesalers and retailers will benefit from the flow on effects of lower input prices for liquid milk products and, with the abolition of the manufacturing milk levy, lower prices for dairy products.

As for the consumers in all of this, that is going to be a very long-term benefit, but the explanatory memorandum states:

> Accordingly, it is believed deregulation will eventually provide substantive benefits to consumers.

All in all, the legislation before us is timely, it is hugely significant and it is the largest package ever in primary industry. It is to be supported, and I support the legislation.

 Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.28 p.m.)—The state agriculture ministers agreed in principle on 3 March last to remove milk pricing arrangements from 1 July 2000. That means that the deregulation of dairy farm gate pricing arrangements...
will now take place. This government has responded to the likelihood of deregulation by proposing an adjustment package which will assist dairy farmers to respond to the sudden and significant changes ahead in an orderly way which will minimise hardship and provide exit opportunities for those farmers wishing to leave agriculture.

Before I go on to make a few remarks about what we are providing through that package, I would like to briefly comment on some of the remarks made by other senators. Senator O’Brien and Senator Forshaw made some castigating remarks about the intention of the government and how we should have moved much earlier to do this and how we have moved to do this. I would like to remind those two senators that the intention of the government is to give industry control of its own affairs, as we have done with the meat industry and as we have done with the wheat industry. I believe the dairy industry is to be commended in this case for the leadership it has shown, and I would like to recognise those dairy industry leaders who are present with us today.

They have been very instrumental in educating their members of the need for this package, highlighting its advantages and constantly communicating with the government about the way the package is to operate. As I have said, I would like to commend them for the leadership that they have shown. But for Senator O’Brien to say that the government has not shown any leadership is a misinterpretation of leadership. The government’s role in determining industry policy has not been to tell industry what to do. Rather, it has been to facilitate the process, to listen to industry, to hear what it had to say and then to put into place a workable operation which would provide industry with what it needs. We believe that that is what has happened.

The dairy industry adjustment package is a total cost of $1.74 billion, and it will provide a dairy structural adjustment payment worth a total of $1.63 billion to help farmers adjust to the new market, paid in 32 instalments over eight years. Those payments, available to eligible persons involved in dairying on 28 September 1999, will provide significant assistance to both individuals and regions that are dependent on dairying. Not only that, we have a Dairy Exit Program worth $30 million which will provide a tax-free grant of up to $45,000 for those eligible producers who wish to exit agriculture and an 11c per litre dairy adjustment levy on drinking milk products to fund the Dairy Industry Adjustment Program.

In the development of this package, a number of issues have been raised both by industry representatives and the broader dairy community. One thing is very clear, however: if deregulation occurs, this adjustment package will be vital to maintaining the continuing growth of the Australian dairy industry overall, but it will also assist individual producers to respond to deregulation. This is an adjustment package. It is not intended to compensate for the removal of regulated arrangements or to provide income support. As I said, it will assist producers to adjust to the changing circumstances with dignity and in an orderly fashion, improve industry performance and, in turn, maintain and increase job opportunities and incomes in regional dairy areas.

In relation to any compensation issues, it is the government’s clear view that it is now up to the states to address issues that are the direct consequence of states removing farm gate pricing arrangements, and that includes quota compensation. The package addresses issues which have been brought about largely through the existence of state market milk arrangements, and it is up to the states to provide additional input if they see it is necessary. The government is conscious that the Commonwealth’s taxing powers will contribute all the funds towards assisting the industry to adjust to the removal of state arrangements while the states will receive national competition policy payment for their dairy reforms.

However, we are aware of the very real concern about the impact on dairy farming communities. To address this concern, I will later be introducing an amendment on behalf of the government that will establish the Dairy Regional Assistance Program. This program will provide a total of
$45 million available as payments of up to $15 million per year for three years beginning on 1 July 2000. It will be a subprogram under the Regional Assistance Program and be administered by the Department of Employment, Workplace Relations and Small Business. It will be funded from the dairy industry adjustment package and met from the levy of 11c per litre on liquid milk. Funding under that program will be provided primarily to supplement private sector investment to assist employment generating projects in affected regions. It will focus on supporting initiatives to create long-term employment, retraining, counselling and community infrastructure and services.

Restructuring will have significant economic and social impacts on regional communities reliant on dairy farming. Reduced returns to dairy farmers and declining employment opportunities impact on the viability of other businesses and services. The Regional Assistance Program will be directed at assisting those dairy dependent communities considered to be at risk following deregulation and assist them to become self-reliant.

It is inevitable that, in any assistance program of this nature, there will be individual producers who are concerned about their eligibility for payments from the package. The eligibility criteria were arrived at after extensive discussions with dairy industry leadership, and they are the result of a careful balancing of the levels of entitlement to the adjustment pressure they will face. The Dairy Adjustment Authority will be charged with making the determinations on eligibility for all applicants, and the vast majority of producer eligibility and entitlement are expected to be determined without dispute by the Dairy Adjustment Authority. However, disputes will arise in some cases and the Dairy Adjustment Authority will need to resolve them on the basis of clear guidelines and principles.

Other producers may not for various reasons be technically eligible for entitlements, even though they are current producers and were delivering milk during the 1998-99 financial year. The Dairy Adjustment Authority may determine eligibility for these producers, taking into account the individual merits of each case. Of course, an appropriate appeals mechanism has been established in the legislation for those producers who are not satisfied with the Dairy Adjustment Authority’s determination. I will also later be moving a technical amendment on a matter that has been brought to the government’s attention since this bill passed through the House of Representatives. This amendment brings this bill into line with the Australian criminal law policy in relation to dealing with confidential information.

Finally, I would like to congratulate those dairy industry leaders who recognised in advance the commercial forces facing the industry and examined the options to deal with these pressures. The coherent strategy that they developed was presented to the government and demonstrated to our satisfaction that that strategy had the support of the majority of industry.

I would now like to consider the two second reading amendments that have been presented by the opposition and Senator Woodley respectively. Taking firstly the second reading amendment that was moved by Senator Forshaw: there is no substance to this amendment and this provides no constructive input. The one true remark Senator Forshaw or Senator O’Brien did make was that this is a very complex industry and that it was the states’ choice to deregulate, and that is why the government has moved in the way it has.

In response to (a), in the end, there was a limited time frame for the development of this legislation because the decision to deregulate in Victoria was delayed until late December because of the state election. That is why we were anxious to know the opinion of industry rather than depend on what we were being told. So it was very necessary for that plebiscite to happen. Following that development, state ministers, who are, after all, responsible for deregulation, have only recently agreed to deregulate at the ARMCANZ meeting last Friday.

In response to (b), this package is designed specifically to assist producers adjust to the needs of the future and take the op-
opportunities which exist in export markets. The package is proactive. It anticipates the need for change to improve efficiency and it is in the interests of all who rely on it for income. Far from not being visionary, we see the package as a positive and constructive move by industry and government.

In response to (c), the task force will make proper and professional assessment of the impact of deregulation on regions and respond accordingly, and there are many programs available now which can be drawn on.

In response to (d)—imposing a new tax on milk—we are removing a tax on milk because the Domestic Market Support Scheme and the levy will be removed. Artificial pricing through state legislation will be removed. Both of those tax consumers. The levy is also not a wholesale sales tax. Rather, it is a levy targeted specifically at those most likely to benefit in the long term from deregulation, who are, after all, customers. It is well known that the Commonwealth provides for a range of levies to assist industries to adjust to changing demands.

In response to (e), we have made provision to assist workers by assisting dairy enterprises and maintaining the viability of downstream manufacturing. So employees will benefit through maintaining jobs. In response to (f), we already have a range of government programs to assist with training needs, such as FarmBis, and, in response to (g), a significant proportion of the $1.63 billion will be used for investment purposes.

In response to (h)—failing to include measures aimed at opening up and expanding overseas markets—this is exactly what this legislation is doing because it is the export oriented processors as well who are in favour of deregulation. That is because they want to be expanding into export markets and they can only do that if their major input, which is, after all, milk, is competitively priced.

In response to (i)—failing to include a research and development component within the package—the Commonwealth government already provides around $10 million each year for research and development in the dairy industry. In response to (j)—poor targeting of assistance to farmers—come on! The package is specifically targeted at those who are most directly affected, who are, after all, dairy farmers.

In response to (k)—failing to develop an adequate mechanism, et cetera—if current arrangements are continued for eight years, consumers would pay twice the amount they already pay through the levy. The imposition of the levy should not have any adverse impact on consumer demand for milk as the reduction in the farm price is expected to be greater than the levy. If anything, the impact of the levy on demand will be positive, given the fall in farm prices and the potential for other subsidiary products, such as flavoured milks, to be more competitive in a deregulated environment.

In response to (l)—failing to ensure an equitable distribution of the package, et cetera—the package is based on fundamental principles designed to provide assistance to those producers who will be most affected. Lessors will receive entitlements. However, they will not have to bear the same adverse impact as lessees, who actually conduct the dairying business. There is a right, as I mentioned, to appeal a decision by the Dairy Adjustment Authority—first, by the authority itself and then, if still unsatisfactory, an appeal can be made to the Administrative Appeals Tribunal.

I think one of the opposition senators also mentioned the tax windfall that the government would be getting as a result of this package. Any argument that the difference between the original industry proposal and the package that was finally agreed to represents a tax windfall is totally false. The original proposal from industry was for a package of $1.25 billion net of tax. We were not prepared to set a precedent under tax law and provide tax-free payments. Recognising the large tax impost which would be associated with a lump sum payment and against the background that a single upfront payment would be illegal under World Trade Organisation arrangements, the government agreed to payments being over
eight years to ease the tax burden on recipients. The agreement to $1.74 billion is an approximation in present value terms of the original $1.25 billion single payment proposal.

Turning now to Senator Woodley’s second reading amendment, in response to (a), which urges the governments of Queensland, New South Wales and Western Australia, all I can say, Senator Woodley, is that it is not the responsibility of the Commonwealth government to urge state governments to do anything. It is totally the responsibility of the states as to how they move in regard to the issues that you have mentioned. In response to (b), we have already developed a regional adjustment package, which I have just mentioned, so we are fulfilling that part of your amendment.

In response to (c), I believe that we have done that. The Australian Competition and Consumer Commission has been tasked by the Treasurer to monitor retail milk prices to ensure any changes in prices are in accordance with acceptable competitive practice. The ACCC will commence monitoring prior to and for a period of six months following the introduction of the levy. Concerning farm gate prices, again that is a matter for commercial negotiation in a competitive market. This monitoring will be funded from levy receipts. We do not have a role in monitoring those sorts of movements at the farm gate level.

This is one of the most important debates and important results, I believe, ever to occur in Australian agricultural history. I thank all senators for the contribution that they have made to the debate.

Question put:
That the amendment (Senator Forshaw’s) be agreed to.

The Senate divided. [5.50 p.m.]
(The President—Senator the Hon. Margaret Reid)

<table>
<thead>
<tr>
<th>Ayes</th>
<th>34</th>
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<td>Noes</td>
<td>28</td>
</tr>
<tr>
<td>Majority</td>
<td>6</td>
</tr>
</tbody>
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AYES

Allison, L.  
Bishop, M.  
Bourne, V.W.  
Carr, K.  
Conroy, S.M.  
Cooney, B.  
Crowley, R.A.  
Evans, C.V.  
Gibbs, B.  
Harris, L.  
Hutchins, S.  
Ludwig, J.  
Murphy, S.M.  
O’Brien, K.*  
Ray, R.F.  
Schacht, C.  
West, S.M.  

Bartlett, A.  
Bolkus, N.  
Brown, B.  
Collins, J.M.A.  
Cook, P.F.S.  
Crossin, P.M.  
Denman, K.J.  
Forshaw, M.G.  
Greig, B.  
Hogg, J.  
Lees, M.H.  
McKiernan, J.  
Murray, A.  
Quirke, J.A.  
Ridgeway, A.  
Stott Despoja, N.  
Woodley, J  

Alston, R.K.R.  
Brownhill, D.G.  
Chapman, H.G.P.  
Crane, A.W.  
Ellison, C.M.  
Ferris, J.  
Herron, J.  
Lightfoot, P.R.  
Mason, B.  
Minchin, N.H.  
Patterson, K.C.  
Reid, M.E.  
Tchen, T.  
Troeth, J.M.  

Boswell, R.L.D.  
Calvert, P.H.*  
Coonan, H.  
Eggleston, A.  
Ferguson, A.B.  
Heffernan, W.  
Knowles, S.C.  
Macdonald, J.  
McGauran, J.J.J.  
Newman, J.M.  
Payne, M.A.  
Tambling, G.E.  
Tierney, J.W.  
Vanstone, A.E.  

Campbell, G.  
Faulkner, J.P.  
Lundy, K.  
Mackay, S.  
McLucas, J.  
Sherry, N.  

Campbell, I.G.  
Kemp, C.R.  
Gibson, B.F.  
Parer, W.R.  
Hill, R.  
Campbell, I.G.  
Abetz, E.  

* denotes teller

Question so resolved in the affirmative.

Amendment (by Senator Woodley) put:
At the end of the motion, add: “but that, in view of concerns expressed in evidence to the Rural and Regional Affairs and Transport References Committee’s inquiry into the deregulation of the Australian dairy industry, the Senate:

(a) urges the Governments of Queensland, NSW and Western Australia to consider the issue of quota entitlements and the form of compensation that may be appropriate for the resumption of quota entitlements (including the use of national competition policy payments); and
(b) calls on Commonwealth and State governments to develop regional adjustment packages for rural and regional communities affected by deregulation; and

(c) calls on the Treasurer to direct the Australian Competition and Consumer Commission, under paragraph 17(1)(c) of the Prices Surveillance Act 1983, to monitor prices, costs and profits in the dairy industry after deregulation for the purpose of ensuring that dairy farmers are not unfairly burdened with the cost of the proposed levy”.

The Senate divided. [5.54 p.m.]

(The President—Senator the Hon. Margaret Reid)

Ayes…………… 34
Noes…………… 29
Majority……… 5

AYES
Allison, L.
Bishop, M.
Bourne, V.W.
Carr, K.
Conroy, S.M.
Cooney, B.
Crowley, R.A.
Evans, C.V.
Gibbs, B.
Harris, L.
Hutchins, S.
Ludwig, J.
Murphy, S.M.
O’Brien, K *
Ray, R.F.
Schacht, C.
West, S.M.

NOES
Alston, R.K.R.
Brownhill, D.G.
Chapman, H.G.P.
Crane, A.W.
Ellison, C.M.
Ferris, J.
Herron, J.
Lightfoot, P.R.
Mason, B.
Minchin, N.H.
Patterson, K.C.
Reid, M.E.
Tchen, T.
Troeth, J.M.
Watson, J.O.W.

PAIRS
Campbell, G.
Faulkner, J.P.
Lundy, K.
Mackay, S.

McLucas, J.
Campbell, I.G.
Sherry, N.
Abetz, E.

* denotes teller

Question so resolved in the affirmative.

Bills read a second time.

In Committee

DAIRY INDUSTRY ADJUSTMENT BILL 2000

The bill.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (5.57 p.m.)—I table the supplementary explanatory memorandum relating to the government’s amendments to be moved to this bill. The memorandum was circulated in the chamber on 15 March 2000.

Senator O’BRIEN (Tasmania) (5.58 p.m.)—The committee was directed to clause 13 of the bill, particularly clause 13(5), in relation to the provisions of the bill which form the basis for ministerial orders made to give effect to the government’s policy for the assistance adjustment package.

The problem some members of the committee faced is that we took evidence from lessors of dairy properties who were affected by the proposed measures and who, for example, found themselves in a situation where, even though the lessee in possession of the property at the end of September in 1999 would be entitled to a substantial part of the adjustment package, even before the package came into effect those lessors would have left the industry and indeed in some cases had already determined that they would leave the industry prior to 28 September 1999. Given the provisions in the bill and given what the committee was advised in relation to the drafting instructions for the ministerial orders, how does the government say that situation is equitable and appropriate

Excluding the market milk premium but looking at the other aspect of the package, according to the example on page 4 of the drafting instructions the committee was given there might be, say, $100,000 in an adjustment package for the non-market premium part of the package, and the lessor
would receive $20,000 and the lessee $80,000. On the basis that the history of milk production has led to the view that a property would produce five times as much in milk as was the lease payment, this arrangement would provide what some might argue would be a windfall benefit to what might in some cases be a lessee who had no intention of remaining in the industry. On the other hand, it would deny the lessor, who may well have intended to return to the industry before 1 July this year, a fair share of that part of the adjustment payment.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (6.02 p.m.)—In response to Senator O’Brien’s query, the lessor as the owner is the one who has done the work on the farm in the sense of providing the capital structure, and he is the one that will receive the actual adjustment payment. The lessee, as the person who leases or does part of the work on the farm and may provide part of the labour, obviously will receive part of the payment.

Senator O’BRIEN (Tasmania) (6.03 p.m.)—I am not sure if the parliamentary secretary has understood my question or indeed whether the parliamentary secretary has the document given to the committee, which gives an example of arrangements which would follow. I will read the example I gave:

An example of how these arrangements would work in practice are as follows. The lessee pays the lessor $20,000 per year on the land. Income from deliveries of milk in the base year on that enterprise was $100,000. Lease payments represent 20 per cent of income from milk deliveries in the base year. Therefore, the lessor receives 20 per cent of the market milk premium entitlement and the lessee receives 80 per cent of the market milk premium.

There was evidence before the committee that in some cases lessees are intending to depart the farm prior to 1 July—indeed, in some cases had that intention prior to 28 September 1999—and indeed will depart the farm. Using this example—for ease, let us make the assumption that that part of package represents $100,000—that particular lessee walks away with a windfall of $80,000 and the lessor, who may well have been intending to resume occupancy of the farm, although that is not all that relevant, takes $20,000. The adjustment is to run over a period of eight years to recognise the fact that there may well be a reduction in income over that period. Yet, in this case, the lessee takes the bulk of the adjustment, walks away from the industry—an industry that in some cases they intended to walk away from, whether there was a package or not—and the lessor, who may well have had an intention to resume production and operation of the dairy, is denied the package. Does the government consider that is equitable?

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (6.05 p.m.)—I have the words of those drafting instructions in front of me. You have quoted what may well be one of, let us say, 1,000 reasonably complex leasing arrangements, all of which will vary in size in the way they have been developed. It is proposed that revenue sharing be determined by converting the leasing arrangements which existed at 6.30 p.m. on 28 September 1999 into a revenue share of income from milk deliveries. And it is proposed that the Dairy Adjustment Authority be given some discretion to determine a revenue sharing arrangement in cases where the lease arrangement is highly complex or in cases where it does not just relate to the carrying on of a farm enterprise. As I said, the example you gave is one of what may well be 1,000 different arrangements. Obviously, how that will be determined is up to the Dairy Adjustment Authority.

Senator O’BRIEN (Tasmania) (6.07 p.m.)—Are you saying that there is an automatic right under the legislation for the lessor in that case to have the shares reviewed? That is not my understanding of the position. My understanding of the position is they neither have that automatic right as the legislation is drafted nor have that right arising from the drafting instructions for the ministerial orders. If the government has changed its position and there is to be a
right of review, perhaps you should tell the committee now.

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (6.07 p.m.)—The issue is that entitlements are allocated to individuals, not to farms. Lessors can leave as part of the adjustment process, and farm owners can similarly leave their farm and they will receive their entitlement over the next eight years. All entitlements are to stay with the individuals, and it is their decision, obviously, whether they stay or not.

Senator FORSHA W (New South Wales) (6.08 p.m.)—I would also like to make some remarks and seek some clarification from the parliamentary secretary on this issue. In doing so I want to put on the record here in the Senate—but I think it is certainly known to the officers of the department and to the government—that we have sought to explore these issues in the committee hearings that took place earlier this week. However, as we indicated in our speeches in the second reading debate, time is pressing on this legislation and we have not been able to get satisfactory indications from the government that there will not be inequities, let alone serious inequities, arising from the application of this scheme. It is therefore important that we pursue them in the committee stage.

Can I follow on from Senator O'Brien's questions and comments and make these comments. Firstly, if we take the position in the industry prior to the package being implemented, if there was no deregulation the situation is that a leaseholder on a dairy farm operates pursuant to the terms of that lease. That is the same principle that operates with lease arrangements in a range of other areas, such as leasing arrangements for property. They are subject to the terms of the lease, where the normal arrangement is that the lessor is entitled at the expiry of such a lease to either renew the lease—or seek to renew the lease—or not renew the lease. That right will generally exist for the lessee as well. They could seek to continue under a new lease to operate the dairy enterprise or they could decide they had had enough and leave. It is not dissimilar to being a tenant in a unit or a flat. The terms of the tenancy, or the lease, are governed by what is in that lease.

If we consider a position where there is a lessor—namely, an owner of a dairy farm—and a lessee on the farm who is operating that dairy, the lessee is essentially receiving the income from the milk that is produced; the lessor is essentially receiving a rental payment from the lessee. If that lease was due to expire at a certain time—which it would be; normal arrangements are that leases have a term—at the end of the term of that lease the lessee would be in a position where, unless they entered into a new lease arrangement, they would have to vacate the premises. The lease would be at an end, and their capacity to continue to earn income from the property would cease. They know that and they understand that that is the position upon which they entered the lease.

One of the difficulties that arises here is that, because the entitlement to the adjustment payment is determined on the basis of who receives the income—and you just made that comment yourself, Parliamentary Secretary—a leaseholder, who otherwise prior to this package would have had to vacate the farm at the end of the lease period, in these circumstances would vacate the farm under the package but would do it with a payment in their hands that they would not have otherwise received under the lease. They will receive under this package a substantial payment in many cases, and a payment that will continue for the next eight years.

That, certainly in the circumstances that we have identified, could be seen to be a windfall gain for that lessee well beyond the terms of what income they would have expected to have earned during the period of the lease. Therefore, they will be clearly overcompensated because, whilst they may have been able to earn an income for, say, a two-year period, here they will be able to obtain a payment for the next eight years. You only have to look at the mathematics in some of those situations to see that in many cases they will pick up more than what they
might have otherwise lost because of deregulation. The reason for that is that their interest in the dairy enterprise is defined by time but, because they happen to be the party that earns the income, they will receive the entitlement.

This has been put to us by the department and the government. We therefore understand that that is the case and that is the way the scheme is set up. But the problem in terms of equity and the future of this industry, in our view, goes well against principles of equity and against the intention of this scheme. The owner of the property, the lessor, would be left with the property—and, potentially, a reduced value for the property, the capital, because of deregulation—and with no entitlement, even if they picked up the dairying and recommenced the milking enterprise themselves or looked for another lessee. I know the department understands the examples, the situations, that we have given because we have outlined them before. But I want to then take you, Senator Troeth, to the explanatory memorandum and I want to know how it is that these situations will be allowed to occur in light of the intentions of this scheme, which are set out in the explanatory memorandum. For instance, at point 19 on page 5, it states:

It is envisaged that payments to producers under the package would be used in whatever investment considered most appropriate to enhance viability and competitiveness of the enterprise. This may take the form of investments to achieve scale economies, relocation or debt restructuring.

This is intended to be one of the primary objectives of the package—that is, that the money paid out as the entitlement will be for improvements to the enterprise. I understand it does not necessarily have to be that. As we know, people can take the entitlement and leave. But if the primary purpose of the scheme is that it be used to enhance the viability and competitiveness of the enterprise, in the situation that we have pointed out with lessors and lessees it will do exactly the opposite. Payments over the course of the next eight years—well beyond the expiry of the lease—will be in the hands of the lessee, who has no attachment to the property and no capital involved in it and who can leave. The lessor, who is the owner of the property, will not receive any of this entitlement in order to try to improve the competitiveness, sustainability and viability of the enterprise. Point 26 states:

The package is designed to assist farmers adjust to this fall in income and, in so doing, secure the long-term benefits of deregulation. This will be achieved by providing payments that will allow farmers to either undertake structural improvements or, alternatively, leave the industry.

Again, in this situation there will be farmers that own farms who will be not able to make that choice appropriately because they will not be receiving that entitlement. It will have been given to someone else who is only a lessee. I want to raise another issue that is relevant. Point 27 states:

To encourage effective use of the assistance, each farmer will be required to undertake a farm business assessment prior to receiving any payments. It is intended that, through an assessment of the farm enterprise, the information available to farmers for making appropriate investment decisions is maximised.

When we asked questions of the department on the farm business assessment, the comment was made—and it is recorded in Hansard—that this was nothing more than a signature on a piece of paper to say that the assessment had been made. In evidence, Mr Roseby said:

For any person who makes an application for an entitlement, in order for them to get that entitlement a simple document will come to the Dairy Adjustment Authority saying that it has been signed by a chartered accountant, a rural councillor or a qualified person identifying that the assessment has been made. That will be sufficient for the Dairy Adjustment Authority to make or authorise a payment.

You would think this idea of having a business assessment was designed to really assess the viability of the enterprise, that person’s ability to continue in the industry and so on. However we are told, ‘Look, it is not all that much; it is a bit of paper signed by a rural councillor or an accountant.’ But in the case of a lessee, what is it going to really be? It is most likely going to be, ‘Well, leaseholder X, you can pick up maybe $100,000, or whatever the figure is, as an
entitlement and your lease expires in X amount of time, so the best investment advice I can give you, mate, is to grab the cheque and go.' It has been acknowledged that that can occur. One of the concerns we have is that, as this package is locked into working out the entitlements based on income only, the imbalance is that the lessor who has a real interest because they have the asset or the enterprise, will be shut out of having access to the entitlement in the future. With all of that, Parliamentary Secretary, how can you assure us that, firstly, this will be equitable and, secondly, that the intentions of the package as spelled out in the explanatory memorandum—that is, to promote efficiency and viability on dairy farm enterprises—will really be met when you are going to allow a situation where these funds can just be taken from the industry in such a way?

Senator TROETH (Victoria—Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry) (6.22 p.m.)—There are some points to be made there. In some of the sweeping generalisations that he has made, Senator Forshaw is ignoring the vast number of dairy lessees who will no doubt take the adjustment payment and look to further their own farm career. In my experience—and I am sure in the experience of other people associated with the dairy industry—most lessees of dairy farms are looking to make a career in the industry. If, through some business circumstance or personal circumstance after this adjustment takes place, it is not possible for them to continue on that farm, they may well decide to take the money and move on to another farm or make an alternative business arrangement.

That is the whole point of the flexibility and equity of this package. At some point, a decision had to be made that would determine who is in this industry. For the government’s purposes in putting forward this package, we made the decision that it would be the people involved in the industry at 6.30 p.m. on 28 September 1999 and who had had a revenue share of income from milk deliveries from the enterprise in 1998-99. Those people, either lessors or lessees, who are in the industry will be given their share of the adjustment money. As a result, they can use that in a variety of ways. The lessor is receiving rental income for the use of his or her property, and obviously there are alternative uses and rental income from these other uses if dairy production proves to be uneconomical after deregulation. As well, the lessor is not locked into dairy production and does not stand to lose as much as the dairy farmer, the lessee. But the lessee can then take that money and move away to do something else. As I said, he may decide to go into sharefarming or leasing of another property, or he may decide to set up a small business in the nearest town. What he does with that money is up to him. The government are not into making prescriptive uses for that money.

Senator O’BRIEN (Tasmania) (6.26 p.m.)—It may be that there are many circumstances where what the parliamentary secretary has said is entirely appropriate and pertinent. However, the legislation committee took evidence from lessors that pointed to anomalies that arise. The fact of the matter is that the Senate knows of the
anomalies and so does the government. I think the opposition are taking the view that everyone would accept unintended consequences and unintended inequities. The government cannot with a crystal ball necessarily pick up every anomaly that might occur, but this is not a case of asking the government to foresee what might happen. What we are asking the government to do is to look at the things that, in evidence before the Senate committee, we were told will happen; to do a bit of extrapolating from those examples and the evidence that the Senate committee took; and to come to the realisation that there is inequity in the provision and that there are going to be anomalies in the provision.

As I said in my contribution to the second reading debate, the opposition are not asking for you to amend the bill today. We are not asking for specific commitments. What the opposition would like to hear from the government is that it will genuinely review the sharing provisions—and there may be others that need to be reviewed—that relate to the lessor and the lessee. We would like the government to look at it in the context of the evidence that exists, which the opposition think shows that there are anomalies, and, if it finds that those anomalies do exist, to undertake to the Senate to investigate and implement ways of avoiding those anomalies.

These are examples, and I would not want it to be suggested that these were the only ways that this matter might be addressed, but the government might want to look at, for example, the issues that Senator Forshaw raised—that is, both the issue of the period of a lease applicable to the lessee, who is the beneficiary under the scheme; and the issue of what might have been the lessee’s reasonable expectation of participation in the industry under that lease. The government might want to look at the issue of the value of the labour component of the lease compared with the capital component and any labour maintenance or other factors that the lessor might provide. The government might want to look at whether the lease includes not just the farm and the dairy but the herd as well. These are issues which are before the committee. The government might say, ‘Yes, there are specific provisions about the sharing of the market milk premium.’ But we are really focusing on provisions that, in our view, in terms of the number of farmers and farms, apply to the majority of the industry. We know that the largest part of the industry—almost two-thirds of it—is in Victoria. Victoria does not have a market quota system, and it has a very small component of production that might be market milk. My state of Tasmania is in the same boat.

We are asking the government to do some more work on this matter and to consult with the industry. The industry, if it did not already have it, is gaining a good idea of some of the anomalies that exist. I think the industry would take the position, provided there was not a scrambling of other provisions, that it would be happy for this matter to be dealt with in another way that was equitable. The government may well find that the industry is happy, for example, for issues such as sharing between the lessor and the lessee to be resolved with reference to the DAA and, ultimately, to the Administrative Appeals Tribunal. It is possible that the industry would be happy to encourage the resolution by negotiation of some of those disputes with the nonpayment of the adjustment package, in those areas where a dispute exists, until the matter is resolved. Those are issues that the government can investigate and discuss whilst continuing with the legislative program that is before the Senate at the moment. The government would be in a position, for example, to say to the industry, ‘We are investigating this,’ and to quickly come back before 1 July to say, ‘We’re going to have to make this particular change,’ thereby advising people who have an expectation of the payment, before they make their plans based upon the legislation, that there might be a change if they are in a lessor-lessee situation. That is what the opposition are saying.

Amendments have been circulated by Senator Harris. They propose other measures which relate in part to this issue. I do not want to pre-empt what the opposition say about those at the moment, but our
preference is that this matter be dealt with carefully and thoughtfully. I do not think it is unreasonable for the opposition to be asking for an undertaking from the government in this debate that they will work that issue through, given that the material which was before the Senate committee was not—as far as I am aware—available to the government at the time the legislation was dealt with in the House of Representatives. I do not think it is an onerous obligation to place upon the government to ask that they look at this issue again, that they take advice and that they look to see whether there is an alternative and more equitable method of dealing with some of these situations. As I said to the parliamentary secretary, we are not in the business of trying to frustrate this process. We are trying to help it.

Senator WOODLEY (Queensland) (6.33 p.m.)—I would like to speak on this matter as well. I want to congratulate Senator O’Brien and Senator Forshaw. In the committee hearings, I did not participate in the process, because they handled it very well and asked exhaustive questions. I would have thought the government could have come up with some proposal on this issue. It is not good enough to say that the government received notice of this issue too late to deal with it. Let’s face it: farmers have received notification and have been able to address some of these issues only in the last couple of weeks. Let me say quite clearly that the evidence given to us was that the UDV did not address this problem when it was placed before them. I know the UDV have representatives here, and so I am deliberately saying that. I could have said a lot of things in this chamber about the UDV and their campaigns. But let me say that the evidence given to the committee was that they did not assist with this issue.

I want to at least put before the committee that that was the problem that the particular people had, whether lessees or lessors. This is a serious issue, and it has been canvassed at great length by Senator O’Brien and Senator Forshaw. Senator O’Brien is very kind when he asks for some assurance from the government. I would like a little more than an assurance, although I suppose that is all we will get at this stage. It is just not good enough. This might be an example of the kind of follow-up that we are going to get from the government on the whole dairy bill. The Democrats and the Labor Party—those of us in opposition—and government members as well are taking a lot of this on faith because we do not have the regulations and we do not have the ministerial directions that we need before us to spell out the details of this legislation. To take on faith what the government is proposing in this chamber really requires the attitude of the government to be positive. Very civil, important and serious requests are being made by the opposition, by Senator Forshaw and Senator O’Brien, about a very critical issue indeed.

Let me underline the fact that Senator Harris—who has been sick, I believe—has been able to come back into this place and, although at a very late stage, propose some amendments that deal with the very issue we are discussing. I do not know whether we are going to vote for them or not, Senator Harris, because it is a problem to receive them late. We are not blaming you for that because you have very limited resources. We know that Rosemary Laing has tried to help you as much as possible and we know that there are all kinds of pressures on you, but you have come up with some amendments. If Senator Harris could do that, surely the government should have been able to come in here with some kind of assurance instead of an explanation which does not satisfy at all. It is just not helping us. We want to deal with the issue. As Senator O’Brien said, we want to expedite the legislation but we have to have an assurance at the least or, better still, some written indication that the government is taking this issue seriously. If what you have said, Parliamentary Secretary, is all the government is going to give us in terms of a response to this problem, then I am afraid it is not good enough for the Democrats and I presume it is not good enough for the Labor Party either.

Senator HARRIS (Queensland) (6.38 p.m.)—In speaking to the issue, I would like to raise what I believe is an anomaly, and
that is that the government is asking this chamber to pass legislation when, as Senator Woodley has just said, we have not seen the regulations. Are we being prudent or are we exercising our responsibilities in a dutiful way if we rely on some ministerial directions that we have had no indication of?

From the consultations that I have had with the industry and through the phone calls to my office, the question that is being raised to a large degree by all of the participants who have contacted me is: how can the government put forward a proposal that will have the effect that, due to a certain person sitting on a stool in a dairy at 6.30 p.m. on 28 September 1999, he or she is entitled to reimbursement for the next eight years, with that reimbursement being funded by that industry when its intention is to assist the industry through that eight-year period? We have the situation where a person can exit the industry during that period if they are a lessee, leaving behind a lessor who has a property that may have a dairy situated on it but no ability to attract back to that property another lessee because, if the government’s proposal goes ahead, that subsidy will leave with the original person. I believe that the legislation itself requires amendment, and I will be moving some amendments, which are being circulated in my name, later on to address this issue.

We have not even touched on the issue of what is going to happen to those people in the industry who find themselves unviable. It is reasonably understood in the industry that, of the 8,000-plus members in Victoria, there may well be only 1,000 of them at the end of the restructuring period. I would like clarification from the parliamentary secretary on this issue: how is the government going to convey to the industry with clarity that these lessors who are left without a lessee themselves will be able to remain within the industry?

Senator BOSWELL (Queensland—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to the Minister for Transport and Regional Services) (6.42 p.m.)—I would have thought that Senator Woodley would have welcomed any government being able to provide a $2 billion package without trying to denigrate the package. Senator Woodley is congratulating the people on the Labor side, but I am still waiting for him to congratulate the government for providing a package of $2 billion to the dairy industry.

Senator Woodley interjecting—

The CHAIRMAN—Order!

Senator Woodley—He is asking me a question.

The CHAIRMAN—Through the chair, please.

Senator Boswell—I think you are being a bit ungenerous. I think the dairy industry realises—

Senator Woodley interjecting—

Senator BOSWELL—I can do my sums as well as you can, Senator, but I do not run around in the pretence of being the chairman of a Senate committee and build up expectation and hope. You know very well that this is a very generous package.

Senator Woodley—that is a misrepresentation. You did not even come to one of the hearings.

Senator BOSWELL—I am not a member of your committee. Let me just get to this amendment. The amendment provides for the entitlement to be held to the farms only. If this amendment goes through, the entitlement will stay with the farm and it will not be able to be passed on to the person that leaves the farm, no matter whether he is a lessor, a lessee or a sharefarmer. I think this amendment would disadvantage a lot of people that are engaged in the dairy industry. This amendment does not have the support, as I understand it, of the dairy industry. The dairy industry has gone through this package with a fine toothcomb.

Senator Forshaw—a wide toothcomb.

Senator BOSWELL—a wide toothcomb, if you like. It has certainly picked up all their requirements. They speak for 89 per cent of the industry in Victoria and most of the industry in New South Wales. Let me put it on the record now, because I have not spoken in this debate previously, that in Queensland and other states there is no joy whatsoever in this deregulation. It is going
to cost dairy farmers in Queensland an average of $50,000. I recognise that, as does every other member of the Senate. I know Senator Woodley does too. We could not do anything about it. The government were presented with a fait accompli. All we could do was stand by the dairy industry and respond to their request for a package. We have done that. We have been a little more generous. On top of the $1.8 billion, we today put in another $45 million to sweeten the pot.

Senator Woodley—It comes out of the $1.8 billion.

Senator BOSWELL—Is that out of the $1.8 billion?

Senator Troeth—That takes it to nearly $2 billion.

Senator BOSWELL—I am getting conflicting advice.

The CHAIRMAN—Address the chair, and then they can speak at a later time.

Senator BOSWELL—I thought it took it to $2 billion. It is a very generous package. The point I am making is that the dairy industry requested the package. The package is in line with what they asked for. In these circumstances, this sort of amendment—although Senator Harris may be well-meaning—does not have the support of the dairy industry. You have to be very careful. There has been an agreement set up by the government. The agreement was that the government kick in $2 billion, a package would be put out and that package would have certain requirements that the dairy industry wanted. If we come in here and disturb that package and send it everywhere, we will live to regret it. I do not doubt for one minute that this amendment is well-meaning. Senator Harris, but what you will do is confine that entitlement to a property and give the lessee or sharefarmer absolutely no room if he wants to get off that property and set himself up somewhere else. He is involved in the dairy industry, as are others.

Progress reported.

NOTICES
Presentation

Senator Coonan, at the request of Senator Watson, to move, on the next day of sitting:

That the time for the presentation of the report of the Select Committee on Superannuation and Financial Services on the provisions of the Superannuation (Entitlements of same sex couples) Bill 2000 be extended to 6 April 2000.

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

That the Senate—

(a) notes that the Committee of Experts of the United Nations (UN) industrial arm, the International Labor Organisation (ILO), found, on 10 March 2000, that the Howard Government’s Workplace Relations Act breached ILO Convention 98 on collective bargaining;

(b) condemns the Government for bringing Australia into international disrepute; and

(c) calls on the Government to amend the Workplace Relations Act to conform with our UN treaty obligations.

DOCUMENTS

United Nations: Conventions and Protocols on Torture, Racial Discrimination and Civil and Political Rights

Senator COONEY (Victoria) (6.50 p.m.)—I move:

That the Senate take note of the documents.

I think each of these documents deserves comment separately. Perhaps that is what we might do. I will take the first of the documents which deals with a complaint by an Australian citizen to the Committee on the Elimination of Racial Discrimination. It deals with an application that was not successful. It is an indication of a person’s right that, if he feels that the tribunals within this country have not given him a fair go, he can go to a body like the Committee on the Elimination of Racial Discrimination. It deals with an application that was not successful. It is an indication of a person’s right that, if he feels that the tribunals within this country have not given him a fair go, he can go to a body like the Committee on the Elimination of Racial Discrimination. It deals with an application that was not successful. It is an indication of a person’s right that, if he feels that the tribunals within this country have not given him a fair go, he can go to a body like the Committee on the Elimination of Racial Discrimination. It deals with an application that was not successful. It is an indication of a person’s right that, if he feels that the tribunals within this country have not given him a fair go, he can go to a body like the Committee on the Elimination of Racial Discrimination.

All of these documents deal with the particular situation where a person has ex-
hausted his or her rights within Australia and then seeks by the consent of the nation to go elsewhere. So it is not as if we are dealing with some body that overrides the Australian situation. It does not do that, but with the allowance of Australia, a person goes off to another tribunal. In this case, the person who went off—the alleged victim, as this document reads—did so because he said that he had been discriminated against in his work in Australia.

The Committee on the Elimination of Racial Discrimination listened to him and listened to the submissions put by Australia and said that Australia had acted fairly. When I say ‘Australia’, I mean that the various tribunals and courts in Australia had acted fairly and given him a fair result and fair decision. It is perhaps worth while reading the comment by the committee at 9.3. It says:

The committee considers that as a general rule it is for the domestic courts of state parties to the convention to review and evaluate the facts and evidence in a particular case and after reviewing the case before it the committee concludes there is no obvious defect in the judgment of the Equal Opportunity Tribunal in New South Wales.

The point I want to make is that there is this overriding international law, if you like, that guides countries in what is fair and reasonable. Those countries are not bound by the judgments of a committee like the Committee on the Elimination of Racial Discrimination, but nevertheless it is a process whereby the countries around the world have the benefit of the opinion of a committee that interprets international treaties, and so was the case in this situation.

Mr Acting Deputy President, in the series of documents that you have called out, Australia has done very well indeed. It does show that Australia has a very good regime within it that enables people who are in Australia to get justice. On my reading of the documents, there was only one matter where it was suggested a person had been unfairly treated, and that is a matter that is still ongoing. (Extension of time granted)

These documents are all similar. The next one sets out the decision of the Human Rights Commission established under article 28 of the International Covenant on Civil and Political Rights. Although this is a different committee—the last committee I was talking about was the Committee on the Elimination of Racial Discrimination—it is of the same order. It is an international body that, again, enables the residents of a country to go to an international forum, with the consent of the country in which he or she lives, and to have the opinion of that com-
The following government document was considered:

Wheat Export Authority—Report for the period 1 July to 30 September 1999. Motion to take note of the document moved by Senator Forshaw. Debate adjourned till Thursday at general business, Senator Forshaw in continuation.

ADJOURNMENT

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

That the Senate do now adjourn.

Australian National Audit Office: Report No. 26

Senator HOGG (Queensland) (7.02 p.m.)—I acknowledge the fact that Senator Ferris has allowed me to get up on my feet first and your own indulgence, Mr Acting Deputy President, in staying in the chair to enable me to briefly address this evening ANAO report No. 26 of this year, Army Individual Readiness Notice. I am doing this in the adjournment debate for the simple reason that the unfortunate part about ANAO reports is that they are not kept on the Notice Paper once they have been presented in this chamber. They just mysteriously slip off the Notice Paper and, unless one addresses one of these reports at times such as these, the time passes by.

I find this report of such importance purely and simply because it is really quite critical of the Army in their attempts to have an Army individual readiness notice. The ANAO made a number of recommendations, two of which Army agreed with, four of which Army agreed with in principle and two of which Army did not agree with at all. I will not proceed to address individually those recommendations this evening, but I will simply look at some of the report and the significance for the defence forces in particular. When questions were raised on this at a recent estimates hearing, it became evident from the evidence of the Defence representatives that the principle was going to be adopted by the defence forces. If one looks at the criticism
that is made of the actual Army individual readiness notice program already operating, one has some legitimate concerns for what might be happening with the expansion of this program to the whole of the defence forces. At page 10 in the overall conclusion, the ANAO drew attention to this fact:

The objective of AIRN is to ensure that members can be deployed on operations, potentially in a combat environment, to perform their specific skills within a notice period of 30 days. That is the objective of AIRN, but they came to this conclusion:

... the ANAO could find no relationship between the minimum standards set for AIRN components and the achievement of a deployable standard in 30 days.

Further, they went on to say:

... at September 1999, only 74 per cent of full time members and 34 per cent of part time members to whom AIRN applies met the minimum standards required by AIRN.

This, of course, is a major concern. In fairness to the Army, the ANAO then went on to qualify this by saying that the figures were not a reliable indicator because there was some difficulty with the reliability of the statistics. But, even if there is a reasonable degree of error in those figures, one still must have real concern for what is expressed in the report, given that this is at a time when we are looking to our preparedness and our involvement in East Timor, a major involvement at that.

The report went on to then look at the ANAO’s experience with some of our major allies. The report says that our ‘major allies do not use a system like AIRN to manage soldiers’ individual readiness’, and it went on to say that the representatives of the armies contacted by the ANAO indicated that ‘they did not consider a system like AIRN would be affordable in their context, primarily because of the administrative burden it would impose’. That is my major concern with the indication from the defence forces that they were likely to extend this right throughout the whole of the defence forces—that it would impose an unnecessary administrative burden upon various units within our Army, Navy and Air Force. The overseas armies—our major allies, as the report says, if that can be taken as any guide—saw the program that was being operated by our Army as posing administrative burdens that they could not see themselves being able to carry. The report went on to say:

Regardless of the model chosen, there needs to be a clear linkage between individual readiness component standards and the individual readiness objectives to be achieved.

That seems to me to be all paramount if the defence forces are going to extend this concept across the whole of the defence forces. The key findings at page 12 elucidate why there was the development of the AIRN in the first place. The report says:

Army developed AIRN to address two emerging risks. These were the increasing likelihood of short warning conflicts ... and the increasing hollowness of regular army units ...

That was the rationale on which the AIRN was developed in the first place. But it is interesting to look at the implementation of AIRN. The ANAO report goes on:

The slow pace of implementation adversely affected Army’s ability to keep to the implementation timetable. For example, delays by units in implementing AIRN meant that costing information collected during this period did not provide a true indication of the cost of AIRN. It is apparent that, three years after the implementation of AIRN, Army is still not able to assess the annual cost of AIRN.

This is a real concern. Here we have a proposal for something that may well be spread into the other aspects of our defence forces and, after three years of its implementation, Army is not in a position to in any way outline the annual cost of AIRN. That is a fairly telling criticism of Army, and one would hope—and that is why I am flagging this now—that the defence forces, if they are going to maintain AIRN and/or spread it to the other parts of the defence forces, will closely monitor this to enable the taxpayer, at the end of the day, to get value for money out of our defence forces and to ensure that the readiness capability that is required is, in effect, there. On the recording and reporting of AIRN information, the report states:

The ANAO found that the system placed a significant administrative burden upon units, lacked
timeliness in some areas, produced information
of questionable validity and did not encourage
members to maintain a continuous state of indi-
vidual readiness.

So that of itself is a fairly scathing criticism
of something that Army had persisted with
over a period of three years. In their final
comment on page 18, before they came to
their recommendations, they said:

... it is questionable as to whether a review after
five years for such basic processes is consistent
with promoting the most efficient and effective
use of Commonwealth resources.

So, in raising this this evening, I hope the
defence forces are wise, if they do pursue
this, in having the costings available and
ensuring that AIRN and/or its equivalent
across the defence forces does deliver what
it is supposed to deliver, because we do
need an efficient and effective Defence
Force that is truly accountable in this day
and age. In conclusion, I once again express
my thanks to Senator Ferris.

Exceptional Circumstances Policy

Senator FERRIS (South Australia) (7.11
p.m.)—Tonight I rise to speak about the
exceptional circumstances policy. I am
prompted to do so because a second appli-
cation for exceptional circumstances fund-
ing from the central north-east region of my
state, South Australia, has failed. This was
devastating news for families in the region
who have suffered from a combination of
dry seasons and low prices over a consider-
able period of time and of course for dozens
of people in these communities who have
spent countless hours working on submis-
sions for exceptional circumstances with a
high degree of expectation of success.

In my opinion, the exceptional circum-
stances policy, as it is currently defined, has
miserably failed farming families around
this country. The fundamental purpose of
exceptional circumstances is to act as a
safety net for viable producers who face a
severe income downturn due to rare and
severe events that are outside the bounds of
their normal risk management strategies.
One of its key objectives is to reduce the
likelihood of significant numbers of long-
term viable farmers being lost to this very
important Australian industry as a result of
an exceptional event of one sort or another.

As a consequence of this policy, the
Commonwealth has spent $700 million
between September 1992 and June 1999
under the exceptional circumstances policy.
This has been made up of $416 million in
welfare payments and $283 million in inter-
est rate subsidies. As it currently stands, to
meet the national criteria for exceptional
circumstances, primary producers in a re-
gion must be able to show that the decline
in their income and their production was of
such severity that it would occur no more
than four or five times in a century. In other
words, a region would have to have suffered
a one-in-20 or a one-in-25-year catastrophe.

I have been thinking about the excep-
tional circumstances policy and its effec-
tiveness to deal with such situations since
early last year when on a single day five
applications, including the South Australian
proposal, were rejected by the Rural Ad-
justment Scheme Advisory Council, which
is an advisory body to government and at
arms-length from the process of govern-
ment—a very important arms-length proc-
ess.

The applications referred to what ap-
peared to be catastrophic events; they cer-
tainly were in the communities they af-
fected. In other words, they appeared to be
exceptional circumstances. They included
drought and pest damage in the Mallee re-
gion of Victoria; dry conditions, pests and
flood damage in north-eastern South Aus-
tralia; frost damage to wheat crops in West-
ern Australia and, indeed, at the same time
in New South Wales; drought in the Central
Highlands of Tasmania, which was ad-
dressed very eloquently earlier today by
Senator O’Brien; and pasture fires in
Crookwell in New South Wales. The ques-
tion I asked the minister for agriculture at
the time was that, if none of these circum-
stances were exceptional for the purposes of
financial support, then what on earth could
be considered exceptional? The failure of
these applications to meet the guidelines
really does raise a very fundamental ques-
tion: what does it take to get exceptional
circumstances funding these days?
Let me explain the situation in my home state of South Australia. The people of the central north-east region had been experiencing particularly harsh weather conditions over the past year. If ever there was a case that seemed to qualify for exceptional circumstances, then it appeared to me that my state’s north-east fitted the criteria. Primary producers had been suffering the result of very low rainfall, a locust plague and, as we all know because it is largely a wool-producing area, absolutely terrible commodity prices.

The first application they put in was rejected because it was claimed there was insufficient on-farm information. The producers in the community, very valiantly, took up their pencils and they started again. With assistance from the Department of Primary Industry and Resources in South Australia and after hours of work by them and their families, another application was made with more extensive information. Again, almost unbelievably, the application was rejected, which further depressed an already devastated community in that very remote part of my state. It raised a very important perception among these people that farm families have been abandoned by both governments and the bureaucracy—far away from where they themselves are experiencing what they believe to be an exceptional circumstance.

Quite clearly, EC—exceptional circumstances—need an overhaul. While there is no doubt that some elements of EC—that is, the welfare support and some support for business in the form of interest rate subsidies—are very much welcomed by rural communities under pressure, some finetuning is clearly needed to ensure that the assistance can be made more accessible and that the states play a more balanced role. There is nothing worse than leading a community in a remote part of this country to believe that the catastrophe that it has suffered is in fact an exceptional circumstance only to find that a group of people far away disagree and stamp it no.

A rethink of this policy would ensure that communities were not led to believe that they had a real chance of getting access to this assistance when they have a flood, a fire, a frost, a dry season, a locust plague or any of the other catastrophic events that have affected this country just in the last few weeks. Those communities themselves do not need to spend collectively hundreds of hours putting together an application when they have absolutely no chance of success. Of course, in this particular case, this region in South Australia has been able to access funding from a second government program known as Rural Plan, from which grants are made available to specific regional areas to assist those families to develop long-term strategies which will ensure a sustainable agricultural base for their region.

The Prime Minister a couple of months ago at Quorn in South Australia announced that $200,000 would be made available under that program so that these particular communities could begin that important planning process. I have absolutely no doubt that they will make a great contribution which will assist their communities in the long term. But it does not get away from the fact that the whole exceptional circumstances policy needs review and, in my opinion, repair. I have no doubt that the minister for agriculture, Warren Truss, is very aware of the need to undertake this review and to have another look at this policy on behalf of all primary producers in regional and remote parts of our great country.

**Education: Community Aid Abroad Campaign**

Senator BOURNE (New South Wales) (7.20 p.m.)—I would like this evening to bring to the attention of senators a very worthy and important campaign being run by Community Aid Abroad. The campaign is an attempt to highlight the problems of mass illiteracy caused by the world’s education crisis. I am grateful to CAA for the information they have provided me for this.

Ten years ago at the World Conference on Education for All, governments from 155 countries, including Australia, promised to provide all of the world’s children with access to good quality basic education by 2000. Here we are in the year 2000 and it
is obvious that the promise has not been fulfilled. The figures are really quite astounding: more than 125 million school-age children have never seen the inside of a school classroom; two-thirds of these are girls. Millions more children drop out of school in the early grades, unable to read or write, and the numbers are growing. There is now an incredible 880 million people around the world who are illiterate. To make it worse, the international community, having failed in its objective, has shifted the goalposts, so the target is now education for all by 2015.

To achieve this, the UN’s education for all conference will take place in Dakar, Senegal, next month. The aim of this conference is to formulate a plan to reach education for all by 2015. This conference represents the best opportunity for some time for those of us who care about this issue to exert pressure for a real and measurable outcome over the next 15 years. We have already seen one target date pass without attaining the goal. The fear is that in 15 years time an unacceptably high proportion of the world’s population will still be illiterate. It is vital that governments represented at the Dakar conference show real commitment to action so that this conference does not go down in history as yet another talkfest with no real outcome. It is not an impossible task. Community Aid Abroad, together with their Oxfam International colleagues, has developed a global action plan for basic education which outlines how governments at the Dakar conference can achieve universal basic education by 2015.

Before I talk about that plan, I would like to outline why mass illiteracy is such a huge problem in the world today. The Universal Declaration of Human Rights enshrines the fundamental right to education in its principles. Education is not a luxury; it is a basic human right. The lack of basic education undermines efforts to reduce child and maternal mortality, to improve public health and nutrition and to strengthen opportunities for a secure and productive life. Democracy and good governance are stifled when large sections of the population are excluded from participation as a result of illiteracy, unless extraordinary efforts are taken to include the illiterate. For example, I have seen estimates that in East Timor 95 per cent of the rural population is illiterate. To ensure that they could exercise an informed vote in the ballot in August last year, the ballot paper had on one part a picture of East Timor as part of Indonesia along with an Indonesian flag and a distinctive Indonesian building and on another part a picture where East Timor was clearly separate with a CNRT flag and a distinctively East Timorese building. That was the only way the UN could be sure that people would understand the ballot paper—that, and a lot of personal consultation.

We must also consider education in the age of technology. We cannot avoid the fact that the global economy is knowledge based. Already, the poorer countries in the world are struggling to participate in the global economic system. In a knowledge based global economy, good quality education holds the key to future prosperity. Educational inequalities today will translate into income inequalities tomorrow. The upcoming conference in Dakar provides a great opportunity for governments to really address this problem, to come up with practical and workable solutions and to enact them.

The Oxfam-CAA global action plan estimates the cost of achieving universal basic education to be $US8 billion per annum over the next decade. That sounds expensive. But keep in mind that it is equivalent to just four days of global military spending. One of the appealing aspects of the global action plan is its holistic approach. It cuts across governments, multilateral institutions and NGOs and it suggests the mobilisation of resources through a variety of avenues, including increased aid, faster and deeper debt relief, reforms to IMF and World Bank structural adjustment programs and redistribution of public spending in developing countries towards basic education. The global action plan is based on two important principles. First, the plan should support and reinforce existing national strategies. Assistance under the plan should not be used to create yet another layer of
conditionality. Second, public participation in developing national education plans will be a key to their success. Governments would seek to establish through active engagement with civil society the financing requirements for getting on track for achieving education for all by 2015. These would be set out in a national education action plan.

The global action plan is attractive because of its simplicity. That is its greatest strength. It addresses key fundamentals and goes straight to the heart of the obstacles to providing education for all. The global action plan is founded on five key principles. Firstly, increased aid for basic education would provide the core of financing of the global action plan. The plan calls for all OECD countries to allocate at least eight per cent of their aid budgets to basic education. That initiative would raise $US4 billion a year. Australia is actually now amongst the leaders in moving towards that target, having boosted basic education spending from less than two per cent to nearly five per cent of our aid budget in recent years. Despite this commendable prioritising of our budget, we must also keep in mind that our aid budget is well below the UN target of 0.7 per cent of GNP. This financial year, after the cost of the East Timor operation and the cost of the Kosovar and East Timorese refugees under the safe haven plan are factored in, our aid budget will be approximately 0.28 per cent of GNP. I would like to see it stay at that level in real terms in this coming budget and increase in future budgets.

Debt relief has the potential to generate significant funds for basic education for many of the world’s heavily indebted poor countries. The key is to ensure that debt relief goes to countries which demonstrate a commitment to channelling the moneys freed up into poverty alleviation programs including basic education. Even though I have been a long time supporter of debt relief campaigns such as Jubilee 2000, I was still absolutely shocked to learn recently that Mozambique currently pays around $US1.5 million a week to service its debts. In light of the recent devastating floods in that country, the IMF was negotiating to reduce their payments to $US1.1 million a week. These are outrageous sums of money. I cannot imagine how extremely poor countries will ever be able to provide basics like education while struggling under such huge debt burdens.

Historically, structural adjustment programs of the World Bank and the IMF have had disastrous effects on poor people’s ability to access basic education and also other social services. For example, the higher interest rates, government spending cuts and introduction of user-pays principles associated with the recent IMF structural adjustment program in Indonesia saw nearly six million school-age children withdrawn from schools. When I hear these kinds of figures I fail to understand how our world financial system thinks it can divorce economic development from social development. It cannot be done. What will be the long-term effects for Indonesia’s economy and development if six million children who would have been educated are now illiterate? Surely, when we address one sector we must keep in mind the flow-on effect of failing to protect poor people’s access to basic education and other social services. The global action plan calls for governments in developing countries to allocate at least three per cent of GNP to basic education spending and to redirect spending away from military purposes towards the provision of basic social services.

The global action plan could be used to increase basic education funding from non-government organisations, foundations and other private sources. There is enough money in the world to pay for this. It is just not all in the right places. There is a lot of merit in looking at different ways of funding social programs which would require a rethink on issues such as the ever increasing global capital markets. For instance, the Tobin tax idea, which I know that the Australian Council for Overseas Aid supports, is a great idea. The information I have suggests that just 0.25 per cent tax on the US$1.5 trillion which currency speculators trade daily would raise US$250 billion a year. The UN claims that would be enough
to provide basic health care, nutrition, education, clean water and sanitation for everyone on the planet. I hope Mr Downer will personally attend the conference. I also urge members and senators to avail themselves of Community Aid Abroad’s excellent information and work—it is available on the Internet—and to throw their support behind an immensely worthwhile and essential cause.

Aged Care

Senator TCHEN (Victoria) (7.30 p.m.)—Anyone coming into a completely new environment—not only new but quite out of the ordinary environment—like I have had the great good fortune to have done by becoming a member of this chamber would inevitably experience a greater or lesser degree of culture shock. In my case, thanks to the friendship and cooperation of my colleagues not only from my own side but also from the other side and the support and assistance of the professional staff and the management of the Senate, my learning process has been a fairly smooth and easy one.

However, there is one part of the culture we seem to have in this place that I shall probably never get comfortable with—and do I want to ever get comfortable with it. I refer to our practice of carrying the adversarial system of opposition to the extreme, regardless of the consequences to innocent parties or to the national interest. It is of course the rightful role of the opposition to put every proposal, every action of the government under the microscope. Like everyone in the community, I understand that, and I approve of that.

For more than a year now, the opposition has maintained the fiction that it does not like the GST, and has pursued the government with a lot of smoke and mirrors on every minor twist and turn of how a GST might or might not disadvantage or give unfair advantage to this or that individual. That much is all right. It is a good sport and a game for grown-ups, and no-one is overly concerned about it. And from time to time, we do witness instances when, for the greater good of the nation, such a role is set aside and the opposition and the government act as one. A recent example is our humanitarian intervention in East Timor.

But there comes a time when such scrutiny, such pursuit of perceived or assumed weaknesses, is carried to such an extreme that it creates its own innocent victims, especially those in the community most at risk and least able to look after themselves. It is then that such scrutiny serves no purpose except to create uncertainty and anguish. That is when such an irresponsible game of party politics ought to stop. In recent weeks we have seen a number of such instances. The question of mandatory sentencing is one on which I hope to speak on a later occasion. Nursing homes is another, where the only real victims were those frail and bewildered residents and their protesting relatives we all saw on our television screens being ‘evacuated’.

The reality is that Australia has a rapidly ageing population. At present 2.2 million Australians—out of a total of 19 million—are over the age of 65 years. In another 30 years, given the same population trends we have had, there will be about five million Australians in this age group. At present, just over six per cent, or about 135,000, of this group of senior citizens require and are in residential care. On these 135,000 people the government spends $2.9 billion per year. By 2030, if we assume the same proportion of the aged population will require residential care—actually the proportion of the more advanced aged will probably increase so there will be greater need for residential care—realistically we will be looking at something like 300,000 residential care beds being required, an increase of more than 5,500 beds per year. By the same token, by 2030 we will have to spend at least $6.5 billion per year on residential care.

This is not new information. Australia’s population trends have been much the same for more than 20 years. The plain fact is that nothing was done in the 13 wasted years of Labor government of the 1980s and the first half of the 1990s. I do not want to make this simply a political game either. I can understand that the former Labor government before 1993 did nothing because they did not realise perhaps the magnitude of the
problem. I can understand that between 1993 and 1996 the former Labor government did nothing—after being warned by the Gregory report—because they were so broke they could do nothing, and because they were so dispirited and so lacking in political will that they would do nothing. But at least now the opposition should try to understand that the reforms the Howard government introduced from 1997 onward are both necessary and beneficial to the community and to its senior citizens—instead of trying to create victims where they do not exist.

Over the past three weeks of sitting, both the minister in the other chamber and the minister representing her in the Senate have delivered to the parliament literally reams of information about the improvements the government’s aged care reforms have delivered and the shortcomings repaired in the short time since 1997. I have no wish to repeat them, nor do I need to repeat them, other than to note that the government’s age care reforms are designed to improve not only the quantity of care but also more importantly the quality of care.

A key component of these reforms is the accreditation and certification system that gives aged care providers the opportunity to invest in quality and be recognised for excellence. This is working and working well. I am pleased to say that one of the 330 homes already accredited in the first round by the Aged Care Standards and Accreditation Agency is the Melton Court Hostel in my electorate, an excellent example of residential care that provides a happy and safe environment for our senior citizens.

The reality is that 99 per cent of our nursing homes are operated by caring people, both the owners and the staff, and are enjoyed by their residents. But nobody seems to want to know about that, least of all the opposition. It is far better for the opposition that every one of the 135,000 residents of our nursing homes go to bed every night afraid.

I want to close with a far more accurate picture of aged care under the Howard government than the opposition would dare to admit. Yesterday, on 14 March, the Australian Nursing Homes and Extended Care Association issued a media release, which I commend to the Senate. It states:

ANHECA is the only organisation in Australia which represents all sectors of the aged care industry, that is both the private sector and the church and charitable sectors. ANHECA is able to provide a balanced view in relation to all aspects of aged care.

The media release of this association opens:

ANHECA ... reiterates our support of the Government reforms and the actions of the Minister, the Hon. Bronwyn Bishop ... It says:

... ANHECA fully supports both the Minister and the Aged Care Standards and Accreditation Agency in their endeavours to ensure that aged care is synonymous with quality.

It went on to say:

ANHECA and its member States are proud of the care delivered by the vast majority of facilities around Australia ...

However, they also undertake that providers who do not meet the minimum standards of care should be deregistered and that sanctions should be enforced by government. But the important message I think the Senate should note is the concluding paragraph in this news release, which again I commend to the Senate. It said:

This is not the time for party politics or irresponsible games, the endless debate should and must cease and the Government must be encouraged to continue the long overdue reforms.

Senate adjourned at 7.40 p.m.

DOCUMENTS
Tabling

The following government documents were tabled:

Department of Family and Community Services—Review of the measure to extend carer payment eligibility to carers of children with a profound disability—Final report, December 1999.

United Nations—

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment—Committee against Torture—Communications—


No. 120/1998—Views.
No. 136/1999—Outline.
No. 138/1999—Outline.
No. 139/1999—Outline.
International Convention on the Elimination of All Forms of Racial Discrimination—Committee on the Elimination of Racial Discrimination—Communications—
   No. 8/1996—Opinion.
Optional Protocol to the International Covenant on Civil and Political Rights—Human Rights Committee—Communications—
Wheat Export Authority—Report for the period 1 July to 30 September 1999, including financial statements of the Australian Wheat Board for the period 1 October 1998 to 30 June 1999.

**Tabling**

The following documents were tabled by the Clerk:

- Australian Institute of Marine Science.
- Australian Nuclear Science and Technology Organisation.
- Australian Sports Commission.
- Australian Sports Drug Agency.
- Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—
  - Civil Aviation Amendment Order (No. 3) 2000.
  - Instrument No. CASA 81/00.

**Indexed Lists of Files**

The following documents were 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—
  - Aboriginal and Torres Strait Islander Commission.
  - Agriculture, Fisheries and Forestry portfolio.
  - Industry Science and Resources portfolio—
    - Australian Tourist Commission.
    - Commonwealth Scientific and Industrial Research Organisation.
    - Department of Industry, Science and Resources.
    - IP Australia.
    - National Standards Commission.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Goods and Services Tax: Department of Health and Aged Care
(Question No. 1412)

Senator Faulkner asked the Minister representing the Minister for Health and Aged Care, upon notice, on 2 September 1999:

With reference to the effect of the Goods and Services Tax (GST) on the internal operations of the Minister’s portfolio (that is, not relating to the services provided to the public), and in relation to each of the agencies within the portfolio:

1. What preparations have been undertaken to date in regard to the introduction of the GST on 1 July 2000.
2. (a) What has been the cost of these actions already undertaken; and
   (b) how much of these costs relate to (i) consultancies (ii) staff training (iii) computer software (iv) extra staff (v) stationery, and (vi) other (please specify).
3. Was the cost of undertaking this work included in the portfolio’s 1999-2000 Budget appropriation; if so, how was this funding identified; if not, what other area of funding has been used for this purpose.
4. What future preparations are planned or expected to be required in regard to the introduction of the GST on 1 July 2000.
5. (a) What is the total cost of these actions planned, or the estimated cost of expected actions; and
   (b) how much of these costs relate to (i) consultancies (ii) staff training (iii) computer software (iv) extra staff (v) stationery, and (vi) other (please specify).
6. Was the estimated cost of undertaking this future work included in the portfolio’s 1999-2000 Budget appropriation; if so, how was this funding identified; if not, what other area of funding has been used for this purpose.
7. Is there expected to be any change in the ongoing running costs of the department/agency after the commencement of the GST; if so, what is the extent of the difference in costs.
8. Are there any other GST-related costs which the portfolio agencies will incur prior to the commencement of the GST; if so, what are those costs.

Senator Herron—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

1. The Department of Health and Aged Care has:
   - Set up a project team within Portfolio Strategies Division with specific responsibility for internal GST issues to ensure implementation proceeds as smoothly as possible;
   - Engaged consultants to assist in the formulation of a detailed GST implementation strategy, and a list of GST issues affecting the Department;
   - Begun reviewing contracts spanning 1 July 2000 to determine GST impact;
   - Commissioned a review of the Department’s financial management system to ensure it has the capacity to handle the new tax framework; and
   - Begun compiling information on Departmental activities/outputs to estimate savings from indirect tax reform using Econtech computer model.
2. (a) Estimated cost to date (up to 1/9/99) is $124,332
   (b) estimated cost breakdown is:
      (i) consultancies, $1 200
      (ii) staff training, $4 440
      (iii) computer software, $0
      (iv) extra staff, $0
(v) stationery, $0
(vi) other (please specify)
Existing staff, $117,492
Legal advice,
Publications, $1,200

(3) Costs were not specifically included in the portfolio’s 1999-2000 Budget appropriation; work to date has been funded out of existing resources.

(4) Future preparations will include:
Identification and classification of departmental inputs;
Production of a detailed GST implementation strategy, and a comprehensive list of GST issues affecting the Department;
Completion of the review of contracts spanning 1 July 2000 to determine GST treatment;
Maintenance and updating of a comprehensive risk management plan for GST implementation in the Department;
Delivery of an in-house training program for program staff with implementation responsibilities;
Review the financial management system to ensure it has the capacity to handle the new tax framework; and
Compiling information to Departmental activities/outputs to estimate saving from indirect tax reform using the computer model produced by Econtech.

(5) Much of the detailed work required to implement the GST needs to take account of regulations to be determined by the Minister for Finance and Administration, and Australian Taxation Office rulings which may not be finalised for some time. The Department and Portfolio agencies will be seeking specialist assistance to provide guidance and expertise in the detailed planning for implementation of the GST. It is therefore too early to estimate accurately the total or particular costs of planned actions. The following estimates, however, reflect the information available at this time.

(a) the estimated cost of actions planned is $755,150
(b) estimated cost breakdown is:
   (i) consultancies, $69,950
   (ii) staff training, $138,200
   (iii) computer software, $156,500
   (iv) extra staff, $0
   (v) stationery, $7,500
   other (please specify)
Existing staff, $383,000

(NB. “Existing staff” figure represents salaries and on-costs of a small team of existing Departmental staff set up to handle internal aspects of the transition. Other staff will be involved, but it is not possible at this stage to estimate accurately how many and for what periods.)

(6) Costs were not specifically included in the Portfolio’s 1999-2000 Budget appropriation; work to date has been funded out of the existing resources.

(7) There will be a change in ongoing running costs due to the effects of the GST. It will not be possible to estimate the extent of savings from indirect tax reform.

(8) There are no other known GST-related costs that the Portfolio agencies will incur prior to the commencement of the GST.

Attorney-General’s Department: Decisions Subject to Review
(Question No. 1449 and 1467)

Senator Faulkner asked the Minister representing the Attorney-General, upon notice, on 20 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.

(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.

1467

(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) 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 Vanstone—The Attorney-General has provided the following answer to the honourable senator’s questions:

The Department and agencies within my portfolio do not generally maintain information on these matters to the level of detail sought by the honourable senator. I am not prepared to authorise the diversion of resources that would be necessary to compile these details.

**Foreign Affairs and Trade Portfolio: Cost of News Clippings**

*(Question No. 1282 and 1286)*

Senator Robert Ray asked the Minister representing the Minister for Foreign Affairs and the Minister representing the Minister for Trade, Senator Hill, upon notice, on 24 August 1999:

(1) What is the annual cost to the department of news clippings purchased or produced by the department.

(2) (a) 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) (a) 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 news 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 Hill—The answer to the honourable senator’s questions are as follows:

(1) The cost of news clippings for the 1998-99 financial year was $38,964.60.

(2) (a) Yes

(b) Copies are provided to the Opposition spokesman on Foreign Affairs the Hon Laurie Brereton MP, and the Opposition spokesman on Trade, Senator the Hon Peter Cook.

(3) (a) Yes

(b) A copy is supplied to Senator Vicki Bourne, Australian Democrats

(3) spokesperson for Foreign Affairs.

(4) Yes. Copies are provided to the Hon Kathy Sullivan MP, Parliamentary Secretary (Foreign Affairs); Senator the Hon Robert Hill, Minister for the Environment and Minister representing the Ministers for Foreign Affairs and Trade in the Senate; the Hon John Moore MP, Minister for Defence; the Hon Kim Beazley MP, Leader of the Opposition; Mr Peter Nugent MP, Chairman, Human Rights Subcommittee, Joint Standing Committee on Foreign Affairs, Defence and Trade; and the Hon Tim Fischer MP, former Minister for Trade.
Attorney-General’s Department: Cost of News Clippings
(Question No. 1292)

Senator Robert Ray asked the Minister representing the Attorney-General, 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) (a) 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) (a) 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 or senators and in what capacity are they provided with a copy of the department’s clippings.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) I am advised that for the financial year ending 30 June 1999 my department spent $100,003.27 to purchase news clippings.

(2) (a) No (b) N/A

(3) (a) No (b) N/A

(4) Copies of the clippings are provided to the Hon Peter Slipper MP, the Hon Sharman Stone MP, Mr Christopher Pyne MP, Senator Helen Coonan and Senator Marise Payne. Senator Payne and Mr Pyne receive copies on the basis that Senator Payne chairs the Senate Legal & Constitutional Affairs Legislation Committee whereas Mr Pyne chairs the Government Member’s Committee for the portfolio. Mr Slipper and Ms Stone receive copies on the basis that they sometimes represent me in the House. Senator Coonan receives a copy on the basis of her close interest in my portfolio.

Minister for Veterans’ Affairs: Departmental Liaison Officers
(Question No. 1313)

Senator Robert Ray asked the Minister for Veterans’ Affairs, upon notice, on 24 August 1999:

How many departmental liaison officers are employed in, or were seconded to, the Minister’s office as at 23 August 1999.

(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.

What was the total cost to the department of these officers.

Senator Newman—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1) Two departmental liaison officers are employed in my office; one in relation to the Veterans’ Affairs portfolio and one in relation to my responsibilities as Minister Assisting the Minister for Defence.

(2) (a) Ms Felicity Hugg and Ms Barbara Thompson.

(b) Both positions are Executive Level 1;

(c) Ms Felicity Hugg - Department of Veterans’ Affairs, Ms Barbara Thompson - Defence personnel issues.

(3) Veterans’ Affairs - The total cost, including salary, superannuation, ministerial staff allowance and travel, for the period 21 October 1998 to 23 August 1999 was $66,891.43.

Defence - The total cost, including salary, superannuation, ministerial staff allowance, travel and training, for the period 21 October 1998 to 23 August 1999 was $58,846.51.
Aged Care: Provider Status Applications
(Question No. 1357)

Senator Chris Evans asked the Minister representing the Minister for Aged Care, upon notice, on 25 August 1999:

1. How many providers have had their applications for an approved provider status refused.
2. On what basis, under section 8-3(1) of the Aged Care Act 1997, were the applications refused.
3. How many providers have had their approved provider status revoked.
4. On what basis, under section 10-4 of the Act, were the revocations of approved provider status carried out.

Senator Herron—The Minister for Aged Care has provided the following answer to the honourable senator’s question:

1. Eleven
2. Information on the eleven applicants is provided as follows:
   - Applicant 1 - refused under section 8-1(1)(b);
   - Applicant 2 - refused under section 8-1(1)(b);
   - Applicant 3 - refused under section 8-1(1)(b);
   - Applicant 4 - Section 8-3(1)(b);
   - Applicant 5 - Sections 8-3(1)(a), (d), (f), (g), (h);
   - Applicant 6 - Sections 8-3(1)(b) and (e);
   - Applicant 7 - Section 8-3(1)(e);
   - Applicant 8 - Sections 8-3(1)(b) and (e);
   - Applicant 9 - Section 8-3(1)(b);
   - Applicant 10 - Section 8-3(1)(e);
   - Applicant 11 - Sections 8-3(1)(a); and (d)
3. Nil
4. Not applicable

Goods and Services Tax: Foreign Affairs and Trade Portfolio
(Question No. 1405 and 1410)

Senator Faulkner asked the Minister representing the Minister for Foreign Affairs and the Minister representing the Minister for Trade, upon notice, on 2 September 1999:

With reference to the effect of the goods and services tax (GST) on the internal operations of the Ministers’ portfolio (that is, not relating to the services provided to the public), and in relation to each of the agencies within the portfolio:

1. What preparations have been undertaken to date in regard to the introduction of the GST on 1 July 2000.
2. (a) What has been the total cost of those actions already undertaken; and (b) how much of these costs relate to: (i) consultancies, (ii) staff training, (iii) computer software, (iv) extra staff, (v) stationery, and (vi) other (please specify).
3. Was the cost of undertaking this work included in the portfolio’s 1999-2000 budget appropriation; if so, how was this funding identified; if not, what other area of funding has been used for this purpose.
4. What future preparations are planned or expected to be required in regard to the introduction of the GST on 1 July 2000.
5. (a) What is the total cost of the actions planned, or the estimated cost of expected actions; and (b) how much of these costs relate to: (i) consultancies, (ii) staff training, (iii) computer software, (iv) extra staff, (v) stationery, and (vi) other (please specify).
6. Was the estimated cost of undertaking this future work included in the portfolio’s 1999-2000 budget appropriation; if so, how was this funding identified; if not, what other area of funding has been used for this purpose.
(7) Is there expected to be any change in the ongoing running costs of the department/agency after the commencement of the GST; if so, what is the extent of the difference in costs.

(8) Are there any other GST-associated costs which the portfolio agencies will incur prior to the commencement of the GST; if so, what are those costs.

Senator Hill—The Minister for Foreign Affairs and the Minister for Trade have provided the following answers to the honourable senator’s questions:

Department of Foreign Affairs and Trade (including the Australian Japan Foundation)

Question (1)

The Department has established a GST Taskforce with participants drawn from key areas of the Department. The Taskforce is responsible for communicating information on the GST within the Department and will oversee the implementation of financial, contractual and procedural requirements necessary to comply with GST obligations. The Department has met with officials from the Australian Taxation Office (ATO) and the Department of Finance and Administration (DoFA) to discuss key policy and systems administration issues.

Question (2)

Activities already undertaken by the Department include attendance at seminars run by professional bodies, meetings of the GST taskforce and meetings with the ATO and the DoFA, and some research on the Internet. The total cost of the activities is estimated to be $14,500 of which $4,500 has been expended to date on staff training through attendance at seminars and an estimated cost of $10,000 on other (staff time).

Question (3)

No additional funds were allocated in the 1999-2000 budget for GST implementation. Existing departmental funds are being used for this purpose.

Question (4)

In relation to future preparations planned or expected to be required in regard to the introduction of the GST on 1 July 2000, the Department will need to:

- examine whether there may be savings as a result of the abolition of the wholesale sales tax
- continue to examine all contracts to establish where GST will be applied
- register as a GST entity
- ensure accounting systems are developed to manage GST obligations
- train staff in the implementation of GST.

Question (5)

The Department is not yet in a position to identify costs of expected actions in relation to the implementation of the GST.

Question (6)

No additional funds were allocated in the 1999-2000 budget for future work associated with the GST. At this stage we envisage that existing departmental funds will be used.

Question (7)

Apart from savings that might arise from the abolition of the wholesale sales tax, the Department does not foresee any major changes to running costs at this stage. The possible savings from the abolition of the wholesale sales tax are yet to be calculated.

Question (8)

The Department has not yet identified any other GST-associated costs which may incur prior to the commencement of the GST.

Austrade

Question (1)

To date Austrade has undertaken the following preparations, which relate to both internal and external matters in regard to the introduction of the GST on 1 July 2000:

- Attended a seminar for agencies convened by the Australian Taxation Office, and registered its contact details with the ATO;
- Attended Department of Finance and Administration (DoFA) forums on the GST and registered contact details with the GST Unit of DoFA;
Consulted with accounting firms regarding undertaking a scoping study to determine all effects of the GST on the business operations of Austrade;

Purchased GST training materials from the Australian Society of Certified Practising Accountants;

Registered attendance at a GST seminar to be held by the National Tax and Accountants’ Association;

Consulted with the supplier of its financial systems software concerning GST capability;

Set aside a budget for the implementation of the GST.

Question (2)

Over 90% of Austrade’s expenditures relate to services provided to the public. The costs of preparing for GST for internal operations are relatively small, and are not easily separable from the total cost of GST implementation.

Question (3)

No budget supplementation for the GST implementation has been received by Austrade for the 1999-2000 financial year. The cost of implementation is being absorbed in the operational budget.

Question (4)

Future preparations planned or expected to be required, in regard to the introduction of the GST on 1 July 2000, include a scoping study to determine all effects of the GST on the business operations of Austrade and the actions required for GST implementation. This is to be undertaken by specialist taxation accountants.

Once all requirements are known changes to Austrade’s financial systems will be commissioned and all affected Austrade staff will be trained both in the application of the GST and the use of the new systems.

Question (5)

Over 90% of Austrade’s expenditures relate to services provided to the public. The costs of preparing for GST for internal operations are relatively small, and are not easily separable from the total cost of GST implementation.

Question (6)

No budget supplementation for the GST implementation has been received by Austrade for the 1999-2000 financial year. The majority of funding is being drawn from Austrade’s operating budget.

Question (7)

Over 90% of Austrade’s expenditures relate to services provided to the public. The costs of preparing for GST for internal operations are relatively small, and are not easily separable from the total cost of GST implementation.

Question (8)

No other GST-associated costs which the portfolio agencies will incur prior to the commencement of the GST have been identified at this stage.

AusAID

Question (1)

Preparations undertaken to date in regard to the introduction of the GST on 1 July 2000 include: AusAID has met with the Australian Taxation Office (ATO) and the Department of Finance and Administration (DOFA) to clarify the application of the GST to the transactions of the Agency. AusAID has established a working group which is to oversee and co-ordinate the implementation of the GST in AusAID.

Question (2) (a) and (b)

The total cost of activities to date is estimated to be $10,000

This is made up of:

(i) Consultancies $0
(ii) Staff Training $2,000
(iii) Computer Software $0
(iv) Extra Staff $0
(v) Stationery $0
(vi) Other (Staff time) $8,000
No additional funds were allocated in the 1999-2000 Budget for GST implementation. Existing departmental funds are being used for this purpose.

Future preparations planned or expected to be required in regard to the introduction of the GST on 1 July 2000 include:

- The Agency will have to examine whether there may be savings as a result of the abolition of the wholesale sales tax
- continue to examine all contracts to establish where GST will be applied
- register as a GST entity
- establish accounting systems to manage payment and recovery of GST
- train staff in the implementation of GST.

The estimated total cost of the planned activities is $90,000

This is made up of:

1. Consultancies $0
2. Staff Training $25,000
3. Computer Software $5,000
4. Extra Staff $0
5. Stationery $0
6. Other (Staff time) $60,000

No additional funds were allocated in the 1999-2000 budget for GST implementation. Existing departmental funds will have to be used for this purpose.

Expected change in the ongoing running costs of the agency after the commencement of the GST includes: DOFA expects there to be savings arising from the abolition of wholesale sales tax. These have yet to be calculated.

There are no other GST-associated costs which the agency expects to incur prior to the commencement of the GST.

Australian Centre for International Agriculture Research

Preparations undertaken to date in regard to the introduction of the GST on 1 July 2000 include legal advice has been obtained (and further advice is being obtained) on amendments to legal agreements.

Total cost of those actions are: Direct costs so far $3,500 for legal fees.

Costs were not included in 1999-2000 budget appropriation. Existing agency funds are being used.

Future preparations planned include: amendment to legal agreements. Obtain a ruling from ATO on:
(a) whether ACIAR project funding is defined as a grant and therefore exempt from GST; (b) if not exempt, are ACIAR project contracts classified as ‘reviewable’ or ‘non-reviewable’.

Total cost of actions planned are estimated to be - direct costs of $7,000 legal fees for further legal advice and preparation of submission to the Australian Taxation Office.

No budget has been identified to be included in 1999-2000 budget. Existing agency funds are being used.
Question (7)
A major change is not expected in ongoing running costs after commencement of the GST, but this will depend on the outcome of the ruling from ATO.

Question (8)
There are no other direct GST associated costs expected. At this stage, no consultancies are planned.

Australian Secret Intelligence Service

Question (1)
An external consultant is to undertake a scoping study, and initial training has been undertaken by key staff. Discussions have taken place with the financial management information system (FMIS) vendor on GST functionality and compliance.

Question (2)
(i) The study is only just commencing, and should be completed by 31 December 1999.
(ii) $750
(iii) No additional costs are anticipated – GST functionality is to be provided as part of the next routine upgrade of the FMIS.
(iv) Nil
(v) Nil
(vi) Nil

Question (3)
No additional funds were allocated – existing allocations are being used.

Question (4)
Formal implementation of requirements identified by the scoping study.

Question (5)
(i) Unknown at this time.
(ii)-(vi) To be determined by the scoping study.

Question (6)
No additional funds were allocated – existing allocations are being used.

Question (7)
No major changes are expected.

Questions (8)
Unknown at this time.

Department of Education, Training and Youth Affairs: Freedom of Information Requests

(Question No. 1483)

Senator Faulkner asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 21 September 1999:

(1) What are the:
(a) formal qualifications;
(b) relevant experience; and
(c) employment classification/grade,
of each departmental officer who has made initial stage decisions regarding requests under the Freedom of Information Act, since 3 March 1996.

(2) What are the:
(a) formal qualifications;
(b) relevant experience; and
(c) employment classification/grade,
of each departmental officer who has made internal review decisions regarding requests under the Freedom of Information Act since, 3 March 1996.
Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

The Department of Education, Training & Youth Affairs (DETYA) does not collect or retain any statistical record of the qualifications and/or experience of each authorised decision-maker and DETYA is not prepared to commit resources to answer this question for the period since 3 March 1996. However, the current authorisations for the Department were signed on 18 December 1998, are limited to 3 members of the Senior Executive Service and 4 staff within Legal and Fraud Branch, including a Senior Executive Service officer, the Department’s Chief Lawyer.

The staff within Legal and Fraud Branch usually deal with all requests under the Freedom of Information Act 1982, and the staff are either lawyers or have legal training and substantial experience in administering the Freedom of Information Act 1982.

The minimum employment classification for the current authorisations are DETYA Executive Level 1 for initial decisions and DETYA Legal 2 for review decisions and decisions on remission or waiver of fees and charges.

There have been no requests for internal review received by the Department since the current portfolio arrangements came into existence on 21 October 1998.

Department of Education, Training and Youth Affairs: Internal Staff Development Courses

(Question No. 1501)

Senator Faulkner asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 21 September 1999:

(1) How many internal staff development courses has the department, or any agency in the portfolio, conducted since 3 March 1996.

(2) What is the cost of internal staff development courses the department, or any agency in the portfolio, has conducted since 3 March 1996.

(3) How many staff have attended internal staff development courses the department, or any agency in the portfolio, has conducted since 3 March 1996.

(4) (a) How many internal staff development courses conducted by the department, or any agency in the portfolio, 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.

(5) What is the total cost of the courses in (4).

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

(1) The Department of Education, Training & Youth Affairs (DETYA) does not collect or retain any central statistical record of the number of internal development courses which it has conducted and is not prepared to commit resources to answer this question for the period since 3 March 1996.

(2) DETYA does not collect or retain any central statistical record of the costs of internal development courses and is not prepared to commit resources to answer this question for the period since 3 March 1996.

(3) DETYA does not collect or retain any central statistical record of the number of staff who attended internal development courses and is not prepared to commit resources to answer this question for the period since 3 March 1996.

(4) DETYA does not collect or retain any information about which courses referred to the Freedom of Information Act 1982. The Department has previously developed and is currently developing new training on the operation of the Freedom of Information Act 1982.

(5) As DETYA has not collected information on which courses referred to the operations of the Freedom of Information Act 1982, the Department.
Department of Education, Training and Youth Affairs: External Staff Development Courses

(Question No. 1519)

Senator Faulkner asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 21 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 the 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 that training.

(5) What is the total cost of the courses in (3).

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

(1) The Department of Education, Training & Youth Affairs (DETYA) does not collect or retain exhaustive statistical records of attendance at external staff development courses and is not prepared to commit resources to answer this question for the period since 3 March 1996. The administration of external staff development courses is a devolved process with external courses being funded through a general expenditure code. As such the Department does not have this information available.

(2) DETYA does not collect or retain exhaustive centralised records on the cost of external staff development courses and is not prepared to commit resources to answer this question for the period since 3 March 1996.

(3) DETYA does not collect or retain any centralised record on the number of external courses referring to the operation of the Freedom of Information Act 1982. Staff dealing with the majority of requests for access to documents regularly attended “FOI Practitioners Forums” run by the Australian Government Solicitor and other applicable training forums.

(4) The Australian Government Solicitor runs the “FOI Practitioners Forums” and several other courses.

(5) The “FOI Practitioner Forums” conducted by the Australian Government Solicitor are currently run at no cost to the Department.

Department of Employment, Workplace Relations and Small Business: Freedom of Information Requests

(Question No. 1532)

Senator Faulkner asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, 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 that set out in (4).
Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

(1) (a) and (b) The status of an applicant under the Freedom of Information Act 1982 (the Act) as a Member of Parliament is not a matter relevant to the consideration of an application under the Act, and the department has never sought to collect that information. The Attorney-General’s Department does not require the department to keep statistics as to whether a request was made by (a) a member of the House of Representatives; or (b) a member of the Senate. To the best of the department’s knowledge there have been two requests for access to information under the Act from members recently. However the department believes that it would be an unreasonable diversion of its resources to attempt to establish how many FOI requests have been made by Members and Senators.

(2) Both requests known to the department were partially successful in gaining access.

(3) Both requests known to the department had remission or waiver of charges refused under section 29 of the Act. There was one request for review under section 54 of the Act and on review the decision was upheld.

(4) The department applies the provisions in subsection 11(2) of the Act in the processing requests. Subsection 11(2) provides that a person’s right of access is not affected by any reasons the person gives for seeking access, or the agency’s belief as to what are his or her reasons for seeking access. The department is not aware of any request being refused on the grounds that Members of Parliament have access to parliamentary processes to seek information from departments. The department applies the exemption and refusal provisions of the Act to decide whether not documents are exempt and whether requests should be refused.

(5) The department is not aware of any provisions or practice for refusing access to documents and or refusing to waive charges, on the grounds of an applicant’s employment provision.

The following portfolio agencies have provided the following answers to the honourable senator’s question.

AFFIRMATIVE ACTION AGENCY
DEFENCE FORCE REMUNERATION TRIBUNAL
SEAFARERS SAFETY, REHABILITATION AND COMPENSATION AUTHORITY

(1) to (5) The Affirmative Action Agency, the Seafarers Safety, Rehabilitation and Compensation Authority and the Defence Force Remuneration Tribunal have not received any requests for information under the Act for the period in question.

AUSTRALIAN INDUSTRIAL REGISTRY
OFFICE OF THE EMPLOYMENT ADVOCATE
NATIONAL OCCUPATIONAL HEALTH AND SAFETY COMMISSION

(1) to (5) none/not applicable

COMCARE

(1) to (5) The Attorney-General’s quarterly statistical return does not require this information, and it is not recorded by Comcare.

Department of Health and Aged Care: Freedom of Information Requests
(Question No. 1536)

Senator Faulkner asked the Minister representing the Minister for Health and Aged Care, 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 that set out in (4).

Senator Herron—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

Departmental and other portfolio agencies’ records do not specifically record whether an applicant is a member of either the House of Representatives or the Senate. As this information is not recorded at the initial time of the request made under the Freedom of Information Act it is impossible to produce a report from the systems in place to record requests. The alternative of going through over 500 hundred files to obtain this information would require considerable time and diversion of resources. I am not prepared to ask the portfolio agencies subject to the Freedom of Information Act to divert resources at this time. I therefore cannot provide answers to parts (1)-(4) of this question.

(5) The Department and other portfolio agencies are not aware of any such legislation provision, guidelines or practice whereby an applicant’s occupation is taken into account when making a decision refusing access to documents and/or a decision to not waive charges.

Department of Education, Training and Youth Affairs: Freedom of Information Requests

(5) Senator Faulkner asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 21 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) 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 that set out in (4).

Senator Ellison—The Minister for Education, Training and Youth Affairs has provided the following answer to the honourable senator’s question:

(1) The status of an applicant as a Member of Parliament is not a matter relevant to the consideration of an application under the Freedom of Information Act 1982, and as such the Department of Education, Training and Youth Affairs (DETYA) has never sought to collect that information. The current portfolio arrangements came into existence on 21 October 1998. Of the 26 matters handled by DETYA since 21 October 1998 to the date of this question, one request was from a Member of the House of Representatives and no requests have been received from a Senator.

(2) The status of an applicant as a Member of Parliament is not a matter relevant to the consideration of an application under the Freedom of Information Act 1982, and as such DETYA has never sought to collect that information. With regard to the single matter handled by DETYA since 21 October 1998, the request was withdrawn by the applicant.

(3) The status of an applicant as a Member of Parliament may provide some basis for an argument that fees and charges should be waived on the grounds that the release of the documents or information is in the public interest. With regard to the single matter handled by the DETYA since 21 October 1998, the applicant did not submit a request for remission of fees or charges to the Department.

(4) The status of an applicant as a Member of Parliament is not a matter relevant to the consideration of an application under the Freedom of Information Act 1982, and as such DETYA has never sought to
collect that information. With regard to the single matter handled by the Department since 21 October 1998, no decision was made as the application was withdrawn.

(5) The applicant’s employment provision, of its own, is only relevant where the person is on a prescribed benefit and seeking access to information about themselves. In all other circumstances, the applicant’s employment provision, of its own, is not a specific ground on which a decision can be made. However, a person’s income may well effect a decision to waive fees and charges if the applicant argues financial hardship and a person’s employment may add or detract from an argument that the fees and charges should be remitted as the release of the documents will add to the public debate. Some guidance on these matters is contained in the FOI Memoranda produced by the Attorney-General’s Department and relevant case law.

Department of Immigration and Multicultural Affairs: Freedom of Information Requests

(Question No. 1540)

Senator Faulkner asked the Minister representing the Minister for Immigration and Multicultural Affairs, 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 that set out in (4).

Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator’s question:

(1) Department of Immigration and Multicultural Affairs (DIMA)

The Department’s FOI database does not collect information on the employment characteristics of applicants. This response reflects the results of a name search for each member of the 37th, 38th and 39th Parliaments.

One.
None.

Refugee Review Tribunal (RRT)
and (b) None.

Immigration Review Tribunal (IRT) until 1 June 1999
(a) and (b) None could be identified.

Migration Review Tribunal (MRT) after 1 June 1999
(a) and (b) None.

(2) (a)-(b) Department of Immigration and Multicultural Affairs (DIMA)

None. Access was granted in full.

Refugee Review Tribunal (RRT)
Immigration Review Tribunal (IRT) until 1 June 1999
Migration Review Tribunal (MRT) after 1 June 1999
Not applicable. See response to (1) above.

(3) (a)-(b) Department of Immigration and Multicultural Affairs (DIMA)

One. The fees and charges were remitted in full.
Refugee Review Tribunal (RRT)
Immigration Review Tribunal (IRT) until 1 June 1999
Migration Review Tribunal (MRT) after 1 June 1999
Not applicable. See response to (1) above.

(4) Department of Immigration and Multicultural Affairs (DIMA)
None

Refugee Review Tribunal (RRT)
Immigration Review Tribunal (IRT) until 1 June 1999
Migration Review Tribunal (MRT) after 1 June 1999
Not applicable. See response to (2) and (3) above.

(5) Department of Immigration and Multicultural Affairs (DIMA)
No. There are no policy guidelines on remission of charges in relation to requests made by parliamentarians.

The Department’s Freedom of Information Handbook, Administrative Circular 207 reflects the requirements of section 30A of the Freedom of Information Act 1982 when it states:

“The grounds upon which the Department may decide to reduce or not impose a charge are set out in section 29(5). This provision allows an agency to decide to reduce or not impose a charge for any reason… section 29(5) expressly refers to financial hardship and public interest as relevant considerations in deciding whether to impose a charge. However, all other relevant factors can be taken into account.”

Refugee Review Tribunal (RRT)
No. It is the RRT’s policy not to charge any applicant for processing of FOI requests. The RRT does not have a policy or guideline on refusing to waive charges on the grounds of an applicant’s employment.

Immigration Review Tribunal (IRT) until 1 June 1999
Migration Review Tribunal (MRT) after 1 June 1999
No.

Department of Veterans’ Affairs: Freedom of Information
(Question No. 1542)

Senator Faulkner asked the Minister representing the Minister for Veterans’ Affairs, upon notice, on 21 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.

Of the cases relevant to (a) and (b) in (1), how many requests regarding charges were: (a) partially successful; or (b) refused.

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.

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 that set out in (4).

Senator Newman—The Minister for Veterans’ Affairs has provided the following answer to the honourable senator’s question:

(1)(a) One (Department of Veterans’ Affairs)
(b) Nil

The other agencies in the portfolio have not received any requests from a member of the House of Representatives or a member of the Senate.

(2)(a) Nil
(b) Nil
(3)(a) Nil
(b) Nil
(4) Not applicable
(5) No

**Goods and Services Tax: Australian Business Number**

(Question No. 1566)

**Senator Cook** asked the Minister representing the Treasurer, upon notice, on 23 September 1999:

Are contractors who operate in an employee-like way and who operate through a company, going to be automatically entitled to register for an Australian Business Number and for goods and services tax purposes?

**Senator Kemp**—The Treasurer has provided the following amended answer to the honourable senator’s question:

The Australian Business Number (ABN) has been introduced to assist businesses, non profit organisations and other enterprises by making it easier for them to deal with government agencies. This will be achieved by reducing the need to provide the same information more than once and by making it possible to obtain more comprehensive information from government at fewer locations.

Eligibility for an ABN is not restricted to particular entity types, such as a company or a partnership, and is not restricted to business.

To obtain an ABN an individual, association, company, partnership or trust will need to satisfy the Registrar that it is carrying on an enterprise. However, a company registered under the Australian Corporations Law will be entitled to an ABN irrespective of whether it is carrying on an enterprise.

Enterprise can be any one of a range of activities, including an activity conducted in the form of a business, in the form of an adventure or in the nature of trade, by religious and charitable institutions and by government bodies.

Individuals who are subject to the new PAYG withholding system, such as common law employees and contractors engaged in labour hire arrangements cannot.

**Timber Industry: Plantation Establishment**

(Question No. 1670)

**Senator Brown** asked the Minister representing the Minister for Forestry and Conservation, upon notice, on 12 October 1999:

1. (a) What has been the annual cost of tax deductions for plantation establishment in each of the past 5 financial years; and (b) what is the projected cost of each of the next 5 financial years.
2. What other forms of investment receive the same or equivalent tax treatment as plantation establishment.
3. (a) What recommendations in the Review of Business Taxation (Ralph review) will have a beneficial effect on situations in the timber industry where a ‘right to harvest’ is sold separate to land ownership; (b) what is the nature of the ‘beneficial effect’, and (c) by how much would the timber industry benefit each year if the recommendations are implemented.
4. (a) Is it a fact that the timber industry will save $600 million per annum through the ‘New Tax System’ package; and (b) what are the components that make up the $600 million.

**Senator Kemp**—The Minister for Forestry and Conservation has asked me to reply to the honourable senator’s question:

1. (a) The Australian Taxation Office advises that the information sought is not collected. Tax returns, generally, do not identify deductions on the basis of the type of expenditure incurred. (b) On the basis of the answer to 1(a), this information is unavailable.
2. The taxation system does not distinguish between investment categories. Expenditure is either of capital nature or a non-capital nature. If someone is carrying on a business and incurs expenditure of a non-capital nature, that expenditure will be allowed as a deduction.
(3) Recommendations 10.1 to 10.5 of the A Tax System Redesigned (Ralph Report) relate to the taxation of rights. These recommendations may remove a double taxation which currently potentially applies to sales of ‘rights to harvest’ in the timber industry.

(4) (A) Based on the Treasury analysis released with the ANTS package, the tax reforms in A New Tax System were expected to reduce business input costs for the forest and timber industries by over $600 million a year. The benefits would be derived from the removal of the Wholesale Sales Tax, abolishing nine State taxes, reducing the diesel excise for on-road transport plus a significant reduction in the level of embedded taxes for businesses.

However, there will be a reduction in the estimated annual benefits of the package as a result of the deferral in the abolition of some State and Territory taxes.

(b) The breakdown of the cost savings from the package was detailed in the Government publication “Tax Reform – Not a New Tax, A New Tax System’. The impact of the Government’s reform are taken from the ‘Costs Effects on Industry’ table (pp. 167–172):

- Cost Reduction: Forestry/Logging $40 m; Sawlogs/Dressed Timber $120 m; Other Wood Products $170 m; Pulp, Paper and Paperboard $200 m; Paper Containers and Products $160 m.

Convention for the Prevention and Punishment of the Crime of Genocide

(Question No. 1679)

Senator Greig asked the Minister representing the Attorney-General, upon notice, on 13 October 1999:

With reference to the Convention for the Prevention and Punishment of the Crime of Genocide:

1. (a) How many countries have signed, ratified and implemented the convention; and (b) can a list be provided of those countries, indicating signature, ratification and implementation status.

2. Has Indonesia signed the convention.

3. What actions has the Australian Government taken, if any, to promote the signing, ratification and implementation of the convention by other countries since the passing of the Genocide Convention Act 1949.

4. Does the Government have statistics of survivors of the Nazi holocaust who are living in Australia; if so, can a copy of those statistics be provided.

5. Does the Australian Government, either itself or through other agencies, monitor the actions of other governments concerning genocide.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:

1. (a) As at 28 October 1999 there were 42 signatories and 130 parties to the Convention on the Prevention and Punishment of the Crime of Genocide. The Government has no information on the implementation of the convention.

(b) Attached is an extract from the United Nations Treaty Series which indicates those countries who have signed and/or ratified, acceded to or succeeded to the convention. The Government has no information as regards the implementation status in other countries.

2. Indonesia is not a signatory or a party to the convention.

3. While primarily a matter for my colleague the Minister for Foreign Affairs, I can advise the honourable Senator that the signature and ratification of international treaties is a matter for the exercise of sovereignty by individual States. However, Australia does promote the membership of major multilateral human rights treaties by other countries, particularly those in our region. This is done bilaterally, through a number of regional fora, including the Asia Pacific Forum of National Human Rights Institutions. Australia also supports resolutions in international fora which encourage adherence to such treaties, including the Genocide Convention.

4. The Government does not have these statistics.

5. While primarily a matter for my colleague the Minister for Foreign Affairs, I can advise the honourable Senator that the Australian Government supports the efforts of the international community, primarily through the United Nations, to identify the commission of acts of genocide and to respond appropriately. For example, Australia supported the establishment of the International Criminal Tribunals for the former Yugoslavia and Rwanda and the inclusion of genocide within the jurisdiction of the tribunals. Australia has enacted legislation to enable our cooperation with the tribunals.
Chapter IV. HUMAN RIGHTS

Adopted by the General Assembly of the United Nations on 9 December 1948
ENTRY INTO FORCE: 12 January 1951, in accordance with article XIII.
REGISTRATION: 12 January 1951, No. 1021.
STATUS: Signatories: 42. Parties: 130.
Participant Signature Ratification, accession (a), succession (d)
Afghanistan 22 Mar 1956 a
Albania 12 May 1955 a
Algeria 31 Oct 1963 a
Antigua and Barbuda 25 Oct 1988 d
Argentina 5 Jun 1956 a
Armenia 23 Jun 1993 a
Australia 11 Dec 1948 8 Jul 1949
Austria 19 Mar 1958 a
Azerbaijan 16 Aug 1996 a
Bahamas 5 Aug 1975 d
Bahrain 27 Mar 1990 a
Bangladesh 5 Oct 1998 a
Barbados 14 Jan 1980 a
Belarus 16 Dec 1949 11 Aug 1954
Belgium 12 Dec 1949 5 Sep 1951
Belize 10 Mar 1998 a
Bolivia 11 Dec 1948
Bosnia and Herzegovina3 29 Dec 1992 d
Brazil 11 Dec 1948 15 Apr 1952
Bulgaria 21 Jul 1950 a
Burkina Faso 14 Sep 1965 a
Burundi 6 Jan 1997 a
Cambodia 14 Oct 1950 a
Canada 28 Nov 1949 3 Sep 1952
Chile 11 Dec 1948 3 Jun 1953
China 4,5 20 Jul 1949 18 Apr 1983
Colombia 12 Aug 1949 27 Oct 1959
Costa Rica 14 Oct 1950 a
Côte d'Ivoire 18 Dec 1995 a
Croatia 12 Oct 1992 d
Cuba 28 Dec 1949 4 Mar 1953
Cyprus 6 29 Mar 1982 a
Czech Republic7 22 Feb 1994 d
Democratic People's Republic of Korea 31 Jan 1989 a
Democratic Republic of the Congo 31 May 1962 d
Denmark 28 Sep 1949 15 Jun 1951
Dominican Republic 11 Dec 1948
Ecuador 11 Dec 1948 21 Dec 1949
Egypt 12 Dec 1948 8 Feb 1952
El Salvador 27 Apr 1949 28 Sep 1950
Estonia 21 Oct 1991 a
Ethiopia 11 Dec 1948 1 Jul 1949
Fiji 11 Jan 1973 d
Finland 18 Dec 1959 a
France 11 Dec 1948 14 Oct 1950
Gabon 21 Jan 1983 a
Gambia 29 Dec 1978 a
Georgia 11 Oct 1993 a
Germany 24 Nov 1954 a
Ghana 24 Dec 1958 a
Greece 29 Dec 1949 8 Dec 1954
Guatemala 22 Jun 1949 13 Jan 1950
Haïti 11 Dec 1948 14 Oct 1950
Honduras 22 Apr 1949 5 Mar 1952
Hungary 7 Jan 1952 a
Iceland 14 May 1949 29 Aug 1949
India 29 Nov 1949 27 Aug 1959
Iran (Islamic Republic of) 8 Dec 1949 14 Aug 1956
Iraq 20 Jan 1959 a
Ireland 22 Jun 1976 a
Israel 17 Aug 1949 9 Mar 1950
Italy 4 Jun 1952 a
Jamaica 23 Sep 1968 a
Jordan 3 Apr 1950 a
Kazakhstan 26 Aug 1998 a
Kuwait 7 Mar 1995 a
Kyrgyzstan 5 Sep 1997 a
Lao People’ Democratic Republic 8 Dec 1950 a
Latvia 14 Apr 1992 a
Lebanon 30 Dec 1949 17 Dec 1953
Lesotho 29 Nov 1974 a
Liberia 11 Dec 1948 9 Jun 1950
Libyan Arab
Jamahiriya 16 May 1989 a
Liechtenstein 24 Mar 1994 a
Lithuania 1 Feb 1996 a
Luxembourg 7 Oct 1981 a
Malaysia 20 Dec 1994 a
Maldives 24 Apr 1984 a
Mali 16 Jul 1974 a
Mexico 14 Dec 1948 22 Jul 1952
Monaco 30 Mar 1950 a
Mongolia 5 Jan 1967 a
Morocco 24 Jan 1958 a
Mozambique 18 Apr 1983 a
Myanmar 30 Dec 1949 14 Mar 1956
Namibia 28 Nov 1994 a
Nepal 17 Jan 1969 a
Netherlands 20 Jun 1966 a
New Zealand 25 Nov 1949 28 Dec 1978
Nicaragua 29 Jan 1952 a
Norway 11 Dec 1948 22 Jul 1949
Pakistan 11 Dec 1948 12 Oct 1957
Panama 11 Dec 1948 11 Jan 1950
Papua New Guinea 27 Jan 1982 a
Paraguay 11 Dec 1948
Peru 11 Dec 1948 24 Feb 1960
Philippines 11 Dec 1948 7 Jul 1950
Poland 14 Nov 1950 a
Portugal 28 9 Feb 1999 a
Republic of Korea 14 Oct 1950 a
Republic of Moldova 26 Jan 1993 a
Romania 2 Nov 1950 a
Russian Federation 16 Dec 1949 3 May 1954
Rwanda 16 Apr 1975 a
Saint Vincent and the Grenadines 9 Nov 1981 a
Saudi Arabia 13 Jul 1950 a
Senegal 4 Aug 1983 a
Seychelles 5 May 1992 a
Singapore 18 Aug 1995 a
Slovakia 7 28 May 1993 d
Slovenia 6 Jul 1992 d
South Africa 10 Dec 1998 a
Spain 13 Sep 1968 a
Sri Lanka 12 Oct 1950 a
Sweden 30 Dec 1949 27 May 1952
Syrian Arab Republic 25 Jun 1955 a
the former Yugoslavia
Republic of Macedonia 18 Jan 1994 d
Togo 24 May 1984 a
Tonga 16 Feb 1972 a
Tunisia 29 Nov 1956 a
Turkey 31 Jul 1950 a
Uganda 14 Nov 1995 a
Ukraine 16 Dec 1949 15 Nov 1954
United Kingdom 30 Jan 1970 a
United Republic of Tanzania 5 Apr 1984 a
United States of America 11 Dec 1948 25 Nov 1988
Uruguay 11 Dec 1948 11 Jul 1967
Uzbekistan 9 Sep 1999 a
Venezuela 12 Jul 1960 a
Viet Nam10, 11 9 Jun 1981 a
Yemen 12 9 Feb 1987 a
Yugoslavia 11 Dec 1948 29 Aug 1950
Zimbabwe 13 May 1991 a
Coal Fired Power Stations in the Asian Region
(Question Nos 1707 ad 1708)

Senator Brown asked the Minister representing the Minister for Foreign Affairs and the Minister for Trade, upon notice, on 2 November 1999:

Is the Australian Government providing funding or government assistance through the Export Finance and Insurance Corporation or Austrade for the establishment of the following coal-fired power stations in the Asian region: (a) the Union Power Development Company station in Ban Kruat, Thailand; and (b) the Central Negros Power Station Corporation station in Pulupandan, Philippines; if so: (i) how much funding and what forms of assistance have been provided and/or promised, (ii) to whom has the funding or assistance been given, and (iii) when was the funding or assistance given.

(a) What environmental impact assessment has been done on either of these projects to investigate their environmental and social effects; and (b) has the Australian Government undertaken any environmental, economic or social assessment; if so, can a copy of the assessment be provided.

Has the Government undertaken any environmental assessments of 'clean coal' that comply with Organisation for Economic Co-operation and Development member benchmarks on pollutant and emission standards; (b) have these assessments examined claims made about clean coal regarding (i) releases of greenhouse gases, (ii) levels of coal ash, (iii) levels of sulphur dioxide, (iv) levels of nitrogen oxides, (v) levels of mercury and cadmium, and (vi) levels of trace elements, released to the local environment; (c) who did the assessments; (d) what findings were made; and (e) can a copy of the reports be provided.

(4) (a) How much funding was given to the Australian or Thai coal industry for the Australian Clean Coal seminar in Bangkok in April 1999; and (b) if no funding was provided directly to any industry bodies what, if any, government resources were devoted to support this or any other clean coal promotional projects in the Asian region.

Senator Hill—The Minister for Foreign Affairs and the Minister for Trade have provided the following information in answer to the honourable senator’s question:

(1) EFIC is not considering any facility in relation to the Union Power Development Company station. EFIC has had only preliminary discussions regarding financing of possible Australian exports to the Central Negros Power Station Corporation station project.

(2) Austrade has no record of grants being paid through the Export Market Development Grants scheme to the Union Power Development Company in Ban Kruat, Thailand or the Central Negros Power Station Corporation in Pulupandan, Philippines, or any other companies similarly named.

(3) EFIC: (a) In relation to the Thai project, not applicable. In relation to the Philippine project, not applicable at this stage. If the proposal were to proceed beyond the present preliminary stage, EFIC would of course assess possible environmental and social effects, and involve Environment Australia as necessary. (b) EFIC has not done any such assessment.

(4) Austrade has not been involved in environmental, economic or social assessment of these projects.

Not within the portfolio.

(a) None from the portfolio.

(b) The Australian Embassy and the Austrade Office in Bangkok provided logistic assistance to the Department of Industry Science and Resources and the Joint Coal Board for the Australian Clean Coal seminar in Bangkok in April 1999.

In the current financial year (1999/00) AusAID funded a $65,000 project on clean coal technology, under the APEC support program. The project was called "Environment Australia: A Workshop on Business Efficiency for the Environment: Clean Coal Technology in China" and will run from 1 August 1999-30 April 2000. This activity aims to conduct a workshop in China that would allow Australian and Chinese experts in clean coal technologies to present their experiences and technologies to an audience of up to 60 decision makers drawn from relevant Chinese government agencies and industries. The project will increase industry competitiveness by promoting the integration of best practice environmental management principles and eco-efficiency principles into standard operational procedure through the adoption of clean coal technology.

In recent years the following two projects have also received financial assistance from AusAID:

Department of Primary Industries and Energy: APEC Joint Project for Recovery & Utilisation of Methane Emitted from Coal Mining. Financial assistance provided: $150,000. The project ran from
February 1996-February 1997. The project aimed to survey the level of the methane release in selected APEC member economies and to examine the possibility of utilising methane emitted by coal mining. Methane is a very damaging greenhouse gas. Phase 2 of this project did not go ahead resulting in a re-fund of $75,000 received 24 April 1998. Developing countries to benefit from this activity are all APEC developing member economies.

UNDP/PACE Coal Technology Training Program (CTTP) Phase 2. Financial assistance provided: $2.2 million. The project ran from April 1996 - June 1999. The first phase of this program was completed in June 1995. The primary objective of Phase 2 was to provide developing countries in Asia with training required to ensure that they utilise coal in an environmentally responsible manner. The program aimed to train Asia’s coal-burning industries in the technologies required to reduce their production of noxious and greenhouse gases to internationally acceptable levels.

Foreign Affairs and Trade Portfolio: Staff Training, Consultants and Performance Pay (Question Nos 1736 and 1740)

Senator Faulkner asked the Minister representing the Minister for Foreign Affairs and the Minister for Trade, upon notice, on 2 November 1999:

As a dollar amount, and as a percentage of the department’s total outlay on salaries, what was the cost in the 1996-97, 1997-98 and 1998-99 financial years of: (a) staff training; (b) consultants; and (c) performance pay.

Senator Hill—The honourable senator has asked identical questions of both ministers. The following answer is provided on behalf of both Ministers in response to the honourable senator’s question:

<table>
<thead>
<tr>
<th>(a)</th>
<th>STAFF TRAINING</th>
<th>1996-97</th>
<th>1997-98</th>
<th>1998-99</th>
</tr>
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<tbody>
<tr>
<td>Dollar Amount</td>
<td>$4,226,229</td>
<td>$6,349,887</td>
<td>$5,618,787</td>
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<tr>
<td>Per Cent of the Total</td>
<td>1.75%</td>
<td>2.76%</td>
<td>2.24%</td>
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</tr>
<tr>
<td>Outlay on Salaries</td>
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<table>
<thead>
<tr>
<th>(b)</th>
<th>CONSULTANTS</th>
<th>1996-97</th>
<th>1997-98</th>
<th>1998-99</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dollar Amount</td>
<td>$2,602,390</td>
<td>$3,269,743</td>
<td>$3,186,252</td>
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<tr>
<td>Per Cent of the Total</td>
<td>1.08%</td>
<td>1.42%</td>
<td>1.27%</td>
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<tr>
<td>Outlay on Salaries</td>
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<table>
<thead>
<tr>
<th>(c)</th>
<th>PERFORMANCE PAY*</th>
<th>1996-97</th>
<th>1997-98</th>
<th>1998-99</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dollar Amount</td>
<td>$440,767</td>
<td>$2,853,000</td>
<td>$4,040,000</td>
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</tr>
<tr>
<td>Per Cent of the Total</td>
<td>0.18%</td>
<td>1.24%</td>
<td>1.61%</td>
<td></td>
</tr>
<tr>
<td>Outlay on Salaries</td>
<td></td>
<td></td>
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</tbody>
</table>

* Notes:

Performance pay was for SES officers only in the 1996-97 financial year. The first round of the Department’s current performance management system, which awards pay rises and bonuses to non-SES staff as well, became effective from 1 January 1998. The above figures include paypoint movements and bonuses.
Woodchipping
(Question No. 1791)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 3 December 1999:

With reference to the stated intention of the Minister for Forestry and Conservation to extend the completion date for regional forest agreements from 31 December 1999 to 31 March 2000:

(1) What advice has the Minister provided to the Minister for Forestry and Conservation about the making of regulations to extend the deadline for native forest export woodchipping from 31 December 1999 to 31 March 2000 or the issuing of woodchip licences for this period.

(2) Has the Minister: (a) designated areas from which export woodchips may not be derived; if so, which areas; and (b) made any other conditions; if so, what conditions have been made.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) The Minister advised the Minister for Forestry and Conservation on 8 December 1999 that neither an environment impact statement nor a public environment report was required under the Environment Protection (Impact of Proposals) Act 1974 in regard to the proposal to amend the Export Control (Hardwood Wood Chips) Regulations 1996, which had the effect of extending transitional hardwood woodchip export licences for the West and Gippsland RFA regions in Victoria and the North and South RFA regions in New South Wales to 31 March 2000.

(2) Export woodchips may only be exported from RFA areas and from areas approved under relevant Deferred Forest Area and Interim Forest Area agreements, these areas having been assessed and it being subsequently determined that their harvesting would not foreclose options for the creation of a comprehensive, adequate and representative reserve system.

Renewable Energy
(Question No. 1810)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 8 December 1999:

(1) Does the ‘2% for renewables’ program count new large-scale hydro-electricity dams as ‘renewable’ energy sources.

(2) What financial benefit would this designation provide for new hydro-electricity dams.

(3) (a) How would the eligibility of a particular project for the ‘2% for renewables’ program be assessed; and (b) in particular, how would greenhouse gas emissions from the inundation of soil and vegetation be assessed against any savings from hydro-electricity generation.

Senator Hill—The Minister for the Environment and Heritage has provided the following answers to the honourable senator’s questions:

(1) New renewable energy developments which have received the relevant State/Territory approvals to proceed will be eligible under the 2% renewables measure. Hydro-electricity is an eligible renewable energy source under the measure.

(2) New hydro-electric dams would be able to claim renewable energy certificates for their output, as would any other eligible renewable energy generator.

(3) (a) Eligibility under the measure will be assessed based on the use of an eligible renewable energy source in an eligible renewable energy generation asset, where the installation of that eligible renewable energy generation asset has met with all relevant State/Territory approvals. (b) Greenhouse gas emissions from the inundation of soil and vegetation would be assessed through each jurisdiction’s Environmental Impact Statement process.

Foreign Affairs and Travel Portfolio: SES Officers
(Question No. 1830 and 1835)

Senator Faulkner asked the Minister representing the Minister for Foreign Affairs and the Minister representing the Minister for Trade, 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, (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 Hill—The Minister for Foreign Affairs and the Minister for Trade have provided the following information in response to the honourable senator’s question:

DFAT

(1) The department employed 142 senior executive service (SES) officers as at 15 December 1999. and (b) The names and employment classifications of the officers are as follows:

**EMPLOYMENT OF SES OFFICERS IN THE DEPARTMENT**

<table>
<thead>
<tr>
<th>NAME</th>
<th>LEVEL</th>
</tr>
</thead>
<tbody>
<tr>
<td>ADAMS, Ms J.E.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>ADAMSON, Ms F.J.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>ADAMSON, Ms M.A.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>ALLEN, Mr G.C.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>AMBROSE, Mr D.T.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>ATKIN, Mr G</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>BATLEY, Mr J.F.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>BAXTER, Mr P.C.E.</td>
<td>Senior Executive Service Band 2</td>
</tr>
<tr>
<td>BIRD, Ms G.E.</td>
<td>Senior Executive Service Band 2</td>
</tr>
<tr>
<td>BOYD, Ms S.J.D.</td>
<td>Senior Executive Service Band 2</td>
</tr>
<tr>
<td>BRADY, Mr S.C.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>BROWN, Mr H.C.</td>
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</tr>
<tr>
<td>BROWN, Mr J.H.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>BROWN, Mr N.K.A.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>BUCKLEY, Mr J.E.</td>
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</tr>
<tr>
<td>BURNS, Mr R.A.</td>
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</tr>
<tr>
<td>CALDER, Mr R.A.</td>
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</tr>
<tr>
<td>CAMPBELL, Mr J.B.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>CAMPBELL, Ms K.H.</td>
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</tr>
<tr>
<td>CHESTER, Mr D.O.</td>
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</tr>
<tr>
<td>COBBAN, Mr M.A.</td>
<td>Senior Executive Service Band 2</td>
</tr>
<tr>
<td>COMFORT, Mr P.D.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>CONROY, Mr G.A.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>COTTON, Mr R.L.C.</td>
<td>Senior Executive Service Band 2</td>
</tr>
<tr>
<td>COX, Mr A.E.</td>
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</tr>
<tr>
<td>CRIGHTON, Mr J.H.</td>
<td>Senior Executive Service Band 1</td>
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</table>
EMPLOYMENT OF SES OFFICERS IN THE DEPARTMENT

<table>
<thead>
<tr>
<th>NAME</th>
<th>LEVEL</th>
</tr>
</thead>
<tbody>
<tr>
<td>DEAUTH, LVO, Mr J.C.</td>
<td>Senior Executive Service Band 3</td>
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<tr>
<td>DAVIS, Mr N.P.</td>
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</tr>
<tr>
<td>DEADY, Mr S.P.</td>
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</tr>
<tr>
<td>DEBENHAM, Mr H.F.</td>
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</tr>
<tr>
<td>DE CURE, Mr C.P.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>DELOFSKI, Mr E.F.</td>
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</tr>
<tr>
<td>DRAKE-BROCKMAN, Ms J.E.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>DUNN, Ms J.M.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>FAYLE, Ms P.J.</td>
<td>Senior Executive Service Band 2</td>
</tr>
<tr>
<td>FILIPETTO, Ms L.K.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>FISHER, Mr W.N</td>
<td>Senior Executive Service Band 2</td>
</tr>
<tr>
<td>FOLEY, Mr G.P.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>FORSYTH, Mr I.K.</td>
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</tr>
<tr>
<td>GAUCI, Ms G.H.</td>
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</tr>
<tr>
<td>GEORGE, Mr T.S.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>GEROVICH, Mr S.R.</td>
<td>Senior Executive Service Band 1</td>
</tr>
<tr>
<td>GOSPER, Mr B.C.</td>
<td>Senior Executive Service Band 1</td>
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<tr>
<td>GREEN, Mr P.V.</td>
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<tr>
<td>GREY, Mr P.C.</td>
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<tr>
<td>GRIFFIN, Mr J.J.</td>
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<tr>
<td>HAMILTON, Mr R.J.B.</td>
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<tr>
<td>HAND, Ms L.</td>
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<tr>
<td>HAZELL, Ms B.A.</td>
<td>Senior Executive Service (Specialist) Band 2</td>
</tr>
<tr>
<td>HELEY, Mr A.J.</td>
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</tr>
<tr>
<td>HESELTINE, Mr C.S.</td>
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<tr>
<td>HEWITT, Ms J.M.</td>
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<tr>
<td>HILLMAN, Mr R.L.</td>
<td>Senior Executive Service Band 2</td>
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<tr>
<td>HINES, Mr J.S.</td>
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<td>HINTON, Mr A.M.</td>
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<td>HUGHES, Mr M.W.</td>
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<tr>
<td>HUME, Mr S.H.R.</td>
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<td>HUSSIN, Mr P.A.</td>
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<td>IRVINE, Mr D.T.</td>
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<tr>
<td>JOSEPH, Mr L.L.</td>
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<tr>
<td>KENYON, Mr D.</td>
<td>Senior Executive Service Band 2</td>
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<table>
<thead>
<tr>
<th>NAME</th>
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<tbody>
<tr>
<td>KUPA, Mr M.</td>
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EMPLOYMENT OF SES OFFICERS IN THE DEPARTMENT

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(2) (c) The identification and assessment of each officer’s individual financial arrangements and details is a major task and we are 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: 1000/03. The update document is located on the DEWRSB website under the government employment entry point (Agreement Making): www.dewrsb.gov.au/group_wr/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) The performances of all eligible DFAT staff are appraised and rated annually. Employees’ performance levels are appraised first against performance indicators contained in their performance agreements (ratified between individuals and their supervisors). Employees are then rated relatively against all other staff at the same band in their Division. SES employees are rated relative to all other DFAT SES in the same band.

The provisions for payment of performance pay apply to both SES and non-SES employees, with the exception that all SES performance payments are made solely in the form of bonuses. Non-SES employees are eligible to receive either salary increases or bonuses, depending on their performance ratings and their position in relation to salary points in a broadband.

SES employees receive the following performance bonus payments, based on annual salary:
- An ‘outstanding’ rating results in a 13% bonus.
- A ‘superior’ rating results in an 8% bonus.
- A ‘fully effective’ rating results in a 2% bonus.

There is no provision for performance pay for either ‘satisfactory’ or ‘unsatisfactory’ ratings. For non-SES officers eligible to receive bonuses rather than salary increases, the same percentages apply.

(b) The introduction of the current performance management system in January 1998 marked a major cultural change for the department has already yielded significant productivity gains. The Senior Executive, who make decisions about SES performance ratings, recognise the strong linkage between individuals officers’ performances and that of the department as a whole.

The performance of the SES is critical to the department’s ability to meet the Government’s expectations. Members of the SES, like all other employees, receive performance appraisal ratings on the basis of their performance against indicators set out in their respective performance agreements. The content of these agreements closely reflects the Government’s, and the department’s, key policy priorities; thus, the agreements are crafted to reflect and promote the various divisional Business Plans, which themselves shaped by DFAT’s current Corporate Plan.
Where individual SES officers’ performances fall short of their agreed indicators or do not match departmental priorities, their annual ratings will reflect this. Conversely, high quality output – which enhances the department’s overall performance – will be rewarded appropriately.

AUSTRADE

(1) Austrade employed 86 SES equivalent officers at 15 December 1999. The names and employment classifications of these officers are as follows:

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(a) and (b) Austrade’s criteria for SES (Executive) staff is all staff at Austrade Performance Level (APL) 6 and above. Note: APL 6 is equivalent to SES Band 1, APL 7 is equivalent to SES Band 2, and APL 8 is equivalent to SES Band 3. Managing Director (MD) and Deputy Managing Director (DMD) are statutory appointments.

The identification and assessment of each officer's individual financial arrangements and details is a major task and we are 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: 1000/03. The update document is located on the DEWRSB website under the government employment entry point (Agreement Making): www.dewrsb.gov.au/group_wr/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) Performance payments are determined using a 5 tier performance description criteria. Performance ratings are determined by the officer’s direct manager, by comparing actual performance against the outcomes that were agreed to between the officer and their manager at the commencement of the performance cycle. Officers who achieve an Exceptional or Superior rating (top 2 tier ratings), against the performance outcomes, are entitled to receive a performance payment. These performance payments are calculated to a maximum of 5% or 3% of gross annual base salary for Exceptional and Superior ratings respectively.

(b) Performance ratings across Austrade are not finalised until the external measurement of Key Performance Indicators has been completed for the financial year. This in conjunction with the external Client Satisfaction Survey results is used to set consistent ratings across the Austrade network and to ensure that there is continuity maintained in progressive years.

AUSAID

AusAID employs 14 SES officers.

(a) and (b) The names and employment classifications of AusAID SES officers are as follows:

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</tr>
<tr>
<td>Michael Commins</td>
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</table>


(c) The identification and assessment of each officer’s individual financial arrangements and details is a major task and we are 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: 1000/03. The update document is located on the DEWRSB website under the government employment entry point (Agreement Making): www.dewrsb.gov.au/group_wr/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.

(a) The base salary of an SES employee is increased by 2% when he/she has achieved a rating of ‘Fully Effective’ or better in the AusAID SES Performance Planning and Review Scheme. The Scheme operates over a 12 month performance assessment cycle. Performance pay bonuses are also paid when the SES employee achieves an overall rating of ‘Superior’ or ‘Outstanding’ under the Scheme. The bonuses are 8% of the current base salary when a rating of ‘Superior’ is achieved and 13% when a rating of ‘Outstanding’ is achieved. Should an SES employee achieve a rating of either ‘Satisfactory’ or ‘Unsatisfactory’ no salary increase or bonus are paid.

(b) An SES employee’s performance agreement under the Performance Planning and Review Scheme is linked to the corporate goals of the agency. This ensures that key tasks undertaken under each goal within the SES employee’s area of responsibility contributes to the effective performance of the agency. The SES employee’s performance against each key task is assessed on an ongoing basis and more formally in a mid-term review and an end of cycle assessment.

EFIC
EFIC has no SES officers. EFIC recruits predominantly from the private sector and its employees are employed under the EFIC Act on terms and conditions determined by the EFIC Board.

Not applicable to EFIC.

(a) and (b) The basis of performance payments in EFIC is the employee’s grading under EFIC’s Performance Management Program. The grading is a measurement of the employee’s achievements against agreed objectives and targets and a measurement of performance in terms of job-related attributes. Individual objectives are aligned with corporate objectives.

ACIAR
2 Officers
(2) (a) Michael Brown and Ian Bevege.

(b) Both officers are employed at SES 1 level.

(c) The identification and assessment of each officer’s individual financial arrangements and details is a major task and we are 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: 1000/03. The update document is located on the DEWRSB website under the government employment entry point (Agreement Making): www.dewrsb.gov.au/group_wr/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) The ACIAR performance management system does not provide for performance payments.

(b) SES officers’ performance is assessed by the Director using the ACIAR performance management system. There is no formal link to the achievement of the agency’s outcomes.
Department of Industry, Science and Resources: SES Officers
(Question No. 1840)

Senator Faulkner asked the Minister for Industry, Science and Resources 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;
what are their employment classifications within the SES band structure: and
what are the officers’ total emoluments, including but not limited to:
salary (including any salary packaging undertaken),
any travel entitlements,
fringe benefits tax paid on the officers’ behalf,
use of motor vehicles,
mobile or home telephones,
superannuation,
performance payments, and
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 Minchin—The answer to the honourable senator’s question is as follows:

(1) Industry, Science and Resources 58
AGSO 2
IP Australia 6

(2) (a) See Attachment
(b) See Attachment

(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/group_wr/agreemak/agree.htm. 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) Industry, Science and Resources and IP Australia
(a) The basis for performance payments is detailed in individual Australian Workplace Agreements and includes assessment in accordance with the Department’s SES Performance Planning and Review System (PPR).

The PPR system aligns individual and organisational performance. The system has five key performance areas as follows:

Corporate outcomes;
Stakeholder relationships;
Innovation;
Accountability and conduct; and
Leadership of people.

AGSO

Performance payments are based on performance against performance criteria established each year through a formal performance planning and assessment process.
Individual performance criteria are established at the start of the performance agreement period in line with organisational goals in business and other plans. Individual performance pay is based on individual achievements against these goals and impact on overall organisational performance.

**Attachment**

**Industry, Science and Resources**

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<th>Band</th>
</tr>
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IP Australia

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Department of Agriculture Fisheries and Forestry: SES Officers

(Question No. 1843)

Senator Faulkner asked the Minister representing the Minister for Agriculture, Fisheries and Forestry, 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 Alston**—The Minister for Agriculture, Fisheries and Forestry has provided the following answer to the honourable senator’s question:

(1) 75 (including employees temporarily assigned to SES positions or occupying SES equivalent positions)

(2) a and b:

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</table>
2 (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.

Further information in answer to question 3 can be obtained from the Table Office.

Department of Aboriginal and Torres Strait Islander Affairs: SES Officers (Question No. 1845)

Senator Faulkner asked the Minister for Aboriginal and Torres Strait Islander 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 officer’s 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 Herron—The Aboriginal and Torres Strait Islander Commission has provided the following information in response to the honourable senator’s question:

(1) At 15 December 1999, the Aboriginal and Torres Strait Islander Commission (ATSIC) employed 22 employees in Senior Executive Service (SES) positions.

(2) (a) and (b) The names and classifications of ATSIC SES employees at 15 December 1999 is set out below:

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(2)(c) The identification and assessment of each SES employee’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/group wr/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) The performance pay arrangements for ATSIC SES staff are determined by the Chief Executive Officer and set out in ATSIC’s Senior Executive Service Performance Management Program and Remuneration Strategy guidelines. The key features of the arrangements are:

Performance payments are based on an SES employee’s achievement of six outcomes. Four of the outcomes are related to the employee’s specific work area responsibilities. The remaining two outcomes are corporate outcomes determined by the Chief Executive Officer which apply to all SES employees for each assessment cycle;

Annual performance payments of up to 15% of base salary are based on an assessment of an SES employee’s achievement of the six outcomes in their annual performance agreement. Each outcome is assessed on a five point rating scale and weightings are applied to each outcome to reflect its relative importance in terms of value to overall organisational outcomes.

To receive performance pay, in addition to the achievement of outcomes, an SES employee in ATSIC must demonstrate satisfactory performance against the ATSIC Strategic Leadership Profile. The Profile is based on the Public Service and Merit Protection Commission’s Leadership Framework and reflects the leadership qualities and behaviour which ATSIC senior executives are expected to demonstrate.

(3)(b) Under ATSIC’s SES Performance Management Program and Remuneration Strategy guidelines, the process for developing SES performance agreements provides linkages between individual performance, achievement of agency objectives and performance payments. Individual SES Employee Performance Outcome Plans are developed with regard to an employee’s responsibilities for implementing ATSIC’s Planning Framework, the Corporate Plan, and Strategic and Business Plans. The performance pay arrangements are being reviewed to refine the links between individual and agency performance and pay.

**Bhutan: Refugees**

(Question No. 1857)

Senator Bourne asked the Minister for Foreign Affairs, upon notice, on 14 January 2000:

(1) Is the Australian Government aware that there are seven camps with approximately 96,000 Bhutanese refugees in the Jhapa district of Nepal.

(2) Is support being given to those refugees; if so, what form does it take.

(3) Has the Government made any representations to the Bhutanese Government to accept the refugees’ immediate repatriation.

Mr Downer—The answer to the honourable senator’s question is as follows:

(1) Yes. The Australian Government is aware that there are camps in this part of Nepal, and indeed have been since the early 1990’s. The Australian Government is concerned for the plight of the refugees currently in Nepal.

(2) Over the period 1997-2000, Australia provided a little over AUD600,000 to the Australian Lutheran World Service for assistance to Bhutanese refugees. The assistance included maintenance of
camp infrastructure and repair of 4,000 huts and administrative and technical skills training to 148 people. The project also aimed to improve relations between refugees and people in nearby Nepalese communities by providing or upgrading school buildings, latrines, furniture and educational material, a library, hand pumps, gravity water supplies and family latrines.

Due to significant aid-related pressures in Australia's own region, no further direct assistance this financial year is likely to be forthcoming for Bhutanese refugees. However, Australia will contribute to World Food programme (WFP) development activities in Nepal (AUD2.6 million) and Bhutan (AUD615,000) this financial year.

Australia supports UNHCR in its ongoing efforts to find a durable solution to the plight of the Bhutanese refugees and would be happy to consider some funding to assist with their repatriation to Bhutan or their permanent resettlement within Nepal.

(3) The Australian Government continues to encourage the Governments of Bhutan and Nepal to find a workable solution to the refugee problem. While Australia does not have formal diplomatic relations with Bhutan, the Australian Government does, through its High Commission in New Delhi, make periodic representations to the Bhutanese Government to encourage them to pursue constructive solutions to the problem. The most recent of these was at the end of 1998 when Australia's High Commissioner to India visited Bhutan and spoke with senior members of the Bhutanese Government.

Former Deputy Prime Minister and Minister for Trade, The Hon. Tim Fischer MP, visited Bhutan in 1997. At that time he expressed the concerns of the Australian Government on this issue to the relevant Bhutanese authorities, including the King of Bhutan himself. The issue has also been raised with the Government of India.

The Australian Government welcomes recent indications that Bhutan and Nepal will soon resume their dialogue on the refugees. The Australian Government hopes that the Governments of Bhutan and Nepal can agree to a long term solution to this problem, with either Nepal allowing the refugees to settle, or the Bhutanese Government allowing the repatriation of the displaced persons.

**International Criminal Court**

(Question No. 1858)

Senator Bourne asked the Minister representing the Minister for Foreign Affairs, upon notice, on 14 January 2000:

(1) What progress has been made towards the Australian Government ratifying the statute of an international criminal court.

(2) (a) If there is a commitment to ratifying the statute, what steps have been taken to speed up the process; and (b) if not, what are the obstacles to ratification.

Senator Hill—According to records held by the Department of Foreign Affairs and Trade, the answer to the honourable senator’s question is as follows:

(1) On 12 December 1999, the Ministers for Foreign Affairs and Defence and the Attorney-General issued a joint media release, announcing that the Government had decided to ratify the Statute of the International Criminal Court. As announced in the media release, the Attorney-General is now moving to introduce legislation necessary to reflect Australia’s commitment to the Statute.

(2) Prior to Australia depositing its instrument of ratification, all domestic procedures necessary to bring the Statute into force under Australian domestic law, including passing implementing legislation, must first be concluded. This process is currently underway. Furthermore, prior to ratification, the Statute will once again be tabled in both houses of Parliament and subjected to the scrutiny of the Joint Standing Committee on Treaties (the Statute was first tabled in 1998 prior to Australia signing the Statute).

**Department of Aboriginal and Torres Strait Affairs: Year 2000 Competition**

(Question No. 1902)

Senator O’Brien asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 21 January 2000.

(1) What was the total cost of work undertaken by the department to ensure that all systems were year 2000 compliant.

(2) (a) Who were the consultants selected as part of the above work; and what was the cost of each consultant.
(3) Where consultants were engaged, were they selected through a tender process; if not, why not.

(3) Have there been any problems with any systems within the department or any agencies since 1 January 2000; if so: (a) what was the nature of each problem; and (b) has each problem been corrected.

Senator Herron—The Aboriginal and Torres Strait Islander Commission has provided the following information in response to the honourable senator’s question:

(1) $327,000 covering the period June 97 to 1 January 2000.

(2) (a) and (b) CSC Australia Pty Ltd, were funded to complete a range of enhancements to a system known as CANDA. This included a small component of Y2K remediation. The Y2K component of this contract is estimated at $10,000. They were selected to build the system by Tender however as the Y2K work was part of a series of enhancements to this system, it was not possible to tender for this component in isolation from the rest of the work.

CompuTechnics were contracted for enhancements to the Objective Ministerial Tracking System. As CompuTechnics own this software it was not possible to undertake a tender process, nor was it justified given the value of the project. The Y2K work cost $12,000.

Candle Australia Ltd provided contract labour for IT testing services. Cost $20,000. Candle Australia were selected through a selective tendering process.

(3) Response included in the answer to question (2) above.