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The DEPUTY PRESIDENT (Senator Sue West) took the chair at 9.30 a.m., and read prayers.

NOTICES Presentation

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

That the Senate—

(a) notes that:

(i) more than 20,000 at-risk primary school students in Victoria are being denied adequate, or in some cases any, welfare services according to a survey of principals by the Victorian Primary Principals’ Association,

(ii) nearly half of the 8,982 students identified as at risk in the survey received inadequate support, and a quarter received no support at all,

(iii) almost 86 per cent of principals felt welfare resources were inadequate at their schools, and

(iv) the Smith Family is expanding its Learning for Life program, particularly for rural areas, to help more than 40,000 Victorian students pay the costs of attending school; and

(b) urges the Federal Government:

(i) to act on the findings of the 1996 Employment, Education and Training References Committee report, Not a Level Playground: Private and commercial funding of government schools, and particularly for rural areas, to help more than 40,000 Victorian students pay the costs of attending school; and

(ii) to abandon the Enrolment Benchmark Adjustment,

(iii) to act on the recommendations of the 1996 National Health and Medical Research Council report on attention deficit hyperactivity disorder,

(iv) to increase funding to public schools in the May 2000 budget, particularly for disadvantaged schools, and

(v) to increase and make equitable integration funding in both government and non-government schools.

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

That the Senate notes that:

(a) it is 89 days since former Senator Parer resigned as a senator for the State of Queensland;

(b) the Queensland Liberal Party has failed to replace Senator Parer thereby setting a new Queensland record, surpassing the previous record of 68 days set by the Queensland National Party when in-fighting delayed the replacement of Senator Stone by Senator O’Chee;

(c) factional fighting in the Queensland Liberal Party continues to extend the record, with the Queensland Parliament not appointing a replacement, at the Queensland Liberal Party’s request, until Tuesday, 16 May 2000 (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—a new Australian record!);

(e) the Member for Moncrieff, Ms Sullivan, has called on the Queensland Liberal’s ‘boy’s club’ to cease the factional in-fighting and pre-select a woman; and

(e) the people of the State of Queensland have been denied their full Senate representation by the factional in-fighting of the Queensland Liberal Party.

Senator COONAN (New South Wales)

(9.31 a.m.)—On behalf of the Standing Committee on Regulations and Ordinances, I give notice that, 15 sitting days after today, I shall move that the following delegated legislation, a list of which I shall hand to the Clerk, be disallowed:


I seek leave to incorporate in Hansard a short summary of the matters raised by the committee.

Leave granted.

The summary read as follows—

Great Barrier Reef Marine Park Amendment Regulations 2000 (No.1)

Statutory Rules 2000 No.5

Although the Explanatory Statement notes that the purpose of these Regulations is “to provide for a register of permissions to be kept by the [Great Barrier Reef Marine Park] Authority, and for members of the public to have access to documents in the register”, new subregulation 59A(1) is permissive only, and not mandatory.

New subregulation 59C(2) specifies the fees that the Authority is to charge for copies of documents on the register. In the absence of a regulation-by-regulation explanation of the amendments, it is unclear what basis has been used to set these fees.

Great Barrier Reef Marine Park (Aquaculture) Regulations 2000

Statutory Rules 2000 No.6

These Statutory Rules regulate the discharge of waste from aquaculture operations that may affect animals and plants in the Marine Park.

Subregulation 5(7) requires the Minister to “make publicly available” the reasons for his or her decision to accredit a Queensland law. However, the subregulation does not indicate what means the Minister may or must use in making this information publicly available. This is in contrast with other provisions in regulations 5, 6 and 7 which require the Minister to publish in the Gazette a notice of a decision about accrediting a Queensland law, revoking that accreditation or limiting the application of an accredited law.

Paragraph 6(6)(b) permits the Minister to allow an operator to not comply with the existing conditions of a Queensland law, revoking that accreditation or limiting the application of an accredited law.

The purpose of regulation 11 is to allow aquaculture facilities that were operating on 1 October 1999 to continue to operate, without the need to comply with these Statutory Rules, so long as such facilities are not significantly increased in size. There is no indication, in the Explanatory Statement, of the reason for the date of 1 October 1999 having been chosen. It appears from the Regulation Impact Statement that the intention of the Statutory Rules is to affect only new aquaculture facilities, but since the Regulation Impact Statement is dated January 2000 and the Statutory Rules themselves commenced on 23 February 2000, when they were gazetted, it appears that the Statutory Rules have a measure of retrospectivity.

By virtue of paragraphs 11(1)(a) and (b), an aquaculture facility that was operating on 1 October 1999 will be liable to the penalties imposed by regulation 9 if there is a significant change to the operation after these Statutory Rules come into operation. Regulation 11 does not provide any definition of what constitutes a significant change.

Subregulation 11(5) provides that the Great Barrier Reef Marine Park Authority may advise an operator, in answer to a request from the operator, whether a proposed change is significant, and that answer is to be taken, for the purposes of paragraph 11(1)(a) or (b), to be conclusive. There is no indication whether this provision permits the Authority to oust the judicial function of deciding whether a criminal offence has been committed.

Regulation 17 permits the Authority to send to the operator of an aquaculture facility a notice requiring the operator to show cause why the Authority should not direct the operator to cease discharging aquaculture waste from the facility. Subregulation 17(1) provides that the regulation applies to a facility which is licensed under an accredited Queensland law, a law in respect of which the Minister has revoked that accreditation, although the revocation has not, at the time of the show cause notice, taken effect.

Paragraph 26(2)(a) obliges the Authority to make a decision on an application submitted by a proposed operator of a new aquaculture facility. Neither that paragraph, nor the remainder of regulation 26, imposes any time limit on the Authority within which it must come to that conclusion.

Subregulation 39(1) allows the Authority to various kinds of action against an operator if “there is reason to believe that a breach of … a condition is about to happen”. There is no indication how the Authority will determine that a breach of a condition is about to happen. In doing so, it should be noted that the Explanatory Statement considers that this regulation applies only “where it appears to the Authority that the holder of a permission is not complying with the existing conditions of a permission.”

Regulation 48 permits the Authority to waive the payment of fees which would otherwise be payable for an application. In making that decision, the Authority may consider any relevant matter,
but there is no provision for the external merits review of the exercise of that discretion.

**Marine Orders Part 47 - Mobile Offshore Drilling Units - Issue 2**

**Marine Order No.1 of 2000**

The Order gives effect to both the 1979 and the 1989 *Codes for the Construction and Equipment of Mobile Offshore Drilling Units* as adopted by the International Maritime Organisation. Although the Explanatory Statement asserts that this Order gives effect to these Codes, there does not appear to be any provision in the Order which expressly makes clear that purported effect.

Provision 2.2.2 appears to grant to the Chief Marine Surveyor a discretion to determine the extent to which compliance with the provisions in Part 47 is unreasonable or impractical. The exercise of the discretion does not appear to be subject to independent merits review.

Provision 4.2 appears to be merely directory, in providing that a decision maker *may* give written notice of that decision to a person whose interests are affected thereby. This appears to be in conflict with the heading to that provision, which suggests, by using the words “Statements to accompany decisions” that it is mandatory. This also applies to an identical provision in Marine Order No.2 of 2000 – provision 4.2.

Provision 5.2 provides, among other things, that the failure to comply with provision 7 “constitutes an offence by the owner and person-in-charge.” Provision 7 states merely: “A MODU must be provided with personnel in accordance with Appendix 1.” In Appendix 1, the only provisions that appear to impose a duty relating to the manning of a MODU are clauses 3.1 and 3.3, both of which are expressed to apply only to the owner.

The Note at the end of provision 8.4.2 states “In the case of a MODU to which the 1989 MODU Code applies, the master list must comply with that Code.” Since, by virtue of provision 1.8(c), “a note included in the text and printed in italics is not part of the Part”, it is difficult to ascertain the basis for the Note at the end of provision 8.4.2.

Clause 3.1 of Schedule 1 requires the owner of a MODU to ensure that the manning of the MODU comprises at least “such number of competent persons determined by the owner to be sufficient to undertake” the operations in question. Since this clause is, by virtue of provisions 5.1 and 7, a penal provision, it may be questioned whether it could readily be determined, on any particular occasion, whether the owner was guilty of an offence.

**Marine Orders Part 60 - Floating Offshore Facilities - Issue 1**

**Marine Order No.2 of 2000**

The Order prescribes requirements for the construction and equipment of Floating Production, Storage and Offshore ships and Floating Storage Units.

Provision 8 imposes various obligations on those involved with the transfer of material, appliances and personnel and with the arrival and departure of helicopters. However, provision 5 does not list that provision as a penal provision, even though the identical provisions in Marine Order No. 1 of 2000 – provisions 8.8 and 8.9 – are listed in that Order as penal provisions.

**Notice No.1(2000) of Declared Rate in respect of Diesel Fuel Rebate made under subsection 164(5A) of the Customs Act 1901**

The Notice that sets the rate of rebate payable in respect of diesel fuel purchased for use for five specific purposes is stated to have effect “on and after 2 February 2000”, but the Explanatory Statement observes that it was not notified in the *Gazette* until 3 February 2000. The Committee has written to the Minister seeking confirmation that the notice does not prejudicially affect any person other than the Commonwealth.

**Notice No.1(2000) of Declared Rate in respect of Diesel Fuel Rebate made under subsection 78A(5A) of the Excise Act 1901.**

The Notice that sets the rate of rebate payable in respect of diesel fuel purchased for use for five specific purposes is stated to have effect “on and after 2 February 2000”, but the Explanatory Statement observes that it was not notified in the *Gazette* until 3 February 2000. The Committee has written to the Minister seeking confirmation that the notice does not prejudicially affect any person other than the Commonwealth.

**BUSINESS**

**Government Business**

Motion (by Senator Ian Campbell) agreed to:

That the following government business orders be considered from 12.45 p.m. till not later than 2 p.m. this today:

No. 1—Appropriation Bill (No. 3) 1999-2000 and Appropriation Bill (No. 4) 1999-2000

No. 2—Advance to the Minister for Finance and Administration

No. 8—Radiocommunications Legislation Amendment Bill 1999 and 2 related bills, and
Radiocommunications (Receiver Licence Tax) Amendment Bill 1999
Radiocommunications (Transmitter Licence Tax) Amendment Bill 1999
Appropriation (Dr Carmen Lawrence’s Legal Costs) Bill 1999-2000

**General Business**

**Motion** (by Senator Ian Campbell) agreed to:
That the order of general business for consideration today be as follows:
(a) general business notice of motion No. 546 standing in the name of Senator Lundy, relating to marginalisation of young people; and
(b) consideration of government documents.

**NOTICES**

**Postponement**

Items of business were postponed as follows:

General business notice of motion no. 535 standing in the name of Senator Stott Despoja for today, relating to the summit meetings of the International Monetary Fund and the World Bank, postponed till 10 May 2000.

General business notice of motion no. 537 standing in the name of Senator Stott Despoja for today, relating to the Federal Government’s Trade Outcomes and Objectives Statement for 2000, postponed till 10 May 2000.

General business notice of motion no. 552 standing in the name of Senator Stott Despoja for today, relating to Kosovar refugees, postponed till 10 May 2000.

Business of the Senate notice of motion no. 2 standing in the name of Senator Allison for today, relating to the reference of matters to the Environment, Communications, Information Technology and the Arts References Committee, postponed till 10 May 2000.

Business of the Senate notice of motion no. 3 standing in the name of Senator Evans for today, relating to the reference of matters to the Community Affairs References Committee, postponed till 9 May 2000.

**BUSINESS**

**Days and Hours of Meeting and Routine of Business**

Motion (by Senator Ian Campbell) agreed to:
That the hours of meeting for Tuesday, 9 May 2000 be from 2 pm to 6 pm and 7.30 pm to adjournment, and for Thursday, 11 May 2000 be from 9.30 am to 6 pm and 7.30 pm to adjournment, and that:
(a) the routine of business from 7.30 pm on Tuesday, 9 May 2000 shall be:
(i) Budget statement and documents 2000-2001, and
(ii) adjournment; and
(b) the routine of business from 7.30 pm on Thursday, 11 May 2000 shall be:
(i) Budget statement and documents—party leaders and independent senators to make responses to the statement and documents for not more than 30 minutes each, and
(ii) adjournment; and
(c) the question for the adjournment of the Senate on each day shall not be proposed until a motion for the adjournment is moved by a minister.

**ROMANIA AND HUNGARY: CYANIDE SPILL**

Motion (by Senator Brown) agreed to:
That the Senate—
(a) notes:
(i) that the Ballallaba Action Group, a river care environmental group based at Captains Flat, New South Wales, has launched an appeal to raise money for Hungarians who depend on the rivers affected by the cyanide spill from the mine in Romania which is co-owned by Esmeralda Exploration Ltd, and
(ii) the support for the initiative from the Archbishop of Canberra and Goulburn, and from the Ambassador of the Republic of Hungary; and
(b) congratulates the Captains Flat community, which itself has had to cope with the effects of cyanide and other contaminants from mining, for its initiative.

**MANDATORY SENTENCING LEGISLATION**

Motion (by Senator Greig) agreed to:
That the Senate—
(a) notes that, despite the recently-announced agreement between the Prime Minister (Mr Howard) and the Chief Minister of the Northern Territory (Mr Burke), mandatory sentencing laws remain in Western Australia and the Northern Territory;
(b) acknowledges that the existence of these laws breaches international human rights treaties and is contrary to the recommendations of the Royal Commission into Aboriginal Deaths in Custody; and
(c) notes that:

(i) the agreement between the Prime Minister and Mr Burke does not address Western Australia's mandatory sentencing regime, and
(ii) mandatory sentencing is inconsistent with the separation of powers, the right to a fair and impartial trial, and provisions of the International Covenant of Civil and Political Rights.

MANDATORY SENTENCING LEGISLATION

Motion (by Senator O'Brien, at the request of Senator Faulkner) agreed to:

That a message be sent to the House of Representatives requesting that the House immediately consider the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999.

FORESTS: PROTESTS

Senator BROWN (Tasmania) (9.36 a.m.)—I ask that general business notice of motion No. 551 standing in my name for today, relating to the governance of forests and in particular violence in the Victorian forests, be taken as formal.

The DEPUTY PRESIDENT—Is there any objection to this motion being taken as formal? There is an objection.

Suspension of Standing Orders

Senator BROWN (Tasmania) (9.36 a.m.)—Pursuant to contingent notice, I move:

That so much of standing orders be suspended as would prevent Senator Brown moving a motion relating to the conduct of the business of the Senate, namely a motion to give precedence to general business motion No. 551.

This is an important motion. It comes from the raising of the forest issue by the Minister for Forestry and Conservation, Mr Tuckey, so I am not quite sure why the opposition is not backing it and has moved against formality. Mr Tuckey is the Minister for Forestry and Conservation, but he has failed in that portfolio. What he has done is stirred up a great deal of unnecessary heat attended with no light in the forest issue in Australia. The first thing that needs to be said here is that the promised success of the regional forest agreements under his ministry has become an absolute failure. The second thing that needs to be said is that the contention by those who felt that logging was an issue that was put to bed by the regional forest agreement is a patent failure. The third thing that needs to be said is that the majority of Australians are appalled by the massive onslaught of the woodchippers in Australia's forests from Western Australia to New South Wales and Tasmania since the regional forest agreement was signed.

Why is this happening? Because behind the scenes, the big woodchip corporations have power over government to have their way against the interests of the majority of Australians. So when young Australians, in particular—but they are aged right across the spectrum—go out to protest peacefully in the forests, they are acting on behalf of popular demand. They are doing the job that Wilson Tuckey fails to do. They are standing up for forests and conservation, something that the minister has failed to do in his portfolio.

In recent weeks, we have seen pro-logging vigilante groups taking the law into their own hands by bashing up and smashing the property of the peaceful protestors in the Otways and East Gippsland in particular, although similar raids have occurred in Tasmania, New South Wales and Western Australia in recent years. These thugs of the logging industry have taken the law into their own hands, and this is not a past matter. This is an urgent matter that we should be considering now. Indeed, the minister recognises that by his inflammatory statements, including his call yesterday on ABC radio for the state governments to prosecute the law or cancel the law. Let this be said: when it comes to the law, he and those he supports are defaulters.

In Victoria, the Kennett government was twice found guilty of illegal logging in the period of the formulation of regional forest agreements. In Goolengook, the government, supported by the likes of Minister Tuckey, has logged hundreds of hectares of riverine national park illegally. Where was
Mr Tuckey while that was occurring? To rectify its illegal actions, the Kennett government brought in retrospective law to cover its illegality. More recently, the Victorian government illegally logged water catchments in the Otways and was found by the courts to have done so. Where was Mr Tuckey to cavil about this breach of the law by the logging authorities backed by the government?

In Tasmania, the woodchip corporations have illegally logged national and state forests. They have burnt out thousands of hectares of forests through fires that have got away from regeneration burns. They have burnt into and destroyed riverside logging areas illegally, against their own code.

This minister speaks with a forked tongue. This minister is not an upholder of the law. This minister is selective against those citizens who wish to do his job for him. I commend this debate. We should be having this debate. This is about people whose lives are endangered now, and the situation is being inflamed by the minister, who should be correcting it by moving these loggers out of our native forests. (Time expired)

Senator Calvert—Madam Deputy President, I have a point of order: I am sitting here reflecting on the words that Senator Brown has used. Is it correct for him to reflect on a person in the other place in the way that he has?

The DEPUTY PRESIDENT—No, it is not. Senator Brown, I would ask you to resist from reflecting upon anyone in that way, and your time has expired.

Senator Brown—On the point of order: Madam Deputy President, I was not reflecting. I was directly making comments on the behaviour of the minister and I stand by them. They are quite legitimate in this debating situation.

The DEPUTY PRESIDENT—I would urge you to be cautious because some people could interpret it as a reflection and it is not orderly to reflect.

Senator O'BRIEN (Tasmania) (9.42 a.m.)—I indicate that the opposition will not be supporting the motion for suspension. We have some difficulties with Senator Brown’s motion. When the minister’s own colleagues are asked about the actions or comments of the minister, they say, ‘Well, that’s only Wilson Tuckey,’ and I am quoting them and not being improper in any way in using the minister’s name. The fact is that this is a minister who already has no credibility. For us to agree to debate this matter now would lend him credibility that he does not have.

Senator Brown—You are in full support.

Senator O'BRIEN—I hear Senator Brown interjecting. Isn’t it interesting that his own motion is asking for things to be done through the regional forest agreement process, a process which I thought he opposed?

Senator Bartlett (Queensland) (9.43 a.m.)—It is appropriate to put the Democrats’ position on the record on this issue. This is a matter relating to the inability of police and to the insightful statements by certain ministers against people who are exercising their legitimate right to protest against forest industry operations in native forests. It is quite clear that there has been an inadequate response to protect those people from thuggery and violence. That is a serious and urgent matter and it is one that my colleague Senator Allison has spoken out about quite strongly, because it is quite clear that there is a lot of evidence about the seriousness of some of the incidents and also the lack of response from law enforcement officials. That lack of response can hardly be helped when you have some of the inflammatory statements such as those by Minister Tuckey.

This is an important matter. It is one that the Democrats have already expressed concern about and will be continuing to follow through, because it is an issue that is ongoing—it is not a matter of being concerned about something that is in the past; it is an ongoing issue of people who are exercising a legitimate right to protest and who quite genuinely have significant fears for their safety. That is a situation that we should not have in a country like Australia, so we do believe it is an important, urgent matter and we certainly support the thrust of the motion.
The DEPUTY PRESIDENT—The question is that the motion moved by Senator Brown be agreed to. Those of that opinion say aye.

Senator Brown—Aye.

The DEPUTY PRESIDENT—To the contrary no.

Honourable senators interjecting—

The DEPUTY PRESIDENT—The noes have it. Is a division required?

Senator Brown—Yes.

The DEPUTY PRESIDENT—A division is not required. The noes have it.

Question resolved in the negative.

Senator Brown—Madam Deputy President, could I have it recorded that I did call for a division but do not have the numbers to have that taken into effect.

Senator Bartlett—Madam Deputy President, I would also like it recorded the Democrats did not want to use up the time of the Senate in a division, but I do record that we supported the motion.

MANDATORY SENTENCING LEGISLATION

Motion (by Senator Greig) agreed to:

That the Senate requests the Human Rights and Equal Opportunity Commission:

(a) to inquire into all aspects of:

(i) the agreement between the Northern Territory Government and the Commonwealth regarding the Territory’s mandatory sentencing regime,

(ii) the consistency, or otherwise, of mandatory sentencing regimes with Australia’s international human rights obligations, wherever such regimes exist, and

(iii) Western Australia’s mandatory sentencing regime; and

(b) to report:

(i) on paragraph (a)(i) within 4 weeks, and

(ii) on paragraphs (a)(ii) and (a)(iii) within 12 months.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (9.47 a.m.)—On behalf of the minister, I seek leave to incorporate a short statement on behalf of the government in relation to this matter.

Leave granted.

The statement read as follows—

This motion is a waste of the Senate’s time. The mandatory detention regimes of both the Northern Territory and Western Australia have been the subject of a full Senate Committee inquiry and report.

The Human Rights and Equal Opportunity Commission has expressed its views on the mandatory detention laws in both Western Australia and the Northern Territory in a range of forums recently, including to the Senate Legal and Constitutional References Committee’s inquiry into the Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 2000, in the Social Justice Commissioner’s report, tabled on 6 April and in submissions to the UN Committee on the Elimination of all Forms of Racial Discrimination. Press releases and interviews by President Taylor, and Commissioners Sidoti and Jonas have clearly set out the Commission’s position in relation to breaches of international human rights obligations. There would seem little it could add through an inquiry into these issues in relation to which its position is on the public record.

To the extent that the motion deals with the agreement reached between the Prime Minister and the Chief Minister of the Northern Territory, the Government notes that to inquire into and report on the agreement within four weeks, as Senator Greig’s motion asks, would add little or nothing to the Senate’s information about the agreement. There is substantial further work to be done to finalise the detail of how the $5 million in additional funding to be provided by the Commonwealth will be applied to various diversionary programs and to the establishment of an interpreter service. Details of agreed changes to policing practices to ensure diversion of Juveniles are also to be the subject of further consultation. It is important that initiatives are introduced in a careful, efficient fashion and that the programs funded bring maximum benefit to Northern Territory communities. Ensuring that is the case will take careful planning and consultation between the NT and Commonwealth Governments. The Government does not anticipate that there would be significant further information available to an inquiry to enable it to report within four weeks.

In any case, for the Senate’s information, the Government notes that the Commission is an independent statutory body with powers of inquiry. As such, the Senate cannot bind or direct the Commission to exercise those powers. It is a
matter for the Commission to determine how it would respond to such a request by the Senate. The Government is confident that the Commission would give any request by the Senate appropriate consideration. However, the Government would not be surprised if the Commission responded to the Senate by pointing out that the Commission’s resources might better be directed to issues where it has not already formed and expressed its views on the issue before commencing any inquiry.

The Government also notes that while the Commission could conduct an inquiry on its own motion, under the Human Rights and Equal Opportunity Commission Act 1986 the results of any such inquiry must be reported to the Attorney-General and not directly to Parliament.

NOTICES
Presentation
Senator Allison to move, on the next day of sitting:
That the Senate—
(a) congratulates Telstra on the formation of a strategic alliance with Pacific Century Cyber-Works Limited in Hong Kong to form the leading Internet, data, intellectual property, wireless and business service group in the pan-Asian region;
(b) questions the recent comments of the Minister for Communications, Information Technology and the Arts (Senator Alston) that Telstra is constrained by its present ownership situation;
and
(c) seeks clarification from the Minister as to the veracity of his comments in light of this global move by Telstra.

COMMITTEES
Information Technologies Committee Report
Senator FERRIS (South Australia) (9.48 a.m.)—On behalf of the Senate Select Committee on Information Technologies, I present the committee’s report entitled In the public interest—monitoring Australia’s media, together with the Hansard record of the committee’s proceedings, submissions and other documents presented to the committee.
Ordered that the report be printed.
Senator FERRIS—I move:
That the Senate take note of the report.
This report is about enabling consumers to have confidence in the media, and the media having confidence in itself. While there are bad apples in every industry, this report seeks to put in place a means by which consumers can effectively complain about these breaches. The media is like any other profession in that consumers will have confidence in it if they know that it is underwritten by an efficient and effective consumer complaints regime. I would be delighted if the recommendations in the report today, particularly for a Media Complaints Commission, were never used because the media itself improved the efficiency and effectiveness of the complaints regime that already exists. The report provides an opportunity for improvements to be made to the self-regulation of Australia’s media. The proposed reforms would enable the community to have more direct access to the existing complaints handling mechanisms, thereby developing a more effective consumer voice.

Australia’s media industries affect the lives of all Australians on a daily basis, and the community relies on these industries—that is, the print media, television, radio, telephone and now the Internet—to be informed, to be entertained and to communicate with each other. As a former journalist, I value and respect the freedom of the media, but with this right comes responsibility. The integrity of the media must be protected as it expands and develops. Effective regulation involving a balancing and protecting of industry interests while recognising and caring for the wider interests of the Australian community is also important. One way in which regulation is currently managed is through codes of practice that have been developed over the years by the industries themselves.

However, the committee found substantial evidence to question the success of the existing self-regulation process. There were breaches in the privacy of individuals. For example, a photograph of former Senator Bob Woods and his wife, which was published in the Daily Telegraph in 1996, was labelled by the Australian Press Council as ‘a blatant example of the unjustified breach of privacy’. The photograph was subsequently
reprinted in the *Daily Telegraph* as part of a portfolio that won a merit award for the press photographer concerned.

There was the display of undesirable images. For example, in 1998 the *Townsville Bulletin* published a photograph of a circus act that showed a woman performer’s face contorting as air was sucked from a plastic bag that she was wearing over her head. A complaint was lodged alleging that the photograph may encourage children to perform a similar act, with possible fatal consequences. Although the photograph was found to have breached the Australian Press Council’s statement of principles, it was published a second time as part of an editorial that disputed the Australian Press Council’s adjudication.

There was the broadcasting of undesirable content—for example, a commercial radio station broadcast from a brothel that involved live sexual activity. There were news broadcasts that were influenced by commercial arrangements. For example, the recent ‘cash for comments’ inquiry by the Australian Broadcasting Authority into radio station 2UE Sydney Pty Ltd found that certain news and current affairs broadcasts promoted the commercial interests of sponsors.

The conduct of the media is a major issue of concern for the Australian public. In a 1997 Clemenger survey about the everyday problems of Australians, the conduct of the news media accounted for six of the top 40 problems identified. It ranked behind only health and welfare and crime and punishment, and ahead of race and immigration, education and drugs. Just 30 years ago, the same Clemenger survey found that media issues did not rate at all, and even 20 years ago they rated very low. The committee heard evidence that there is confusion about where specific complaints ought to be directed across the industries and that the ensuing delays and the complexity involved in making a complaint further frustrated the process. The timeliness of the complaints process was also criticised. For this reason, the committee has recommended that the Broadcasting Services Act 1922 be amended so that a complaint can be taken to the Australian Broadcasting Authority 30 days after it is lodged, as opposed to the 60-day period that currently applies.

The majority of the committee believe that several additional improvements can be made to self-regulation, such as better and more proactive enforcement of the self-regulatory codes of practice; an increased awareness of and ability to complain about breaches of codes of practice by the media industries; and increased guidance on the self-regulatory codes of practice that protect an individual’s right to privacy. The majority of the committee address these challenges by recommending the establishment of a media complaints commission. Specifically, it recommends that an independent statutory body known as the Media Complaints Commission be established to advise individuals who wish to lodge a complaint against Australia’s media; that the Media Complaints Commission provide a single reference point for all complaints, regardless of which media outlet is involved; and that, as a one-stop-shop, the Media Complaints Commission would also assist individuals in lodging their complaints and in the process of having them heard. This assistance will of course include interpreting services.

We have recommended that the Media Complaints Commission function as a final arbiter for complaints and be able to empower individuals making a complaint and act as an independent link between community and proprietor; and that the Media Complaints Commission’s annual report to the parliament show how it has contributed to the better and more proactive enforcement of the self-regulatory codes. It would also include for the first time comprehensive data about the complaints that have been recorded throughout the year and the way in which they have been resolved. At present this data is not collected and coordinated.

I am very pleased to note that the recommendations that emerged from the Productivity Commission’s recent inquiry into broadcasting will complement the functions of the MCC. Importantly, the current models for self-regulation will continue to operate. Codes of practice and complaint handling procedures will continue to be largely developed and administered by the media indus-
tries themselves. Further, the industry member would in each case continue to be the principal body to deal with the complaint. What we are talking about is a last resort for unresolved complaints for those people who believe that their complaints have not been adequately addressed. I commend the report to the Senate

Senator MARK BISHOP (Western Australia) (9.56 a.m.)—The findings of the Senate IT committee into self-regulation in the information and communication industries need to be considered in the context of the far-reaching and significant changes these industries are undergoing as a result of rapidly advancing technologies. Labor senators recognise the importance of the information and communication industries both economically and as an element of our democratic society. We recognise, too, the fact that arising from these functions of the media are responsibilities to prevent the misuse of the ensuing powers. Typical regulation of the communications and information industries has been industry based; however, the increasing convergence of these industries necessitates reconsideration of the policy frameworks within which they operate. It is apparent that industry convergence will inevitably complicate government intervention and regulation over the coming years. Juxtaposed with this emerging convergence are the existing fragmented and industry specific regulatory frameworks. There are presently distinct regulatory regimes for telephony, the Internet, print media, and radio and television broadcasters. These disparate frameworks prescribe varying degrees of self-regulation and coregulation for the industries which commonly develop the framework to which they are subject.

The predominant concerns of Labor senators with the existing regulatory structure relate to whether the privacy of individuals is adequately protected; whether there are adequate controls over the publishing, broadcasting and the like of content some consider undesirable; the impact of commercial arrangements on the content of news and current affairs; and the insidious breaches of the self-regulatory code by commercial radio stations evidenced by the ABA’s findings into the 2UE report on the commercial radio inquiry into commercial arrangements between 2UE’s presenters and various corporations.

Labor senators believe that it is important to maintain a balance between regulatory control of the information and communication industries and basic freedom of speech. At the same time, we recognise that there are transgressions in these industries relating to intrusion into individuals’ privacy and instances where the media has gone too far. Concerns relating to the regulation of the print media’s regulation under the oversight of the Australian Press Council were raised about the following matters: the APC’s failure to proactively investigate potential breaches of their statement of principles; the ineffectual consequences of the APC’s adjudication and enforcement powers; an apparent lack of community awareness of the availability—and, as a consequence, underutilisation—of the APC’s complaints procedure; the APC’s time frame for handling complaints; and the apparent inadequacy of measures for the protection of individuals’ privacy as a result of enforceability matters. Labor senators support the APC’s endeavours to respond positively to the criticisms of the self-regulatory regime that it oversees and believe that continued advancement should improve that regime.

Australian television broadcasters operate within a co-regulatory framework in which codes of practice are developed and managed under the supervision, and with the assistance, of the ABA. There was acknowledgment from within the industry that instances of overtly intrusive activities illustrated the need for ongoing attention to the review and the development of mechanisms directed at preventing such activities. The principal criticisms of the existing system are that there is a lack of public awareness of the complaints handling procedures available, that the time frame for complaints is too long, that the ABA is failing to adequately monitor compliance with the codes of practice and that there is a lack of meaningful penalties for breaches of the code by broadcasters.
The scheme that applies to the radio industry mirrors the co-regulatory scheme that applies to commercial television broadcasters. The efficiency of the scheme, as it relates to the radio industry, is dubious in the light of the ABA’s recent findings in its now notorious ‘cash for comment’ inquiry. The ABA has reported the findings of its investigation into radio 2UE and the commercial arrangements between 2UE, radio presenters and corporations. As a result of the adverse finding that radio 2UE breached the Broadcasting Services Act and the commercial radio code of practice on numerous occasions, the ABA has imposed conditions on 2UE’s broadcasting licence. The ABA’s findings indicate an urgent need for the government to legislate for across-the-board disclosure requirements like those imposed on 2UE’s licence for all the commercial radio broadcasters. Government action is required on this front.

The regulatory issues faced by the telecommunications industry are substantially unlike those discussed for other communications media. In the telephone and Internet industries two distinct regulatory schemes apply: firstly, to regulation of the carriage and, secondly, to regulation of the content of information. Labor will review the effectiveness of the Broadcasting Services Act in regulating content, subsequent to the six-monthly reports that the government is required to table, pursuant to a Senate resolution. Evidence to the committee regarding the limitations of the self-regulatory scheme for carriage focused on concerns with code development and coverage, the apparent ineffectiveness of monitoring and the enforcement of compliance. The relevant industry and regulatory bodies should afford these matters due consideration.

ALP senators are very concerned at evidence elucidating the privacy implications of databases storing personal and financial information on individuals for consumer purposes. It is of particular concern to the ALP that the gathering of information constituting an invasion of privacy, including via the Internet, is largely unregulated. Evidence that there is an involvement in such activity by the Australian information and communications industries is of considerable concern and must be addressed by suitable privacy legislation. Concerns about such databases include: unregulated, the information provided could be inaccurate and misleading, with potential implications for an individual’s credit rating, for example; moral objections to infringements of a person’s right to confidentiality of personal information; the inability of consumers, in the absence of regulatory controls, to know when information is being collected, who is collecting it, how that information will be used and to whom it will be disclosed; and, that the resultant uncertainty in the community might inhibit the development of e-commerce industries in Australia.

In conclusion, ALP senators believe there is insufficient evidence to conclude that self-regulation of the communications and information industries has failed to a substantial degree, with the obvious exception of the radio industry. There are not significant numbers of complaints evidencing regular and systematic breaches of the relevant codes or standards of practice in the print and television media. Labor senators do not consider it appropriate at present to diminish or override the impact of the regulatory schemes and risk compromising the media’s freedom of speech whilst there is scope for appropriate alteration of existing schemes to address the complaints raised.

The radio industry requires urgent government attention. The government needs to legislate for across-the-board disclosure requirements, like those imposed on radio 2UE’s licence by the ABA. Action on individual stations in response to code breaches is an inadequate safeguard against the ongoing and blatant disregard of the codes of practice and the act. Labor senators are very concerned about the privacy implications of databases storing personal and financial information on individuals for consumer purposes. Evidence that Australia’s information and communications industries are involved in such activity is of considerable concern and needs to be addressed by suitable privacy legislation.

Finally, Labor do not support the chair’s proposal for the establishment of a media
complaints commission, for the principal reason that, with the exception of the commercial radio industry, we do not believe breaches of the existing regulatory system that have been identified are of such number, so systematic, so recurrent or of such a structural nature as to warrant the creation of the overarching body, as recommended in the chair’s report.

Senator TIERNEY (New South Wales) (10.05 a.m.)—I rise to speak on the report entitled In the public interest: Monitoring Australia’s media, and I seek leave to continue my remarks later.

Leave granted; debate adjourned.

Public Works Committee Report

Senator CAL VERT (Tasmania) (10.05 a.m.)—On behalf of the Parliamentary Standing Committee on Public Works, I present a report entitled HMAS Albatross Stage 2 Redevelopment, Nowra, NSW. I seek leave to move a motion in relation to the report.

Leave granted.

Senator CAL VERT—I move:

That the Senate take note of the report.

I seek leave to incorporate my tabling statement in Hansard.

Leave granted.

The statement read as follows—

HMAS ALBATROSS STAGE 2 REDEVELOPMENT
NOWRA, NEW SOUTH WALES
(Committee’s Third Report of 2000)

The report I have just tabled concerns the proposed construction of new facilities at HMAS Albatross, the Royal Australian Navy’s major establishment for operational, training, engineering, administrative and logistic support for naval air squadrons. HMAS Albatross is situated ten kilometres south-west of Nowra, New South Wales, 12 kilometres north-west of Jervis Bay and 176 kilometres south of Sydney.

The Navy’s facilities at HMAS Albatross have been developed over half a century. Construction of Defence facilities at HMAS Albatross commenced in 1940. In 1944, the Royal Navy Fleet Arm commenced flying operations from the Base in support of naval forces deployed to the south-west Pacific. Further substantial upgrading of hangars and runways continued to June 1945.

The Fleet Air Arm vacated Nowra in March 1946. Following a decision to retain the Base for naval aviation purposes, the aerodrome was transferred to the Royal Australian Navy as Naval Air Station Nowra. On 31 August 1948, it was commissioned as HMAS Albatross.

In April 1998 the Public Works Committee approved major development works under the Stage 1 redevelopment. Those works included an integrated squadrons complex for Seahawk and Sea Sprite helicopters, an air traffic control complex and aircraft shelters.

Stage 2 continues the replacement of unsuitable facilities, some of which are of World War Two vintage, and will provide HMAS Albatross with new capabilities.

The proposed Stage 2 works are aimed at providing modern, functional facilities which will improve the operational reliability and organisational functionality of HMAS Albatross. The proposal involves the provision of:

- upgraded arrestor gear;
- a helicopter corrosion control facility;
- a flight deck procedural training simulator;
- a visiting military aircraft hardstand;
- perimeter boundary and security fencing;
- a helicopter underwater escape training simulator;
- a new gymnasium;
- an extension to taxiway bravo;
- a helicopter wash facility;
- a helicopter ordnance loading apron; and
- engineering services and civil works.

When referred to the Committee, the estimated out-turn cost of the proposed works was $41 million.

The Committee has recommended that the project should proceed.

The most important question asked by the Committee, in the context of the Defence White Paper to be issued later this year, was - has HMAS Albatross a secure future? To this question, Defence responded in the affirmative.

The Committee agreed that the proposed helicopter corrosion control facility and aircraft wash facility will provide efficiencies in terms of personnel hours and maintenance.

Flight deck procedural training simulators are required to train aircrew and flight deck operators in a controlled environment before practicing manoeuvres in an operational role. The proposal involves the construction of two flight deck procedural trainers that will simulate the flight decks...
of the navy's frigates. The Committee considers that the proposed flight deck procedural training simulators will overcome deficiencies with the existing simulator and provide a realistic and controlled training environment.

The existing arrestor gear on one of HMAS Albatross' two runways is a portable system which requires manual rigging and de-rigging. The Committee considers that the proposed replacement of the portable system with a permanently installed system will overcome the potential in emergencies of having to route military aircraft in distress to civilian airfields and produce savings in personnel costs.

Royal Australian Navy aircrew are required to attend biannual courses in helicopter underwater escape training for each class of helicopter. Such training aims to familiarise personnel with conditions and difficulties of escaping from a helicopter under controlled and safe conditions. The Committee concluded with respect to the proposed helicopter underwater escape training simulator that existing facilities do not provide the necessary personnel management flexibility and cost effectiveness to conduct courses at short notice and realistic simulation of military helicopter types.

The Committee agreed that existing gymnasium facilities at HMAS Albatross, while containing state of the art equipment, is substandard and inadequate for the purpose of providing eligible personnel with a suitable physical fitness and team games facility. The Committee recommended that existing gymnasium equipment and other related items owned by the Commonwealth be used in the new facility.

The Committee was apprised of concerns relating to the adequacy of the on-site sewage treatment plant at HMAS Albatross. Given the sensitivity of the Curumbene Creek and Jervis Bay catchment area, the Committee recommended that the on-site sewage treatment plant at HMAS Albatross be checked on a regular basis, and if necessary improved, to ensure it is being operated and maintained in a manner consistent with State and local government requirements.

I commend the report to the House.

Question resolved in the affirmative.

Publications Committee

Report

Senator CALVERT (Tasmania) (10:06 a.m.)—At the request of Senator Lightfoot, I present the 13th report of the Publications Committee.

Ordered that the report be adopted.

Privileges Committee

Report

Senator QUIRKE (South Australia) (10:06 a.m.)—At the request of Senator Ray, I present the 89th report of the Privileges Committee entitled *Senior public officials' study of parliamentary processes: Report on compliance with Senate order of 1 December 1998.*

Ordered that the report be printed.

Senator QUIRKE—I move:

That the Senate take note of the report.

I seek leave to have the tabling statement incorporated in *Hansard*.

Leave granted.

The statement read as follows—

The Committee of Privileges was the instigator of an order of the Senate requiring Commonwealth departments to report on steps taken to ensure that senior public officials of Commonwealth departments and agencies are aware of their duties and responsibilities to each House of the Parliament and their committees. The committee therefore thought it might be useful, not only to the Senate, but to the public service, to give a brief account of departments’ compliance with the order. Departmental responses to the order are included as an appendix to the report.

Generally, the committee is pleased at the responsiveness of most departments and agencies and has noted particularly the efforts made by officers of central agencies to conduct appropriate courses to fulfil the requirements of the resolution. The committee proposes to monitor progress, and to this end will write to every departmental secretary asking them to advise it, before supplementary estimates hearings in November, of further developments.

Question resolved in the affirmative.

BUDGET

Consideration by Legislation Committees

Additional Information

Senator CALVERT (Tasmania) (10:07 a.m.)—On behalf of Senator Payne, I present additional information received by the Legal and Constitutional Legislation Committee relating to the budget estimates for 1999-2000.
APPROPRIATION (DR CARMEN LAWRENCE’S LEGAL COSTS) BILL 1999-2000

First Reading

Bill received from the House of Representatives.

Motion (by Senator Ian Campbell) agreed to:

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

Bill read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (10.07 a.m.)—I move:

That this bill be now read a second time.

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

Leave granted.

The speech read as follows—

This Bill makes provision for a special appropriation to meet the Commonwealth’s liability, under a judgment of the Federal Court of Australia. The Commonwealth’s liability relates to the legal costs of Dr Carmen Lawrence MP in connection with the Marks Royal Commission in Western Australia, and her related court challenges to the Commission.

The Federal Court held that the Commonwealth is legally liable to pay damages for breach of contract which arose following the Commonwealth’s initial refusal to pay the legal costs incurred by Dr Carmen Lawrence MP in relation to the Marks Royal Commission and her court challenges to that Commission.

On 25 February 2000 the Federal Court ordered that the Commonwealth pay damages and interest to the date of judgment and the legal costs.

In the Bill, the Parliament is asked to appropriate monies from the Consolidated Revenue Fund to meet these liabilities. The amount to be appropriated is not specified in the Bill due to the nature of the judgment.

Similarly, the amount of post-judgment interest cannot be quantified until the judgment debt is paid. The purpose for which money can be appropriated under the Bill is, however, limited to amounts resulting directly from that judgment.

Accordingly, the appropriation is not discretionary. Money appropriated under this Bill is additional to the appropriations made in other Appropriation Acts in 1999-2000.

The appropriation is necessary, and required as a matter of urgency to allow the Attorney-General’s Department to finalise the matter in accordance with the judgment of the Federal Court and to limit the Commonwealth’s further liability for accruing interest.

The appropriation is sought by way of a specific appropriation bill, with introduction and passage in this session.

Let me state for the record that the need for this Bill is the result of a typical ALP style deal done under the former Keating Labor Government to help one of its mates.

The judgement of the Federal Court makes it clear that the Commonwealth was contractually bound by a political compact organised by the offices of Dr Carmen Lawrence and then Prime Minister Keating and supported by a decision of Cabinet on 8th June 1995 to pay, what were essentially, the personal legal costs of Dr Lawrence, in a matter totally unrelated to her responsibilities at the time as a Federal Minister.

This unfortunate arrangement has necessitated the introduction of this Bill which burdens Australian taxpayers to the tune of at least three-quarters of a million dollars.

With that in mind I note that senior figures in the Australian Labor Party established a Trust Fund, called the ‘Carmen Lawrence Defence Fund’. This fund sought and received public donations to pay Dr Lawrence’s legal costs. It is understood the Fund may be holding as much as $100,000.

I also note that the Commonwealth Attorney-General has rightly asked that the Fund contribute towards Dr Lawrence’s legal expenses.

Such a contribution would only seem just and proper.

If such a contribution had been made this appropriation would be a smaller amount and taxpayer’s money would have been saved. If the Fund were now to make a contribution it would partly offset the appropriation that the Parliament is now asked to make.

There is no doubt that it would be in the best interests of taxpayers that the Fund be exhausted before the taxpayers are called upon to pay anything.

The Attorney-General has also asked the Australian Labor Party to contribute towards the cost of these expenses. Once again a contribution from that Party would also appear to be more than ap-
Debate (on motion by Senator Quirke) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

POOLED DEVELOPMENT FUNDS AMENDMENT BILL 1999
FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT 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) (10.08 a.m.)—I indicate to the Senate that those bills which have just been announced are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

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

Question resolved in the affirmative.

Bills read a first time.

Second Reading

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (10.08 a.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—

POOLED DEVELOPMENT FUNDS AMENDMENT BILL 1999

The purpose of this Bill is to give effect to reforms of the Pooled Development Funds (PDF) Program and amendments to operational rules under the Pooled Development Funds Act 1992. The PDF Program is a mechanism for channelling patient equity capital to small and medium sized Australian enterprises. PDFs are investment companies that receive a more competitive tax treatment in return for investing equity in eligible small and medium sized enterprises.

The PDF Program arose out of a recognition that there were imperfections in the capital markets and that small and medium sized enterprises often have difficulty obtaining equity capital, especially those that are in the early stages of development. The risks associated with such investments, and the long time frame before returns on such investments can be realised, have in the past limited the availability of development capital for such firms.

The PDF Program provides a 15 per cent tax rate for equity investments in small to medium sized companies with less than $50 million in total assets. Capital gains from sales of shares in PDFs are capital gains tax-free. Dividends paid by PDFs to their shareholders are exempt from income tax and dividend withholding tax while superannuation fund investors will face an effective zero rate of tax under recently announced changes following the Government’s initial response to the Review of Business Taxation.

Between 1992 and October 1999, 72 PDFs have been registered by the PDF Registration Board. PDFs have raised over $350 million for investment purposes. Of the capital raised, over $210 million has been invested in 200 small to medium sized enterprises.

In the order of 85 per cent of PDF investments have been in firms with total assets of less than $30 million. Most investments made by PDFs are between one-half and two million dollars, the area which most commentators believe to be the weakest in the equity market.

A significant proportion (at least 25 per cent) of PDF investments have been in firms with total assets of less than $30 million. Most investments made by PDFs are between one-half and two million dollars, the area which most commentators believe to be the weakest in the equity market. A significant proportion (at least 25 per cent) of PDF investments support the commercialisation of R&D. Some 35 per cent of PDF investment is at the start-up and early stage of investment with about 50 per cent being at the expansion stage.

In 1998, the PDF Program was reviewed. While the review found the Program to be effectively targeted at small firms, it also found that raising capital remains difficult for many such firms. In the context of the review, most PDFs reported that it is harder to raise capital than it is to find investment opportunities; that is, the demand for such investment funds exceeds the supply.

The review recommended that the Program be extended, that its objectives be modified to better reflect its rationale and that some of its operational parameters be enhanced.

The review noted that the Program has attracted little in the way of superannuation fund invest-
ment and no investment from overseas pension funds. In response it recommended a number of options for increasing the commercial flexibility, and therefore attractiveness, of PDFs to these potential investors.

The review also noted that better information on the outcomes of the PDF Program is required to enable future evaluations of the PDF Program to be more rigorously conducted.

There are many other businesses that could benefit from the development and deepening of the market for patient equity capital and venture capital.

Continuation of the PDF Program with amendments to make it more commercially attractive to superannuation, retail and other investors, will go a long way towards realising more investment capital for small and medium enterprises engaged in activity at the riskier end of the business spectrum.

The Government has agreed that the PDF Program be extended until 30 June 2003 and that the Program will be reviewed again before that date.

The changes will offer Program participants more commercial flexibility and will make PDFs a more attractive proposition for Australian superannuation funds, overseas pension funds and other investors, thereby increasing the supply of patient equity and venture capital available to growing small enterprises.

Based on this underlying rationale, this Bill therefore proposes the following:

amending the objective of the Program to better reflect its rationale - the objective will become "to develop, and demonstrate the potential of, the market for providing patient equity capital (including venture capital) to small or medium-sized Australian enterprises that carry on eligible businesses";

permitting widely-held complying superannuation funds and similarly regulated overseas pension funds and other investors, thereby increasing the supply of patient equity and venture capital available to growing small enterprises.

The changes to the PDF Program I have outlined, together with the Government's capital gains tax reforms, particularly those relating to venture capital investments by Australian superannuation
funds and foreign tax-exempt pension funds, will increase the supply of patient equity capital to small and medium sized Australian enterprises. By boosting investment and job creation, this will be good for all Australians.

I commend this Bill to the Senate.

FAMILY AND COMMUNITY SERVICES LEGISLATION AMENDMENT BILL 2000


Schedule 1 of the Bill amends the double orphan pension provisions of the Social Security Act 1991 to guarantee the rate of family allowance in relation to double orphans at the rate that was applicable at the time the child became a double orphan. This amendment is retrospective, applying to children who became double orphans on or after 1 July 1998.

In addition, the definition of a double orphan in subsection 993(2) of the Social Security Act 1991 is expanded to include the situation where one parent is dead and the other parent is a long-term remandee. At the moment, the definition only applies where that other person was serving a long-term sentence.

Schedule 2 amends the A New Tax System (Bonuses for Older Australians) Act 1999 to ensure that the disqualifying period for the self funded retirees bonus ends on 30 June 2000 (rather than 1 July 2000), avoiding a 1-day overlap with the revised income support provisions which commence on 1 July 2000 as part of the tax reform package.

The remainder of the Bill contains a number of technical amendments to the Family and Community Services portfolio legislation, consisting of the repeal of redundant provisions and correcting various cross-references and minor drafting errors.

Ordered that further consideration of this bill 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.

A NEW TAX SYSTEM (FAMILY ASSISTANCE AND RELATED MEASURES) BILL 2000

Consideration of House of Representatives Message

Message received from the House of Representatives indicating that the House has agreed to amendments Nos 1 and 5 and has disagreed to amendment Nos 2, 3 and 4 and requests the reconsideration of the amendments disagreed to by the House.

Ordered that the message be considered in the committee of the whole immediately.

House of Representatives message

Amendments to which the House of Representatives has disagreed:

(2) Schedule 1, item 8, heading to section 25, page 6 (line 16), omit "10%", substitute "30%".

(3) Schedule 1, item 8, page 6 (line 31), omit "10%", substitute "30%—or, if another percentage between 10% and 30% is determined under subsection (1A), that percentage—".

(4) Schedule 1, item 8, page 7 (after line 2), after subsection (1), insert:

(1A) If:

(a) the Secretary is satisfied there has been, or will be, a pattern of care for an individual (the child) over a period such that, for the whole, or for parts (including different parts), of the period, the child was, or will be, an FTB child of more than one other individual in accordance with subsection 22(2), (3), (4), (5) or (6); and

(b) one of those other individuals makes, or has made, a claim under Part 3 of the A New Tax System (Family Assistance) (Administration) Act 1999 for payment of family tax benefit in respect of the child for some or all of the days in that period; and

(c) the Secretary is satisfied that the child was, or will be, in the care of that last-mentioned individual for at least 10% of that period;

then, on the application of and with the agreement of the individuals who care for the child, the Secretary may determine a percentage between 10% and 30% as the percentage to apply for the purposes of paragraph (1)(c).

Motion (by Senator Ian Campbell) proposed:
That the committee does not insist on its amendments Nos 2, 3 and 4 to which the House of Representatives has disagreed.

Senator CHRIS EVANS (Western Australia) (10.11 a.m.)—I wish to make a few comments on that motion. The Labor Party made clear in the original debate in this chamber our concerns about the many deficiencies of this legislation. In particular, we were concerned about the requirement that the family estimates income in advance with no margin for error before receiving the family tax benefit, the changes to income tests that will leave families worse off when one parent takes maternity leave and changes to shared care provisions. We accept that there was little we could do about the first two issues, but we are very keen to try to improve the shared care provisions.

We accept that legislation impacting on those shared care provisions was passed by the Senate last year and that, given the complexity and size of the legislation, we were not able to debate or to notice the impact on shared care arrangements that were contained in those bills. We have tried to use this legislation to have a proper debate about this important issue. That was the purpose of the amendments that the Senate carried the other day, and I am grateful for the support of the Democrats and others in carrying those amendments. We believe those amendments improve the legislation and strike a better balance between the needs of both custodial and non-custodial parents who share the care of the children.

The government, it seems, has refused to budge on its position in this regard. I understand that it argues that the whole thing is well down the track and that that creates some difficulties, and there is obviously some basis for that argument. We still think that our proposed shared care arrangements are far superior to those of the government. We think the government’s amendments are inappropriate, particularly given their inconsistency with the approach in the Child Support Act with the 30 per cent threshold which we propose should remain. We also think our amendments are closer to the intent of recent family law reforms which seek to engender greater involvement of separated parents in the lives of their children. That is achieved by rewarding both cooperative parenting and encouraging substantial involvement by the non-custodial parent. The government’s original legislation provides a financial incentive for non-custodial parents to participate in a minimal rather than a substantial way in the child’s life. We think that, under the Labor amendments, no family need have been worse off.

We are most concerned that the government’s legislation automatically removes assistance from custodial parents who declare shared care arrangements. The minister was unable to detail in the debate the numbers of those parents. We think there are large numbers of custodial parents who will lose a percentage of their benefit as a result of this move. We are particularly concerned that they might lose that benefit even where the non-custodial parent does not apply. It seems to us that there ought to be a better way of being able to resolve these issues. The government is automatically removing a percentage of the benefit to benefit the non-custodial parent who may in fact not want it.

I have looked at the figures about the benefits paid and the incomes of the people involved and I have had a look at the research to which the minister referred us, which I do not think is nearly as convincing as she claims—and they themselves make the point that it is very much exploratory research based on small and not necessarily representative samples. We think that the small amounts of money involved in most families cases do not warrant the change, and the arguments put in that research certainly do not justify some of the conclusions drawn from them. But, as I say, our main concern is that automatically benefit will be taken away from the custodial parent. The other thing that concerns us is that we are not convinced that the other parent will necessarily get the benefit. I asked the minister this question in the original debate and she assured me that they would but the advice I have about briefings given to the opposition, which I was not present at, indicates it is not automatically the case that the other parent will get the benefit. We understand that there will be no active mechanism to contact the non-
custodial parent who becomes eligible for assistance for the first time. If the other parent does not claim, we are concerned that the government will keep the difference—and therefore the separated family, taken in total, will be worse off—and that this in fact will be a savings measure.

We understand from the department that only non-custodial parents who are already receiving a share of family allowance will be contacted directly to be advised of the new arrangements. Those parent who are currently outside the system but are sharing care will not be directly contacted by the Family Assistance Office or other agencies. We think that is a serious deficiency. I asked for reassurance about that in the original debate and I am not sure that the minister quite got the point that I was trying to make. That may be because I did not explain it very adequately and I am prepared to concede that because this is a complex area.

One of our other major concerns is that, firstly, automatically you take it off the custodial parent and, secondly, that does not necessarily mean that the non-custodial parent will get the benefit. Both of those issues are important. We think it is an arbitrary system. It does not allow for flexibility, it does not allow for consultation between the parents, and that seems to run counter to a lot of other things the minister says about initiatives the government has supported in other areas, so we still think it is a deficiency. We know there is generic advertising and TV and newspaper campaigns but, as we all know, the take-up rate on these things is limited: people do not understand, and we have spent millions of dollars in other campaigns where people still have not got the message and have not applied for benefits even sometimes when they are quite large benefits that they are entitled to. That is another major concern that we have and I hope the government can provide some reassurance about that.

Having said that, the Labor opposition always realised we were behind the eight ball in this debate in terms of the total package of A New Tax System. Shared care is one issue among a whole range of issues in very complex legislation that has come through the chamber in a number of ways and the opposition cannot seek to overturn this one measure by holding up the whole family tax package initiative. That is an invidious position to be in. We do not like it. We wish it were otherwise but, on balance, we accept that we cannot seek to hold up the whole new tax system and family assistance related measures in order to achieve a better outcome on shared care.

I do hope, however, that the minister will take the concerns we have raised seriously. We remain very unhappy about the shared care propositions. We do not accept the arguments and we think there could have been a much better result. But the Labor opposition will not be insisting on the amendments, given the fact that this is one issue in a much broader package and that to delay the bill would, I suspect, without the minister having to lay it on too thickly, upset the totality of the package. So it is with great reluctance that I indicate the opposition will not be insisting on its amendments.

Senator BARTLETT (Queensland) (10.20 a.m.)—Realising that it is the final day of this session and the pressures of time, I will try to be brief. I did indicate to the minister’s office some issues that I would like her to outline on the record in the chamber about the consultation process that was used to arrive at the 10 per cent, the use of the new shared care arrangements in modelling that might have been done in terms of the official impacts of the new tax system, and a couple of other matters. I put these issues on the record now so, hopefully, she can respond in one go to everything that we have raised.

It is worth putting on the record an acknowledgment that the implementation of the 10 per cent threshold was part of the overall legislation that was passed in June last year. To the extent that we were not fully aware of that and of its potential ramifications, that is obviously something we have to accept some responsibility for. Looking further at it, while I must say I still cannot figure it out from reading the legislation, I do concede that in part of the explanatory memorandum at the time relating to that one particular clause there was an indication of
that. I see moving to this 10 per cent thresh-
old as quite a potentially major change and I
do think it is one that might have been high-
lighted a little more clearly, because it is a
significant change that one could feel was
being put in the midst of quite a huge change
overall in implementing a new family tax
benefit payment. I am not trying to imply
that the government snuck it in there and
hoped we would not notice it all; I am simply
saying it was a major change in its own right
and it certainly could have done with some
more scrutiny. The fact that some of the
groups that are now expressing concern
about this were not aware of the change at
the time either indicates that perhaps there
was not as much attention paid to it as there
should have been or could have been. I guess
we all have to take some responsibility for
that.

It is also worth noting that, whilst the
minister mentioned the policy research paper
from the department and her office kindly
provided a copy to me to make sure I had
read it, and that is useful, it does in itself say
that it is quite preliminary research and that
it should be treated only as exploratory and
not necessarily as representative of the over-
all population. I would also say that the
ACOSS submission which the minister re-
ferred to which talked about shared care in
general did not specifically talk about the
shift to a 10 per cent threshold. Indeed, its
recommendation about shared care was very
different to what is actually in the legislation.
So the suggestion that ACOSS was fully
aware of and fully supportive of this change
is not completely accurate. Nonetheless, as I
say, the change was made at that time. While
still very concerned about the potential im-
pact, I welcome the minister’s commitment,
which I am sure she will repeat, about the
government monitoring the impacts of the
change. This is an area where none of us,
including the groups in the community, can
be 100 per cent sure of how it is going to
work and what the impacts will be, and in
that circumstance it is certainly appropriate
to monitor it and assess how it does operate
in practice.

I remind the minister that, seeing this is
all know and love so well, as part of the
agreement that was reached on putting that
package through there was a commitment
from the Prime Minister to the Leader of the
Democrats that he would ensure that no sole
parent was significantly worse off. I am sure
that is a genuine commitment and I am sure
that the minister shares that commitment,
and as part of monitoring the impact of this
we will be trying our very hardest to ensure
that that commitment is translated into real-
ity.

Senator NEWMAN (Tasmania—Minis-
ter for Family and Community Services and
Minister Assisting the Prime Minister for the
Status of Women)—I want to
respond to the senators who have spoken. I
do appreciate the fact that senators have rec-
ognised this as a very important piece of
legislation with great ramifications for a
whole lot of people. None of us would want
to see child-care benefits denied to Austra-
lia’s families, but that would be the implica-
tion if this did not pass, because it is the bill
that contains all the machinery provisions for
actual payment of entitlement to families for
child care. So it would have been a very se-
rious matter if we had stalled it at this stage,
and I appreciate the other parties recognising
the importance of the bill.

In answer to Senator Evans, the other par-
ent does need to claim; that is quite correct.
But also we will be contacting them if we
know about them. The chances are we do
know about a lot of people, because letters
are going out, for example, to people who
are currently getting family tax initiative, the
dependent spouse rebate with child or the
sole parent rebate with child. In that context,
a lot of people who will be affected by this
measure will be directly contacted.

I also want to answer the queries that
Senator Bartlett has raised with me, and I
will read them into Hansard now. Senator
Bartlett firstly asked whether the government
can outline in more detail who was consulted
in arriving at the 10 per cent shared care rate,
whether there was any other research or re-
ports done and which organisations were
consulted before arriving at the rate and in-
firmed about the change. In November and
December 1998, my department conducted a
round of consultations with a number of peak community groups. I can provide the list of groups, and the names of all those who were invited are attached. I think most of them did accept the invitation. Those who could not be there in person sent submissions. Meetings were held with most of the organisations. The main factors taken into account when the government determined the appropriate level of care that should attract a payment of family tax benefit were the existing shared care payment arrangements for the benefits being rolled into the family tax benefit and the views expressed by community groups during those consultations.

The second query from Senator Bartlett was whether the impact of the introduction of the 10 per cent rate was incorporated in any modelling of the overall impact of ANTS, that is, did NATSEM, Access Economics or others who did modelling incorporate the probability of some sole parents receiving only 90 per cent or 75 per cent of FTB. I am not aware that NATSEM or Access Economics did include those parameters in their modelling. However, it would be extremely difficult to model this because assumptions would have to be made about whether the non-resident parent had claimed certain benefits under the current system.

The third query related to people who are able to demonstrate that they are disadvantaged by the change being able to access the one-off payment that I spoke about in my statement recently. I think the simple answer to that is that I will provide details on the operation of the review process at a later time.

The fourth query related to my promise in the chamber in the debate previously to monitor the implementation and the impacts and to table a report on it. Senator Bartlett asked for more details about that. The answer to that, Senator, is that my department will collect data relating to the number of customers receiving shared payment of FTB when available. Data will commence to be available early in the first year after assessments have been made for the commencement of the family tax benefit payments. However, most of the data will not be available until the majority of families have lodged a tax return for the 2000-01 tax year, and therefore the government will monitor the measure over the first year of operation and will table a report in the Senate towards the end of 2001, next year, when most parents will have lodged tax returns. The report will detail the effects of the shared care arrangements on separated parents.

Question resolved in the affirmative.
Resolution reported; report adopted.

GREAT BARRIER REEF MARINE PARK AMENDMENT REGULATIONS 1999 (No. 1)

Senator HARRIS (Queensland) (10.30 a.m.)—I move:


Again, I find myself in this chamber rising to bring to the attention of the Senate issues that have been raised by my constituents in Queensland. My comments are in light of a department having gone through the motions of consultation with an industry and then implementing a decision that was preconceived prior to those consultations. Those points will be borne out in the argument that I will put to the Senate this morning.

GBRMPA have put forward the Great Barrier Reef Marine Park Amendment Regulations 1999 (No. 1) based on what they believe is consultation with the industry for what they believe is the preservation of the environment and the park in general. There are no facts to support the implementation of the plan. There are no impact studies, no economic cost-benefit analyses and no reasonable environmental reasons why the plan should be implemented. The basic reason the plan was developed in the first place has been lost in complexity and confusion and in the methods used in the drafting process of the plan—I will get to some of those later. It has already been admitted that the plan is not quite right. However, here we are in this chamber again, at the last hour trying to refuse the regulations. The problem lies not in the entirety of the regulations but in certain sections of them that are going to impact
extremely adversely on the charter operators within this area.

I would like to raise some issues that were put before GBRMPA. GBRMPA is saying that there was sufficient consultation with the industry. I would like to place on record that, while there was some consultation, the industry operators believe that it has been selective and not adequately published, in the sense that GBRMPA has failed to recognise that many of the industry operators were at sea for extended periods during that consultative process. Many industry operators did not receive copies of the plan and were often informed of various proposals by word of mouth, through other operators out at sea where they conduct their business. The amended plan was gazetted on 1 April 1999 and had a closing date for submissions of 3 May. That is 33 days from when the plan was gazetted to the closing date for input into the plan.

Going to the lack of scientific evidence for the plan, there is substantial scientific evidence to show that the operators, in carrying out their charters, have an extremely benign impact on the reef. The plan imposes restrictive uses of the reef to an extent which is not supported by the scientific evidence that was put forward in the plan. However, on the other side, research pertaining to the pontoon side of the charters by the CRC Reef Research Centre and other research groups has demonstrated that monitoring programs have not found any indication of increased nutrients. A 12-month study of two new dive sites found no detectable increase in coral damage attributable to low levels of diving—that is with over 2,000 dives per site. So it was a considerable scientific analysis. What goes to the heart of this whole process is that game fishing is not a reef activity in its impact on the physical reef. The majority of game fishing is carried out adjacent to or near the reefs. Damage to the reef by tourists is much less severe in reality than seasonal impacts from cyclones and the sediment run-off from tablelands in my electorate, in areas around Townsville and in areas around Proserpine.

The operators believe that GBRMPA has failed to consider the practical and commercial sides of the benefits of the game fishing and charter industry. Most charter operators have to make their vessels available on demand. I note that GBRMPA has made reference to the process that airlines use in overbooking as a means of resolving latency. To compare that example with the tourist industry in this sense is quite inappropriate because the charter operators will, in actuality, accept bookings from overseas for specific customers and it is those customers who generally determine where that operation is going to be carried out, how many days it is going to stay in a particular area and what the activities will be. This plan will result in an operator, depending on their assessment, possibly coming from a 365-day access to a 50-day access. That will find them in a situation where one of two things will happen: they will not have the access days to operate their business or, if they do, there will be a limit in these two areas on how many charters will be allowed at any particular time. They may have the charter days available on their permit, take an overseas booking and then, on applying to enter an area, find they are excluded because GBRMPA has set a certain number of boats that are allowed into that area at any one time. I reiterate how ludicrous this is, when the scientific studies show very clearly that the impact of the boats is extremely benign.

Also, GBRMPA has failed to take into account the extenuating circumstances of some of the operators. I would like to move briefly to the period that GBRMPA used in assessing whether there is latency in the industry—from 1 January 1996 to 30 June 1997. That is an 18-month period of 550 days, but it contains only one season. For operators, a season is 120 days. You do not have to be Einstein to know, if you use figures like this, you get horrendous latency in the industry, and this is exactly what has been done. I believe that is totally unacceptable. The industry predicts the effect will be that 75 per cent of the operators in the Cairns area and in the Whitsundays are going to be ineligible—they will not be able to operate. We are not talking about somebody out there in a little tinny with an outboard; we are talking about people who have financial commitments of between $1 million and $6 million. These are
responsive business people. This chamber is going to impose on them something which is extremely unequitable and is not sustainable on scientific evidence. Quite frankly, I will find it very difficult, if the Senate does not support this disallowance motion, to know what is their intent.

Moving on to the change of permits, the situation is that a person who has an as-of-right entry has to apply for a new permit. The Constitution clearly says that, if a right is taken from a person by the government or a government agency, they should be compensated. Where is their compensation? To my knowledge, there has been no mention at all of compensation. Let us look at what is going to happen. We have people who have had the right of entry to either or both of these areas on a daily basis all year. Let’s not be misguided here. If an operator decided in one season to operate on only 120 days and had a charter from somebody who would take their vessel to the Solomon Islands—and it is the person who is hiring the vessel who determines where it is going to go—you could have one of these $1 million or $6 million vessels being chartered to work extensively in the Solomons for that 120 days. So where they previously had had a right to enter this area for 365 days, if they are lucky they are going to end up with a 50-day permit. This is totally unacceptable.

GBRMPA also has said they will look at extenuating circumstances. The information that I have been given is that, where somebody has said that their boat was in dry dock or having repairs done to it or there were other extenuating circumstances, these to a large degree have been overlooked by GBRMPA. So GBRMPA’s insistence that they are looking at extenuating circumstances cannot be taken into account. We have a situation where GBRMPA are saying that they consulted with the industry. As I said earlier, yes they did. So what did they sit at the table and say? They gave a verbal guarantee to the operators that whatever rights those operators had, they would continue to have. It is very clear that what has come out in this regulation is totally the opposite. They will not have the same rights that they have had. It may not be of their own volition that they are in the situation they are in, as I have clearly pointed out. The other issue that the industry faces, or one of them—they certainly have considerable issues—is access to the area. One of them is area 4. There is a restriction in there that no vessel over 15 metres can actually enter that area. They have said it is overcrowded. The overcrowding, to a large degree, is with vessels under 15 metres. But we come back to what I was saying earlier on: what are the impacts of those vessels in that area? The scientific studies show very clearly that they are extremely benign.

In commending this disallowance motion to the Senate, I would like to also raise an issue that Senator Hill spoke to me about just prior to this debate. He said, ‘Why doesn’t the industry go off and negotiate again with GBRMPA?’ For Senator Hill’s information, they have been doing that right up to and including this week. In actuality, they have asked for a teleconference with the chairman of GBRMPA. They were put on hold and were eventually told that the chair did not want to speak to them. They raised issues with the legal officer, Fiona Macdonald, and again it fell on deaf ears. In response to Senator Hill indicating that the industry should go and negotiate with GBRMPA to try and solve some of the problems that I am putting here this morning: Senator Hill, they have done that. In closing, there are references that I could make to the forms that were used. There are lots of issues. But I believe, to a large degree, that I have canvassed the problems that these operators are going to face on implementation of this regulation. Not only are they economically unjust but they are also environmentally unsustainable.

Senator EGGLESTON (Western Australia) (10.49 a.m.)—This motion was originally moved on behalf of the Regulations and Ordinances Committee in the legitimate and appropriate course of their charter as a mechanism to allow GBRMPA to provide a more detailed series of technical advices on the regulations. The committee, having been provided with the additional level of detail requested, then sought to withdraw the motion. But today, here in the Senate, we have
Senator Harris, who has not really ever in the past expressed a great deal of interest in the operations of the Great Barrier Reef Marine Park, deciding to bring on this disallowance motion.

The Great Barrier Reef Marine Park Authority, for the information of the Senate, is charged with two broad responsibilities. One is that reasonable access and use should be afforded, and that has been the charter of GBRMPA for almost 25 years. It is a charter which indeed has become more complex with each new or expanded operation, whether commercial fisher, recreational boatie or tourist operator. GBRMPA's second responsibility is that of conservation and preservation. The area of the Great Barrier Reef Marine Park is vast; it is the largest in the world. Yet we should put this in context, especially when discussing tourist activity and its impact on conservation and preservation. Almost 90 per cent of the tourist activity in the marine park is centred in about six per cent of the area, which is around the Cairns, Port Douglas and Whitsunday regions, so the need for management plans is surely very clear.

After a surge of growth in the 1980s, it became clear that unrestricted future growth was not sustainable from the commercial viewpoint of existing operators, from a recreational viewpoint or from a conservation viewpoint. That was the starting point of the plans of management. These plans, which control future growth through limited permits, which attenuate unused or minimally used permits and which offer additional opportunities for moorings at certain locations are in the best interests of both conservation and preservation. These measures give greater certainty and security to operators while conserving and protecting the natural resources and values of the area. I note in passing that these measures give a real bonus to those who are existing operators as their permits are now highly valued.

We acknowledge that there are tourism operators who are anxious and concerned as the plans are being implemented. They see a number of problems in them. But the GBRMPA officers have recognised the problems of these operators and have had many meetings with the individuals concerned, their local organisations and with the AMPTO. A commitment has been given to overcome the problems, and that commitment will be honoured. Sadly, there are some who see an opportunity to avoid compliance with the plans. Such people seek to reopen the whole issue of eligibility for access to these high use areas of Cairns and the Whitsundays. Where others have followed the rules and made commercial decisions accordingly, these persons think they see an opportunity for commercial advantage.

Towards the end of his speech, Senator Harris asked about the impacts. It would be appropriate then to provide some answers to him about just what the impacts of disallowance of this regulation might be. If Senator Harris succeeds today, the Great Barrier Reef Marine Park World Heritage Area, which we have a duty to protect, will suffer serious negative consequences. Let me outline a few of these consequences, particularly for the benefit of Senator Harris. There will be no penalties if a person harasses, chases, captures or even deliberately kills a dugong or turtle in the Cairns or Whitsunday planning areas. One must ask: is this really what Senator Harris wants? There will be no penalties to back up restrictions on boat speeds or aeroplane height limits at significant bird sites during nesting seasons. Is this what Senator Harris really wants? There will be no penalties to stop helicopters being used to spot whales as they enter warm waters to calve. There will be no penalties to keep aeroplanes and boats at a sensible distance from these magnificent creatures. Is this what Senator Harris really wants? There will be no penalties to stop helicopters being used to spot whales as they enter warm waters to calve. There will be no penalties to keep aeroplanes and boats at a sensible distance from these magnificent creatures. Is this what you really want, Senator Harris? There will be no penalties to confine hovercraft and jet skis to nominated areas. There will be no penalties to confine vessels over 35 metres to designated areas.

I cannot believe that these things are really what Senator Harris intends, but these consequences will certainly follow if this regulation is disallowed. Neither the government nor the chair of the marine park
authority see either these regulations or indeed the plans of management themselves as set in stone. They provide a framework and a management tool for the work of the marine park in managing access for a multiplicity of users to an area of international iconic status. The way forward is to amend the plans as and when issues arise. To throw away the means of enforcing provisions such as those I have just outlined is a retrograde step, and I ask the Senate to reject this disallowance motion accordingly.

Senator FORSHAW (New South Wales) (10.57 a.m.)—I indicate on behalf of the opposition that we do not support the disallowance motion of Senator Harris. My colleague Senator McLucas will make some remarks regarding the regulation and our reasons for not supporting disallowance. As senators know, Senator McLucas is a Labor Party senator from that area and has been very much involved in all of the discussions regarding this issue. I will leave that part of it to Senator McLucas.

These regulations and the management plan for the Great Barrier Reef Marine Park will, in our view, assist in promoting the protection of the park. They will also ensure that those genuine operators in the tourism industry and in game fishing will continue to be able to carry on their business endeavours as they have in the past. As we understand it, 663 permits have currently been issued. On the basis that was adopted to measure the activity of each of those permit holders—namely, looking at the number of days they operated within an 18-month period—it is clear that 144 of those operators met the 50-day minimum criterion. There are many permit holders who operate for less than five days per year. As I understand it, 663 permits have currently been issued. On the basis that was adopted to measure the activity of each of those permit holders—namely, looking at the number of days they operated within an 18-month period—it is clear that 144 of those operators met the 50-day minimum criterion. There are many permit holders who operate for less than five days per year. As I understand it, the major participants, the various groups, agreed that many permit holders in that category should not be permitted to act as though they are business entities and operators when they are utilising their permit right for such an almost infinitesimal amount of time.

We in the opposition have had representations made to us by people involved in the game fishing industry and other activities who, rather than being able to carry on their legitimate business in a particular area, rove around the park. That is particularly the case for game fishermen. We understand that their interests are being addressed through consultation with the authority. The Labor Party has made known to GBRMPA our position that those discussions and consultations should continue and that the interests of those people should be protected.

I will leave the remainder of our contribution to Senator McLucas. I indicate formally on behalf of the opposition that we will not support the motion to disallow the regulations.

Senator McLucas (Queensland) (11.01 a.m.)—The Great Barrier Reef is a very important part of Australia’s natural environment. It is the largest living organism in the world and, as people would know, has natural values of international standard. As you would also know, it is the basis for the substantial part of Queensland’s and especially North Queensland’s tourism industry. Over the years, the partnership between the managers of this absolutely fabulous natural organism and the tourism industry has produced, in the main, an outcome which has been beneficial for everyone, especially in North Queensland. The benefits have been environmental, in that the preservation of the Great Barrier Reef and its protection and maintenance, and in some cases even enhancement, have been very good. Because of the interaction between the tourism industry and the economy of North Queensland, there have been benefits economically and therefore socially for us as residents of North Queensland. I have been a resident of North Queensland all my life and of Cairns for the last 15 years. I was also fortunate to live in the Whitsundays, as the principal of Hayman Island state school, some years ago. Having lived in both of these areas, I know of that really special relationship between the environment and the users of the environment.

It was clear in the early 1990s that there was a need to review the management processes. As with a lot of resource management, these things are very organic. They sort of happen and then all of a sudden we as government have to put in processes to make sure that we do not love the item to death. So, in the early 1990s there was a process of
renewing the management processes. I understand that one of the principles of that management review was a desire to remove latency in the resource. There were a lot of people who had accessed and acquired permits and were not using them in a bona fide way—people who had purchased access permits so that potentially in the future they might be able to use them. The principle that that latency should be removed—that operators who had permits but were not using them in an economic way should surrender them—was agreed to by tourism operators on the Great Barrier Reef. Everyone agreed to it.

There was also a recognition that there were some very sensitive areas that did not have a high level of protection. The managers and the industry agree that there are some critical areas that need higher levels of protection. Whilst there may be some debate about some particular ones, in general everyone agrees that there needs to be a high level of protection. When the listing of the Great Barrier Reef occurred, there was not the recognition that indigenous people have a true right to be part of the management of the Great Barrier Reef. That was another principle that was included in the review. Indigenous people for the first time will now be included in management decisions about the Great Barrier Reef. That was agreed to.

Another principle agreed to was that we needed to reduce potential user conflicts on the reef—such as where a diving operation is potentially in conflict with a fishing operation or where snorkelling activities potentially conflict with fishing. As managers, we had to predict what potential user conflicts would appear. The process went on for a long time, obviously. As with any consultation process sometimes there is absolute agreement. At other times there is agreement about most of it and only at the edges is there disagreement.

The peak representative body of marine park tourism operators, AMPTO, came to me some weeks ago with some concerns that they had about the process by which permits would be reviewed. Since then, they have been in discussions with the Great Barrier Reef Marine Park Authority and have now advised that they are comfortable with the process that will be adopted. I am also aware that the Cairns professional game fishing association have some concerns with how they will maintain their access to the reef. It is more difficult for people who do not use the reef on a regular or daily basis, like Quicksilver or Ocean Spirit, to prove the they have accessed the reef for 50 days in the 18 months around 1996, which is the baseline. That is certainly the case, but I understand that the regulations provide for exceptional circumstances to be considered. They provide for roving permits. They provide a whole range of opportunities for those current, bona fide, viable and successful businesses that are so important to our economy in Cairns and in the Whitsundays to continue accessing the reef. GBRMPA have made an undertaking that they will work with those operators to ensure that their operations will continue. The important issue here is that the latency be removed so that those people who are not using the reef do not continue to hold permits. That is very important, and that has been agreed to. I do not think there is any point in arguing about those people who truly do not use the reef at the present.

I give the commitment that I will continue to work with—as I have done already—individual operators or their representative organisations to negotiate with GBRMPA so that we end up with continuing businesses in our region and also with continuing protection for this wonderful natural resource. I also agree that it is important that we move forward. There are lots of provisions in these regulations that protect both the industry and the natural values of the Great Barrier Reef, and it is time to move on and adopt these regulations.

Senator BARTLETT (Queensland) (11.08 a.m.)—This debate, I find, has some curious parallels with one we had in this chamber not too long ago in relation to a new management plan for the Northern Prawn Fishery. Obviously here we are dealing predominantly with tourism operators rather than prawn trawlers, so there are differences there, but in terms of issues relating to process, clarification of how the plan will operate and those sorts of matters, there are some
interesting similarities. We are also faced with the same situation—which is unfortunately always the case with disallowances—of an all-or-nothing approach. We either knock out the whole thing and revert to quite an old plan or we accept it warts and all. Certainly, in terms of the concerns that have been raised, they have not been the ones that can be addressed simply by removing item 3.24 or 6.7FQ or whatever. They are ones more to do with administration and interpretation and consultation and issues like that.

It appears the minister responsible, Senator Hill, will not be contributing to this debate, which I think is unfortunate. The sole government contribution is likely to be from Senator Eggleston, which is no slur on him, but this is an important issue. I did not hear all of Senator Eggleston’s contribution but, from what I heard at the start, I think he basically responded by saying it is outrageous that we should be having to talk about this stuff. He criticised Senator Harris for moving this motion at all, which I think is a pretty inadequate response to what is an important issue and to what are genuine concerns expressed by some tourism operators.

Some of the concerns that have been raised parallel those that were raised by the Senate Standing Committee on Regulations and Ordinances, which I am on, as is Senator McLucas. That committee of course is not a political committee or a committee that assesses whether policies are desirable or not. It assesses proposals and regulations in terms of procedural appropriateness and fairness and related legal principles. It certainly raised concerns about those things with the minister, Senator Hill, who responded eventually with quite a lengthy piece of correspondence which was tabled in the Senate at the time that the Regulations and Ordinances Committee withdrew its notice of disallowance. There is important information in that letter from the minister in relation to this issue. I think that again highlights the benefits of committees such as the Regulations and Ordinances Committee which can extract those sorts of clarifications and commitments from ministers and put them on the public record by tabling them in the parliament. I think that was helpful in terms of clarifying some of the issues involved.

Nonetheless, it is quite appropriate for any senator, as Senator Harris has done, to take over that disallowance because the concerns are still out there.

I also have had representations both from AMTO, which Senator McLucas mentioned, and ITOA—the Inbound Tourism Organisation of Australia—as well as quite a number of faxes of concern from sole operators and from some of the associations that they belong to. There is concern amongst all those groups about how best to deal with some of the concerns that are still there. In many ways it comes down to general promises from the marine park authority that existing legitimate operators will not be disadvantaged, which is all very nice, but the reality of the implementation as it appears to a number of these people is that they will be disadvantaged. They do have very significant investments in their equipment, and they are obviously concerned about their ability to maintain their financial viability.

I hope I do not need to convince the Senate, or anybody else for that matter, that the Democrats have a strong commitment to the environmental integrity of the Great Barrier Reef and the marine park around it. Certainly personally as a Queenslander, as well as the Democrats’ environment spokesperson, I strongly support any moves to preserve and, hopefully, improve the environmental health and sustainability of the reef. If the Great Barrier Reef were to die, it would not only be an ecological tragedy but it would leave a massive dent in Queensland’s economy, and North Queensland’s economy in particular. It would mean massive economic detriment to the state. So it is not just a matter of protecting it because we like preserving the environment because it is a nice thing. Therefore, it is of absolute primary and paramount importance that we ensure that the environmental health of the reef and the marine park is sustained. That of course is a primary task of the marine park authority, and I will always strongly support them in any moves they make to improve the protection of the Great Barrier Reef.

In terms of the potential impact on some operators, there are still questions about how
this will work in practice. Again, it reminds me of the parallels with the debate about the Northern Prawn Fishery, where it is hard to establish whether the scientific research has been done and whether the figures are solid about the environmental impact of this aspect of the plan that concerns have been raised about: that is, the impact of some of those sole operators, game fishing operators, who rove around the reef rather than going backwards and forwards to one spot. Being a person with a commitment to animal rights as well as to environmentalism, I am not necessarily a great fan of game fishing, in the same way as I was not necessarily a great fan of prawn trawling, but I put my personal views about that into practice by not eating prawns and not going game fishing. These are still legitimate operators—and, I should mention, they are tag-and-release game fishers—who have put very significant investments into their operations. In terms of the environmental impact on the reef, there are issues that could be examined about how significant the impact of these operators is, particularly compared with a number of others who will not be negatively affected by this plan and who are happy with it. So there are legitimate concerns.

Certainly, a number of the operators who did raise concerns with me initially have now said that they may not be happy to let the plan proceed but are willing to let it proceed and will continue to work with the marine park authority to get their concerns addressed. Some others are less confident of their ability to get a positive outcome from the marine park authority. It is one where there is still ongoing work. It is not one where all the concerns have been addressed and everyone is happy and is back doing what they want to do—which is certainly not to get involved in spending lots of time in meetings and having to talk to politicians, which most people would prefer not to do if they could avoid it. So there are still problems there.

Senator Forshaw, in his contribution, said that their interests were being addressed. That is a statement, but I think it is a statement of hope rather than a definite, provable outcome at this stage. I am not saying that GBRMPA is not doing anything about it but I think the results are yet to be there. In that respect, it is also reminiscent of aspects of the prawn fishery debate, where there were lots of commitments about how things would happen but where the results have yet to be seen. From the Democrats’ point of view, and from my position as a senator for Queensland, having been made aware of this issue, I certainly will—as a number of other senators have indicated that they will—be continuing to monitor it and certainly keen to follow up with the marine park authority in particular the progress of the implementation of this plan overall, as well as in these areas of potential concern to some of these operators.

It would have been preferable if the minister had spoken in this debate and actually put on record some more concrete reassurances about ensuring that there would not be some of the negative impacts that are feared. Quite clearly to date there have been some people, who have been previously operating for a number of years, having permit approvals being knocked back; and it is not unreasonable that they be concerned about that. It does not give a lot of hope about the strength of the government’s awareness about the concerns that are still out there. But the marine park authority is different from the government and, certainly, I am not as negative as some other people are about its ability and its willingness to address concerns and consult with the broader community and try to ensure that those concerns are met—as long as the primary purpose of preserving the environmental integrity of the marine park is not compromised. That of course is always the bottom line, certainly for the Democrats and hopefully for the marine park authority and the government as well.

It is an issue that does require ongoing monitoring. The groups that have had concerns have different views about the best way forward, about whether it is best to disallow or best to continue to negotiate. Either way, obviously the disallowance is not going to get up, the process will continue and the plan will come into operation, and there will be a need to monitor its actual impact on people. It is appropriate that a debate such as
this be held so that the concerns are on the record and so that the marine park authority can be more aware of the fact that scrutiny is still happening and there is still a degree of concern. Hopefully, those concerns will be taken more seriously than they appear to have been taken by the government, in this debate at least, and by the marine park authority in trying to ensure that there are no unnecessary or unintended consequences of the move to this new plan.

Senator HARRIS (Queensland) (11.20 a.m.)—In responding to the senators' comments I would like to address some of Senator Eggleston's issues. In his opening statement he inferred that I had no interest in this issue and had picked it up in the last couple of days for a purpose that the original disallowance motion did not cover. In actuality, through you, Mr Acting Deputy President, I would like to direct to Senator Eggleston the fact that when the large portion of this regulation was being developed I was not even a representative of Queensland. But the important issue that should be addressed is that, as a senator for Queensland, irrespective of whether I have had an interest in a committee or in a bill that comes before this place, if a substantial number of constituents from Queensland ask me to address an issue, I am duty bound to do it on their behalf, irrespective of whether I have had input into the issue previously.

Senator Eggleston focused on the penalties and negative consequences if this regulation were to be disallowed today. In my opening remarks, I made two things very clear: we have a responsibility to the environment and we have a responsibility to see that due process is followed. I very clearly stated that it is not the entire regulation that is the problem; it is the effect of a portion of the regulation on the operators and their day-to-day operations. I have no problem with that and support the measures of the regulation that will put punitive costs on anybody who goes outside of them. This has highlighted the whole problem that we have today. We are asking that, in the formulation of regulations by the government in consultation with the different industries, a little more understanding is taken of the people affected by these regulations and a little less consideration of the bureaucratic processes being set up.

Senator Forshaw spoke about ‘genuine operators’. I believe that is a slur—maybe not intended—on those operators who choose to move in and out of the different aspects of this industry. They do not have to set up their operation for game fishing in the areas all the time; they can go off on charter or handline fishing. It is not correct to say that somebody who has used the park on a basis of five days during the season is not assessed as a genuine operator. The roving operators find themselves in a similar situation. Senator McLucas said that the regulations make provision to address issues in extenuating circumstances. I will comment on those a little later to show that GBRMPA itself, in some cases, has not even administered the process correctly, let alone recognised the concerns of some of the operators.

Senator Bartlett raised the real crux of the problem: how is the regulation going to work? Putting aside the sections of the regulation that will affect what Senator Eggleston spoke about—the provisions to protect the reef—how is it going to actually function? There are already operators who have bookings for the next season and who are going to find they cannot get access to the park. I come back to my earlier comment on how the regulation will work in relation to the number of boats allowed into the area on any given day. If we look at one particular event that is going to happen this year—the Olympic Games—where would an operator go for the rest of the season if they went into that area and used their 50 access days prior to and after the Olympic Games? They have no access. Senator Bartlett is correct in that not enough thought has been put into how the operators will work through the issue.

Coming back to the scientific evidence—or lack of—supporting the regulation, I again quote from information from the CRC Reef Research Centre in Townsville:

There is no evidence that fish aggregation around pontoons cause measurable change in the local community structure.

That is in relation to the structure on the reef. According to their scientific analysis:
There is no evidence of nutrient increase as a result of sullage discharge. There is no evidence of increased bacterial concentration in the Cairns section, and there is no indication of any decrease in the abundance of any species targeted due to the effort of the diverse game fishing fleet.

This is scientific evidence. GBRMPA themselves failed to recognise that a critical and important benefit is the generations of people who have established their and their families’ lives on this industry. GBRMPA does not recognise the growth potential in the area and its effect on the Australian and Queensland economy.

As I said earlier, if the plans are implemented, many operators will find themselves unable to fulfil bookings they already have—obligations they have made. Those operators may well be subject to an exposure for damages for breach of contract as a result of those consequences. Who has faced that issue? I do not believe GBRMPA has, and I do not believe it has taken that into consideration when setting out the criteria. Then there is the issue of the retrospectivity of the process. It denies the permit holder the ability to take measures in accordance with the requirements for the renewal of a permit to ensure that the operator’s application can be successfully made. I will speak about that later, citing actual cases where people are having problems.

The tourism operators have made substantial economic commitments not only on their operational costs but on their costs for the funding and servicing of loans on their boats and so on. Where does an operator find himself when he has facilitated a loan and, for no reason other than not having the access he had as a right on his previous permits, is not able to service those financial commitments? The operators have also indicated to me that there is unreasonable discrimination between the operators. I will read again from one of their communications. It says:

... for example, the plan makes no reference to the game fishing operations, rather the plan envisages that the game fishing operations will fall under the operational type of standard tourist operators. While the Cairns area plan for management envisages exemptions for game fishing purposes, the Whitsunday plan of management does not contain specific exemptions applicable to the game fishing in that area. So we have one set of criteria for game fishing in Cairns and a different one for those in the Whitsunday.

There are many issues that have been brought to my notice and, yes, as Senator Eggleston has said, recently. I may not be able to canvass all of them, but what I would like to say in conclusion is that, clearly, the plans of management and the proposed amendments will unreasonably restrict the current operators throughout the marine park. The stated objects of the plan of management are, amongst other things, to ensure that activities within areas of the marine park are managed on the basis of ecological sustainability and use and to enable people to use the marine park to participate in a wide range of recreational activities.

The issues I have raised are raised by the majority of current operators who conduct their activities in accordance with the ecological sustainability principle. In doing that, it allows people to access and enjoy the park. The plans and management and the proposed amendments should therefore be revisited to reflect the issues that I have raised in the chamber today. It could be done by removing the erroneous restrictions of general application, and instead focusing on the operators who do not act responsibly. Reasonable permits should be granted to those operators who demonstrate a responsible use of the park. I believe the emphasis is, and should be, on ‘responsible use by the responsible operators’. I commend the disallowance motion to the chamber.

Question resolved in the negative.

Senator Harris—Mr Acting Deputy President, I wish the record to note that my response was the only one in the affirmative.

The ACTING DEPUTY PRESIDENT (Senator Murphy)—It will so do.

COMMITTEES

Rural and Regional Affairs and Transport Legislation Committee

Referral

Senator O’BRIEN (Tasmania) (11.35 a.m.)—I move:

That the following matter be referred to the Rural and Regional Affairs and Transport Legis-
lation Committee for inquiry and report by 7 June 2000:

The provisions of the Customs (Prohibited Imports) Amendment Regulations 1999 (No. 9), made under the Customs Act 1901 and tabled in the Senate on 15 February 2000.

The opposition has moved that this matter—that is, the provision of the Customs (Prohibited Imports) Amendment Regulations 1999 (No.9), made under the Customs Act 1901 and tabled in the Senate on 15 February 2000—be referred to the Rural and Regional Affairs and Transport Legislation Committee for inquiry and report by 7 February 2000.

A reference of this nature to a committee is to give this issue a proper hearing and some analysis. I was told this morning that, apparently, there is some deal, being contemplated at least, again, between the government and the Democrats on this issue. So, if the government and the Democrats join together again to block this reference—if they are at it again—they will be repeating what happened when they negotiated the Measures for a Better Environment package, as they termed it. Remember that this is the basis of the regulation which is the subject of this motion.

Measures for a Better Environment was negotiated in haste and in private and was part of the negotiation to get the GST deal done. And here we are apparently confronting another exercise to fix that problem—because there is no doubt that the deal that was done in this area caused more problems than it resolved—and there has been no consultation or involvement with anyone. It is of fundamental importance to the opposition that the people and businesses affected by this regulation or any change to the measures contained in this regulation have the opportunity to be consulted about its implications. This regulation implements one part of the Measures for a Better Environment agreed between the government and the Democrats, as I said, to secure the Democrats’ support for the GST.

The regulation in question inserts a new 4C into the Customs (Prohibited Imports) Amendment Regulations 1999. This will subject the importation of any used diesel engines, designed for use in road vehicles, to the permission of the Minister for Transport and Regional Services or an authorised officer. Approval is required for each individual engine. The minister or the minister’s delegate may only grant permission for the import if the engine complies with the Australian design rules. The applicable design rules are 30/00, Diesel Engine Exhaust Smoke Emissions, and 70/00, Exhaust Emission Control for Diesel Engine Vehicles. The importer in those cases would be required to have each engine undergo a full certification test, as specified in the current emission ADRs and the test report provided to the Department of Transport and Regional Services for approval to import the engine. This would have to occur prior to the arrival of the engines in Australia and would add between $2,000 and $15,000 to the cost of each engine, depending on its size.

The Department of Transport and Regional Services have prepared and issued a ‘Regulation Impact Statement’ which is quite critical of the regulation change. That statement confirms the industry concern that the cost of undertaking an emission test would result in limited or no used diesel engines being imported. That statement advises that it is not possible to determine the proportion of health costs attributable to imported second-hand diesel engines but says that it is likely to be small given that they account for less than one per cent of the diesel motor vehicle fleet. The department’s statement also advised that the total cost of this impact has not been quantified and that although there would be some benefits in terms of reduced emissions these could not be estimated without extensive research.

What about the businesses that import the engines? I am advised that this measure will force the closure of 90 per cent of the 85 businesses that import engines, and many of these businesses are in regional areas. Within 18 months existing supplies of engines and spares will be exhausted. That means that, in a short time, only new spare parts will be available to farmers and other users, dramatically increasing the cost of repairs. The cost of repairing trucks will also increase dramatically as those spare parts are imported in tandem with second-hand engines.
This will increase costs in the agriculture, transport, marine, building, earthmoving excavation, engine reconditioning, auto recycling and the pump and generator equipment sectors. There will be a significant reduction of competition in the diesel engine sector and the price pressure on the manufacturers of new engines will all but disappear.

Increased costs mean reduced maintenance and increased environmental problems. In terms of the policy development to help regional Australia, this is far from the government’s finest hour—and you do not have to take my word for this: you can rely on one of the architects of this measure, the Deputy Prime Minister, Mr John Anderson. In an astonishing statement on his own law making, the Minister for Transport and Regional Services confessed baldly to the negative environmental impact of the regulation. He said in an interview on the 7.30 Report on 23 March:

I have to say that we are now in receipt of more accurate information which suggests that the environmental benefits that they—by ‘they’ he means the Democrats—were concerned about are not as evident as they thought. They may, in fact, be negative and I can confirm to you that I’m looking again at this ...

And Senator Allison replied:

Well, it was Mr Anderson, in discussions with Meg Lees, who agreed to this restriction. So it isn’t something that the Federal Government should be now saying they want to walk away from, I would have thought.

Confirmation: they did the deal in secret and then they set about passing the buck to one another. Yes, it can get confusing. The Democrats and the government signed off on this regulation as a ‘Measure for a Better Environment’. But, frankly, it is hard to tell who did the research and who conceived this measure. It can certainly be ascertained now that it was not anyone with an understanding of its impact.

Now we have talk of another deal. Senator Allison said to me this morning, ‘We don’t want you to proceed with this resolution because we think we’ve got an agreement, but we don’t want to release it now; we are going to release it in about a week.’ There have been various reports over the past couple of days which have reported different versions of the new deal. We do not know what it is. Apparently, it is so secret or so shaky that no-one can confidently say exactly what it will be or when it will be released. We do not know whether the government will in fact be withdrawing the regulation, the subject of this proposed inquiry. The government can stand up here today and indicate to the Senate whether they will be withdrawing it, and that may be helpful in the debate. The Democrats can stand up in the debate and tell the Senate and the public just what is contemplated in this new deal and accept responsibility—or at least their part of it—for what appears to be a very poor arrangement, as I said, made in secret as part of the GST deal.

Maybe at the end of the day they will be able to come up with something which stands up to the test of public scrutiny and on which we can be convinced that they might well have it right this time. But at this stage this side of the chamber is not convinced that this matter is proceeding properly, that the government and the Democrats have got it right or that they are likely to get it right. We need to have a proper look at this matter and it is important that this motion be carried so that this matter can be examined by the committee and so that those people with an interest in it, not just the government and the Democrats, can put their view in public on the Hansard and the matter can be considered by this committee.

May I say that this committee has been one of the most cooperative in the sense that many of its findings have been bipartisan. The committee has looked at the facts of the matters and has come to conclusions based on those facts, not on the basis of backroom deals. If the government and the Democrats have any confidence that the measures that are now on the table can stand the test of scrutiny, they will support this proposed reference. Of course, their comments will probably indicate that they do not want that scrutiny, that they do not want this matter examined in the light of day and that they do not want on the record matters which might contaminate the arrangements that they have made in private. All I can say is that the op-
position commends this motion to the Senate and that, if the Democrats and the government are fair dinkum, they will support it.

**Senator ALLISON (Victoria) (11.46 a.m.)—**The Democrats do not believe it is necessary to proceed to an inquiry on this issue. We agree that there need to be changes to the current arrangements and we have been talking with the government and with industry to find a workable solution, and I think we are very close to that. In fact, if you talk with the industry you will find in fact that the trucking association is not opposed to this restriction and that it is really a question of dealing with the problems for the importers of diesel engines and, as I say, I think we have found a solution to that problem.

The Democrats set stringent requirements for the importation of second-hand diesel engines as part of the tax package, as Senator O’Brien has already indicated. There were two reasons for that. We think engines imported into Australia should be able to demonstrate that they meet our current standards. Very few countries in the world set standards and then allow those to be watered down by the bringing-in of equipment that does not meet those standards. We need to draw attention to the fact that the Australian standards are woefully lower than the standards overseas. That is thanks to previous governments that have neglected this whole question of air pollution and have put us in a situation where diesel trucks in Australia are 14 to 15 years old on average. That is on average, which means that there are a lot of trucks rumbling around, particularly in the cities, spewing out enormous amounts of pollution. For this reason 1,160 is the estimated number of people who die directly from the particulate pollution that comes from diesel engines.

So our fleet is much older than those in most OECD countries and it is much more polluting, and engines that are being imported include those that are 20 years old, 30 years old and even older. Unlike other countries, we do not require vehicles to be tested to ensure that they comply even with our miserable standards, so another failure of previous governments is that we have in place a regime where we do not even know whether the vehicles that are on the road meet the standards that we have. The result of this is that maintenance is ignored here and that diesel engines continue to spew out their particulate laden dangerous emissions. I heard the other day that the engineers for CityLink, the tunnel project in Melbourne, had to install exhaust equipment which was designed to cope with pollution levels that have not been tolerated in Europe for more than 17 years. It is a great pity that the residents of Richmond and the residents of other suburbs around freeways and tunnels of this sort will have to put up with the concentration of this pollution for some years to come. However, we have now put in place measures that will correct the situation.

So we did fix up the question of pollution in our tax negotiation with the government, and our emission standards, instead of being a decade or more behind Europe, the United States and the UK, will catch up by going to Euro 4 standards by the year 2006. I remind the Senate that particulate emissions for Euro 4 are 95 per cent lower than our current standards. Dirty diesel, the diesel that has high levels of sulphur in it, makes it impossible for even the newest, best maintained engines to perform efficiently and cleanly. That too has been dealt with in our tax package with the government. So from the year 2003, diesel with a sulphur content of more than 50 parts per million will be penalised by an extra 2c a litre excise. Again, thanks to previous governments, we tolerate a level of sulphur 10 times that of the UK, and if you ask any truckie they will tell you what sulphur does to their engines. It costs them an enormous amount of money and it certainly does not do anything for pollution.

While the problem will eventually be fixed by emission standards, by fuels and by the other measures that are in place, we do not want Australia to become a dumping ground for engines that other countries will not allow on their roads. Already we take thousands of vehicles from Japan for just that reason: Japan no longer wants them. Australia has become a poor cousin and is accepting polluting vehicles while other countries are not. Having said all that, we did see the arguments of the engine importers that test-
ing overseas would be prohibitively expensive and that changes to this substantial side of their business would seriously affect them. There is an issue relating to spare parts; also, one-third of the 5,000 engines imported are used in farm machinery and farmers are concerned at the cost. We are amenable to revisiting this situation. We are not prepared to undermine the very strong policy position of new emission standards but I feel that we are well on the way to developing an alternative arrangement which will fix the problem. Of course, that problem will not exist in a few years, once we join the rest of the developed world in testing vehicles regularly on the road. If they do not comply, they will need to be fixed or they will simply be off the road. So this arrangement, which I hope will be announced by the government very shortly, is relatively short term in nature. It is the responsible thing to do, and I do not believe we need a Senate inquiry to find a solution.

Senator O’BRIEN (Tasmania)  (11.54 a.m.)—In closing the debate, isn’t it amazing that we have the Democrats, who are keen for public scrutiny of various measures that this government implements to go to committees to be examined, who participate in the process, as is their right, now saying, ‘Oh yes, but this is a measure we are involved in. We’re negotiating behind closed doors. We don’t want anyone to know what is going on. We don’t want anyone to have a chance to put on the record what their view is of the matter, so we don’t want an inquiry. We don’t want our dealings to be exposed.’ I guess that is something that the Democrats will have to live with in terms of their approach to suggestions that there ought be public scrutiny on various matters, because they are being quite selective in this matter, and selective to protect their own hides. Let us be frank: a regulation has been laid down which, if not withdrawn or disallowed, will have a very detrimental effect on a great number of people, and it will not achieve, it is argued, the environmental intentions which Senator Allison just addressed. It will not achieve them.

What have we got going on? We have got the minister, Senator Hill, and the Deputy Prime Minister having a fight about whether in fact the regulation the subject of this motion ought remain and not be changed, that there not be any agreement to change it, that the government continue to pursue it. We do not know what the Democrat position is on that. We do not know what is going to go on in cabinet at the end of the day in the battle between Senator Hill and Mr Anderson. One has to take account of the form: Mr Anderson has not got a very good track record in cabinet. He was rolled on one of the National Party’s key industry interests, on the wool industry. We cannot be confident what is going to happen. All we know is that there is another deal taking place behind closed doors and the Democrats do not want anyone to know just how wrong they and the government got this issue. And the government certainly do not want us to know just how wrong they got this issue. But there is one thing for certain: there are a lot of people out there who wanted their opportunity to get on the record and say why this was a bad idea.
The government and the Democrats have come together to deny them that opportunity, and they will wear the odium of that.

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

The Senate divided. [12.01 p.m.]
(The Deputy President—Senator S.M. West)

Ayes............ 24
Noses............ 37
Majority......... 13

AYES
Bishop, T.M. Bolkus, N.
Brown, B.J. Carr, K.J.
Collins, J.M.A. Conroy, S.M.
Cooney, B. Crossin, P.M.
Crowley, R.A. Denman, K.J.
Evans, C.V. Forshaw, M.G.
Hogg, J.J. Hutchins, S.P.
Ludwig, J.W. Lundy, K.A.
McKiernan, J.P. McLucas, J.E.
Murphy, S.M. O’Brien, K.W.K *
Quirke, J.A. Ray, R.F.
Sherry, N.J. West, S.M.

NOES
Abetz, E. Allison, L.F.
Alston, R.K.R. Bartlett, A.J.
Boswell, A.J.J. Calvert, V.W.
Brownhill, D.G. Coonan, H.P.
Campbell, I.G. Chapman, H.G.P.
Coogan, H.I. Eggleston, A.
Ellison, C.M. Ferguson, A.B.
Ferrar, J.M. Gibson, B.F.
Geiz, B. Hefferman, W.
Herron, J.J. Kemp, C.R.
Knowles, S.C. Lightfoot, P.R.
Macdonald, I. Mason, B.J.
McCauran, J.J. Minchin, N.H.
Murray, A.J.M. Newman, J.M.
Patterson, K.C. Payne, M.A.
Richardson, A.D. Stott Despoja, N.
Tamblyn, G.E. Tchen, T.
Tierney, J.W. Watson, J.O.W.
Woodley, J.

PAIRS
Campbell, G. Hill, R.M.
Faulkner, J.P. Vanstone, A.E.
Gibbs, B. Lees, M.H.
Mackay, S.M. Reid, M.E.
Schacht, C.C. Crane, A.W.

* denotes teller

Question so resolved in the negative.

Senator Cook did not vote, to compensate for the vacancy caused by the resignation of Senator Parer.

A NEW TAX SYSTEM (FRINGE BENEFITS) BILL 2000

A NEW TAX SYSTEM (MEDICARE LEVY SURCHARGE—FRINGE BENEFITS) AMENDMENT BILL 2000

Second Reading

Debate resumed from 12 April, on motion by Senator Ellison:

That these bills be now read a second time.

upon which Senator Evans had moved by way of amendment:

Omit the words after “That”, substitute “further consideration of the bills be an order of the day for the day after the day on which a report is tabled in the Senate of an independent inquiry established by the Government, after consulting the not-for-profit sector on membership and terms of reference, to:

(a) investigate and update the definitions of ‘public benevolent institution’ and ‘charitable institution’ for the purposes of tax law; and
(b) inquire into the appropriate taxation treatment of charitable and not-for-profit organisations and the public hospital sector”.

Senator CONROY (Victoria) (12.06 p.m.)—As I was saying yesterday, this government is being exposed day after day for its broken promises. Senator Kemp, I am pleased that you have come to join the debate today. I always welcome it.

The DEPUTY PRESIDENT—Senator Conroy, address the chair, please, and ignore interjections.

Senator CONROY—It is very pleasing that the government minister responsible for these bills has finally turned up. He will hopefully have something to contribute—more than the look of pain on his face that was shown on national television recently. Some people think it was pain over the result of the match, Senator, but I know you had just been chatting about the GST and the fact that you knew there was a Benalla by-election coming. I invite the government ministers opposite to come with me on Tuesday to the street walk in Benalla and to debate the GST with me.
Senator Sherry—Senator McGauran is here.

Senator CONROY—Senator McGauran, a National Party senator, is present. He is welcome to come and join me on the street walk. Senator Sherry, I think the National Party in Benalla need Senator McGauran. In fact, he should consider getting on his white horse and nominating to try to help out the National Party in the state of Victoria. They need a quality candidate like Senator McGauran to go in there and try to fly their flag for them.

Senator Kemp—I rise on a point of order, Mr Acting Deputy President. Senator Conroy has now been speaking for three minutes on what has nothing to do with these bills. I ask you to invite Senator Conroy to address the matter before the chair.

Senator Robert Ray—Mr Acting Deputy President, I totally support Senator Kemp’s intervention. Senator Conroy is sounding like Senator Kemp at question time—totally irrelevant. You should bring Senator Conroy to order and set some standards in this place.

The ACTING DEPUTY PRESIDENT (Senator Murphy)—I will certainly take on board the comments of Senator Kemp and Senator Robert Ray. Senator Conroy, I am sure you will come back to the matter at hand.

Senator CONROY—Thank you for that helpful suggestion, Mr Acting Deputy President. As I was saying, we have seen this government renge on each and every promise it has made. The key promise, which I talked about yesterday, was that the government said there would be no more amendments. The Treasurer said there would be no more amendments. Senator Kemp is on the record as saying that there would be no more amendments. Yet here are more amendments, more dirty deals with the Democrats. They are not content with getting the fix on diesel fuel. Apparently, all of Victoria is now regional—except Geelong. Every marginal Liberal seat has been added to the diesel fuel rebate zone because the Democrats are so intent on trying to protect this government that they are becoming an embarrassment to themselves—an absolute embarrassment—over the diesel fuel conurbations.

Senator Sherry—Senator Kemp personally drew the maps, didn’t he?

Senator CONROY—I am not sure whether Senator Kemp drew the maps. I hope he is not going to claim responsibility for that, although the tax office did tell us that this was a matter being handled by Senator Kemp. I am trying to work out how Geelong missed out. Why not just give the whole country the diesel fuel rebate? This is a disgrace. It is anticompetitive; it has left companies in Geelong at a competitive disadvantage. We have already had trucking companies in Geelong say they expect to lose business and will have to move their operations out of Geelong into the conurbation zone. This is a disgrace, designed purely and simply to protect this failing government which keeps breaking promise after promise. It has reached a stage where Mr Peter Switzer wrote an article earlier this week in the *Australian* called ‘Tax criticisms missing in action’. This government promised compliance costs would be minimal, yet the costs are building and building. Mr Ray Regan, the President of the National Tax and Accountants Association, said that:

The price cuts promised under the GST will not happen. The falling dollar would wipe out the benefits of the GST.

We are already seeing Australia’s alleged savings from the GST-ANTS package being chewed up by interest rate increases. We are now seeing the dollar respond because this government will not be honest. Mr Regan hit the nail on the head when he said:

The dollar’s fall will also put upward pressure on interest rates which will wipe out the tax cuts to 8 million taxpayers from 1 July.

That is the truth that the government want to hide. They want to continue to pretend that there will be tax savings and cost savings on hotels, cars and transport.

Transport is at the nub of this debate about broken promises. The President of the National Association of Road Freight Operators has written to the Deputy Prime Minister, John Anderson, warning that operators are struggling to survive, let alone dropping
prices. The association president, Doug McMillan, accused the government of raising unrealistic expectations of price falls when diesel prices have jumped 25 per cent in the last year. So we have the trucking industry making it absolutely clear that we have another broken promise coming—just like in this legislation. The Democrats will do more and more dirty deals, like the casino cave-in to help that struggling small business the Packer family.

Senator Woodley—I have a speech on the Victorian casino. I am just ready now.

Senator CONROY—Excellent. I welcome Senator Woodley to the debate because he knows the dirty deal that was done here. He was in on the fix. He has been in on the fix on the casino, he has been in on the fix on diesel fuel and he is now trying to make up ground on the dirty deal he did a while back on charities.

Senator Murray—Can you go back to casinos, please?

Senator CONROY—Senator Murray, welcome to the chamber.

The ACTING DEPUTY PRESIDENT—Senator Conroy, you should direct your remarks through the chair.

Senator CONROY—I apologise, Mr Acting Deputy President. We have seen Allan Fels do another interview—that is, the mysterious Allan Fels who has plenty of time to hold press conferences and to harass small businesses but cannot find the time to come before the parliamentary Senate estimates committees to be scrutinised over his conduct. We know what will happen. The Democrats will be in the committee with the government trying to protect him.

Senator Sherry—When he is in the building!

Senator CONROY—Thank you for reminding me, Senator Sherry. This is the same Allan Fels who declined to come to the Senate estimates because he had other commitments and then turned up in the building on the day, in parliament, and talked to the minister. He will not come and face the scrutiny of parliament but we know, when he does turn up—
Woodley’s and Senator Murray’s contributions, as I always do, because I know they are going to have to stand up here and protect the government, as they have been doing over and over again.

Senator MURRAY (Western Australia) (12.17 p.m.)—Senator Woodley has concluded his speech in second reading debate but wishes to move a second reading amendment. Therefore, I would like to move that second reading amendment on his behalf and I am formally putting it before the Senate.

The ACTING DEPUTY PRESIDENT (Senator Murphy)—Because we have an amendment currently before the chair, you can foreshadow the movement of that particular motion at this point in time.

Senator MURRAY—Thank you for your advice. I foreshadow Senator Woodley’s amendment No. 1785.

Senator KEMP (Victoria—Assistant Treasurer) (12.18 p.m.)—I think we have run the course of the second reading debate, unless anyone else wishes to take up the time of the Senate. As usual on these bills, we have had a very wide range of contributions by senators. Very few of those comments seem to have touched particularly on the matters which are directly before the chamber, and the last speech perhaps showed just how much unnecessary time has been taken up on these bills. There may well be some debate later this afternoon on the time allowed for the bills. I would point out to the Labor Party that a great deal of time has already been taken up on these bills. There may well be some debate later this afternoon on the time allowed for the bills. I would point out to the Labor Party that a great deal of time has already been taken up on the bills, and a great deal of time has been wasted already. When we proceed to making sure that these bills are through this Senate, Labor should not run the argument that they have not had time to debate the bills. They have wasted, as they so often do in this chamber, so much time.

Senator Sherry interjecting—

Senator Conroy interjecting—

The ACTING DEPUTY PRESIDENT—Order! Senator Conroy and Senator Sherry.

Senator KEMP—Senator Conroy, as usual, is overexcited—

The ACTING DEPUTY PRESIDENT—It would be useful if you ignored the interjections.

Senator KEMP—I am trying to give my speech, but it would be useful, Mr Acting Deputy President, if you could take some action against Senator Conroy.

The ACTING DEPUTY PRESIDENT—I certainly will do so.

Senator KEMP—He is now constantly and wilfully refusing to obey the instructions of the chair, so I call that to your attention.

The ACTING DEPUTY PRESIDENT—I am watching him carefully.

Senator KEMP—The bills do a number of things, and let me just sum them up. They will allow a fringe benefits tax exemption for all meals, other than meal entertainment, provided on a work day to primary production employees in remote areas.

Senator Sherry—That is a roll-back.

Senator KEMP—There are important bills. They are bills which have been widely debated in the community. There has been a wide range of groups which are particularly interested in these bills. It is no secret that the government has been having discussions with parties in this chamber to make sure
that we can secure the passage of these bills promptly and efficiently.

**Senator Sherry**—You are doing that by
turning back your policy.

**Senator Kemp**—Mr Acting Deputy
President, as you know I am very slow to be
provoked. I am a man that likes to just play it
straight and have a straight bat, but I was
somewhat drawn out by Senator Sherry’s
intervention on a roll-back. Senator Sherry, if
you read that policy that you went to the
election on, your policy was a direct copy of
our policy on FBT. I make that point and
invite Senator Sherry to look to his own
history on this matter. We will not be supporting
the second reading amendment before the
chamber. I will not detain the chamber any
longer. I am sure that we will have a good
but, hopefully, limited debate in the com-
mittee stage of these bills.

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

The Senate divided. [12.27 p.m.]

(The Deputy President—Senator S.M.
West)

<table>
<thead>
<tr>
<th>Ayes...........</th>
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<td>Noes...........</td>
<td>38</td>
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<td>Majority........</td>
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**AYES**

Bishop, T.M.
Brown, B.J.
Collins, J.M.A.
Cooney, B.C.
Crowley, R.A.
Evans, C.V.
Gibbs, B.
Hoeg, J.J.
Ludwig, J.W.
McKernan, J.P.
Murphy, S.M.
Quirke, J.A.
West, S.M.

**NOES**

Abetz, E.
Alston, R.K.R.
Boswell, R.L.D.
Brownhill, D.G.
Campbell, I.G.
Coonan, H.L.
Ellison, C.M.
Ferris, J.M.
Greig, B.
Herron, J.J.

**Kemp, C.R.**

Knowles, S.C.
Lightfoot, P.R.
Mason, B.J.
Minchin, N.H.
Newman, J.M.
Payne, M.A.
Stott Despoja, N.
Tchen, T.
Watson, J.O.W.

**Pairs**

Cammell, G.
Faulkner, J.P.
Mackay, S.M.
Ray, R.F.
Schacht, C.C.

* denotes teller

Question so resolved in the negative.

_Senator Cook did not vote, to compensate
for the vacancy caused by the resignation of
Senator Parer._

Amendment (by Senator Woodley in re-
spect of the A New Tax System (Fringe
Benefits) Bill 2000)—by leave—not agreed
to:

At the end of the motion, add “and that the
Senate strongly supports minimising the compli-
ance cost of the FBT for rebatable or exempt em-
ployers by not applying the tax to use of motor
vehicles by employees for travel to and from the
place of work where:

(a) the employee is on call; or

(b) the employer has no secure garaging fa-
cilities at work; or

(c) the employee is required to work at a lo-
cation other than their ordinary place of
work the next day;

and calls on the Government to bring forward
amendments to this bill to achieve that”.

Original question resolved in the affirm-
ative.

Bill read a second time.

Ordered that consideration of the bills in
Committee of the Whole be made an order of
the day for a later hour.

**APPROPRIATION BILL (No. 3) 1999-
2000**

**APPROPRIATION BILL (No. 4) 1999-
2000**

In Committee

Consideration resumed from 6 April.
The TEMPORARY CHAIRMAN (Senator Murphy)—The committee is considering Appropriation Bill (No. 3) 1999-2000, request No. 1 moved by Senator MacKay.

Senator O'BRIEN (Tasmania) (12.33 p.m.)—Again, we have amendments which deal with the responsibilities of Senator Macdonald, and Senator Macdonald is not here. It is worth having a look at what has taken place which leads us to this position. For example, the Senate Procedure Committee second report of 1999 and the Rural and Regional Affairs Legislation Committee supplementary estimates report of June 1999 both detail the extreme difficulty the opposition had in getting the minister to answer questions. Senator Macdonald has consistently refused to answer questions in the estimates hearing or even to appear now, when the additional appropriation bill in his own portfolio areas is proposed to be amended.

In the estimates hearing, he refused to answer questions on the GST and how it affected local government, his area of responsibility, on health and how it affected regional Australia and on the issue of fuel. In yet another aspect of the government’s position on fuel, he was happy to answer a Dorothy Dix question in this chamber yesterday. But, when he is given a chance to answer opposition questions in the estimates forum, which is where he should be prepared to answer questions, he ducks. He refuses to answer questions. What about telecommunications? He has had a number of Dorothy Dix questions in this chamber where he has had a prepared answer and is prepared to read that answer into the Hansard. But is he prepared to answer questions during the estimates process? No. There was the question of the Prime Minister’s recent commitment to regional Australia. One would have thought that Senator Macdonald would have been across that. It is his portfolio area.

Senator Conroy—He doesn’t know what day of the week it is.

Senator O'BRIEN—I do not know whether he is tuned in to his diary, but the reality is that when questions are asked of him in the estimates committee, he wants to play games. He wants to ignore and avoid his responsibility and he wants to hold up the proceedings of the estimates committee. Senator Macdonald complains about the time taken for estimates hearings. If he bothered to brief himself and answer the questions, or admit that he cannot answer them and get his officials to answer them, or properly take them on notice and come back and then not complain about the fact that there is a lot of material on notice which requires the actions of his department—costs that are attributable only to him because he will not answer questions—we might get a bit more done. We might get these things done and in fact have had this bill passed well before today. The delay in this bill has been down to the intransigence of Senator Macdonald and his unwillingness to come into this chamber and to answer serious questions about his own portfolio responsibility. What does he do? When he is not answering Dorothy Dix questions in this chamber, he is prepared to pump out a steady stream of press releases on all of the topics that I enumerated, and more. But when he is asked to answer the hard questions he goes missing.

The question has to be asked: what is this minister responsible for? He certainly is not responsible for doing the things that many other ministers do. Senator Hill has been used in the debate as an example of a minister demonstrating the sort of behaviour that is required of ministers of the crown in the estimates committees process of this parliament. I would expect that Senator Hill will quietly take this minister—Senator Macdonald—aside, sit him down, stand him up, lie him down, give him a Bex or whatever is required, and tell him what his responsibilities are. Perhaps Senator Macdonald could sit through some tapes of estimates committees Senator Hill has been involved to show him just what is required. Unless and until that happens, we are going to be faced with repeats of what is happening in this chamber now. We are going to be wasting the time of estimates committees trying to get answers to reasonable questions in a timely fashion. If the minister is up to his job, then he will do that in the future.
If we really want to take into account what has gone on and the sort of opprobrium that attaches to the behaviour of this minister, I will take the Senate to the contribution Senator Mackay made on 6 April in the committee stage of this bill. I will quote from that contribution to put on the record again exactly why we are in this situation and just what sort of support Minister Macdonald has for the position he is taking. In the estimates the opposition sought advice of the Clerk as to just what was going on and Senator Mackay said this:

The Clerk made the situation extremely clear, and I will quote from his advice in relation to Senator Macdonald’s refusal on a whim—or probably because he did not know the answers—to answer questions. The Clerk said inter alia that there are no grounds on which a minister can refuse to answer questions except ‘where disclosure would be contrary to the public interest’. The minister has to declare that. He has to say, ‘This is not in the public interest, therefore I cannot answer it.’ But did Senator Macdonald do that? No. He just said, ‘I don’t feel like answering the questions.’ He also stopped his department answering the questions. I want to make it very clear here that the opposition are not dissatisfied in the main with the performance of this department. We regard this department as substantially underresourced. We regard the budget cuts that have taken place since this government came into power as contributing to the difficulties the department is experiencing. So, in the main, we have no difficulty with the performance of this department. We regard this department as substantially underresourced. We regard the budget cuts that have taken place since this government came into power as contributing to the difficulties the department is experiencing.

Later on Senator Mackay said:

We got a substantial amount of advice from the Clerk in relation to this. It was all bundled up in a minority report in relation to supplementary estimates and went off to the Procedures Committee. What did the Procedures Committee say? I will quote from the second report of the Procedures Committee of 1999. The report was signed, might I say, by every senator on the Procedures Committee, not simply opposition senators. The Procedures Committee vindicated utterly the actions of the opposition and vindicated utterly the advice we received from the Clerk—complete and absolute vindication.

Senator Mackay then said:

I quote from the Procedures Committee report in relation to the non-response. It reads:

It is for Ministers to determine whether they wish to raise any grounds for not responding fully to particular questions, and whether those questions will be pressed is a matter for a Committee to decide in the first instance—of course, this relates to the previous advice that we got from the Clerk, which went to the public interest—and ultimately for the Senate.

Senator Mackay went on to indicate that the reason the opposition was raising these matters in the chamber was substantially following the decision of the Procedure Committee ‘because we could not get answers from the estimates committee process’.

The opposition is not about denying the passage of this legislation. The opposition takes the position that supply should not be held up. We have sought to make a contribution in this debate to outline that there is a responsibility on ministers of the government to answer questions properly put to them unless they have public interest grounds for not doing so. When there is the sort of behaviour that we experience from Senator Macdonald then the opposition will again take the opportunity to raise those matters in the chamber.

As I said earlier, we hope that Senator Hill will sit Senator Macdonald down, remind him of his responsibilities and show him just how it is done. At the end of the day we might be able to spend a little less time on the estimates process arguing about whether we get answers and actually deal with the substance of what estimates are about, and that is the asking of questions and the receiving of answers which are relevant to the activities of government and the spending of government. That is what the opposition has been seeking to do in this area. We have been frustrated at every turn by this minister, quite improperly as demonstrated by the Procedure Committee report. In winding up, on behalf of Senator Mackay I withdraw the opposition requests.

Requests withdrawn. Progress reported.
Routine of Business

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

That the following provisions apply to the sitting of the Senate today:

(a) general business not be proceeded with between 3.35 pm and 6 pm; and

(b) the routine of business from 3.35 pm to 6 pm in place of general business be government business orders of the day as follows:

No. 4—A New Tax System (Fringe Benefits) Bill 2000 and a related bill
No. 3—Taxation Laws Amendment Bill (No. 8) 1999
No. 5—Jurisdiction of Courts Legislation Amendment Bill 2000.

Senator CARR (Victoria) (12.44 p.m.)—The opposition supports this motion, which provides an opportunity for the government to have its legislative program considered during general business this afternoon, which would normally be time allocated to the opposition. I feel it is important that these issues be considered, and that will allow matters to be debated. There will be an opportunity at 6 p.m. tonight for Senator Brownhill to make a presentation to the chamber and then we will return to government documents. There will be no divisions or quorums after 6 p.m., as are the provisions of the normal standing orders. We trust that the government can manage its program a little better than it has to date.

Question resolved in the affirmative.

APPROPRIATION BILL (No. 3) 1999-2000

APPROPRIATION BILL (No. 4) 1999-2000

In Committee

Consideration resumed.

APPROPRIATION BILL (No. 3) 1999-2000

The TEMPORARY CHAIRMAN (Senator Ferguson)—Senator O’Brien has sought leave to withdraw the request for an amendment.

Request—by leave—withdrawn.

Senator ELLISON (Western Australia—Special Minister of State) (12.45 p.m.)—There are a number of matters which need to be corrected which have been put forward by the opposition in relation to Senator Macdonald. One of them is that he only answers questions from the government. The reason for that is very simple: he never gets any from the opposition. When was the last time Senator Macdonald got a question from the opposition in question time on his portfolio? We have the shadow spokesperson in relation to his area in the Senate, but we still do not get questions to Senator Macdonald on his area of responsibility. The reason for that is evident: regional affairs is going very well and Senator Macdonald is doing a very good job getting out into regional Australia and visiting those people in regional Australia who need to see him as the minister responsible. The other day he mentioned the Rural Transaction Centres that he is overseeing. These are very important initiatives for people in the bush. That is what you want from a minister—a minister who gets out and sees people, who deals with the real issues that Australians want dealt with. If there is any question about Senator Macdonald not getting any questions, let us see some questions from the opposition during question time. Let us see the spokesperson concerned, Senator Mackay, ask those questions.

Can I also say, in relation to this particular matter, that this is an appropriation bill which is dealt with by the Minister for Finance and Administration, whom I represent in the Senate. It is therefore my responsibility to take these bills through the Senate—no-one else’s. It is not incumbent on any other minister to appear in relation to this bill. For the opposition to say so is not correct. This bill is my responsibility. That is why I have carriage of it. Senator Macdonald has been only too willing to assist in relation to any queries that people might have, and departmental officials have been available to answer questions.

In fact, I might raise on that point that in the debate last week Senator Ludwig asked about the proposed appropriation item relating to the Foundation for Rural and Regional Renewal. I am advised that the Foundation
for Rural and Regional Renewal—the new name of the Australian Rural Partnership Foundation—is a newly formed foundation. The government has contributed $10.6 million in new funds this year to kick-start this foundation, which was founded with a $2 million contribution from the Sidney Myer Foundation. The foundation provides the opportunity now for the private sector to contribute to the development of regional Australia.

During the same debate Senator O’Brien asked why there is no legislative base for the Tasmanian Freight Equalisation Scheme. I am advised the government does not believe a legislative basis for the scheme is necessary to achieve certainty of assistance. The recommendations of the TFES Review Authority in June 1998 included a commitment to a five-year funding term with an annual rolling review to determine whether assistance will continue five years beyond that date. The government has implemented the scheme recommended by the review authority which is increasing funding to $56.4 million from the previous amount of $41.8 million. The government’s implementation of the modified scheme following the report by the Tasmanian Freight Equalisation Scheme Review Authority is regarded, particularly by users of the scheme, as a major step towards removing any perceived uncertainty surrounding the continued availability of assistance under the scheme. I remind the Senate that the Tasmanian Freight Equalisation Scheme was an initiative of a coalition government, as indeed was the Bass Strait Passenger Vehicle Equalisation Scheme, both of which have received bipartisan support.

I answered the other questions asked by honourable senators during the debate last week but I needed to add these two points which were still outstanding. I thank Senator Macdonald’s department for assisting in those answers. I acknowledge the opposition’s withdrawal of this request, and I thank them for that. I commend this bill to the Senate.

Senator O’BRIEN (Tasmania) (12.50 p.m.)—I will speak very briefly as it is not our intention to hold up these matters, but I am provoked to make a comment in relation to the matter of Senator Macdonald’s question time performance. Why would the opposition pursue questions without notice to Senator Macdonald when, given ample opportunity to answer questions in estimates, he declines? Why would we? If Senator Macdonald wants to play the game of saying, ‘Well, I don’t get any questions,’ he had better reflect on the fact that when he does have the opportunity to answer questions he does not answer them. We have enough trouble with other members of the front bench not answering questions; perhaps that is why question time becomes as rowdy as it does from time to time. We had the serial offender Senator Kemp in here earlier being reminded of that by Senator Ray. But let us not digress. We believe that the complaints that we make about the performance of Senator Macdonald are well founded, and we really do think that he ought to have a good hard look at himself and think about his performance for the future.

Bill agreed to.

Bill reported without requests; report adopted.

Third Reading

Bills (on motion by Senator Ellison) read a third time.

ADVANCE TO THE MINISTER FOR FINANCE

Consideration resumed from 30 November 1999.

In Committee

Motion (by Senator Patterson) agreed to:

That the committee approves the statement of Issues from the Advance to the Minister for Finance and Administration as the final charge for the year ended 30 June 1999.

Resolution reported; report adopted.
RADIOCOMMUNICATIONS LEGISLATION AMENDMENT BILL 1999
RADIOCOMMUNICATIONS (RECEIVER LICENCE TAX) AMENDMENT BILL 1999
RADIOCOMMUNICATIONS (TRANSMITTER LICENCE TAX) AMENDMENT BILL 1999

Second Reading

Debate resumed from 29 March, on motion by Senator Ellison:
That these bills be now read a second time.

Senator MARK BISHOP (Western Australia) (12.54 p.m.)—The Radiocommunications Legislation Amendment Bill 1999 and two associated bills are a series of unrelated minor amendments which have been requested by the Australian Communications Authority and its predecessors in consultation with the telecommunications industry and consumers. The issues in the bills were referred to the appropriate Senate legislation committee and reports have been delivered some time ago. I advise the chamber that the opposition will not be opposing the bills.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (12.55 p.m.)—I thank Senator Bishop and the Senate for their cooperation in dealing with these bills as non-controversial bills.

Question resolved in the affirmative.

Bills read a second time, and passed through their remaining stages without amendment or debate.

APPROPRIATION (DR CARMEN LAWRENCE’S LEGAL COSTS) BILL 1999-2000

Second Reading

Consideration resumed.

Question resolved in the affirmative.

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

Sitting suspended from 12.58 p.m. to 2.00 p.m.

QUESTIONS WITHOUT NOTICE

Disability Support Pensioners: Employment Program

Senator QUIRKE (2.00 p.m.)—My question is to Senator Newman, the Minister for Family and Community Services. Can the minister inform the Senate why Centrelink and the Department of Family and Community Services have absolutely no idea how many disability support pensioners are attempting to gain placement on a disability employment program at any one time, or any idea how long they are expected to languish on a waiting list?

Senator NEWMAN—I am not inclined to accept that statement as a fact. I do not know whether it is true or not, but I have learned over long sad experience not to immediately take opposition statements at face value. I will certainly try to get you an answer, Senator.

Senator QUIRKE—Madam Deputy President, I ask a supplementary question. I am surprised that Senator Newman does not know the answer, because it came from a quote from her in Hansard. How does the department intend to develop strategies to address this issue when they have no idea how great the demand really is?

Senator NEWMAN—Madam Acting Deputy President, I heard that as a statement, so I am not quite sure what the question was.

Senator Quirke—It is a simple question to me; would the minister like it repeated?

The DEPUTY PRESIDENT—There is no point of order.

Aboriginals: Native Title

Senator FERRIS (2.02 p.m.)—My question is to Senator Minchin. Will he please indicate how the mining industry has benefited from the government’s amendments to the Native Title Act? Is the minister aware of any alternative policy approaches?

Senator MINCHIN—I appreciate that question from Senator Ferris, who I must say is doing a great job as the chairman of the parliament’s joint standing committee on native title. As we know but the opposition does not, mining is very important to Australia, and particularly to the state of the
Leader of the Opposition, Western Australia. It provides us with 45 per cent of our merchandise exports and employs about 80,000 people, many of them in trade unions. It is one industry where I think we can actually claim to be world leaders. It is an industry that must have policy and legal certainty to support long-term decisions on exploration and investment.

The original 1993 Keating Native Title Act was a complete disaster for the minerals industry. It compounded the great uncertainty that followed from the Mabo decision. There was no proper registration test whatsoever. There was no capacity to make legally binding agreements. It was an unworkable piece of legislation. Our amendments, passed in 1998, did deal with those problems. We did set out those land tenures where native title had been extinguished by the operation of the common law. We toughened the registration test. We set up a decent land use agreement system. We protected the right of genuine native title claimants. We did not extinguish any common law native title rights. The amendments were a compromise. They took two years to negotiate. They did provide a fair balance between Aborigines and other parties. They did restore some certainty to the system.

But, of course, now we have this inept opposition stumbling into this area and creating, frankly, havoc for the mining industry in Australia. You would think that, after Mr Beazley’s incredible stuff-up over the GST during an interview with Laurie Oakes, the ALP would have issued a ban on appearing on Laurie Oakes’s program. But, of course, no. We had Daryl Melham brave enough and stupid enough to appear on Laurie Oakes’s program on Sunday, in one of the most inept performances I think we have ever seen from an opposition frontbencher. It is as though the Bobbsey twins said to Daryl, ‘If you get into trouble, just close your eyes and say, “But Laurie; but Laurie”.’ Of course, that was a complete stuff-up. So then we had Kim Beazley enter into the fray in an attempt to clean up the mess created by his colleague Daryl Melham. We had a doorstep interview from Mr Beazley. He said that the policy under Labor was to change the Native Title Act ‘to make sure it remains within the framework of the original Racial Discrimination Act’s special measures that the 1993 act entailed’.

I would love to see Mr Beazley get up in Kalgoorlie and explain that to a meeting of mining workers, and explain exactly what on earth that means. How on earth can anyone in the mining industry, contemplate billion dollar investments in this leading, world-class industry when they are faced with this sort of inept and crazy confusion from those opposite. The industry is already suffering significantly from low commodity prices and uncertainty over land access. The industry has no hope of planning with confidence when the alternative government says that it is going to completely reopen the whole native title debate when it has absolutely no idea what its policy is in this area. You have had two years since these amendments were passed to work out what your policy is on what is the new Native Title Act. Now we have this Beazley-Melham complete mess on native title. It will be overwhelmingly rejected by rural and regional Australians, who have a right to expect a decent policy from this inept opposition.

Diesel Fuel: Grant Scheme

Senator SHERRY (2.06 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Can the minister confirm that, under the new spatial diesel fuel conurbation, a trip between Queanbeyan and Canberra will qualify for the rebate but a trip between Melbourne and Geelong will not?

Senator KEMP—What constitutes a trip, Senator Sherry?

Honourable senators interjecting

The DEPUTY PRESIDENT—Order!

Senator KEMP—I am not sure what my colleagues are laughing at, but I would urge them to keep quiet so that Senator Sherry’s question can be answered. We were delighted to announce to the public and to these chambers the new Diesel and Alternative Fuels Grants Scheme. This very important measure will be hugely welcomed in rural and regional Australia. This will deliver very substantial cost savings to the trucking industry, and I am delighted to note the very
strong support that we have received from the trucking industry, from the farmers and from rural and regional Australia. One remaining issue needs to be clarified: whether the Labor Party will support the diesel fuel grants scheme. We must debate this issue very soon, because rural and regional Australia want to know where the Labor Party stands on this very important measure. My colleague Senator Sue Knowles is keeping a very close eye on what the Labor Party is proposing to do in these areas. We are keeping a very thorough checklist. But this is very good news. The grant can be used, depending on the vehicle—it has to first of all be an eligible vehicle—

Senator Sherry—What about Geelong?

Senator KEMP—I am going through your question. It has to be a vehicle used for transporting goods and passengers. It has to be used for a journey between a point outside a metropolitan area and another point outside a metropolitan area, between a point outside a metropolitan area and a point inside a metropolitan area or between two different metropolitan areas. We believe this is a very good scheme. As part of the agreement with the Democrats, which we have delivered on, Geelong and Melbourne are in one of the conurbations. So a trip between Geelong and Melbourne for a vehicle, which is defined in the legislation, would not be eligible for the grant.

Senator Sherry—Why not?

Senator KEMP—Okay, let me say why not. We went to the election and we wanted to give this grant to all eligible people, including those in metropolitan areas, but the Labor Party decided that it would not negotiate on this. The Labor Party decided that it would not have a bar of the diesel fuel grants scheme. (Time expired)

Senator SHERRY—Madam Deputy President, I ask a supplementary question. Minister Kemp, what is the rationale for Queanbeyan not being part of the Canberra conurbation when Geelong is part of the Melbourne conurbation? Do you agree with the very perceptive criticisms of the National Party member for Orange, Russell Turner, who criticised the country fuel rebates grants scheme by saying that it would not address the major problem for country motorists—the price difference between city and country outlets?

Senator KEMP—If Senator Sherry does not think a massive cut in the price of diesel fuel in the order of 24c a litre does not help country areas, I believe that is a very worrying statement.

Senator Sherry—Madam Deputy President, I rise on a point of order, and it goes to relevance. It was a National Party criticism, Senator.

The DEPUTY PRESIDENT—There is no point of order.

Senator KEMP—One assumes that Senator Sherry asked the question because he actually supports that particular statement. So that only adds to our worries. We are very keen to hear the Labor Party go on record quickly and support the Diesel and Alternative Fuels Grants Scheme. If the Labor Party refuses to do this, it will be of very large concern in rural and regional Australia.

Senator Conroy—Come on, come to Benalla—the main street, on the corner.

Senator KEMP—And, I might say, particularly in Benalla.

Economy: Growth

Senator WATSON (2.12 p.m.)—My question is also directed to the Assistant Treasurer, Senator Kemp. Will the Assistant Treasurer inform the Senate of the International Monetary Fund’s latest views on the Australian economy? Would the Assistant Treasurer also outline to the Senate how government policies are contributing to such positive economic development?

Senator KEMP—I thank my colleague Senator John Watson for that very important question. Senator Watson always follows closely the major trends in the economy, so his posing this question does not come entirely as a surprise to me. Earlier this morning Australian time, the IMF released its latest World Economic Outlook report. The IMF has revised up its growth forecast for the Australian economy for the years 2000-01, underpinned by a stronger world outlook. Specifically, the IMF is predicting a 3.9 per
cent of GDP real growth for Australia in 2000, followed by a 3.5 per cent growth in 2001. Importantly, this growth outlook puts Australia comfortably ahead of the average for advanced economies—for which the average is around 3.6 per cent in 2000. This is particularly good news for Australia and confirms the government's view and the statements that I have made in this chamber that Australia is, by any standards, a high growth economy. This reflects great credit on the management of the economy by the Howard government.

The IMF also expects Australia's low inflation environment to be sustained and, removing the one-off shift in the price level due to the introduction of A New Tax System, the IMF forecasts ongoing inflation of around 2.5 per cent. Importantly, the IMF also predicts that Australia's current account deficit will fall to below five per cent of GDP by 2001. The IMF report, I believe, highlights the strength and the success of the government's policies, and the government is continuing with its efforts to maintain and improve the performance of the economy. I suppose the one dark cloud hanging over the economy is the attitude of the Labor Party.

Senator Conroy—No, it’s Benalla. It’s the Benalla by-election.

Senator Kemp—Senator Conroy, in a debate earlier today, invited me to join with him in a street walk in Benalla. Senator Conroy, I will not be able to join you unfortunately but I wonder, Senator Conroy—

The DEPUTY PRESIDENT—Would you address the chair please, Senator Kemp.

Senator Kemp—I wonder, Senator Conroy, if in your street walk—

The DEPUTY PRESIDENT—Senator Kemp, would you address the chair, please.

Senator Kemp—Thank you, Madam Deputy President. I was talking about the dark cloud hanging over the Australian economy but this provides Senator Conroy with a good chance to answer some key questions about Labor Party policy. If I were in Benalla, this is the first question that I would put to Senator Conroy: does Senator Conroy support the massive income tax cuts which are going to be delivered to the people of Benalla on 1 July? Senator Conroy, we do not want a touch of the Daryl Melhams from you either; we would like a clear answer.

The DEPUTY PRESIDENT—Minister, would you please address the chair.

Senator Kemp—Thank you, Madam Deputy President. The second question that I think the people of Benalla should put to Senator Conroy is: will he confirm that the Labor Party supports the Diesel Fuel Grants Scheme and the massive effective cuts in excise that entails? So that would be the next question I would put to Senator Conroy. The final question I would put to Senator Conroy—or that should be put by the people of Benalla—is: will he now confirm that the Labor Party is going to the next election with a GST and why are they such a deceitful party?

Goods and Services Tax: Disability Specific Products

Senator Crossin (2.17 p.m.)—My question is to Senator Newman, the Minister for Family and Community Services. Can the minister confirm that, under the Howard government’s GST, people with disabilities will not only be facing significant added costs for all of the many and essential services they are forced to purchase but will also, despite assurances from the coalition that disability specific products will remain GST free, pay GST on the labour component on the repairs of their aids? Will the minister confirm for the Senate that people with disabilities will be paying the GST on repairs to their hearing aids, motorised and self-propelled wheelchairs, talking book machines, batteries, communication devices, surgical boots, artificial limbs and every other disability specific item?

Senator Kemp—But the GST is your policy though.

The DEPUTY PRESIDENT—Order! Senator Kemp, you do not have the call; Senator Newman has the call, thank you.

Senator Newman—Senator Crossin once again displays this carefree ability of the opposition to put things in terms which have a vague connection with the truth but, in fact, are grossly misleading. This is yet another example. It is not true that people
with disabilities will have significantly added costs; they have significantly added costs to the rest of us now. Their needs and the costs of their disability are a burden on them that the rest of us who are able bodied are very fortunate to not have to meet. But, having said that, no, they will not be significantly disadvantaged by the introduction of the GST because, if they are on disability support pension, they are of course entitled to all the benefits and compensation that is available to anybody on income support payments, like a four per cent increase in their pension, like a seven per cent increase in their rent assistance, and so on. It is very convenient for the opposition to ignore that and make it sound like we are all going to be ruined by GST. I think the Australian people, whether they are disabled or not, are absolutely sick and tired of this campaign, bored out of their wits, and they turn the page of the local paper and move on to something more interesting. So I think that this is just another attempt by the opposition to frighten a particular group of society.

The answer to the question of repair of aids is, yes, labour costs will GSTed. So, in other words, if you have got to have a new battery in your hearing aid, the battery will be GST free but the labour of putting it in will not. If you are complaining about that, when the compensation for pensioners has been so clearly spelled out, then I am afraid you are just guilty of yet another scare campaign—anti-GST—in a party that are determined to hold on to GST once they come into government. The Labor premiers are desperate to hold on to it. They are sitting mum, huddling over the bag of money that is going to come to them. And, of course, the people in the states are delighted to think that the states, under this new arrangement, are going to have much better opportunities to improve their roads, to improve their police forces, to assist people with disabilities, and to help with their hospitals and health care and community care services. So I do not think I have ever heard a word from a Labor Premier or, for that matter, the Labor opposition here in Canberra decrying the fact that that is where the GST money will go: into a growing stream of money to benefit the people living in the states, including the people with disabilities.

Senator CROSSIN—Following on from that answer, Madam Deputy President, I ask a supplementary question. Is the minister aware that the disability community is finding it hard to understand the rationale of exempting an aid that may be purchased once every 10 years, but not repairs and maintenance to that aid that are required every 12 months? Does the minister support the ATO’s private ruling that states that ‘repairs to hearing aids are not necessary for the appropriate treatment of the recipient’ and does she extend this view to encompass other seemingly unnecessary disability specific aids.

Senator NEWMAN—I think the assumption is false.

Privacy: Legislation

Senator STOTT DESPOJA (2.22 p.m.)—My question is addressed to the minister representing the Attorney-General, today Senator Ellison. I ask: is the minister aware of the comments yesterday by the federal Privacy Commissioner, Malcolm Crompton, in referring to the government’s proposed privacy legislation when he said: I do not think that the proposed exemption for political organisations is appropriate. What confidence can the public have in a privacy regime that the politicians responsible for its orchestration or implementation are not willing to adhere to?

Senator ELLISON—The question of privacy in the private sector is an important question, and just yesterday we introduced the Privacy Amendment (Private Sector) Bill. That seeks to deal with the collection of information in the private sector and also the disclosure of it. There was, of course, an exemption made in relation to political parties. That was done to allow bodies such as political parties the ability to continue to fully participate in the electoral and political process. I think the Attorney-General is on record as saying that it is a very important part of the democratic process to allow political parties to be able to collect this sort of information, and I am sure the opposition and the Democrats have been involved in this
practice of accumulating information so that they are able to conduct a campaign and to campaign in a democratic system in Australia. This government believes freedom of political communication is vitally important, and that is why the exemption is made in this bill to allow political parties that freedom of political communication.

Having said that, this government, by the introduction of this bill, regards the protection of information gathered in the private sector as being very important. It should be regulated. Of course, this bill allows for cosponsorship, if you like, with the private sector in how that information is kept. I would stress to the Senate that this exemption does relate to the freedom of political communication and I think it allows the free operation of all political parties within the system.

Senator STOTT DESPOJA—Madam Acting President, I have a supplementary question. I thank the minister for his answer. I am curious if that is the only justification that this government can offer for the Attorney-General’s comment yesterday that subjecting political parties to the proposed regime will ‘interfere with the democratic process’. I acknowledge the minister’s reference to that and ask: is it not true that protecting the privacy of information connected to elections, referenda or political participation of another aspect of the political process acts to strengthen the democratic process and the fair play of political undertakings? So wouldn’t subjecting politicians and political parties to this regime strengthen, not detract from, the political and democratic process that you refer to?

Senator ELLISON—What we are dealing with are bodies that are registered under the electoral legislation, and that in itself has some regulation in relation to the bodies that would be exempted. It is appropriate that these bodies do have such regulation in our democratic system. We believe that political parties within the democratic system can behave responsibly in relation to this information, and what they do with that will, of course, affect them in the public domain very much when it comes to elections. But we still maintain that the freedom of political communication is the overriding factor here.

Goods and Services Tax: Australian Taxation Office Resources

Senator MARK BISHOP (2.26 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Is the minister aware of a report in the Australian Financial Review where a tax officer is quoted as saying in regard to the GST:

We are so far behind with our work and it can only get worse.

How far behind is the tax office in its GST work, given that the same officer is also quoted as saying:

They—being the ATO—are ripping people off other projects to put them on ABN processing, and the demand from reply-in-five is just ridiculous.

What are the other projects officers being ripped off from, and don’t these comments confirm the government’s failure to adequately resource the ATO to cope with the implementation of the GST?

Senator KEMP—Let me give the Senate some assurances. I do not know who this officer is. I do not know whether he in fact is an ATO officer. I notice that no names were given. Again, it is very hard to work out the real source of the quote that was given by Senator Bishop. I think you can add that this is part of the continuing Labor scare campaign attempting to divert public attention from the very obvious fact that the Labor Party has now signed on to the GST. The fact of the matter is that I have got up and said this 40 to 50 times and no-one has stood up after question time and denied it. Not one Labor senator has stood up after question time and denied that. Today is the last chance for a while before Easter, so, Senator Bishop, I invite you to stand up after question time and say very clearly that the GST will not form part of the Labor Party policy at the next election. I think it would be a very important statement. If you could nod that you will do that, we will all stay behind and listen to you. Senator Bishop quoted an unnamed officer. Let me quote a named officer of the ATO. Let me quote a senior officer
who has overall responsibilities in this area. Let me quote the commissioner, Michael Carmody.

Senator Conroy—Have you reappointed him yet?

Senator KEMP—This is what the commissioner, Michael Carmody, said: I can assure the community that the ATO is in excellent shape and is on target to implement the vast changes to our tax system which the government has entrusted us.

Senator Conroy—What did Mr Carmody say about Mr Petroulias?

Senator KEMP—I shall deal with you later, Senator Conroy. Mr Carmody went on to say:

We have in place a comprehensive community education program and we are delivering new standards of service in answering people’s inquiries. We have established close working partnerships with a wide range of industry groups.

That is what the named officer of the ATO said, as distinct from the unnamed officer who was quoted by Senator Bishop. This was the most senior officer in the ATO. So, Senator, all I can assume is that you are running a Labor Party scare campaign and, as I said, trying to cover up the fact that the Labor Party, despite its criticism of the GST, has signed on to it. Let us not fool people any longer. Let us not pursue the politics of deceit which we have been seeing.

Finally, let me turn to the interjection by Senator Conroy, which I regard as absolutely appalling, to be quite frank. I should be standing up after question time to make very clear how appalling the attacks are which have been launched on the commissioner by the shadow assistant treasurer in the coward’s castle. It shocks me that Senator Conroy would join with those remarks. Frankly, what the Labor Party should now do in relation to the comments that the shadow assistant treasurer made yesterday in the other place is give the tax commissioner, Mr Michael Carmody, a full apology for those absolutely disgraceful remarks.

Senator MARK BISHOP—Madam Deputy President, I ask a supplementary question. Is the minister also concerned about a recent report by organisational psychologists which found that ATO morale was ‘appalling’ and that staff at all levels were ‘deeply disillusioned’? The psychologists said in their report:

They represent some of the worst results we have recorded in over 15 years of work ... trust levels between many staff and senior executives are very low.

Isn’t this report a damning indictment of the government’s neglect of the ATO and, in particular, of your leadership of the ATO as the responsible minister? What action will the Assistant Treasurer be taking to address these systemic staff management problems?

Senator KEMP—Again we have this consistent attack on the ATO as the Labor Party again attempts to divert attention from the fact that it has now signed on to the GST. That is the short answer to the question. Senator, I have a great deal to do with the ATO. The ATO, from my experience, comprises very fine public servants who are dedicated to their duties and who serve this nation well. I do not propose to join with the Labor Party and demean this body which plays such a vital role in the Australian community.

Wheat: Single Desk Selling

Senator WOODLEY (2.32 p.m.)—My question is to the Minister representing the Minister for Agriculture, Fisheries and Forestry, Senator Alston. Is the minister aware of strong industry opposition to the decision by the government to review the single desk selling system for wheat exports? Why has the government gone back on its commitment to the wheat industry and the Senate, given at the time of the passing of the legislation establishing the Australian Wheat Board, that it would retain the single desk selling system? Is this another example of the government bowing to the ideology of national competition policy instead of looking after the interests of Australian farmers?

Senator ALSTON—I know Senator Woodley has an ideological obsession with anything to do with competition and obviously does not even want to begin to understand the benefits that might derive from it, but we have made it very clear that we believe it is appropriate to conduct an investigation and a review of the wheat legislation
and to report back to the government by 15 December this year. The committee that we have appointed is a balanced and professional team that can properly assess the complex and sensitive issue of single desk selling and can credibly assess and report on the relevant aspects of wheat marketing. Presumably Senator Woodley already has his own views on the merits of single desk selling, and if he wants to put those to the inquiry I am sure they will give it all the respect it deserves and maybe even a little more. But, at the end of the day, these are matters to be assessed properly by independent experts and not simply based on the views of those who want to retail their prejudices for the sake of currying a bit of favour out in some pockets of rural Australia.

Senator Robert Ray—They should call themselves newsagents. You won’t let them compete.

Senator ALSTON—I know we can always think of good reasons why it is not appropriate to have competition in these sectors, but the best way to do it is to have a sensible and objective inquiry. The terms of reference will enable all the social, economic and regional development issues, including employment and investment growth, to be properly addressed. There will be ample opportunity for public consultation, with hearings on submissions and on a draft report to be held principally in regional areas. The government retains an open mind on the future of single desk selling for wheat. The review’s report is expected to clarify whether or not any changes are necessary to wheat export arrangements to ensure that all Australians, and particularly rural Australians, receive the benefits. I hope that Senator Woodley can at last bring himself to have the same motivation.

Senator WOODLEY—Madam Deputy President, I ask a supplementary question. I thank the minister for his lecture on competition. Does the minister agree that this decision by the government on wheat could result in the loss of more family farms in this country, as will happen following the deregulation of the dairy industry? Does the minister agree that these two actions of the government will simply mean increased prices to the consumer for milk and bread?

Senator ALSTON—I am not sure why a review of single desk selling should result in increases in the prices of milk and bread. No doubt Senator Woodley can put that learned economic linkage in his submission, and then we will all understand why it is so blindingly obvious to him but not to anyone else. I heard him ask, effectively, whether it is possible that this could result in the loss of more family farms. ‘Could’ does not sound like a very strong basis on which to ask a question. I am sure you can run up any number of scare propositions, Senator Woodley, but the mere possibility of a worst-case scenario is not what this is all about. This is about trying to establish whether single desk selling is consistent with the obvious benefits that normally flow from competition and, therefore, whether all those who are affected by the industry can benefit. Yes, wheat, milk, bread and family farms can all be part and parcel of what you put on paper. I am sure you will be able to find someone to write it for you. (Time expired)

DISTINGUISHED VISITORS

The DEPUTY PRESIDENT—Order! I draw the attention of honourable senators to the presence in the chamber of a Commonwealth Parliamentary Association members from Tonga, Fiji, Solomon Islands and Cook Islands. On behalf of honourable senators, I have pleasure in welcoming you to the Senate and trust that you stay will be both informative and enjoyable.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Child Care: Assistance

Senator McKIERNAN (2.37 p.m.)—My question is directed to the Minister for Family and Community Services, Senator Newman, and concerns the new child-care benefit, which will raise the hourly rate of child-care fee relief from $2.34 to $2.40. Is the minister aware that this government froze indexation of child-care assistance for 1997 and 1998, saving $84.8 million over four years? Is the minister also aware that, had indexation not been frozen, the hourly rate of child-care assistance would now be closer to
$2.53? Isn’t the government’s much-vaunted new child-care benefit simply a belated and inadequate compensation for the Howard government’s savage cuts to child care? Would families not be better off now if the government had not frozen indexation?

Senator Newman—Once again, we have the opposition special pleading on behalf of their friends in the community child-care sector. The situation is that the community child-care sector had their operational subsidy removed so that equality of treatment would be given to the private sector. The private sector was becoming stronger and stronger with larger providers of child care than the community sector. There needed to be fair treatment of the two elements—child care and long day care. That is one of the things which Labor has refused to acknowledge—

Senator Chris Evans—You froze indexation to the privates, too.

Senator Newman—I will move to the freezing, but so much misinformation has been put around about child care that anybody listening to question time would be entitled to believe the statements of the Labor Party. I want to make sure they do not believe them because consistently what Labor has been saying about child care has been dishonest and inaccurate. The people of Australia have an interest in what you say at question time. You have to be accountable, too.

The question referred to savage cuts to child care. I am addressing that part of the question at this stage because there have not been savage cuts to child care. The changes in the totality of the child-care program have been such that there has been an increase in money allocated for child care every year we have been in government. The money coming up in a year or two will be approaching something like $5 billion. I think taxpayers listening to question time today would say it is important that we support families in child care, but not to the extent that we cannot afford to do anything else—for example, better assistance for people with disabilities and better assistance for those who are long-term welfare dependent and need opportunities to be engaged in our society, whether in social participation or economic participation. Are you suggesting that this government should not take reasonable measures to see that the money that is going to child care, which is very significant, is targeted in the best possible way? This government has been managing a child-care system which was left in an utter mess by the previous government.

Senator Chris Evans—On a point of order, Madam Deputy President: the minister has had almost three minutes and has not brought herself to answer the question, which is about the freeze on indexation which applied to private child care equally as it did to community child care. She has not answered the question concerning the effect of the freeze of indexation.

The Deputy President—it is up to the minister to answer how she chooses.

Senator McKiernan—Madam Deputy President, I ask a supplementary question. Can the minister inform the Senate how much the government has saved by its decision to cancel the child-care assistance indexation which was due on 1 April 2000? Does the minister expect families not to notice that what it gave with one hand it has taken away with the other through cancelling of annual indexation, three times now?

Senator Newman—that is a misunderstanding of what is happening. It is the introduction of a new system and families are going to be fully compensated for any loss of increased assistance caused by the delay in indexation, and that is because of the increase in the initial level of child-care benefit. The indexation on 1 July will enable child-care benefit and family tax benefit to be indexed annually and together on a financial basis. The amount of the benefit on 1 July will take into account the indexation levels for 15 months from 1 April last year to 30 June this year.

Greenhouse Gases: Reductions

Senator Mason—My question is to the Minister for the Environment and Heritage, Senator Hill. The Howard government takes the issues of global warming and greenhouse gas emissions very seriously. Would the minister please inform
the Senate of the steps that the Howard government is taking to reduce greenhouse gas emissions across Australia?

Senator HILL—Honourable senators will know that the Howard government takes the issue of global warming particularly seriously and has now committed in excess of $1 billion towards funding a whole range of greenhouse gas emission programs. We have established the world’s first dedicated greenhouse agency, the Australian Greenhouse Office. Along with the states and territories, we have committed to implement the national greenhouse strategy. Regional Australia can play a strong part in the development of renewable energy generation, planting of vegetation and sustainable land management. I particularly want to mention two aspects concerning regional Australia in answer to this question.

The first is that today we are announcing the government’s latest program in this area, the Bush for Greenhouse program, with the appointment of a carbon broker. The contract has been won by a consortium of Ernst and Young, Greening Australia and Landcare Australia. The carbon broker will be responsible for securing investment, identifying a pool of revegetation projects, channelling investment into these projects, providing expertise and assistance in planting and managing the vegetation, and managing the pool of carbon resulting from the growth of the trees. The program will build on links between greenhouse action and delivering other positive environmental outcomes such as salinity, habitat conservation, and protecting water and soil quality. It is part of our comprehensive approach to tackling emissions from all sectors across Australia. It complements other initiatives that are occurring globally such as the World Bank establishing a prototype carbon bank. More countries and organisations around the world are building the capacity to seek investment in revegetation and channelling that investment through means of carbon brokers and carbon banks. Australia is up there among the leaders in this area.

The second announcement I want to make is in relation to the conference that Australia is hosting next week, the international conference on carbon sinks. As honourable senators will know, certain of the detail in relation to carbon sinks was unsettled at the conclusion of the Kyoto Protocol and that detail needs to be concluded at COP 6 later this year. The importance of that from the Australian perspective is that the protocol adopts both afforestation and reafforestation as worthwhile goals. In encouraging that afforestation again through the benefits associated with the protocol, we can get further revegetation in Australia. We are starting, in fact, to revegetate much of Australia that has been overcleared in the past, getting greenhouse benefits and also other environmental benefits such as I mentioned a moment ago. Through these two initiatives that we announced today, Australia is out there in front, leading with a greenhouse program that is now being watched and admired all around the globe. These are practical, sensible programs that can deliver win-win outcomes. They are good for the economy and good for the environment, and that is very much the hallmark of this government.

Goods and Services Tax: Feeding Bottles

Senator LUNDY (2.47 p.m.)—Madam Deputy President, my question is addressed to Senator Kemp, the Assistant Treasurer. Is the minister aware of an answer to an estimates question on notice provided to Senator Crowley today confirming that, amongst other items, infant feeding bottles and teats will be subject to the GST? Is the minister also aware that the department of health goes on to state that these items are ‘expected to be cheaper because of the removal of sales tax. Infant bottles and teats are currently subject to 12 per cent sales tax’? Can the minister confirm that there is no possible way a 10 per cent GST on the retail price can be cheaper than a 12 per cent tax at the wholesale level? Infant feeding bottles and teats will be more expensive, won’t they, Minister?

Senator KEMP—I thank Senator Lundy for the question. It is probably a good thing you are back onto health and off the roundtable, Senator. Putting it as nicely as one possibly could, Senator Lundy has not had a good week.
The DEPUTY PRESIDENT—Minister, would you address the question and address the chair, please.

Senator KEMP—Thank you, Madam Deputy President, but I was just making the point that there was a youth roundtable this week in Canberra and I think Senator Lundy did not acquit herself at all well.

Senator Lundy—Madam Deputy President, I raise a point of order. I draw your attention to relevance.

The DEPUTY PRESIDENT—I would ask the minister to focus on issues relating to the GST, wholesale sales tax and babies bottles.

Senator KEMP—Thank you, Madam Deputy President. Let me make a couple of points to Senator Lundy which I think are relevant. The first point I would make, Senator Lundy, is that the ALP supports the GST. It is pretty relevant. You have got up and asked me a question about the GST, Senator Lundy—

The DEPUTY PRESIDENT—Minister, address the chair, please.

Senator KEMP—Thank you, Madam Deputy President. It is very relevant. Senator Lundy got up and asked me a question about the GST. The fact of the matter is that Senator Lundy’s party now supports the GST. What we are seeing, I believe, is a deliberate scare campaign. If Senator Lundy says what I am saying is untrue, she can stand up after question time and say, ‘Yes, the Labor Party supports the GST but there are certain products which will be the subject of a roll-back.’

Senator Knowles—They won’t do that.

Senator KEMP—I would invite Senator Sue Knowles to stay behind after question time to check whether Senator Lundy does that. Madam Deputy President, if Senator Lundy says that, I would welcome that information being passed on to me because it is very important. It is very important that the Labor Party face up to its own policy.

The second point is that, as a result of our initiatives with the tax reform, the cost of many health products will fall. Some may rise, but the cost of many health products will fall, and as a result there are very substantial cost savings—

Honourable senators interjecting—

The DEPUTY PRESIDENT—Order! I call for some order so that I can hear the answer.

Senator KEMP—The second point I am making to Senator Lundy is that the cost of many health products will fall and the cost of some products will rise. But the truth of the matter is that there will be overall cost savings in the health area. That is very important, and it is probably one of the reasons why the Labor Party now supports the GST. The third point I make to Senator Lundy is a very important one. There is a very major aspect of the tax package which is absolutely critical to making sure that this package delivers fairness and equity.

Senator Lundy—Taxing mothers!

Senator KEMP—I am talking about the very major tax cuts which will benefit families, including the sorts of families you are talking about, Senator Lundy, by in the order
of $40 to $50 a week. Many families will receive benefits of that order, some even more. I invite Senator Lundy again to give a guarantee—and the sooner the better—that the massive tax cuts which are going to be delivered by this government on 1 July will be guaranteed by the Labor Party. (Time expired)

Senator LUNDY—Madam Deputy President, I ask a supplementary question. Minister, given that you have conceded that some of these products will in fact rise in price, why is this government pushing ahead with charging Australian mothers more for their babies’ bottles and teats? If the department of health cannot get the price effects of the Howard government GST right in an answer to the parliament, how can consumers? Finally, will the ACCC be investigating this inaccurate and misleading statement from the Department of Health and Aged Care?

Senator KEMP—The first question was weak, but, boy, the second one was even worse. I would invite the few members of the press gallery who are looking at this to give Senator Lundy’s office a ring after question time and ask whether Senator Lundy’s question is part of the roll-back. If it is not part of the roll-back, you are guilty of deceit, Senator Lundy. We do not want you to have a touch of the Daryl Melhams either; we want you to be able to be fair and square. You got up and asked me a question, and I am putting to you that, now the Labor Party has signed on to the GST, it is part of your policy as well. So stop trying to fool the Australian people. For once, the Labor Party should be honest about its policies.

Rural and Regional Australia: Policy

Senator FERGUSON (2.55 p.m.)—My question is to the Minister for Regional Services, Territories and Local Government, Senator Macdonald. Could the minister inform the Senate of recent steps taken by the government to implement its commitment to rural and regional Australia and of the importance of policy debate in the formulation of regional policy?

Senator IAN MACDONALD—The Howard government is a government for all Australians, not just for the big cities. In line with that, the Howard government has implemented a number of very important policies for rural and regional Australia. Senator Ferguson asked me about the importance of debate in policy formulation. Certainly, the government has consulted widely in that area. It held the Regional Australia Summit, it will be holding the Northern Australia Forum in October later this year, it has had regional forums and it has had a meeting of regional ministers. Senator Ferguson, as a senator who moves around regional Australia, like your Liberal and National Party colleagues, you are always consulting, debating and getting new ideas in policy areas. This is so unlike the Labor Party. The Labor Party will not enter into the debate on regional matters and will not even ask questions about it. The shadow minister for regional services has had six months in this chamber to ask a question on regional services, on the territories or on local government, and not one question has been asked by the shadow minister for regional services since 19 October.

Honourable senators interjecting—

The DEPUTY PRESIDENT—Order! The level of noise in the chamber is far too high. I would ask senators on both sides to cease interjecting and allow the minister to answer the question without interjections or noise.

Senator IAN MACDONALD—My colleagues have asked me who the shadow minister for regional services is, and well should they ask because she has not made one sensible statement and has not asked one question about regional services since 19 October last century. That demonstrates the Labor Party’s interest in regional Australia. The Democrats have asked a number of questions, Senator Harradine has and Senator Harris has. But there has not been one question from the Labor Party in that time because they are not interested in regional Australia, they are not interested in the debate and they are not interested in policy formulation.

As a result of our consultation and as a result of the work Senator Ferguson and his rural Liberal and National colleagues do, we have implemented a lot of policies and initiatives for rural and regional Australia. You
only have to go to our new tax system—$1 billion per year off road transport costs and $4 billion per year off export costs. Exports come principally from rural and regional Australia. With the removal of those costs, you get more activity, more jobs and more economic development within rural and regional Australia. Diesel fuel for transport in rural and regional Australia will be cut by 24c a litre. Whereas the Labor Party say they are not going to change that at all—they are going to leave the excise at 44c a litre—we are cutting it by 24c a litre.

We are cutting the fuel costs to rail, which is a very important transport cost in rural and regional Australia, by some 44c a litre. We spent some $3.5 billion on the Howard government’s regional Australia strategy and $1½ billion on the Natural Heritage Trust, creating real jobs and great environmental work, principally in rural and regional Australia. We spent a billion dollars on the Federation Fund. A lot of it goes to projects in rural and regional Australia, like the Alice to Darwin railway. For rural and regional Australians, we are providing a better health service which is almost akin to what is available in the capital cities. We have established 30 regional health services to help regional Australians. We have over 600 additional Medicare Easyclaim facilities.

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

ANSWERS TO QUESTIONS WITHOUT NOTICE

Child Care: Centre Closures

Senator NEWMAN (Tasmania—Minister for Family and Community Services and Minister Assisting the Prime Minister for the Status of Women) (3.00 p.m.)—I also have some additional information in response to a question Senator Quirke asked today, which I seek leave to incorporate.

The answer read as follows—

Disability Employment Services Waiting Lists

 Senator Quirke refers job seekers to appropriate services and then conducts follow up checks with job seekers after this initial referral. Where a job seeker has not been accepted into a service, Centrelink can provide additional referrals to other available services.

It is the objective of the employment assistance program to refer job seekers to available places rather than keep them on a waiting list. We focus on places for people with disabilities, not keeping them on waiting lists.
Nursing Homes: Alchera Park

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (3.00 p.m.)—I have a series of answers to questions. The first was asked by Senator McLucas on 12 April, in relation to Alchera Park. I seek leave to incorporate it.

Leave granted.

The answer read as follows—

Senator McLucas - My question is to Senator Herron, representing the Minister for Aged Care. Can the Minister confirm that during an inspection of the Alchera Park Nursing Home on 15 March a number of problems were identified that remain outstanding from a complaint lodged in November last year following the deaths of residents? Why did the Minister for Aged Care claim that all these complaints were resolved satisfactorily on 18 January this year when the complainants remain unsatisfied and the government’s own standards agency identified continuing problems in the home on 15 March? Is the Minister aware that a daughter of one of the deceased residents claims her father received better treatment as a prisoner of war in the Changi prison than he did at Alchera Park Nursing Home?

I ask a supplementary question. Unfortunately, the minister did not go to the issue of why the Minister for Aged Care claimed these complaints were satisfactorily resolved. However, I also ask: how long do the families of the residents who died last year suffering dehydration and gangrene have to wait until their concerns are answered?

Senator Herron - Senator McLucas asked me a number of questions relating to the Alchera Park Nursing Home yesterday. I undertook to see if any further information was available. I am now able to provide the following:

The visit by the Agency to Alchera Park Nursing Home on 15 March 2000 was to follow up the progress on implementing the improvement plan developed by the service in response to previous complaints and Agency visits. The visit was requested by the Department specifically to enable the Department to provide a complete report to the complainant.

The Minister was advised by the Department that the complaint was settled on 18 January 2000. I am informed that the complainant had always agreed that if all the improvements imposed were to be implemented, then this would be satisfactory. It was on this basis that the complaint was considered finalised by the Department.

The proprietor of Alchera Park has now engaged consultants with significant industry experience to manage the facility and to make the necessary improvements. The complainant has recently indicated that she is satisfied with the action now being taken in respect of Alchera Park.

Nursing Homes: Inspections

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (3.00 p.m.)—I have an answer to a question asked by Senator Evans on 12 April, in relation to aged care standards and accreditation agency monitoring. I seek leave to incorporate it.

Leave granted.

The answer read as follows—

Senator Evans - Did the Minister agree with the decision to wind back the inspection of aged care facilities, the monitoring of aged care facilities in Victoria which was taken in November last year?

Senator Herron - The Minister for Aged Care has provided the following answer to the honourable senator’s question, in accordance with advice provided to her:

There has not been any winding back of inspections or visits to aged care facilities by the Agency in Victoria.

There has been an increase in the number of visits.

The Agency averaged 21 visits to aged care facilities per month up to September 1999 and this has increased to 35 visits per month for the period October 1999 to March 2000. The number of visits will continue to increase in the lead up to the accreditation deadline.


MEDIA RELEASE

INCREASED ACTIVITY IN THE ASSESSMENT OF STANDARDS IN RESIDENTIAL AGED CARE SERVICES

The level of activity of the Aged Care Standards and Accreditation Agency Quality Assessors, in assessing standards of care in residential aged care facilities, has increased (and not decreased - as alleged today in the Senate) since the Accreditation Grant Principles 1999 were gazetted in September.

In the 9 month period from January to September 1999 the Agency conducted visits to 192 services in Victoria, or 21 per month.

In the six month period from October 1999 until March 2000 the Agency has conducted visits to
208 services in Victoria (including 13 spot checks), or 35 per Month.

The number of visits per month will continue to increase this year as all services in Australia undergo a rigorous accreditation process to assess standards of care. In addition the Agency will continue to conduct visits, including spot checks, of non-accredited and accredited services.

In a meeting with Victorian stakeholders in November 1999 the Victorian State Manager, Mr Gerald Overton, reported correctly that the level of activity under the superseded legislation, would be wound back - simply because new legislation now applied. Some services, close to the successful completion of an Agency management programme and for the sake of continuity, continued for a short time to be handled under the old legislation.

Mr Overton did not intend to imply that all activity would decrease, merely that the activity would continue under the new legislation. The comparative figures, quoted above, bear this out. From September 1999 the Agency commenced operating under the new Accreditation Grant Principles 1999.

In the same meeting Mr Overton also reported, that 90% of “non-certified services” were in Victoria.

The new accreditation system means for the first time in this country there is a structured and comprehensive process for assessing all residential aged care services on a regular basis.

Nursing Homes: Staffing Complaints

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (3.01 p.m.)—I have an answer to a question asked by Senator Quirke on 12 April, in relation to complaints resolution scheme. I seek leave to incorporate it.

Leave granted.

The answer read as follows—

Senator Quirke—Is the Minister aware that on 27 March the South Australian state manager of Minister Bishop’s Department published a letter criticising the ANF for raising problems in the media over the lack of nursing staff in a South Australian nursing [home] before lodging a complaint with the Department? Can the Minister now confirm that the ANF did lodge complaints about this very issue, naming the facility concerned, with the department’s complaints resolution scheme confirming receipt of the complaint on 10 March? Why was the state manager unaware of the complaint three weeks after it was lodged with his office?

Senator Herron—The report in “The Australian” of 22 March that prompted the SA State Manager’s correspondence appeared well after an earlier complaint from the ANF had been resolved to the ANF’s satisfaction.

The newspaper report of 22 March did not identify the service therefore giving the impression that it related to a separate complaint that needed to be pursued. The Department was subsequently advised that the report referred to the same facility (Churchill Court) which was the subject of the earlier complaint.

In relation to the original complaint from the ANF, there is no substance to the suggestion that the SA State Manager was unaware of it three weeks after it was lodged. He received it on 8 March and it was dealt with immediately. Complaints staff contacted the facility (Churchill Court) and, on the same day (8 March) the facility provided a written explanation of the incident to both the Department and the ANF. The ANF have indicated that they are satisfied with this explanation.

Nursing Homes: Inspections

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (3.00 p.m.)—I have an answer to a question asked by Senator McKiernan on 16 March, in relation to nursing homes, which is really an update. I was not requested to provide an update but I know Senator McKiernan is interested in this topic, so I have provided an update for him in relation to a coronial inquest about a patient who died in a Canberra nursing home. I seek leave to incorporate it.

Leave granted.

The answer read as follows—

Senator McKiernan—My question is directed to Senator Herron, representing the Minister for Aged Care. Can the minister confirm that a coronial inquest was ordered into the suspicious death in 1998 of a woman in the Canberra Nursing Home? Is the minister aware that the Aged Care Standards and Accreditation Agency did not undertake a surprise check or review into this nursing home following this death or inquest? Can the minister also confirm that this nursing home was inspected by the agency last week and that this was only ordered on the basis that the Canberra Nursing Home is license to the same provider who operated the Riverside Nursing Home?
Senator Herron - The Minister for Aged Care has provided the following answer to the honourable senator’s question in accordance with information supplied to her:

The case referred to involves the death of a 56 year old woman at the Canberra Nursing Home in July 1998. A coronial inquiry was conducted into the death and made no adverse findings of anyone’s conduct. The daughter of the deceased resident lodged a complaint relating to her mother’s death with the ACT Health Complaints Commissioner (HCC) in August 1998.

The Complaints Resolution Scheme in the ACT has examined its records and states that no formal complaint has been lodged with the Scheme relating to this matter.

Departmental officers visited the facility on 27 February 2000 and the Aged Care Standards and Accreditation Agency conducted a review audit of the facility on 29 February and 1 March 2000. No serious risk was identified.

The Approved Provider for Canberra Nursing Home is Lasman Pty. Ltd.
The Approved Provider for Riverside Nursing Home was Riverside Nursing Care Pty. Ltd.

Kosovo: Refugees

Senator ELLISON (Western Australia—Special Minister of State) (3.01 p.m.)—Yesterday, Senator Bartlett asked me some questions in relation to the Kosovar refugee situation. I have further information in relation to that question. I seek leave to incorporate that further information.

Leave granted.

The answer read as follows—

RESPONSE TO QUESTION BY SENATOR BARTLETT TAKEN ON NOTICE ON 12 APRIL 2000 BY SENATOR ELLISON ACTING ON BEHALF OF SENATOR VANSTONE

Senator Bartlett asked the Government to guarantee that the Kosovar evacuees being returned to Kosovo do not include any in the groups listed by the UNHCR as those who should not be returned. The Minister for Immigration and Multicultural Affairs has advised that he personally considered all relevant information put forward and the individual circumstances of each case against the advice from the United Nations High Commissioner for Refugees (UNHCR) on categories of persons who continued to need international protection. All those where he was aware that their individual circumstances were likely to cause serious difficulties he has allowed to apply for a protection visa. In fact, 28 families (121 people) have had the legislative bar lifted and the Department of Immigration and Multicultural Affairs is now receiving their applications.

The Minister also considered the UNHCR’s advice on categories of persons who are deserving of continued care and attention because of medical, trauma or other strong reasons that would place them in situations of social vulnerability. UNHCR advised that individuals in those categories would require humanitarian consideration, account being taken of factors such as the general security situation, employment limitations and the availability of social assistance. Accordingly, he has further extended the temporary stay of 35 families (147 People) who are not yet able to return.

The International Organisation for Migration (IOM) has estimated that approximately 90,000 evacuees have already returned with the assistance of IOM. UNHCR estimated that the total numbers of voluntary and organised returns since the end of the military intervention was 130,000, most of them evacuees.

Senator Bartlett also asked the Minister to confirm reports in The Canberra Times that, contrary to UNHCR advice, the Government is in some cases, rather than returning people to their former homes in Serbian dominated areas, returning them to somewhere else in Kosovo.

The Minister has advised that he has weighed the issues about Kosovars from areas, for example southern Serbia or north of Mitrovica. All families who stated that they are afraid to return to an area because it is under Serbian control were interviewed. At interview many claimed that they could not return to Kosovo and they have no relatives or friends in Kosovo.

The UNHCR has advised that individuals or families from Serb dominated areas, who, if returned at present, would be forced into a non-sustainable situation of internal displacement may be in need of international protection. The Minister has not and will not return any of the Kosovar evacuees to those areas. The Australian Government will only return the Kosovars to Kosovo. The substantial amount of international aid provided to Kosovo will enable these families to reestablish themselves in Kosovo proper. The UNHCR has confirmed that these people will be able to access necessary food, shelter and other services. The Minister does not deny that it will be difficult for them especially those without family or friends in Kosovo. He has paid careful attention to the UNHCR’s advice on the need for on-going international protection but on balance, has decided that there is not a strong case for them remaining in Australia.
The Senator also asked why the Government is refusing to allow the Kosovars to have their claims tested through a comprehensive independent process.

The Minister has advised that applicants for the safe haven visa category must sign a declaration that they understand and agree to the Australian Government’s offer of temporary safe haven in Australia for a limited period and will leave when the Australian Government requires. Holders of temporary safe haven visas are legislatively prevented under section 91 L of the Migration Act from making valid applications for any other kind of visas unless the Minister decides it is in the public interest for them to do so.

A process was put in place for the Minister to assess the information that was made available to him on the reasons why the remaining Kosovar evacuees should be allowed to stay in Australia. In accordance with section 91 L, he has decided that in a significant number of cases it is in the public interest for them to have the legislative bar lifted to allow them to make a valid visa application. His powers under the Migration Act as well as his decisions not to lift the bar were tested last week in the High Court which decided that he acted lawfully in that his decisions were within power, reasonable, fair and took all relevant matters into account. The Department of Immigration and Multicultural Affairs is now receiving visa applications from Kosovars who are allowed to make them. They will be fully and openly assessed in the normal way.

ANSWERS TO QUESTIONS ON NOTICE

(Question No. Question Nos 1235, 1239, 1358, 1359, 1650, 1651, 1904 and 1905)

Senator CHRIS EVANS (Western Australia) (3.02 p.m.)—Pursuant to standing order 74, subsection 5, I ask the Minister for Aboriginal and Torres Strait Islander Affairs, Senator Herron, for an explanation as to why an answer has not been provided to questions on notice Nos 1235, 1239, 1358, 1359, 1650, 1651, 1904 and 1905, which have been asked since 11 August 1999 onwards. These questions are not in Senator Herron’s portfolio. He is always very prompt and courteous with respect to these issues, but they relate to Minister Wooldridge’s and Minister Bishop’s portfolios and relate to nursing home inspection issues and the MRI related issues.

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (3.03 p.m.)—One of those at least I am aware of is under the 30 days. One was asked, I think, on 16 March.

Senator Chris Evans—I didn’t quote it.

Senator HERRON—Senator Evans may not have quoted it, but it is a fact that it was asked on 16 March and it has not—

Senator Chris Evans—I didn’t ask you about that one, though.

Senator HERRON—In any case, I will contact both ministers to get a response as soon as possible. We will see on Senator Evans’s behalf what the cause of the delay is and get back as soon as possible with an answer. Of course, it may be necessary to table the answers in between sitting times.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Economy

Senator O’BRIEN (Tasmania) (3.03 p.m.)—I move:

That the Senate take note of the answer given by the Assistant Treasurer (Senator Kemp), to a question without notice asked by Senator Watson today, relating to the Australian economy.

A Dorothy dixer to the minister talking about the IMF’s views of the economy attracted comments about the state of the Australian dollar, for example, which stands below US60c to the Australian dollar. One is reminded that in 1991 Mr Howard—I think he was the Leader of the Opposition at that time—complained about the Australian dollar being at US70c. That was an indication, he said, of the depths the economy had sunk to.

Of course, the opposition does not believe that necessarily the position of the currency is an indication of the strength of the economy. The fact is that the government inherited, and admitted that it inherited, a basically sound economy in 1996. The minister did not deal with the debt truck. One assumed that he was waiting for some sort of diesel fuel assistance so they could get the truck moving again, because it has been going backwards at 100 miles an hour. What the minister did say was that there was a dark
cloud hanging over the economy, in one of his pathetic attempts at humour into which he often delves when he is trying to deflect from the question.

Isn’t it amazing that he cannot even give a straight answer to a Dorothy Dix question from his own side but he has to then degenerate into asking questions of the opposition rather than answering the question? Doesn’t that remind you very much of his appearance on The 7.30 Report some months ago where there was that very same problem: he could not answer a question. I have the transcript here and I thought I would draw it to the attention of the Senate again because obviously a lot of people have forgotten it. The presenter, Kerry O’Brien, asked him some questions about casinos. He said: Okay, now I’ve heard you say that.

Rod Kemp said yes. Kerry O’Brien said:

But it’s too hard for you to answer this question.

Rod Kemp said no. Kerry O’Brien said:

In simple yes or no terms, does this amendment that you have introduced save the casinos money or not?

Rod Kemp:

Well, I’ve answered it, Kerry, and I’m pointing out to you that the revenue estimates that we have made from the legislation are not changed as a result of this amendment which gives effect—

And Kerry O’Brien comes in:

But why have you written the amendment? I mean, does the amendment have no effect?

And Rod Kemp says:

No, but the amendment gives effect, Kerry, to the policy that we went to the election on and there was a drafting error.

And Kerry O’Brien says:

I’m sorry, Senator Kemp, but I’ve got to insist.

Rod Kemp:

Well, you can ask me.

Kerry O’Brien:

You’ve not answered the question.

Rod Kemp:

Well, I think I have, Kerry.

And Kerry O’Brien says:

I’ll try again.
liberately allowed interest rates on housing to get up to over 17 per cent? He was certainly not in this place. He certainly would not be in here defending any movement on interest rates. This government has been able to manage the economy for the past four years in a way this country has never seen since the early 1980s, when the Labor Party came to power.

It is very interesting that Senator O’Brien should choose to take note of Senator Watson’s question to Senator Kemp. I can only assume one thing, and that is that Senator Lundy and Senator O’Brien and all the senators on that side are very happy with all of the answers they got to their own questions. That is the only assumption you can draw from that. Senator O’Brien chooses to take note of a question that was asked by Senator Watson because they have received adequate answers to all of the questions that they put today. So that is why they chose that one.

Senator O’Brien, the last thing you want to do is to start quoting from transcripts of radio or television interviews. If you want to read a gem, read the transcript of Daryl Melham’s interview with Laurie Oakes—read it over and over again. At the end of the day you still will not be able to understand what Labor Party policy is—not until you have had a chance to sit down and think about it. We will sit down for a while, we will contact all the stakeholders, we will come up with a policy. Just read the transcript of Daryl Melham’s interview with Laurie Oakes and make sure you use that as a basis for all of your future interviews. I can promise you that the people on this side of the chamber will not allow you to forget that you are in a policy free zone. Daryl Melham in his interview with Laurie Oakes only confirmed all of that.

Senator O’Brien, what you did not say and what you will never admit is that the GST is now part of your policy. The GST is now the only policy that the Labor Party has. Senator Conroy was talking on Australia’s public views of the tax reform package. He uses words like this:

If they had a chance, as was unfolded last year during the Senate GST inquiry, they would have seen the balance of payments problem going to be caused and currently being caused by wantonly throwing money into the economy just as they are through these tax cuts.

Senator Conroy, you must still oppose these tax cuts. Senator Conroy is back. He refuses to guarantee the tax cuts to the Australian people which we promised prior to the last election and which they voted for. Senator Conroy said, on 10 April:

The government champions the tax cuts but what does Mr Macfarlane say about the inflationary impact of the ANTS package? Nothing.

So does that mean, through you, Mr Acting Deputy President, that Senator Conroy believes that, because the Governor of the Reserve Bank has said nothing about it, it is inflationary? Senator Conroy has a lot to learn when it comes to this package. All we want to hear from Senator Conroy is that the Labor Party is going to maintain the GST as part of its tax policy. The other thing we want to hear Senator Conroy and Senator O’Brien and Senator Lundy say is that they will deliver on the tax cuts. But they will not say it. The roll-back of the taxation package has been promised, but never have they said where it is going to be rolled back, and never have they said how they are going to pay for it. They will not guarantee the tax cuts that we promised to the Australian people prior to the election campaign. The one thing you can believe about this government is that they will deliver those tax cuts on 1 July to the Australian people.

So I welcome Senator Conroy’s comments. I know he is going to get up and say that yes, he now supports the GST, that he does believe that Australians should have tax cuts and that the whole ANTS package and the reform of the taxation system is good for the Australian economy. It must be good because he does not want to see it changed, and neither does Senator O’Brien. (Time expired)

Senator CONROY (Victoria) (3.14 p.m.)—I am grateful for that contribution from the other side from Senator Ferguson. At least Senator Ferguson has had the guts to put his money where his mouth is on this occasion. Senator Ferguson knows that he has a $10 bet with me that the Labor Party is going to lose the Benalla by-election. We need a mere eight per cent swing on top of
the eight per cent swing we got in October last year. At least he has the courage to put his money where his mouth is.

If Senator Kemp, a senator from Victoria and the Assistant Treasurer of this country, is so confident, when invited by me all this week and all day today through question time to take the opportunity to come and sell the virtues of the GST and his tax package—not to have a glossy propaganda exercise on late night and early TV but to come and actually front up to discuss the state of the economy, to come and convince the ordinary punters in Benalla that they are better off at the moment and that they will be better off under this tax package—why won’t he come to Benalla? It is only a two-hour drive from Melbourne. Next Tuesday I will be there doing a street walk. The whole town will come if they know Senator Kemp is coming; I am prepared to concede that Senator Kemp is a bigger attraction than me. I am prepared to say they will all come for the laugh: they will only have to come along and see Senator Kemp discussing the state of this economy. Come and tell them in Benalla how much better off they are—just like in Rippon, just like in Gisborne, just like all over regional Victoria when they threw the Kennett government out at the last state election. All you have to do is turn up in Benalla, Senator Ferguson. Bring Senator Kemp, bring Senator Macdonald—regional services—because what they will be told is that this economy is nowhere near as grand as you lot are making it out to be.

Today we have Stephen Koukoulas saying in the Financial Review:

The indicators suggest a hard landing.

That is the truth of what is going on in this country at the moment. He sets out the economic growth scorecard in today’s Financial Review: Retail trade momentum is weaker; motor vehicle sales are flat; housing finance is weaker; building approvals are strong at the moment but, after the GST, he says, they will collapse; building investment is weaker; equipment investment is weaker; government demand—that is, government spending, the amount of money you are just throwing around in an attempt to cover up—is stronger, he says, and there is no argument there; ANZ job ads are weaker; employment is peaking; consumer sentiment is slumping to a five-year low; exports are strong because the dollar has gone down, and the dollar will keep going down while this government pretends the economy is in good shape. And that is what the debate is about today. Senator Kemp can stand up in this chamber and take a dorothy dixer from one of his own government senators, but he will not come out on the streets of Benalla. That is the test; that is the truth test. The Liberals in Benalla are so scared they will not even field a candidate.

Senator Ferguson—The Nats are going to win it.

Senator CONROY—You are absolutely right, Senator Ferguson, the Nats are going to win it. Senator McGauran’s old campaign director, is he, Senator Ferguson? There is a brave call. But the truth test will be to come to Benalla, Senator Kemp. Come and tell those punters in Benalla they are better off under this government, that the GST will not cripple them, that the tax cuts will fix all their problems—that is if there are any left after interest rates go up again next month.

That is where this government continues to push its line. As Mr Koukoulas says, it is being driven by nothing more than government spending. You have caved in on the charities; you have caved in on the contractors; you are giving up revenue everywhere; you are shovelling money out into the economy as fast as you can to try and prop up the economy. You know what is happening here. Despite your claims of how rosy it is—and despite the World Bank producing reports supplied to them by the Australian Treasury telling everybody how rosy it is—you will not front ordinary Australians, you will not come to Benalla, you will not try to get their feedback and listen to the hardships you are putting them through because you will get the same response that Jeff Kennett did last year in Victoria from regional and rural Australia. That is the reality that is happening in country Victoria. In Benalla, you have the chance—notwithstanding your courage to at least put your money where your mouth is. (Time expired)
Senator EGGLESTON (Western Australia) (3.19 p.m.)—Goodness me, if any Liberals go to Benalla, one thing they certainly will not be hearing from Senator Conroy or any of his colleagues is anything about the new tax package or Labor’s plans to roll back the $12 billion in tax cuts which have been offered to the Australian people. That is one thing that Labor does not want to talk about. Labor has lost itself completely on what to do about the tax package.

Let us have a look at some of the comments that have been made in the press about where Labor stand on the tax package. On 21 February the _Australian_ said:

Kim Beazley’s refusal to rule out higher income taxes under Labor’s plan to roll back the GST triggered fresh demands yesterday for full details of the ALP’s taxation policy.

Of course, that is a pretty hard thing for Kim Beazley to do because they really do not have any tax policy. They know that somehow or other they have to say a few things, but none of them add up. The one thing they have not done is exclude the possibility of not going through with the $12 billion worth of tax cuts which will put so much more money into average Australian households.

On 21 February 2000, in the _Courier-Mail_ again Kim Beazley was targeted. The _Courier-Mail_ had this to say:

Despite his rhetoric, Labor leader Kim Beazley knows the GST is beneficial for Australia’s economy—hence his unwillingness to dump it. Instead, Mr Beazley has signalled he will roll back the GST ... a Beazley Labor government will have to raise income taxes, cut federal services and/or create a federal deficit to meet such commitments.

That is something the Labor Party do not like talking about. They never provide the details. Beazley says, ‘We will roll back the GST,’ as though the GST is something evil. The GST will be very beneficial to all sorts of average families in this country because they will be paying a lot less for consumer goods and they will be getting the benefit of the $12 billion in tax cuts which this package includes.

The Labor people in Benalla next weekend will not be talking about Labor raising income taxes, they will not be talking about cuts in federal services and they will not be talking about the need to have a return to the enormous deficits which characterised the Hawke-Keating governments.

Channel Nine’s _Today_ presenter Tracy Grimshaw said to the opposition leader Kim Beazley on 23 February this year:

All right. Let’s get to the GST. You hate it, but you won’t scrap it. You say the health care rebate is a monumental failure, but you’ll keep it. You look like you don’t know what to do.

Of course the message in both those instances is that, although the Labor Party say they do not like the policies—the GST, the health care rebate—they are going to keep both of them because they know that they are both beneficial to the Australian economy. Again, anyone listening to what the Labor politicians say in the streets of Benalla this weekend will not hear anything about the details of their plans to roll back the GST or end the rebate on health insurance, because they know that both of these policies are needed. They know that the GST is needed because Australia had a situation where the direct taxation system was failing. It was known by the Labor Party that we had to go to an indirect system. The Labor Party are so terribly sad that the Liberal coalition government has introduced something they knew had to happen. They also knew that there had to be a shift in the balance back to private health insurance to overcome the problems created by the unholy mess that Medicare has created in terms of overcrowded public hospitals. (_Time expired_)

Senator LUNDY (Australian Capital Territory) (3.24 p.m.)—There is one very important point to be made here this afternoon, that is, despite having been given a free kick by the opposition—by taking note of a dorothy dixer presented to a government minister—the government has been unable to take advantage of the opportunity to talk on the question of substance that was put to Senator Kemp: can the minister inform the Senate on the state of the Australian economy—the good news about the economy? Over the last 25 minutes we have heard three members of the coalition stand up and talk about what they think about Labor.
Senator Calvert—Three? Who was the other one?

Senator Lundy—Well, two so far. The issue here is that it is not about good news, because there is no good news. We have not heard any good news. We have not heard anything of substance from the coalition representatives in this last period of taking note of the good news that Senator Kemp attempted to put forward. What we have heard is a desperate attempt by a desperate government to make out that the GST is somehow getting broad support.

*Government senators interjecting—*

Senator Lundy—That is a lie. Labor does not support the GST. We participated very strongly in demonstrating to the Australian public the faults of the GST and why it is not good news for the Australian public and why it is not good news for Australian consumers or Australian citizens. The fact is that the closing remark of Senator Kemp is the one thing of substance, that is, the dark clouds hanging over the Australian economy—and there are many. The GST will bring on a period of time here when we know inflation—tenuous as it is now—will rise. No-one believes the good news story that Peter Costello and others attempt to put out about where our economy is going. No-one believes that the inflationary impact is going to be a one-off and that it will be offset. No-one believes that. Circumstances around the world indicate that the inflationary effects of the GST do more than just medium-term damage; they actually do structural damage to industry in the economy. Why? Because people get scared. People get scared that prices are going to rise. We know through the evidence we gathered from the committee that prices will rise. We know that for some industries this will be devastating, because people buy up before a GST is put in place.

I want to cite one example from 1995-96 in Japan. As the Japanese government upped their GST by two per cent—from three per cent to five per cent—to try to boost their revenues to deal with their budget situation, the consequent and corresponding rise in domestic consumption leading up to the point of implementation of that GST increase of a mere two per cent led to a chronic slump in domestic consumption post the increase of their GST. It was a chronic slump so severe that it did have structural implications for the Japanese economy, and it has certainly been recognised as a contributing factor to the subsequent Japanese recession. These are the concerns that the government is refusing to acknowledge even exist.

I would like to make one other point, which goes to the heart of Australia’s future. If anyone has taken note of the figures in relation to electronic commerce and the way that Australians are looking to purchase commodities, be it in the business to business area or the business to consumer area, they will know there is a significant trend upwards in the use of electronic commerce to purchase commodities and services. This trend upwards has significant implications. I know that Senator Alston knows all about it, because he stands up in this chamber and says, ‘Isn’t it great! Electronic commerce is going up.’ Well, I say that the GST is about the worst thing you can do to a country that is looking to promote growth of electronic commerce. Why? Because they have not told us how they are going to collect it. They have not told us the implications of purchasing from overseas sources that do not have a GST applied to them.

The government have not explained why and how they will actually protect the producers of digital content and services in this country trying to sell to the domestic market from the impact of people sourcing those digital products and services overseas without a GST. What is going to happen to those producers of digital content and services selling in the domestic market who are required by law to put 10 per cent on top—areas that have previously been untaxed but will be pitted against the rest of the world which can import that material without any GST at all? These are the sorts of specific questions we need answered. Until they are answered—and I do not believe they can be answered adequately—there is a dark cloud over the Australian economy. *(Time expired)*

Question resolved in the affirmative.
Wheat: Single Desk Selling

Senator WOODLEY (Queensland) (3.29 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 Woodley today, relating to a National Competition Policy review of wheat sales.

I wish to address the answer given by Senator Alston today to a question I asked which dealt with the national competition policy review of the single desk selling system for Australian wheat. I want to draw attention to some media reports that followed this announcement, which was not received well by the Grains Council or by the Grains Conference which was being held in Brisbane last week. To give an introduction to what I want say, I will just read a couple of the media comments:

Federal Government plans to review the way Australia sells its $5 billion wheat crop overseas suffered an early setback today with industry spokesmen warning of national protest rallies.

It then goes on to talk about the minister announcing the review, but trying to reassure everyone. It says:

The review was criticised the Grains Council chairman, John Lush. “Not only do we have to defend our single desk selling system internationally, we now have to defend it at home” Mr Lush said. “It’s time growers made the government aware how strongly we feel about this, and I will be proposing we organise an Australia-wide rally in defence of our right to market grain collectively.

Wheat farmers at today’s conference said using a united front to sell Australian wheat on overseas markets gave the industry added strength. A fragmented selling system would lead to big variations in prices, and open the way for traders to act of selling agents, taking commissions from already small profit margins.

Mr Lush said “Australia’s single desk marketing system is the envy of the world and it is extraordinary the Government is even considering tearing it down.

I noted in his answer that Senator Alston was sort of inferring that, somehow or other, I had made this up and started a scare campaign. I have to say to Senator Alston and the government: the campaign has been going now for a little over a week, and it certainly was not started by me. It was started by Mr Truss when he made his announcement to the Grains Conference. The campaign was, really, their reaction. Certainly it is a campaign if Mr Lush, the Chairman of the Grains Council, does follow up his threat with rallies across the country. I do not think the government would like that. Certainly, if I were invited to speak at any of those rallies, I would applaud the Grains Council for standing up for its own industry. There is no reason why the government should proceed to a review of something that they signed on to just a little over 12 months or maybe two years ago. I remember the debate well. The industry was given assurances, as was this chamber, that, once we set up the Australian Wheat Board, the single desk selling system would in fact be maintained by the government.

Today, I tied that issue to the issue of the price of milk and bread. I did that very a obvious reason. In terms of the deregulation of the dairy industry, we have already seen in the last 18 months that the price of milk, following deregulation, post farm gate, in Queensland has gone up by 23c a litre. In other states there have also been similar increases. So deregulation of the milk industry did not bring any benefit to consumer; in fact, what it has done is transfer money out of the pockets of farmers to processors, manufacturers and supermarkets with no benefit at all, in fact with a cost, to the consumer. I would predict that the same thing will happen in the wheat industry. So not only the price of milk but the price of that other basic food, bread, will go up once we review the current selling system. We also face the loss of farms under dairy deregulation. I would suggest that, if we allow this crazy ideological push of national competition policy to go ahead, the same thing will happen with the wheat industry and we will lose, once again, more family farms in Australia. (Time expired)

Question resolved in the affirmative.
COMMITTEES
Membership

The ACTING DEPUTY PRESIDENT (Senator Chapman)—The President has received letters from party leaders seeking variations to the membership of certain committees.

Motion (by Senator Ian Campbell)—by leave—agreed to:
That senators be discharged from and appointed to committees as follows:

Community Affairs Legislation Committee—
Substitute members: Senators Eggleston, Ferguson and Chapman to replace Senators Knowles, Mason and Tchen for the 1999-2000 additional estimates supplementary hearings

Economics Legislation Committee—
Substitute member: Senator Mason to replace Senator Watson for the 1999-2000 additional estimates supplementary hearings

Employment, Workplace Relations, Small Business and Education Legislation Committee—
Substitute member: Senator Crane to replace Senator Tchen for the 1999-2000 additional estimates supplementary hearings

Environment, Communications, Information Technology and the Arts Legislation Committee—
Substitute member: Senator Mason to replace Senator Tchen for the 1999-2000 additional estimates supplementary hearings

Finance and Public Administration Legislation Committee—
Substitute members: Senator Watson to replace Senator Brownhill for the 1999-2000 additional estimates supplementary hearings on 2 May 2000 till 12 noon
Senator Tierney to replace Senator Brownhill for the 1999-2000 additional estimates supplementary hearings on 2 May 2000 from 12 noon and on subsequent days

Finance and Public Administration References Committee—
Participating members: Senators Carr and Murphy
Substitute member: Senator Murphy to replace Senator Faulkner (as a substitute member for Senator Hutchins) on the committee's inquiry into Australian Public Service employment matters from 12 noon on 14 April 2000

Foreign Affairs, Defence and Trade Legislation Committee—
Appointed: Senator Lightfoot
Discharged: Senator Brownhill

Rural and Regional Affairs and Transport Legislation Committee—
Substitute member: Senator Lightfoot to replace Senator McGauran for the 1999-2000 additional estimates supplementary hearings.

PARLIAMENTARY ZONE: OLD PARLIAMENT HOUSE

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (3.35 p.m.)—In accordance with the provisions of the Parliament Act 1974, I present a proposal by the National Capital Authority to refurbish the south-west wing of Old Parliament House, together with the supporting documentation, and seek leave to give a notice of motion in relation to the proposal.

Leave granted.

Senator IAN CAMPBELL—I give notice that on the next day of sitting I shall move:
That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority to refurbish the south-west wing of Old Parliament House.

DOCUMENTS

Auditor-General’s Report

BUSINESS

Government Business

Motion (by Senator Ian Campbell)—agreed to:

That intervening business be postponed till after consideration of government business order of the day No. 5 (Jurisdiction of Courts Legislation Amendment Bill 2000).

JURISDICTION OF COURTS LEGISLATION AMENDMENT BILL 2000

Second Reading

Debate resumed from 11 April, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator BOLKUS (South Australia) (3.37 p.m.)—The Jurisdiction of Courts Legislation Amendment Bill 2000 addresses a particularly difficult issue facing our federal system. One of the primary purposes of the bill is to overcome difficulties arising from a recent High Court decision which has invalidated cooperative cross-vesting schemes between the states, the territories and the Commonwealth. Specifically with respect to a number of areas, including the Corporations Law and other important areas of commerce, the state and federal governments introduced similar laws based on a national code to facilitate national regulation of important areas, particularly commerce and areas such as sport. As part of those codes there were enforcement mechanisms. These mechanisms have been directed through the Federal Court system; the reasoning being that the federal courts have the ability to develop national expertise and consistency across all jurisdictions. However in the re Wakim case, the High Court held that, under chapter III of our Constitution, federal courts cannot exercise jurisdiction conferred by state legislatures.

This bill attempts to overcome some of the worst aspects of the Wakim case by facilitating a situation where actions taken by Commonwealth officers in the administration of the schemes are recast as federal actions even though they are taken pursuant to state law. This will mean that, even though the function is a function undertaken under state legislation, because the person undertaking that action is an officer of the Commonwealth, it will be subject to federal and judicial review. It sounds like a difficult way through this particular problem, but it is a problem that has now confronted the states and the Commonwealth for a little while and it is a problem that really needs to be addressed as a matter of seriousness.

Increasingly in this age of globalisation, we see that state boundaries have become increasingly burdensome and, in fact, increasingly irrelevant when it comes to trade and commerce. As a consequence, what we have in this country is a national market with international imperatives, and those old boundaries based on state jurisdictions are really not recognised by our corporate and commercial system. In that context, I think the conclusion of the court in re Wakim was regrettable, particularly as we are striving to keep pace with such international and global developments. In fact, it is fair to say that one of the reasons for Australia’s economic success has been our stable and efficient legal system. In particular, as a result of that legal system, Australia has been an attractive base for much commercial activity. There is therefore a risk that, unless we properly address these matters and the difficulties arising out of the High Court case of re Wakim, Australia will be diminished in the eyes of many corporations as a desirable base for their activities.

To further demonstrate the inconveniences arising from the case, it is appropriate to draw the attention of all senators to some of those areas that have been affected. Firstly, the Administrative Appeals Tribunal was established in 1976 to review decisions taken by Commonwealth ministers, agencies and officials. It has the power to review both the merits and the legality of the decisions. It has operated so effectively that some states have legislated to adopt the provisions of the Administrative Appeals Tribunal Act as state law. This meant that the tribunal has been able to review decisions taken by state public officers and those decisions have been appealable to the Federal Court. Because of the Wakim case—a case which held that states could not confer jurisdiction on Commonwealth judicial bodies—those cooperative
schemes that have been implemented will now have to be amended.

There is also the area in respect of the Administrative Decisions (Judicial Review) Act 1977. That act is an important piece of legislation, facilitating the review of administrative decisions in a more formal context than the Administrative Appeals Tribunal. At present, cooperative schemes between the federal and state governments can prescribe that the AD(JR) Act applies to decisions of the Commonwealth officers as a matter of state law. These schemes will also now have to be amended in light of re Wakim.

I mentioned sports earlier. The Australian Sports Drug Agency is a Commonwealth statutory authority which primarily focuses on the conduct of comprehensive drug testing in competitive sport. It is worth putting on the record that this agency will have an extremely important function in the lead-up to the Sydney Olympics. At present, section 9A of the Australian Sports Drug Agency Act consents to a state or territory conferring jurisdiction on certain entities, including the Federal Court. These provisions also must be amended as a result of the High Court case.

I think the most important and significant impact of re Wakim is in the area of Corporations Law. The Corporations Law is a uniform national law which deals with companies, takeovers, securities and futures. Each state has passed a law which in turn adopts the federal Corporations Law. It was not all that long ago that the former Labor government introduced such legislation and, at that stage, we got cooperation from the then opposition. The intention of each of the acts is to create a cooperative scheme designed to achieve a uniform national corporations legislation scheme despite the limitations on the Commonwealth's constitutional power in this area. One would have thought that that was a desirable outcome some 12 years ago, but it is now even more desirable given market trends in that intervening period. As part of the scheme the state acts apply Commonwealth law as state law and confer, in addition to the Federal Court, jurisdiction on their own state courts with respect to both civil matters and matters arising from the Corporations Law.

The problems arising with respect to Corporations Law are particularly complex because state supreme courts are prevented from hearing ADJR applications. Accordingly, this bill will again recast actions by Commonwealth officers as matters of federal law but, at the same time, it will be specifically necessary to confer jurisdiction on the state or territory courts to hear ADJR proceedings. It should be noted that the much wider range of non-ADJR legal proceedings which were possible under the Corporations Law of a state can no longer be cross-vested in the federal courts.

Since the decision of Wakim we have seen a significant reduction in Federal Court cases. As I said earlier, this is regrettable. It is particularly regrettable as the Federal Court had developed considerable expertise in respect of that important area of Corporations Law. Indeed, in handing down a landmark report on the federal civil justice system—the ALRC Report No. 89—earlier this year, the Australian Law Reform Commission noted:

Australia's legal system plays a crucial role in the nation's economy, with law and legal services a key export and effective dispute resolution a potential selling point.

The independence, integrity and quality of the Federal Justice System gives Australia a competitive advantage in the Asia Pacific region and beyond, so we should be pushing this message to the international business community.

In particular, the ALRC report singled out the Federal Court for praise as providing high quality service for litigants and playing a pivotal role in relation to various sectors of economic activity. Unfortunately, that leading role is now jeopardised and will now be taken away from the Federal Court in respect of many areas under the Corporations Law. As I said, there is a whole range of areas. Another one is in respect of the natural gas pipeline. Since early in the 1990s, both the former Labor government and the present government have attempted to promote competition in the natural gas industry. As a result of an intergovernmental agreement, third parties have been allowed to negotiate access to natural gas transmission pipelines and distribution networks under a broad regulatory framework that applies across the na-
tion. Clearly, this is desirable, given the increasing importance of natural gas and the fact that it is transported across state boundaries.

The Jurisdictions of Courts (Cross-Vesting) Act 1987 is a general scheme by which proceedings have been transferred between federal, state and territory courts, and it has some relevance to the way that the natural gas system has been operating. The scheme has been tremendously successful in avoiding costly and inefficient duplication in several jurisdictions. What we do have though, with the advent of the Wakim case, is elements of the scheme involving conferral of state jurisdiction now in jeopardy and, as a consequence, we have this bill containing provisions for state courts to hear matters which have been treated as special federal matters and have been dealt with in the past by the federal courts.

The NCA is also affected by the decision, as is the Trade Practices Act and competition policy reform acts passed by the Commonwealth, states and territories in the mid-1990s to create a uniform national competition code. The competition provisions contained in part IV of the Trade Practices Act were applied by that code throughout Australia because state and territory laws applied the Commonwealth legislation as if it were a law of their own state or Territory. The Competition Policy Reform Act 1995 also created as a regulator the Australian Competition and Consumer Commission, arising from the merger of the Trade Practices Commission and the Prices Surveillance Authority. The ACCC is now responsible for the enforcement of the competition provisions of the Trade Practices Act. In order to preserve and maintain national standards, all state and territory governments have agreed, through their competition codes, to confer exclusive jurisdiction over matters arising under those codes on the Federal Court. Again, unfortunately, as a result of the High Court case those state codes, in conferring power on the Federal Court, are in conflict with the findings of the High Court.

It should also be noted that a similar cooperative scheme of the Commonwealth, state and territory legislatures will create a national price exploitation code to monitor prices and take legal action in relation to price exploitation under the GST. Once again, we have provisions within this act to ensure that such schemes can be sustainable. The list goes on—the implications of this High Court case cover the field from the National Crime Authority to prices surveillance to competition and to corporations. The Workplace Relations Act is another act which is affected by this legislation. It is noted that this bill deletes subsection 5(7) of the Workplace Relations Act, which arose from a cooperative arrangement between the NSW, Queensland and federal governments in respect of enforcement of awards and instruments in the coal mining industry in the context of the situation where the Australian Industrial Relations Commission had been exercising jurisdiction as a result of cooperative legislation of both the state and federal governments. That has to be the longest sentence I have actually read out in this place, Senator Carr.

Senator Carr—Yes.

Senator BOLKUS—Similarly, subsection 5(9) gave the Federal Court of Australia authority to deal with unfair dismissal matters in circumstances where a state had adopted the laws as laws of the state. While it is conceded that it has been necessary to repeal those sections in light of the Wakim case, we as an opposition are not satisfied that there are appropriate measures which could be taken to repair the vacuum. We have reserved our right to further consider these provisions. With that as our guiding force and in the time that we have, we will be moving amendments in this place to try to fill the vacuum that has been left because of the government’s provisions.

In summary, the significance of these cooperative cross-vesting arrangements to our economic prosperity cannot be underestimated. The question then becomes whether the approach in the legislation will be adequate. While we will be supporting the legislation as an attempt to resolve some of the immediate difficulties created by the Wakim case, we believe that this legislation is a long way from being a complete or perfect proposal.
We see two very large clouds on the horizon in respect of this legislation. Firstly, the High Court, in May or June this year, will hear a challenge to state legislation which has effectively adopted and validated those decisions of the Federal Court which have been invalidated as a result of the Wakim case. If those federal decisions cannot be validated by state legislation, then the consequences are quite horrendous. It goes without saying that it would be a disgusting waste of resources for those cases to have to be rerun, but that is a consequence which we cannot be oblivious to.

The other cloud on the horizon is the High Court case of Hughes and the Queen, which was heard by the High Court on 20 October 1999. That case involves, among other things, a challenge to the validity of section 45 of the Corporations Act, a section which states, in effect, that offences against the various state laws that mirror the Commonwealth's Corporations Act and constitute the Corporations Law as a national code are taken to be 'offences against the Commonwealth'. Related questions in the proceedings are whether the Commonwealth law has been imported by the states and whether Commonwealth officers are empowered to prosecute corporate offences in the states. It is not our role to prejudge the outcome of that particular case. It is sufficient to note, however, that, if the challenge is upheld, then it will have enormous consequences for the operations of the Corporations Law and also potentially for the other cooperative regimes I mentioned earlier, particularly in the circumstance where Commonwealth officers are not empowered to prosecute offences under state legislation. Indeed, the scheme of the current bill in many instances is based on an assumption that such action by officers of the Commonwealth is valid.

Aside from these two pending problems building up on the horizon, we should not be under any illusion that this bill will solve the cross-vesting problems. In particular, while the action of officers of the Commonwealth has been recast as action under federal law for the purposes of judicial review, there will still be many instances where Commonwealth officers are not, or indeed cannot be, involved in all aspects of these cooperative schemes. One example is in relation to the gas pipelines access legislation where, for instance, South Australian legislation still gives a significant role to South Australian public servants.

It is fair to say that the implications of this legislation are broad ranging and quite pervasive. It is probably also fair to say that no one in this parliament has had sufficient time to really investigate each of the state acts of the schemes involved, but it is quite fair to anticipate that, with respect to many pieces of state legislation, circumstances that I have mentioned in relation to specific legislation will also have to be confronted. In those circumstances we will have unsatisfactory situations where action by officers of the Commonwealth will be the subject of federal judicial review but action taken under the same schemes by state officers or state public servants will not be. Australian citizens affected by decisions of these and relevant instrumentalities will be compelled to seek state remedies as well. So we have got a problem of potential inconsistency and potential duplication. These are problems which, as I said earlier, can be quite complex. The overall dilemma is one that will face potential litigants, and that is whether to commence proceedings both in the state jurisdiction and also under the federal ADJR Act, or to take other courses.

Another problem that needs to be mentioned is in relation to the Australian Sports Drug Agency Act 1990. I note that item 28 of the bill seeks to confer power to review decisions of that agency on judges or officers of the Federal Court of Australia acting in their personal capacity. There has got to be a substantial question mark as to whether that is a valid provision. It raises questions as to whether a judge of the Federal Court, albeit one acting in a personal capacity, would nonetheless be fulfilling a judicial function and, if they are, whether their involvement in the adjudication of matters under state law would offend the principles of the Wakim case.

I could go on because, as I said earlier, there are quite a number of wide-ranging implications in this legislation and it is leg-
islation that does require urgent and comprehensive treatment. I will not do so at this stage, however. To the extent that other matters need to be raised, I will raise them during the committee stage. There are quite a number of amendments that the opposition will be moving in the committee stage. I will explain those amendments as we go to them sequentially. But I repeat that this is one case where the High Court has in a sense had its collective head in the sand, not recognising the necessity for a national scheme here which needs to have consistency, needs to have a degree of efficiency and needs to recognise that when it comes to Corporations Law the old state borders are somewhat irrelevant these days. It also needs to recognise that maybe powers such as the incidental power in the Constitution could be deployed to overcome some of the problems that the High Court has left us.

We all await with trepidation the Hughes case. In that context it was interesting to see last week that only two states are not prepared to refer powers at this stage to the Commonwealth. The states are South Australia and Western Australia. Coming from South Australia, I find this quite a bizarre decision by the South Australian government and the South Australian Attorney-General. Any state corporate sector that is left out of a national scheme is going to suffer because of being left out. I would have thought it would have been in the interests of South Australia, the South Australian economy and the South Australian business community for the South Australian government to have ditched its ideological fixations and to have embraced the concept of referring further powers to the Commonwealth to overcome such a problem. To the extent that a state’s jurisdiction is not so conferred and not consistent with the rest of the Commonwealth, corporations operating in that state will be at a disadvantage. I say to both the Western Australian and South Australian Attorneys that they should rethink their position. I look forward to the committee stage.

Senator GREIG (Western Australia) (3.57 p.m.)—This bill, while entitled the Jurisdiction of Courts Legislation Amendment Bill 2000, really does fall short of the mark in terms of actually establishing additional jurisdictions for courts in Australia. As a hallmark of our federal democracy, the Constitution establishes a strict separation of powers. In simple terms, the separation of powers makes sure that those who make the laws, or at least the statutory version, do not have the responsibility of implementing or interpreting them. As far back as 1748, well before the arrival of European law in this land, Montesquieu had the following to say on the separation of powers:

There is no liberty if the judiciary power be not separated from the legislative and the executive. Were it joined with the legislative, the life and liberty of the subject would be exposed to arbitrary control; for the judge would be then the legislator. Were it joined to the executive power, the judge might behave with violence and oppression. There would be an end to everything were the same man or the same body, whether of nobles or of the people, to exercise those three powers, that of enacting laws, that of executing the public resolutions, and of trying the causes of individuals.

More recently, and certainly in a more contemporary sense, in 1981 former High Court Justice and former Governor-General Sir Ninian Stephen said:

But within its own modest limits judicial independence conduces to the free society and it is within those limits that I confine myself tonight. If judicial independence is in itself far from a complete protection against absolutism in government it is nevertheless a sure touchstone of freedom under the law; where it exists absolutism has not yet established itself, and where it is absent absolutism is likely to have free rein.

The rule of law, another democratic tenet, requires that competent courts be the ultimate forum in which law and its effects are played out. From the outset, let me say that almost without exception the men and women who administer the judicial power of the Commonwealth and of the states are among the finest holders of judicial office in the world. There is a tendency to forget in this place, I think, that parliamentarians are not the only bastions of democracy. Equally, and at times more importantly, we depend for the preservation of our democratic system of government on the existence of the judicial arm of government.
It is important that we never forget these principles. However unlikely it may be in Australia, as a member of the global family Australian society is neither immune nor exempt from the strains that have occurred in countries with fewer democratic freedoms than we enjoy here. Having said that, and notwithstanding the importance of the judiciary and the common law in this country, the great bulk of law and the jurisdiction of the courts come from the statutes that we make and amend in this place. The Family Court is constituted by the Family Law Act 1975. The Federal Court is constituted under the Federal Court of Australia Act 1976, and the Federal Magistrates Service is constituted under a more recent act, one with which I am more familiar.

I have taken some time today to canvass these issues because, ultimately, they lead into the main topic I wish to address on this bill—that is, the absence of a comprehensive human rights jurisdiction in Australia. Only a week or two ago, the Australian public was subjected to what might best be described as a childish response from the Minister for Foreign Affairs, Mr Downer, when he stated that the Australian government was conducting a review into this nation’s participation in the United Nations committee system. The capacity of governments to review their participation in international fora, rightly or wrongly—although my colleague Senator Vicki Bourne would argue ‘wrongly’—resides within the prerogative of the executive government. Human rights, however, are not the purview of any government.

It was by no means a coincidence that Mr Downer’s comments came literally days after the Committee on the Elimination of Racial Discrimination was critical of Australia’s record, particularly on indigenous issues. UN committees do not usually point the finger if there is nothing to point the finger at. Indigenous people have good cause to be alarmed, hurt or disappointed about recent events and statements. But they are not the only group in the community whose capacity to seek redress and recompense for injustice goes unheard and uncared for. A particular hotbed of discontent and frustration will always be the absence of a place for people to have their grievances respected and addressed. Enter the UN committees. Most Australians will be unaware that the United Nations human rights committees—and there are a few—are neither the first port of call nor an easy place to lodge a complaint. Take, for example, part 2, article 11(3) of the International Convention on the Elimination of All Forms of Racial Discrimination, which states:

The committee shall deal with a matter referred to it in accordance with paragraph 2 of this article after it has ascertained that all available domestic remedies have been invoked and exhausted in the case—

I emphasise the point here about them having to be ‘invoked and exhausted’—in conformity with the generally recognised principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged.

This fact was conveniently omitted from Mr Downer’s critical comments against the UN committee system. The point is that you can go to the United Nations only when and if you have exhausted all remedies here in Australia. The fact of the matter is that UN committees are the last port of call, not the first. We have the foreign minister, ably assisted by the minister for reconciliation, arguing that the last port for human rights complaints is not appropriate or is, at the very least, embarrassing. The simple fact of the matter is that there would be no recourse to the UN if Australia had done the right thing—as it is required to do under its treaties—and placed our own house in order in this regard.

This, of course, is the chief deficiency in the bill presently before the Senate. None of those pressing issues are presently contained in this bill, despite the urgency of these matters. There appears to be no great will within the ranks of much of the government to address them. It is stated that the primary purpose of this bill is as a response to the High Court’s recent invalidation of cross-vesting schemes in the Wakim case, and it contains a series of measures which: firstly, repeal provisions which contemplate the conferral of state jurisdiction on federal courts, now known or assumed to be invalid; secondly,
restore the availability of federal administrative law proceedings for decisions taken by Commonwealth officials under state law as part of cooperative legislative schemes; thirdly, provide, in relation to the Corporations Law and certain other cooperative schemes, for the vesting of jurisdiction in, and the transfer of proceedings between, state, territory and federal courts within constitutional limits; fourthly, provide generally for the cross-vesting of certain proceedings involving decisions by Commonwealth officials under state law; and, finally, preserve the Federal Court’s exclusive jurisdiction in relation to proceedings under the competition codes and price exploitation codes of the territories, but not under the state codes.

The first question to be asked, then, is: given the seriousness of the destructive effect of Wakim’s case on cross-vesting and cooperative legislative schemes, is the bill an adequate Commonwealth response? Large issues remain, for the moment, unaddressed. A related question is whether the bill tackles all of the cooperative schemes imperilled by the Wakim case. For example, do the national codes in areas such as agriculture, veterinary chemicals and civil aviation carriers' liability also require attention? I note, however, some acknowledgment of this from the government in the form of their amendments before us. The Democrats support these. Clearly, however, the technical issues involved are highly complex, cross a number of areas of public policy and, most importantly, entail intergovernmental negotiations, which can be notoriously difficult. It is also questionable whether federal legal aid should be denied in certain review proceedings under the NCA Act now that they have been recast as matters of federal law. It seems unlikely that legal aid would be available at the state level if the provisions in this bill become law. I would appreciate government clarification on this point.

A separate purpose of the bill is to restrict the ability to challenge pre-trial decisions taken by Commonwealth officials in the criminal justice process and to do so retrospectively. Let me state from the outset that the Australian Democrats always view retrospective application, particularly as it applies to criminal jurisdictions, as wrong. That is to say, our starting position for these matters is to ensure that people who are apprised of the law should be subject to the law as the law stands. But, so as not to give Senator Vanstone a free kick on this issue of retrospectivity, let me put on the record firmly that, in terms of addressing crimes against humanity, a matter which I and the Australian Democrats look favourably upon, we take a different view. I note that in the public debate that has occurred to date on my anti-genocide bill, Senator Vanstone has ruled out government support for any retrospective application of that bill. It is interesting to note, therefore, that the government does not always necessarily take the view that all crimes and all legal matters should not have a retrospective application.

This bill is a clear example of where the government sees the need for retrospectivity. It is an area which primarily relates to white-collar crime in the big end of town. I sincerely hope that the government’s mind is not closed on this point. I would be incredulous to learn that—and I daresay it would be immoral if—the Australian government is of the view that only white-collar criminals ought to be treated with retrospectivity and therefore are more important, in terms of applying retrospectivity, than those people who perpetuate genocide and crimes against humanity. I signal the importance of these issues here because, when we come to debate human rights provisions down the track, or my anti-genocide bill, some clarity from the government on this matter will, I think, be warranted. The ultimate question is whether this government sees economics or people as being more important. I suspect that answer will be evident in the coming months as the government deals with its present difficulties with human rights jurisdictions.

This is not one of those instances where the Australian Democrats see retrospectivity as being appropriate. For the record, the Australian Democrats have considered the amendments of the opposition and consider them to be worthy of merit. I indicate now, however, that the Democrats will be supporting the opposition amendments, as circulated, that have previously been moved in
the House of Representatives and again here today in the Senate. I also indicate that, if the amendments are not acceptable and do not gain the support of the Senate, the Australian Democrats would be very unlikely to support the passage of this bill through the Senate.

Senator COONEY (Victoria) (4.07 p.m.)—Sir Daryl Dawson was appointed to the High Court from Victoria. There has been only one Victorian judge appointed to the High Court since then—Justice Hayne, a very eminent jurist who does Victoria proud. Sir Daryl Dawson, as he now is, was also a very eminent judge from the Victorian bar. He was Solicitor-General in Victoria for a long while. He filled that position with distinction and he filled his position on the High Court with distinction, although very often he was in the minority, as people would know. He did some great work in Victoria, as Senator Conroy would know, in an inquiry arising out of the fire at Longford.

Why should I be talking about Sir Daryl Dawson? He was always a man who showed great responsibility. He retired quite recently and, because he was retiring, said he ought not to sit on a case called Gould and Brown—he would not be there to deliver the judgment. Because he was so responsible, there were only six judges to make that decision. That court, in Gould and Brown, dealt with a matter that is being dealt with in this legislation—that is, the jurisdiction of the states to give state jurisdiction to the federal courts. As a result, we have the Jurisdiction of Courts Legislation Amendment Bill 2000 before us today.

I am very pleased to see Sir Daryl Dawson enjoying his retirement. He has contributed greatly to the law. I like a lot of what he said about the professions, how they should be devoted to service and not let market forces get the better of them—I have quoted a particular speech of his in that area in the past. If he had been on the High Court for re Wakim, who knows what would have happened? In any event, he was not. We had two new justices, including Justice Hayne from Victoria, so the decision in re Wakim was made and here we all are. It has caused great difficulty—and that is a matter that has been talked about—in the area of the Corporations Law. I do not want to say much about the Corporations Law because I am going to leave that to Senator Conroy who is more learned than I am in that area.

Actually, I will say something about re Wakim and the Corporations Law because it has taken up to about 30 per cent of the work that used to be done by the Federal Court away from it. That is a disappointment, too, because that is a court with very many eminent people on it and is particularly well led by Justice Michael Black who, I think everybody here would agree, is one of the great judges in the history of the judiciary in this country. That would not be taking things too far. As a matter of fact, his brilliance has gone into the next generation. His son was a Rhodes scholar and is now a theologian—from the law to the Lord. That is good to see. Perhaps I am wandering a little from the point. It is very disturbing, and I use that word advisedly, that the Federal Court does not have the jurisdiction that it used to in this area. The point has already been made that this does make a lot of trouble for the way corporations are carrying out their business. Corporations, of course, are the main underpinning of our economic life and if you have not got a law which can look after that in a fairly quick and proper fashion, then all sorts of problems arise. But, as I said, I will leave that area to Senator Conroy.

It impacts not only in the corporate world but also in the area of family law. That, in a
way, is a more serious problem because the Family Court and family law deal with matters of the heart, of the emotion and of the soul. A lot of stress, a lot of worry and a lot of woe is exhibited in the Family Court. To fracture the jurisdiction of that court in the way that this decision does is a pity. I would like to say something about the decision.

**Senator Conroy**—It was a shocker.

**Senator COONEY**—Senator Conroy says it was a shocker and he will tell you why. On the other hand, we have got a Constitution and it is for the judges on the High Court to interpret that Constitution. They have got to call the law as they see it and then leave it up to the parliament to fix it up or, if the parliament cannot fix it up, for the people to do it through changes to the Constitution. That may be the best way of dealing with this matter. I do not know what the cost would be to run a referendum. I think it is about $60 million to $70 million, which seems a lot of money. On the other hand, given the amount of money that is at stake here in the area of corporate law, in the area of family law and in other areas as well, that would seem fairly cheap. I am sure that all parties would be responsible in this area and would see the Constitution altered so as to fix the present problem.

I do not think it would be a tremendous task. It would probably involve making some changes to chapter 3 to enable state jurisdiction to go into the Federal Court. If federal jurisdiction can be given to state courts, why shouldn’t the Federal Court be able to take up state jurisdiction? I am sure that all founding fathers—unfortunately there were no founding mothers, Madam Acting Deputy President Knowles, but I am sure if you were there at the time you would have been one of the founding mothers—had thought about this, they would have accommodated the problem, because it is a problem. Here we are, 100 years later, trying to sort the matter out. The decision made by Justice Brennan and Justice Toohey, and supported by Kirby J, was certainly a sensible one, whether or not it was in accordance with the Constitution. It has now been decided in favour of the answer that, no, it was not. In any event, as far as the practicalities of it go, things were much easier when the workings of the courts were as they were before re Wakim.

With the way family law, whether state or federal, is run at the moment, it is all a bit difficult. As it is now, you can have a judge sitting there and deciding the issue, say, of a child of a de facto couple and making orders as to access. It is not access now. Is it custody? What do we have?

**Senator Abetz**—It is parenting arrangements or orders, I think.

**Senator COONEY**—My mind does not keep up with things as well as it should. It used to be called custody and access. The court is deciding those sorts of issues, then an issue of property arises and the court has to stop deciding the issue and send the matter back to a state court to decide a separate but related matter. If the Constitution were properly arranged, another area which could be dealt with so as to save a lot of problems is protection orders. At the moment, appeals against protection orders made by a Magistrate’s Court in Victoria have to go off to the County Court, or in other states to the District Court or whatever it is called in other states. I do not want to say that the other states are not important, but Senator Conroy and I would say that Victoria was the one that stood out. In that jurisdiction, if you wanted to appeal against a protection order, is it to a County Court. Wouldn’t it be better if that went off to the Family Court so that the whole idea of having a court that looks at all family matters would be realised?

Another area is adoption. I think the county court deals with that. I remember, years and years ago now, if an adoption order was made, people would go up and the judge would look at it, and people used to say it was the only time the judges were nice, because the adopting families were there. I remember being told of one occasion where someone did not concentrate on the matter as well as he might have. The matter had come before the judges a couple of times before, and the judge actually signed the order and was not quite concentrating on what he was doing. What he did was give in adoption the judge who had looked at the matter the previous week. So the judge rather than the
child was adopted to the parents. I am sure that does not happen these days. In any event, I am sure that, if the matter had been taken to the Family Court, there would not be any risk of that sort of thing happening. I think there are some real issues to look at there.

I will go on to another aspect of the bill, and that is the issue of criminal jurisdiction. I see that there are some very eminent advisers on criminal jurisdiction here in the chamber. I wish I had seen them earlier—I would not have rambled so much. Issues such as whether a warrant has been properly issued or whether a subpoena has been properly issued can be actively challenged in the Federal Court in its civil jurisdiction. All that is going to go, from the time that the prosecution starts—I suppose that would be from the time the charge has been made—to when there is a resolution of the matter. The Attorney-General says, and no doubt his advisers have advised him to this effect, that it really does not make a great deal of difference—the matter can be heard by the criminal court hearing the case. I am not sure whether all these issues are going to be gathered up to be argued on the day of the trial or whether they are going to be argued beforehand. If they are going to be argued on the day of the trial, people will bring their points along into court, perhaps even before or after the jury has been empanelled, and they will argue all these points in the context of the case. It can become fairly costly because the person accused has briefed a solicitor and a barrister who prepare themselves for the case and charge high fees. Whereas you might not have had to pay somebody as much to do an interlocutory application on one of the side issues, such as the validity of a summons or a warrant, you have to pay large sums for the trial barrister, although he or she will be arguing what is in effect an interlocutory point. That might make it more expensive. If there are rights, you have to be very careful about how you cut down on them. Anyhow, it will be very interesting to see how all that operates.

This is a bill to which the opposition are suggesting some amendments. As I understand from Senator Conroy, we are as anxious as anybody to get it through and to see if we can get the system operating. Before I sit down, I will just say that another thing that could go to the Family Court is the testator’s family maintenance jurisdiction.

Senator Abetz—Yes.

Senator COONEY—As Senator Abetz very much understands, how we divide up what we leave when we die is very much a family issue. My children are going to be a bit disappointed with what I leave.

Senator Carr—I know all about that.

Senator COONEY—No, testator’s family maintenance happens when you die, Senator Carr, so you do not want to start worrying about that just yet. You do not have to worry about it at all because, once you are dead, what does it matter who gets it? In any event, that is another issue I thought could go to the Family Court. I will sit down and let Senator Conroy get on with his contribution.

Senator CONROY (Victoria) (4.27 p.m.)—As the Jurisdiction of Courts Legislation Amendment Bill 2000 arises from the High Court decision in re Wakim, I feel it is appropriate to add a few words to this debate. The decision in re Wakim has ramifications for the entire Australian legal system. It causes particular problems for the operation of the Corporations Law in Australia. In re Wakim the High Court held that the Australian Constitution does not permit the Commonwealth parliament to legislate to accept the vesting of state judicial power in Federal Courts by operation of state law. This means the Federal Court will not have the power to determine matters arising under the Corporations Law.

To go back 10 years, in 1990 the Commonwealth, the states and the Northern Territory agreed to a cooperative system which created a national Corporations Law. The objective of the national scheme was to ensure that the scheme legislation: operated as a single national law applying throughout Australia; invested in ASIC, the Director of Public Prosecutions and the Australian Federal Police responsibility for the regulation, investigation and prosecution of offences under the Corporations Law; and invested
jurisdiction in the Federal Court to hear cases in relation to the Corporations Law.

It is this last aspect of the system which the decision in re Wakim most affects. One objective of the national scheme was to have the company laws administered by a national court system in the Federal Court. This has enabled the Federal Court to build up considerable expertise in Corporations Law. The vesting of jurisdiction in the Federal Court was also intended to ensure national consistency in the interpretation of the national scheme of company law. Following the decision in re Wakim, the benefit of the expertise that the Federal Court has built up in Corporations Law matters is substantially lessened, and there is a risk that the national character of the Corporations Law may be compromised by different state court hierarchies applying its provisions inconsistently.

This bill attempts, in part, to deal with the problems raised by the decision in re Wakim. The bill confers federal jurisdiction on federal courts to review the decisions of Commonwealth officers and bodies made in the performance of functions conferred on them by specified state and territory laws. The bill will also enable the Supreme Court of a state or territory to exercise federal judicial review jurisdiction in limited circumstances where related proceedings are before a court of the state or territory. These amendments will address in part the problems caused by the decision in re Wakim but will not remedy all the difficulties which have arisen from that decision. There will still be many non-ADJR matters which will arise in the state arena which cannot be dealt with at a federal level.

The national cooperative scheme has allowed Australia to be promoted as having a stable and well-regulated national corporations scheme. The national cooperative scheme has also contributed to business and investor confidence. A functioning system of corporate regulation is essential to fostering a climate in which people can conduct business with confidence as to its legal efficacy. Since the decision in re Wakim, the High Court has also handed down decision in Byrnes and Hopwood and DPP v. Bond. In those cases, the High Court held that the Commonwealth Director of Public Prosecutions did not have the power to appeal against sentences for breaches of the old state company codes. More recently, the High Court has heard arguments in Queen v. Hughes as to the powers of the Commonwealth DPP in the national corporate scheme. Without wanting to anticipate the High Court, the decision in Queen v. Hughes could have wide-ranging implications for corporations law in Australia. In Queen v. Hughes, the High Court is examining the constitutionality of a section in the state corporations acts which treats offences against state law as an offence against a Commonwealth law. If that section is set aside, it will prevent the Commonwealth DPP from prosecuting breaches of state corporations law. There may also be implications for the power of ASIC to investigate breaches of the Corporations Law. Whatever the outcome in Queen v. Hughes, there are fears that it is only a matter of time before the national scheme falls apart.

My colleague Senator Bolkus has discussed the means by which the problems with all cooperative schemes, including the Corporations Law, can be addressed. I join my colleague in urging urgent action in these matters. The Commonwealth has a leadership role in consultation with the states and territories to achieve a long-term solution to the problems created by the decision in re Wakim and any other decision which imperil a national system of corporate law and regulation. A national scheme of corporate law and regulation is essential to creating an environment attractive to investment and to promoting Australia as a regional financial centre. It is critical to the future economic prosperity of Australia.

I would also like to say a few words on the other national cooperative schemes in the portfolio of Financial Services and Regulation which are affected by the decision in re Wakim. The national competition code effectively granted exclusive jurisdiction to hear matters arising from part IV of the Trade Practices Act to the Federal Court. Part IV of the Trade Practices Act deals with restrictive trade practices. Following the decision in re Wakim, vesting exclusive jurisdiction in the Federal Court is now not pos-
sible. The national price exploitation code also creates a cooperative national scheme to monitor prices and take legal action in relation to price exploitation under the GST. The states have repealed or will be repealing those provisions of their codes which purport to confer jurisdiction over matters arising under them on the Federal Court. This bill will also be removing references in the Trade Practices Act which contemplate that state jurisdiction could be conferred on federal courts. The amendments also acknowledge that the Federal Court can no longer exercise exclusive jurisdiction in relation to prosecutions arising out of the competition and price exploitation codes. As I have discussed in relation to the Corporations Law, these solutions are a legal solution but diminish the objectives of a national scheme.

The ability of the ACCC to police price exploitation in relation to the GST may also need to be considered after the decision in the Hughes case. While the Hughes case concerns the Corporations Law, a similar provision to that in question in the Hughes case exists in the price exploitation code of the states participating in the national scheme. The relevant provision provides that an offence against the new tax system price exploitation code of the state jurisdiction is taken to be an offence against the laws of the Commonwealth. If the decision in Hughes holds such a provision to be constitutionally invalid, the ability of the ACCC to police price exploitation in the wake of the GST will be severely curtailed. I will eagerly await the decision in Queen v. Hughes. I am sure that was just in my imagination, and I will let that pass. We will undoubtedly engage further in relation to the specific proposals of the opposition, and I will deal with them in some general comments afterwards.

Moving on to Senator Greig, I would invite him: please do not tempt me on the UN committees. I will bite my tongue at this stage and we will move on. In relation to Senator Cooney’s contribution, can I thank him for his discourse on judges, both present and former. We did miss out on the Family Court judges. He did not go through those, but I am sure he would have interesting stories to tell about them.

In relation to the Federal Court jurisdiction, I remind Senator Cooney that the costs in the Federal Court, I would imagine, are higher than they are in state criminal courts in the various jurisdictions around the Commonwealth. Basically what he was talking about—the way the criminal trial would be conducted—is exactly the way it happens every single day of the week in every single jurisdiction around Australia for the vast majority of criminal cases that are brought under state law. Can I simply suggest that the costs will increase as of necessity when two jurisdictions are involved. Counsel with experience in Federal Court jurisdiction may have to be engaged as well as a barrister or counsel with criminal court experience. However, the main cost is in the level of representation. Most of the defendants exploiting the Federal Court jurisdiction would engage counsel at the highest level, where ul-
Ultimately avoiding a prison term or getting out of the proceedings is their main goal.

I also mention two other matters that Senator Greig raised. He suggested that there would be retrospective application in the criminal jurisdiction. That is wrong. Schedule 2 is not retrospective. We would assert that the amendments have effect from the date of its commencement on proceedings which are on foot at that time and on proceedings begun after its commencement. The fact that some proceedings affected by the bill may have commenced before the bill came into effect does not make the bill retrospective.

In relation to the comments on the NCA and legal aid, amendments of the National Crime Authority Act 1984 made by items 70 and 71 of the bill do not remove an existing entitlement to Commonwealth legal aid. They preserve the status quo in relation to Commonwealth assistance. The Commonwealth NCA Act provides for witnesses giving evidence under that act to seek review in the Federal Court of decisions of the NCA. The bill applies this element of the Commonwealth act to witnesses giving evidence under state NCA acts. This is done because the state acts cannot confer jurisdiction on the Federal Court following re Wakim.

The Commonwealth NCA act also provides for witnesses giving evidence under the Commonwealth act to seek legal and financial assistance. The state NCA acts do not provide for such assistance. In making technical changes to preserve existing Federal Court jurisdiction, the bill will not create new rights to Commonwealth assistance to cover witnesses under the state acts. The intergovernmental committee of the NCA has established a working party, including Commonwealth and state representatives, to coordinate reforms of the legislative framework. The Commonwealth will put this issue on the working party's agenda so that it may consider any concerns regarding assistance for witnesses under state legislation. The working party is the appropriate body to pursue this issue.

Can I make some general comments. I think all sides of the chamber have acknowledged that this legislation is necessary. Some problems have arisen as a result of the High Court's decision in re Wakim and Bond and we need to address them. That is what the bill seeks to do—to overcome some of these problems. It is important to ensure that the Federal Court remains the principal forum for review of Commonwealth offices and authorities performing functions under the cooperative schemes affected by the bill. It is important to ensure that the Commonwealth DPP is able to play the role that was envisaged under cooperative schemes and that the criminal justice process is given every chance to operate fairly and effectively. White collar criminals with deep pockets should not be allowed to take advantage of opportunities to exploit the legal system in ways which reduce the fairness of that system.

I should point out that at a recent conference on the reforms of criminal trial procedure the Hon. Justice Mark Weinberg, a judge of the Federal Court, recommended strongly that legislatures act to impose meaningful restrictions on the process of collateral review of investigative functions. The bill implements essential remedial action required to address the real difficulties resulting from re Wakim and Bond. It was introduced only after extensive consultation with the states and territories and we expect that they will in due course introduce their own complementary legislation. It is, therefore, essential that the bill is passed quickly to minimise as far as possible the disruption resulting from these decisions.

Can I conclude by giving an example of an actual case and the delays that were occasioned as a result of the sorts of activities that we believe do not assist the criminal justice system in this country and in no way make it a fairer system. Allow me to detail this case. Following an investigation by the Australian Federal Police and a state police force, the defendant and others were charged with drug offences relating to the supply of cannabis. The evidence depended on conversations which were recorded under a telephone interception warrant and a listening device warrant. The preliminary hearing of the charge was listed to begin in November 1995. It was adjourned pending the comple-
tion of a Federal Court action for a review under the AD(JR) Act and section 39B of the Judiciary Act in respect of the listening device warrant and for declaratory and injunctive relief in respect of both the telecommunication interception and listening device warrants. In October 1995 a Federal Court judge made orders for limited discovery of the material placed before the judge who issued the warrants. The AFP claimed public interest immunity.

In November 1995, another Federal Court judge ordered transfer of the proceedings to the Western Australian registry of the Federal Court. Various orders were sought and a notice of motion was heard by a third Federal Court judge in Sydney in June 1996. His Honour adjourned the proceedings and stated a case and reserved questions for the Full Federal Court. In November 1996 the preliminary hearing of the substantive case was further adjourned to February 1997 as the case stated in the Full Federal Court had not been decided. The Full Federal Court decided in favour of the AFP in January 1997. Further proceedings were brought relating to the defendant’s request that a subpoena be issued for the production by the AFP of the five affidavits in support of the application for the warrants, the material which was the subject of the order of the first Federal Court judge for limited discovery in October 1995. At the beginning of argument on the notice of motion it was ordered by consent that the order of His Honour be vacated. On 13 June 1997 a fourth Federal Court judge ordered that the defendant’s subpoena to the AFP be set aside. The defendant appealed to the Full Federal Court against the decision of the fourth judge to set aside the subpoena. The Full Federal Court unanimously dismissed the appeal in April 1998. On my calculations, that is about 2½ years later. Before the substantive prosecution case could be dealt with, one witness died.

This is a prime example of how resort to the judicial review jurisdiction of the Federal Court can delay a prosecution. The Federal Court proceedings were commenced in Melbourne; transferred to Perth and then to Sydney; there was a case stated in Brisbane; a subpoena before the fourth judge in Sydney, and an appeal in Melbourne. I can say to this Senate that the government remains to be convinced that those sorts of tactics and antics do anything to engender confidence in our criminal justice system and indeed the fairness of the criminal justice system in this country. Basically, what we are saying is that once a court is seized of the actual matter, then it is the court that ought to deal with all the matters that may arise—the procedural matters and the challenges to evidence—as in fact happens in every single state trial that is conducted, which are the vast majority of criminal trials around Australia. That is the way it happens around Australia in every state jurisdiction every day of the week. I cannot in fairness see the arguments of the opposition in wanting to allow a situation to arise where people with deep pockets can frustrate the due criminal process of this country.

Question resolved in the affirmative.

Bill read a second time.

In Committee

The bill.

Senator BOLKUS (South Australia) (4.48 p.m.)—Can I indicate at this stage that, although I mentioned during the second reading speech stage that we had some concerns with respect to the workplace relations legislation, I have been informed that a more recent study of those particular provisions will not necessitate us moving an amendment in respect to those provisions. I now seek leave to move cognately, jointly, amendments (1) to (8).

Leave granted.

Senator BOLKUS—I move:

(1) Schedule 2, item 1, page 33 (line 11), omit “At any time when”, substitute “Subject to subsection (1A), at any time when”.

(2) Schedule 2, item 1, page 33 (after line 19), after subsection (1), insert:

(1A) Subsection (1) does not apply if an applicant has commenced an application under this Act before the commencement of a prosecution for an offence against a law of the Commonwealth, or of a State or a Territory.

(1B) Where subsection (1A) applies, the Crown may apply to the court for a
permanent stay of proceedings in the hearing and determination of the application and the court may grant such a stay if the court determines that:

(a) the matters that are the subject of the application are more appropriately dealt with in the criminal justice process; and

(b) a stay of proceedings will not substantially prejudice the applicant.

(3) Schedule 2, item 10, page 36 (line 4), omit “At any time when”, substitute “Subject to subsection (2A), at any time when”.

(4) Schedule 2, item 10, page 36 (after line 19), after subsection (2), insert:

(2A) Subsection (2) does not apply where a person has applied for a writ of mandamus or prohibition, or an injunction, against an officer or officers of the Commonwealth in relation to a related criminal justice process decision before the commencement of a prosecution for an offence against a law of the Commonwealth, or of a State or a Territory.

(2B) Where subsection (2A) applies, the Crown may apply to the court for a permanent stay of the proceedings referred to in that subsection and the court may grant such a stay if the court determines that:

(a) the matters that are the subject of the proceedings are more appropriately dealt with in the criminal justice process; and

(b) a stay of proceedings will not substantially prejudice the person.

(5) Schedule 2, item 10, page 36 (line 20), omit “Subsections (1) and (2)”, substitute “Subsections (1), (2), (2A) and (2B)”.

(6) Schedule 2, item 13, page 37 (line 32), omit “At any time when”, substitute “Subject to subsection (1CA), at any time when”.

(7) Schedule 2, item 13, page 38 (after line 16), after subsection (1C), insert:

(1CA) Subsection (1C) does not apply where a person has applied for a writ of mandamus or prohibition, or an injunction, against an officer or officers of the Commonwealth in relation to a related criminal justice process decision before the commencement of a prosecution for an offence against a law of the Commonwealth, or of a State or a Territory.

(1CB) Where subsection 1CA applies, the Crown may apply to the court for a permanent stay of the proceedings referred to in that subsection, and the court may grant such a stay if the court determines that:

(a) the matters that are the subject of the proceedings are more appropriately dealt with in the criminal justice process; and

(b) a stay of proceedings will not substantially prejudice the person.

(8) Schedule 2, item 13, page 38 (line 17), omit “Subsections (1B) and (1C)”, substitute “Subsections (1B), (1C), (1CA) and (1CB).”

These amendments amend those parts of the bill dealing with the ADJR Act, the Corporations Act and the Judiciary Act which preclude a court from hearing an application or proceeding related to a related criminal justice process decision. The bill effectively suspends the availability of an applicant to have a matter relating to a related criminal justice proceeding from being heard in the court in which the application was brought while there is a criminal justice proceeding before that court. When the criminal justice proceeding is no longer before the court, the applicant’s right is revived. We believe that this may create an injustice where, for example, an application has been substantially heard by the court and then a prosecution is commenced, preventing the conclusion and the termination of the matter already before the court.

The amendments I am moving ensure that the court will continue to have jurisdiction to dispose of any matters already before the court prior to a prosecution being commenced. However, we also provide that the Crown will be entitled to apply to the court for a stay of proceedings where it can be demonstrated that to do so will not substantially prejudice the applicant. I do not really think I need to say much more regarding the amendments at this particular stage, other than to commend them to the Senate.

Senator GREIG (Western Australia) (4.50 p.m.)—These amendments, in effect, are about preserving natural justice. In brief
terms, they would have the effect of stopping what the government is proposing—that is, pulling out the rug from underneath someone who may have an application pending. As Senator Bolkus has quite rightly stated, this may create an injustice, and the very fact that an injustice may occur at all is not something the Democrats would want to be party to. In that regard, these amendments simply preserve existing rights and therefore attract Democrat support.

Senator ABETZ (Tasmania—Parliamentary Secretary to the Minister for Defence) (4.51 p.m.)—If I could quickly respond, Senator Greig, what we are proposing is not to pull the rug out from under anybody. The situation is that they will have a different forum. They will be limited to that particular forum. At the moment it is possible for certain people charged with criminal offences to, in effect, go forum shopping and decide where they might be able to get the best hearing or get the greatest delay. If you think that is fair and just, that is fine, and we will undoubtedly see how the votes transpire later on. But I have to say to you that people’s rights are not affected in as much as they can still argue those issues, but it will be before the court that has the actual substantive matter before it.

Can I say that the government opposes these amendments. We do so because quite clearly they would make the situation involving collateral attack much worse than it is at the moment. These amendments would increase the opportunity for defendants with deep pockets to delay, in some cases by years, prosecutions against them. The amendments would enable people to defeat the intent of the present bill by ensuring that they commenced Federal Court proceedings during the investigation process—prior to charge or a prosecution being commenced. Those proceedings could then be kept on foot, followed by the usual appeals in a manner that perpetuates exactly what this bill is in fact trying to avoid. The prosecution would be delayed just as effectively if we had not moved to prevent the mischief. It would not only affect the few matters on foot when the legislation commenced but potentially all future prosecutions.

The permanent stay applications for the Crown that are proposed would only up a further avenue for appeals in the federal system. In short, it would have a disastrous effect on the efficacy of the legislation to do what it was intended to do. Let me also say that the defendants are not being denied remedies by the bill. Relevant decisions will be subject to review by a court, either in the course of the criminal trial itself or under the Judiciary Act in the state court system.

Senator Bolkus—Do you want this bill today?

Senator ABETZ—Yes. This is a significant point. The ability to challenge will remain on foot in relation to precharge decisions by a Commonwealth officer in relation to the investigation process per se—I trust that Senator Greig is listening to this—and it will be there where there may be a concern about the terms of a search warrant. All we say is that the ability to bring those proceedings should cease once the criminal justice process begins and the matter is before the court. From the moment that proceedings commence, the court determining the matter is in control. In addition, the criminal justice process itself provides adequate safeguards and mechanisms for review of the lawfulness of administrative actions, for example, abuse of process applications, the exclusion of unlawfully obtained evidence, and the availability of appeals.

Under the proposed amendments, a defendant could still seek to prolong proceedings instituted before the prosecution commenced by appealing decisions to the Full Federal Court and even to the High Court. Disruption, delay and increased costs in relation to the criminal proceedings would not have been effectively avoided. The current bill is intended to apply to matters that will have occurred before it comes into operation and affects some rights that may be an issue in pending litigation. Failure to apply it in that way would mean that the policy of ending collateral attack could not be given effect, other than very gradually. Even if it were entirely prospective and it would eventually take effect, that could be in five or more years. Challenges at the investigation stage—that is, before a charge has been
laid—are not precluded by the bill. The bill extinguishes any that are still on foot when a charge is laid, and collateral challenges or attacks can be brought in the state or territory system.

The opposition now says that this will lead to a prosecutor laying charges in an effort to frustrate ADJR proceedings. The government does not agree with this proposition; it is an assertion that is being made without foundation. In some cases, the effect of ADJR applications will be that it will not be possible for any charges to be laid until those applications have been resolved, as the police—as a consequence of those applications—will be denied access to crucial evidence. In that regard, before a prosecution is instituted, there must be sufficient evidence available which satisfies the prosecution criteria in the prosecution policy of the Commonwealth. Collateral attack is frequently used in relation to white-collar crime. Going to the Federal Court for ADJR review provides the means for removing an action from a state court into a federal justice system. That causes a lot of priority for the prosecution in the state courts and substantially increases the duration and cost of proceedings. The proposed amendments would not alter that situation. The criminal justice process itself provides adequate safeguards and mechanisms for review of the lawfulness of administrative actions, for example, abuse of process applications, the exclusion of unlawfully obtained evidence and the availability of appeals. For that reason, the government will be opposing the opposition amendments.

Amendments agreed to.

Senator BOLKUS (South Australia) (4.57 p.m.)—I move:

(9) Schedule 2, item 16, page 40 (line 29) to page 41 (line 8), omit subitem (3), substitute:

(3) The amendments of the Administrative Decisions (Judicial Review) Act 1977, the Corporations Act 1989 and the Judiciary Act 1903 made by Part 1 of this Schedule also apply in relation to:

(a) a decision made before the commencement to prosecute a person for an offence, unless that decision is the subject of an application that is before a court at 5 April 2000; or

(b) a related criminal justice process decision made before the commencement in relation to an offence, unless the decision is the subject of an application that is before a court at 5 April 2000.

The amendments effected by the bill are expressed to be fully retrospective in operation. We believe that, if the bill is passed as it currently stands, matters which are part-heard before courts will immediately fail for lack of jurisdiction. We believe as a matter of fairness that it is appropriate that applications which are currently before such courts be allowed to proceed to conclusion. The decision by the parliament, which has the effect of terminating matters before the courts, may be challenged as contrary to the principle of the separation of powers enshrined in our Constitution on the basis that parliament is exercising a judicial power in so doing. If such a challenge were to be taken, this would result in additional litigation by applicants with matters already on foot and as such would result in even longer delays to the resolution of the substantive criminal proceedings against them.

We have been advised by the A-G’s office that as a general rule there is usually in the order of five to seven applications on foot at any particular time. Our amendments will allow those matters to be heard and determined. The amendments are expressed to apply from today’s date, and this will prevent a rush of additional applications to attract the jurisdiction prior to the formal commencement of the legislation. I commend this amendment to the Senate.

Senator GREIG (Western Australia) (4.58 p.m.)—I echo the comments of Senator Bolkus. As I outlined in my contribution to the second reading debate, the issue of retrospectivity is a vexed one. As a matter of fairness, the Australian Democrats believe it is appropriate that applications currently before the courts be allowed to proceed to conclusion. I would be interested, however, if the government has developed its thinking in that regard. I wonder if the government representative, Senator Abetz, could indicate to
me what is the substantive difference between the retrospective application being proposed in this amendment bill in relation to white-collar criminal activity and other crimes such as crimes against humanity? Why would you consider retrospective application for one but not for the other?

Senator BOLKUS (South Australia) (4.59 p.m.)—I think the Senate will note that I have said today’s date; my amendments are framed in a way that reflects the date of 5 April. I seek leave to move them in amended form—that is, to change the date from 5 to 13 April so that they do apply from today’s date.

Leave granted.

Senator ABETZ (Tasmania—Parliamentary Secretary to the Minister for Defence) (5.00 p.m.)—I just simply echo the remarks that I made in relation to the difference in relation to retrospectivity. The important thing in all of this is that people’s rights are in fact preserved in the state jurisdiction. They can still bring all the arguments they like but, basically, they will not be able to go forum shopping. I think I dealt with the argument of Senator Greig in my response in the second reading debate.

Bill, as amended, agreed to.

Amendment agreed to.

Bill reported with amendments; report adopted.

Third Reading

Motion (by Senator Abetz) proposed:

That this bill be now read a third time.

Senator BOLKUS (South Australia) (5.01 p.m.)—Perhaps it would be appropriate for me to just add a few words whilst the protagonists in the next debate assemble in the Senate and save us calling a quorum. There is a matter here that is under current political dispute—that is, the tendering of power by state and federal governments. I just take this opportunity to once again urge the South Australian and Western Australian governments in particular to review their positions and come on board. Otherwise, as I said earlier, it will be the corporations and commercial interests in their states that will suffer from the isolation by not being a part of the national scheme.

Question resolved in the affirmative.

Bill read a third time.

BUSINESS

Government Business

Motion (by Senator Abetz)—by leave—proposed:

That intervening business be postponed till after consideration of government business order of the day No. 3 (Taxation Laws Amendment Bill (No. 8) 1999).

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (5.02 p.m.)—As I understand it, the Senate has determined that government business conclude at 6 p.m. tonight. I just want to be clear on that.

The ACTING DEPUTY PRESIDENT (Senator Knowles)—That is correct.

Question resolved in the affirmative.

TAXATION LAWS AMENDMENT BILL (No. 8) 1999

Consideration of House of Representatives Message

Consideration resumed from 5 April.

House of Representatives message—Schedule of the amendments made by the Senate to which the House of Representatives has disagreed—

(8) Schedule 5, page 24 (after line 12), after item 11, insert:

11A After section 30-220

Insert:

30-222 How much you can deduct for certain gifts of land

(1) This section contains the rules for working out how much you can deduct for a gift of property that you made to a recipient covered by item 1 or 2 of the table in section 30-15 if:

(a) the property is land or an interest in land; and

(b) the recipient is:

(i) an *environmental organisation or a fund, authority or institution covered by the table in subsection 30-55(2); or
(ii) a public fund established and maintained under a will or instrument of trust solely for the purpose of providing money, property or benefits to an entity mentioned in subparagraph (i).

(2) If you sell land that you own to an entity mentioned in paragraph (1)(b) for less than its market value, you can deduct the difference between the market value of the property on the day you made the sale and the actual sale price.

(3) If you give land that you own to an entity mentioned in paragraph (1)(b) but you retain the right to live on that land for the remainder of your life, you can deduct the market value of the property subject to your life interest.

30-223 How much you can deduct for land affected by a conservation covenant

(1) This section contains the rules for working out how much you can deduct if the value of land is decreased by a conservation covenant.

(2) If you enter into a conservation covenant in respect of land you own and the market value is decreased because of the covenant, you can deduct the difference in the market value of the land before and after you entered into the covenant.

(3) In this section, conservation covenant means any approved form of agreement relating to the management, use and development of an area of land that is registered or noted on the land title and requires the landholder and all subsequent landholders:

(a) to maintain native vegetation and undertake any other actions required to conserve the biodiversity values of that land; or

(b) to maintain buildings or structures or other items of cultural significance that are registered on a recognised Commonwealth, State or Territory heritage register;

and includes, but is not limited to, an agreement under the following provisions:

(c) sections 304 to 311 of the Environment Protection and Biodiversity Conservation Act 1999;

(d) sections 69B and 69C of the National Parks and Wildlife Act 1974 (NSW);

(e) sections 41 to 44 of the Native Vegetation Conservation Act 1997 (NSW);

(f) section 51 of the Nature Conservation Act 1992 (Qld);

(g) section 3A of the Victorian Conservation Trust Act 1972;

(h) sections 69 to 72 of the Conservation, Forests and Lands Act 1987 (Vic);

(i) section 23 of the Native Vegetation Act 1991 (SA);

(j) section 30B of the Soil and Land Conservation Act 1945 (WA);

(k) section 29 of the Heritage of Western Australia Act 1990 (WA);

(l) sections 37A to 37H of the National Parks and Wildlife Act 1970 (Tas).

(11) Schedule 5, item 16, page 25 (line 5), omit “cultural”.

(12) Schedule 5, item 16, page 25 (line 10), omit “cultural”.

(13) Schedule 5, item 16, page 25 (line 20), after “section 30-15”, insert “or by section 30-222 or 30-223”.

(14) Schedule 5, page 26 (after line 20), after item 16, insert:

16A After Subdivision 30-F

Insert:

Subdivision 30-FA—Restrictions on prescribed private funds

Guide to Subdivision 30-FA

30-310 What this Subdivision is about

This Subdivision prevents certain private funds from being, or continuing to be, prescribed private funds.

Table of sections

Operative provisions

30-312 Restrictions on prescribed private funds

[This is the end of the Guide.]

Operative provisions

30-312 Restrictions on prescribed private funds

(1) A private fund which makes, or has ever made, a gift or contribution or provides, or has ever provided, a benefit of any other kind (including a loan) to a political party that is registered under Part XI of the Commonwealth Electoral Act 1918, or an associated entity within the
meaning of that Act, is incapable of being a *prescribed private fund.

(2) If a *prescribed private fund makes a gift or contribution or provides a benefit of any other kind (including a loan) to a political party that is registered under Part XI of the Commonwealth Electoral Act 1918, or an associated entity within the meaning of that Act, the fund ceases to be a *prescribed private fund by force of this subsection and is deemed never to have been a *prescribed private fund.

16B Subsection 30-315(2) (after table item 88)
Insert:
88A Prescribed private funds section 30-312
(17) Schedule 5, item 21, page 27 (line 14), after "section", insert " or under section 30-222 or 30-223,".
(18) Schedule 5, item 24, page 28 (line 14), at the end of the definition of prescribed private fund, add "or a fund to which Subdivision 30-FA applies".

House of Representatives reasons for disagreeing to Senate amendments-

Senate Amendments 8, 11-13 and 17
These amendments propose significant additions to measures contained in the Bill that will provide taxation incentives for personal and corporate philanthropy in Australia. Broadly, the amendments provide that where a property owner covenants a property for conservation purposes and that results in a reduction in the value of the property then any reduction in the value of the property should be treated as a tax deduction. The amendments also extend the ability to deduct amounts over five years to such donations and also where property is donated a capital gains tax exemption should apply.

Substantial changes like these need to be considered in depth in the context of their cost as well as their effectiveness. Any decisions need to be taken within the budgetary constraints of government but also with the objective of getting the most effective outcome in terms of conservation.

Accordingly, the House of Representatives does not accept these amendments.

Senate Amendments 14 and 18
The amendments propose changes to the measure that will allow tax deductibility for donations to what will be known as prescribed private funds. Broadly, prescribed private funds will have to operate in the same way as public ancillary funds but will not have to seek and receive funds from the public. The purpose of the amendments is to preclude a fund that provides funds to political parties from being a prescribed private fund.

Item 6 of Schedule 5 of the Bill will amend the Income Tax Assessment Act 1997 such that a fund can only be a prescribed private fund if it is established solely for the purpose of providing money to a fund or institution that is listed under Subdivision 30-B of that Act. If a fund is established to provide funds to any non-listed institutions it cannot be a prescribed private fund. Political parties are not listed in Subdivision 30. The amendment is unnecessary.

Accordingly, the House of Representatives does not accept these amendments.

In Committee

The bill.

Senator ABETZ (Tasmania—Parliamentary Secretary to the Minister for Defence) (5.03 p.m.)—I move:

That the Senate does not insist on amendments Nos. 8, 11 to 14, 17 and 18, to which the House has insisted on disagreeing, and makes the following amendments in place of amendments Nos. 8, 11 to 13 and 17:

(1) Schedule 5, item 1, page 22 (lines 5 to 8), omit the item, substitute:

1 Before subsection 30-5(5)
Insert:

(4B) Subdivisions 30-DB, 30-DC and 30-DD allow you to spread the deduction for certain gifts over up to 5 income years.

(2) Schedule 5, page 26 (after line 20), at the end of item 16, add:

Subdivision 30-DC—Spreading environmental gift deductions over up to 5 income years

Guide to Subdivision 30-DC
30-249 What this Subdivision is about

This Subdivision allows you to choose to spread deductions for environmental gifts over up to 5 income years.

You must give a copy of the election to the Environment Secretary.

Table of sections

Operative provisions
30-249A Making an election
30-249B Effect of election

[This is the end of the Guide.]
Operative provisions

30-249A Making an election
(1) If you can deduct an amount under this Division for a gift that is:
(a) to a fund, authority or institution that is set out in section 30-55 (other than a fund, authority or institution that is covered by item 6.2.13 to 6.2.21 in the table in subsection 30-55(2)); and
(b) covered by item 1 or 2 of the table in section 30-15; and
(c) of property valued by the Commissioner at more than $5,000;
you may make a written election to spread that deduction over the current income year and up to 4 of the immediately following income years.
(2) In the election, you must specify the percentage (if any) of the deduction that you will deduct in each of the income years.
(3) You must make the election before you lodge your * income tax return for the income year in which you made the gift.
(4) You must give a copy of the election to the * Environment Secretary before you lodge your * income tax return for the income year in which you made the gift.
(5) You may vary an election at any time. However, the variation can only change the percentage that you will deduct in respect of income years for which you have not yet lodged an * income tax return. You must give a copy of the variation to the * Environment Secretary before you lodge your * income tax return for the first income year to which the variation applies.
(6) The election and any variation must be in a form approved in writing by the * Environment Secretary.

30-249B Effect of election
(1) In each of the income years you specified in the election, you can deduct the amount corresponding to the percentage you specified for that year.
(2) You cannot deduct the amount that you otherwise would have been able to deduct for the gift in the income year in which you made the gift.

Subdivision 30-DD—Spreading heritage gift deductions over up to 5 income years

Guide to Subdivision 30-DD

30-249C What this Subdivision is about
This Subdivision allows you to choose to spread deductions for heritage gifts over up to 5 income years.
You must give a copy of the election to the Heritage Secretary.

Table of sections

Operative provisions

30-249D Making an election
(1) If you can deduct an amount under this Division for a gift:
(a) that is:
(i) to a fund, authority or institution that is set out in item 6.2.13 to 6.2.21 in the table in subsection 30-55(2); and
(ii) covered by item 1 or 2 of the table in section 30-15; and
(iii) of property valued by the Commissioner at more than $5,000; or
(b) that is covered by item 6 of the table in section 30-15;
you may make a written election to spread that deduction over the current income year and up to 4 of the immediately following income years.
(2) In the election, you must specify the percentage (if any) of the deduction that you will deduct in each of the income years.
(3) You must make the election before you lodge your * income tax return for the income year in which you made the gift.
(4) You must give a copy of the election to the * Heritage Secretary before you lodge your * income tax return for the income year in which you made the gift.
(5) You may vary an election at any time. However, the variation can only change the percentage that you will deduct in respect of income years for which you have not yet lodged an * income tax return. You must give a copy of the variation to the * Heritage Secretary before you lodge your * income tax return for the first income year to which the variation applies.

30-249E Effect of election
(1) In each of the income years you specified in the election, you can deduct the amount corresponding to the percentage you specified for that year.
(2) You cannot deduct the amount that you otherwise would have been able to deduct for the gift in the income year in which you made the gift.
you lodge your * income tax return for the first income year to which the variation applies.

(6) The election and any variation must be in a form approved in writing by the * Heritage Secretary.

30-249E Effect of election

(1) In each of the income years you specified in the election, you can deduct the amount corresponding to the percentage you specified for that year.

(2) You cannot deduct the amount that you otherwise would have been able to deduct for the gift in the income year in which you made the gift.

(3) Schedule 5, item 17, page 26 (line 23), omit "Subdivision 30-DB", substitute "Subdivisions 30-DB, 30-DC and 30-DD".

(4) Schedule 5, page 28 (after line 8), after item 23, insert:

23A Subsection 995-1(1)

Insert:

Environment Secretary means the Secretary of the Department that administers the Environment Protection and Biodiversity Conservation Act 1999.

(5) Schedule 5, page 28 (before line 8), before item 23, insert:

23B Subsection 995-1(1)

Insert:

Heritage Secretary means the Secretary of the Department that administers the Australian Heritage Commission Act 1975.

I table a further supplementary explanatory memorandum relating to the government amendments to be moved to this bill. The memorandum was circulated in the chamber on 12 April 2000.

Senator Faulkner (New South Wales—Leader of the Opposition in the Senate) (5.04 p.m.)—I focus my remarks in this debate on the two groups of Senate amendments that the government has cynically decided not to support. Of course, the opposition has been consistent with its position on these important issues of Senate amendments 8, 11, 12 and 13, which provided that environmental gifts to approved environmental bodies, either by absolute donation of land or by entering into an environmental covenant over the land, will obtain tax deductible status.

The environmental amendments extend the government’s proposals for increased tax concessions for philanthropy to, if you like, environmental philanthropy. The amendments propose to create a new type of philanthropy where land-holders donate land which has significant conservation value to approved environmental bodies or, if they enter into environmental covenants over land that they continue to own, the land-holders will be able to claim as a tax deduction the economic loss that they incur.

This will, of course, be a significant incentive for land-holders, many of whom will be farmers, to conserve remnant ecosystems. At the moment, these land-holders generally face the economic imperative to clear the land of its natural habitat and put it into production, either with crops or by grazing. This proposal had the support of the Senate. I think it had the support of the entire environmental movement, as I understood it. I think it had the support of the CSIRO. I think Senator Hill actually supports it as well. Senator Hill, of course, came into the Senate to oppose the amendments but he indicated that he actually agreed with the principles that stood behind the amendments. Frankly, I think that demonstrated that Senator Hill supported the proposals but, pretty cynically, wanted to announce them himself some time next year with a little bit of fanfare, perhaps even in the lead-up to an election, and perhaps to claim these sorts of proposals as his own.

This legislation is bringing in a new regime of taxation for philanthropy, and I think it is an appropriate place to deal with measures that go to the issue of environmental philanthropy. We have had the extraordinary step of the Australian environment minister, Senator Hill, writing to environment groups trying to get them to lobby the Australian Democrats against their own amendments. The policy is actually a good policy. It is supported by the CSIRO. I hope on this that the Senate will stick to its guns and insist upon the amendments, and it is hoped that the government will see the merit of them. But, having said that, the question of rorting
of the philanthropic provisions of this legis-
lation is something that has exercised the
opposition to an even greater extent than the
environmental philanthropy provisions, and
we have Senate amendments 14, 17 and 18
which propose that tax deductibility would
be denied for contributions to private funds
where those private funds are engaged in
providing moneys or other benefits to politi-
cal parties. These amendments are very im-
portant because they address the shonky,
shadowy area of Liberal Party fundraising.

The government’s strategy with regards to
getting this legislation through the parlia-
ment was to falsely claim that Labor was
holding up the bill. The fact is that the gov-
ernment has been so badly damaged by the
impact of the GST on the charitable sector—
something you would hope that Senator
Kemp would know something about, but
something that Senator Kemp proves ques-
tion time after question time is a matter of
which he is entirely ignorant—and the deba-
cle of the government’s mismanagement of
its goods and service tax that, eventually, the
government, through Senator Newman,
found an issue for a diversion. And wasn’t a
diversion important for government spokes-
persons like poor old Senator Kemp! Unfor-
tunately for Senator Newman, when the
charitable organisations contacted the oppo-
sition about these amendments they were
told the truth, as you would expect from the
opposition—namely, that Labor has always
supported the legislation but that a devious
loophole was found in the legislation. There
was an attempt, of course, by Senator
Kemp—and Senator Hill on the environ-
mental philanthropy—to be deliberately eva-
sive on this issue. You never know whether it
is intentional or not with Senator Kemp, but
he was exposed. Each person who rang us
and who had the Greenfields amendments
explained to them accepted the merits of en-
suring that there should be no rorting by
charitable organisations—and I use those
words advisedly—that were actually Liberal
Party fronts.

Reputable charitable organisations—the
fair dinkum charities—do not want to get
lumped in with the Liberal Party shonks.
And you can understand why: they do not
want to be tarnished by the rorters in the
Liberal Party. They do not want to have their
philanthropic provisions misused by the Lib-
eral Party to rort and manipulate the limit on
donations to political parties, and they did
not appreciate being misled by Senator
Newman. Mind you, I suppose that is some-
thing that you get used to, and I imagine the
charities are used to that by now. The chari-
ties accepted that Labor is not trying to slow
down this legislation at all, and they had ab-
солutely no problem with the opposition put-
ting forward amendments to stop the
Greenfields Foundations style rort. So the
government strategy backfired. Senator
Newman had egg on her face again. Senator
Kemp was exposed again.

By refusing to give a guarantee that
Greenfields and other suspect entities would
not be granted tax deductibility for donations
which could be used to provide benefit to
political parties, Senator Kemp has effec-
tively admitted that the Liberal Party is plan-
ing to rort the system. The Greenfields
Foundations has been found by the Austra-
lian Electoral Commission to be an associ-
ated entity of the Liberal Party. I hope that
Senator Bartlett takes a little bit of notice of
this, because I gather that the Australian
Democrats have ‘courageously’ caved in to
the government on this issue. I am a little
surprised that you did not put up a bit of a
battle on this one, Senator Bartlett, and I will
be interested to hear your explanation on this
issue. The Greenfields Foundation is an as-
associated entity of the Liberal Party.

Let me remind the chamber what the
Greenfields Foundation describes its own
activities as:

The Foundation is a Trust Fund, established
for charitable purposes, administered by the
Trustees.

That is what the trustees say on their own
letterhead in a letter dated 15 January 1998
and sent to the Electoral Commissioner, and
I am not surprised that Senator Herron is
very embarrassed by this legislation.

Senator Herron—It is the noise that I am
embarrassed by.

Senator Faulkner—The trustees, Senator
Herron, say that they are charitable
but the AEC says that they are an associated entity of the Liberal Party. Any reasonable person looking at this would immediately want to make sure that such an organisation is not then able to provide financial support to the Liberal Party on the back of taxpayer funded gifts from the likes of John Elliott or Ron Walker or to some sort of bogus Greenfields Foundation type of fund.

Senator Conroy—They would never do that, John, you cynic!

Senator Faulkner—It may be, Mr Temporary Chairman, that I know a little more about this than Senator Conroy.

Senator Sherry—A lot more, I suspect, Senator Faulkner.

Senator Faulkner—I suspect you are right, Senator Sherry. If it is the case, let us hope Senator Conroy does not make any further comment on—

Senator Jacinta Collins—Maybe he is not listening to Senator Kemp.

Senator Faulkner—He would be misled if he is. But we know that there is now a capacity, if this bill is passed unamended, for a private fund to be prescribed by the income tax assessment regulations. This will mean that there will be tax deductibility for donations and gifts for such organisations. In other words, you set up a shonky vehicle like the Greenfields Foundation, you call it a charitable trust and, as a result of this bill, anyone donating to it when it is an associated entity of the Liberal Party actually gets a tax benefit. That is how simple it is. That is what a rort we are dealing with in this legislation. That is what a rort this element of the legislation is. The opposition do not want to knock over the legislation but want to knock over the dodge. We do not want the Liberal Party to be able to put the fix in again in relation to electoral donations.

Of course, I think this offends a great number of important principles. I had sought earlier in the debate a categorical commitment from Senator Kemp to try to get over the problems that we have. I tried to get a commitment that the Greenfields Foundation would not be a prescribed fund for the purposes of this act. He would not give that. I tried to ask for a commitment that the Treasurer would declare in writing that a fund like the Greenfields Foundation could not be a prescribed fund for the purposes of the act. He would not give that commitment. I tried to get a commitment that we actually have a separate regulation for the Greenfields Foundation so that, if it were regulated under the Income Tax Assessment Acts regulations, then it individually could be disallowed by the Senate—again, no such commitment was forthcoming. The Assistant Treasurer was not willing to give any of those commitments, and you have to ask why. I think the opposition has provided the answer to that question, because they want to put the fix in through the Greenfields Foundation to launder donations under the guise of donations to charities.

Senator Bartlett (Queensland) (5.15 p.m.)—I begin by noting Senator Faulkner’s suggestion that Senator Conroy not take any further part in this debate. I think that is an excellent suggestion.

Senator Faulkner—Well, we agree about something.

Senator Bartlett—I will turn to the proposal not to insist on the replacement amendments. Firstly, dealing with those, I initially moved, on behalf of the Democrats, a number of amendments seeking to ensure that the incentives for philanthropy that were contained within the legislation extended to the environmental area so that we could have some taxation incentives for people to be acting in a way that would benefit the environment. The government, I must say to our great disappointment, was not willing to accept all of those but it has accepted some of them. One of them is quite a significant one enabling the spreading of environmental gift deductions over up to five income years. This will be a major incentive. It is major advance in starting to shape our taxation legislation in a way that provides incentive for positive behaviour, rather than just penalising behaviour. Putting that into the environmental area is something that the Democrats and many others have been trying to achieve for many years. The bill initially made a very, very small step in that direction. This amendment now will move that significantly further.
Also worth noting—and I am sure the minister will confirm this—is the solid commitment from the government to continue to review the other measures that were put forward previously by the Democrats, including me, as part of the committee that he has established to look at further developing taxation measures in this area. So those other environmental aspects, such as conservation covenancing, bargain sales of land for conservation purposes, donations of land with retained right of occupation, and the capital gains tax treatment of non-testamentary donations or sales of land for conservation purposes will all be examined by that existing working group with a commitment to report before the end of this year.

I think it is important that that is put on the record by the government as it will build on the significant environmental advance that the Democrats have managed to achieve in this particular legislation.

Moving on to the other amendment, the so-called Greenfields amendment, the Democrats have chosen not to insist on that amendment on this occasion. I go back to the comments made when this was put forward and, without giving the minister gratuitous advice, I suggest to him that he could have saved all of us, himself included and some others of us as well, an enormous degree of pain if he had been a little bit less sensitive about this issue when he was first being questioned on it. I note that in the House of Representatives the other day, when this bill was being debated again there, Mr Slipper was quite openly happy to say that the government has no intention of using the Greenfields Foundation for this purpose. If Minister Kemp had said that when the question was first asked back in December last year, we would have saved ourselves not only many hours of debate then but also what we are going through now, and I suspect what we will continue to go through after I sit down. So I do have some gratuitous advice to the minister to perhaps reduce his sensitivity about questions on this issue.

There is no doubt that the Greenfields Foundation has operated in a way that is highly dubious, to put it politely. Minister Kemp may not know a lot about that, but I am sure that there is somebody in the Liberal Party who knows quite a lot about it, if not a number of people. To suggest that that is not an issue that is worth focusing on is displaying such an extreme degree of sensitivity as to almost generate a natural suspicion that there is something to hide there.

As I said at the time, the Democrats were not convinced that the amendment moved by the ALP was necessary. We felt that the legislation as it stands may prevent the sort of behaviour that Senator Faulkner was rightly concerned about, but we were not certain, and the government was unable—and I must say is still unable—to give any indication as to why the amendment is a problem. The only problem the government seems to have with it is that it finds it upsetting that it is there and it is against the purity of legislative principles to have unnecessary amendments contained in acts. I do not find that overly adequate. If there is no problem to the operation of the act because of the amendment, I cannot see any reason why we cannot have it there just to be safe. Nonetheless, we have received advice on this as well, and indeed I know the ALP has seen the advice from the ACF at least and their legal adviser that they do not believe the amendment is necessary. As I say, to remove all doubt, because there is no harm in the ALP amendment, it is hard to see why the government is so insistent about it. I say that because I indicate that the main reason that the Democrats have chosen not to insist on this occasion is that we recognise that the bill as a whole, the Taxation Laws Amendment Bill (No. 8) 1999, and particularly the expansion of its application to environmental measures, is an overall significantly positive measure, and it would lead to a bad policy outcome if we had a significant positive measure being held up over an amendment like this, which can be moved to other taxation amendment legislation in the future.

My comments are specifically being made to highlight the fact that the government has still not given a good reason, in my view, as to what is wrong with having that amendment there and has not given good reason as to why it would impede the effective operation of the tax act. That is something that it should do. I would also say that, on the issue
of curtailing inappropriate use of organisations as fronts for donations and as ways of laundering money, if you like, to prevent donors’ identity being closed up, the Democrats have consistently moved very strong amendments to deal not just with the specific case of the Greenfields Foundation, which is one that the ALP has focused a lot on, as they should—

Senator Conroy—You keep shutting the gate after the horse has bolted. Here’s your chance to shut the gate before the horse gets out.

Senator BARTLETT—The Democrats have moved amendments frequently in the past to try and shut quite a large number of gates in relation to a broader range of areas, such as trusts and clubs being used as front organisations to prevent disclosure of donations. Those are ones that were highlighted in our report from the Joint Committee on Electoral Matters last time around. They are ones that my colleague Senator Murray has moved in this place to previous electoral amendment legislation and ones he will continue to move. Given the strong words being spoken today by the ALP about the need for shutting gates and preventing misuse and dodging of electoral laws, I hope to take that as a sign that they will be supportive of those amendments next time they are moved by the Democrats.

That said, whether it will occur I do not know, but I would like to urge the Senate to enable this to come to a vote before 6 o’clock tonight, because obviously the outcome will provide a significant advance in terms of environmental measures being incorporated in the taxation law and a process being put in place for further measures to be incorporated down the track. Given that the debate has occurred and I think everybody agrees that the bill as a whole has a lot of positive measures, it would be unfortunate if it were not to be put in place. There are some very major gains in this for the environment which the Democrats have achieved—

Senator Faulkner—You have sold out.

Senator BARTLETT—There is nothing more worth protecting than the environment. The need to try and adopt measures that will ensure the protection of our environment is something that has absolute primacy from the Democrats’ point of view. We are not willing to hold up measures that will ensure a significant advance in protecting our environment for an issue that can be raised through another piece of legislation. It would be holding up a significant advance in an environmental measure if we were not to get this through tonight, but that is obviously out of my hands, as I recognise.

The reasons for the Democrats position on this particular issue are on the record, and hopefully the minister will also put on the record the government’s commitments on this issue. It is important to emphasise that all parties at various times are forced to compromise. Indeed, earlier this morning there was a similar situation over a different piece of legislation. The ALP had previously moved amendments, which the Democrats supported, to that legislation on a significant area of principle, but Labor chose not to insist on the amendments when the legislation came back into the chamber because they were holding up a piece of legislation that was beneficial. Labor decided that they would pursue that issue further through other legislation. Deciding whether to hold up a beneficial piece of legislation with an amendment or to move it across and pursue the issue through other legislation is a decision that political parties have to face all the time in this place. The Labor Party did that just this morning on a separate piece of legislation—a decision I did not object to, I might also say. It is important to emphasise that deciding not to insist on an amendment is something that all parties do at various times because of that fundamental dilemma and the consequences of holding up a generally beneficial bill. It is not an uncommon situation. It is certainly not inconsistent with my comments and the Democrats comments on this issue and, indeed, our record more broadly on disclosure of political donations. It is a goal that we will continue to pursue and, given the great outrage that the Labor Party are expressing at the moment, hopefully they will support us when we pursue it more firmly in the future.
Senator KEMP (Victoria—Assistant Treasurer) (5.31 p.m.)—I will be brief because we want to get the Taxation Laws Amendment Bill (No. 8) 1999 through by the end of the evening, and we note Senator Faulkner’s comments and assurances in this regard. The government is determined to ensure passage of this important legislation which will impact on the full range of community sectors seeking philanthropic support. Through this bill, the government has decided to provide further incentives in the area of the environment and Australia’s heritage. Taxpayers will be allowed to apportion income tax deductions for donations of property to environmental and heritage organisations over five years on the same lines as gifts of property to cultural organisations. The government believes that this goes a long way to meeting the Democrats desire to see further concessions to encourage environmental conservation. The government has moved these amendments and therefore believes that the Democrats original amendments are no longer necessary.

As for the Labor Party’s amendments, I think everyone has seen through this as a cheap stunt. The opposition has rejected very worthwhile initiatives in the Senate in order to gain some perceived political mileage—mileage which is purely in the imagination. Of course, the Senate should reject those amendments. In relation to Senator Faulkner, I will again exercise the restraint for which I am famous and refuse to be provoked. I refer those who wish to seek my views on Senator Faulkner’s comments earlier in this debate to pages 11568-9 of the very interesting Hansard of 9 December. I stand behind every word I said on that occasion, and if anyone seeks to pursue it I invite them to look at it. Senator Faulkner has the reputation of being probably the worst environment minister we have seen, and his actions today have confirmed that.

Senator SHERRY (Tasmania) (5.33 p.m.)—I will make just a short contribution. I made some comments about this legislation when it was before the Senate previously. Then, we were able to ensure—along with the Democrats, I might say—some important amendments to the legislation in two areas.

One set of amendments went to important environmental issues, particularly in relation to property for conservation purposes. The Labor Party believe that the amendments proposed by the Australian Democrats would be very beneficial. The Taxation Laws Amendment Bill (No. 8) 1999 is a piece of legislation that goes to philanthropic activity, which the Prime Minister, Mr Howard, believes should be encouraged, and indeed which the Labor Party believe should be encouraged. But I must say that I am somewhat surprised at the position of the Democrats. I think Senator Bartlett was a little embarrassed—I notice he left the chamber very quickly. I suspect it is because of embarrassment over having to put a totally contradictory position, having previously supported Labor’s important amendment—as moved by my colleague Senator Faulkner—to prohibit the misuse of philanthropic activity in respect of political parties and donations to political parties. I do not want to go into the detail that Senator Faulkner has outlined because he is regarded—

Senator Faulkner—A very thorough analysis.

Senator SHERRY—Senator Faulkner, my colleague and the Leader of the Opposition in the Senate, is certainly regarded as a leading parliamentary expert on the activities of the Greenfields Foundation. In fact, I think he knows more about the Liberal’s Greenfields Foundation than most members of the Liberal Party. The Greenfields Foundation was an organisation set up by the Liberal Party to avoid scrutiny. Senator Faulkner has, on a number of occasions, exposed the activities of the Greenfields Foundation and the Liberal Party. I note that, on a previous occasion, Senator Kemp did not even acknowledge the Greenfields Foundation existed. He evaded every possible question that Senator Faulkner put to him about the activities of the Greenfields Foundation. I also note that Senator Kemp made the point that the amendments moved by my colleague Senator Faulkner—which were originally carried in the Senate—were a cheap stunt. I agree with Senator Kemp about one thing: the amendments are cheap. There is no additional cost to the government in terms of
expenditure, so to that extent they are cheap. I certainly reject the accusation that it was a stunt.

What are the government so concerned about? If the amendments that effectively prohibit the sorts of activities that we have seen with respect to the Greenfields Foundation do not cost the taxpayer one cent in additional expenditure in this legislation and, more importantly, deal with the moral issue of prohibiting and prescribing political donations in the guise of philanthropy, what is the concern of the government? If they are fair dinkum about ensuring that political donations are made in an open way and not by using some sort of artificial, hidden vehicle, then what is the concern of the government? Why do they oppose what is a commonsense amendment that enhances the openness of Australian democracy? The amendments moved by my colleague Senator Faulkner, which were passed by the Senate, would apply to all political parties in this country. Obviously, we have an immediate concern about the Greenfields Foundation because the Liberal Party have been caught out by the Australian Electoral Commission. Our amendments go to ensuring that the sort of activity that the Liberal Party and the Greenfields Foundation have been engaged in does not happen again. The Labor Party have not been involved in these sorts of fronts and philanthropic activities and want to make sure that no other political parties—whether it be One Nation, the Australian Democrats or the Australian Greens—can be involved in this sort of activity.

We have had a backdown, a backflip and backsliding by the Australian Democrats. You have to ask why they are not in favour of cracking down on and eliminating this sort of artificial contrivance, certainly with respect to our democratic institutions and practices in election funding, and making sure that this sort of activity does not occur. What is the problem for the Australian Democrats in this area? They supported the amendment on the previous occasion. As I said, Senator Bartlett looked very embarrassed giving his contribution. I suspect the fault does not lie with Senator Bartlett. I suspect the fault lies with other members of the Australian Democrats. Certainly, we know what the position of people like Senator Lees and Senator Murray was with respect to the GST, for example. They led the backdown on the GST and allowed it to pass. I suspect they are two of the villains in this backdown on the amendments that would have ensured openness of political donations—amendments which my colleague Senator Faulkner ensured were passed on the previous occasion. It is very disappointing. Unfortunately, if we look back on the Australian Democrats’ record—and this is one of the worst examples—they have taken other positions where they have compromised significantly and sacrificed the principle that they so righteously espouse in this chamber.

Senator CONROY (Victoria) (5.41 p.m.)—I rise in support of the Labor Party’s amendment and our position on insisting on these amendments.

Senator Faulkner—Good.

Senator CONROY—Thank you, Senator Faulkner. I remember the phrase ‘keeping the bastards honest’. It is the Democrats’ title. How some old and disillusioned Democrat members must be spinning in their graves today. The reason this is so disappointing is that we expect the spivs on the other side to behave this way. We expect them to try to find their way through the laws. We expect the Ron Walkers, the Lloyd Williams and the bagmen from the Liberal Party to be out there finding any little loophole to get the donations into their banks and to hide who gave it to them. We do not even get too excited about that. But for the Democrats to fold on this one continues their recent tradition. How they have walked away from the traditional Democrat position—first, the casino amendment, the high-roller amendment. We saw them cave in to that small, struggling family business—the Packer family—over the casino. In the last 48 hours, we saw the Liberal Party’s regional and rural marginal seat strategy, described as conurbations, signed up to by the Democrats.

Senator Sherry—Senator Kemp did mount a major defence of that casino—

Senator CONROY—He did. The 7.30 Report is still talked about—much like that
look of pain on his face on the weekend. But the Democrats signed up again to the Liberal’s marginal seat strategy, disguised as the diesel fuel rebate. Why are the Democrats so keen to protect Liberal Party marginal seat holders? And now the final nail in their high-moral-ground coffin is their cave-in and capitulation today on party funding. Not only are they prepared to roll over to the Liberal Party’s high-roller mates—the Ron Walkers and the Lloyd Williams—not only are they prepared to try to use Commonwealth money to bankroll marginal Liberal seats, but they are also prepared to go the one extra step—that is, to let the Liberal Party’s mates hide their donations. How truly disappointing. How far the Democrats have come from ‘keeping the bastards honest’!

Senator Faulkner—It is full circle.

Senator CONROY—No, it is not 360 degrees—geometry for the day from Senator Faulkner. How tragic a party they are. At least in the GST debate you could possibly say that they sold out for some substantial gain. It is possible for them to pretend that; but what have they got today? Now Senator Kemp is playing them on a break. He is able to get them in a room and just go, ‘Look, we will do something to help the environment,’ and they say, ‘Oh, really? Well, we will vote for you then.’ They are prepared to give in absolutely on the sniff of an environmental policy from the government. With just a little bit of a tease that, ‘We will do something for the environment,’ the Democrats will just sell out any of their existing principles.

Senator Quirke—they just put the hook out and they jump straight on it.

Senator CONROY—that is right. They do not even struggle much anymore, Senator Quirke. I am going to finish up.

Senator Herron interjecting—

Senator CONROY—I welcome Senator Herron. I invite Senator Herron, as I have invited Senator Kemp, to come to Benalla on Tuesday and debate the GST with me. Come for a street walk in Benalla. It is a by-election in Victoria, in case you did not know. As I said, I will finish up now. The Democrats must be turning in their graves. Senator Bartlett could not get out of this chamber fast enough because he knows the Democrat party room is an embarrassment, and he did not want anything to do with it. He should run out of this chamber faster next time.

Senator ROBERT RAY (Victoria) (5.46 p.m.)—The issue we have been looking at this afternoon is whether the Greenfields should be given a break. It is proper to reflect on how it was set up. Basically, the Liberal Party was broke. Basically, Ron Walker could not raise any more money for them, but he thought up the idea of giving them some of his own money—presumably it was his own money—$4.6 million. So they set up the Greenfields Foundation, gave it the money, it lent it to the Liberal Party with virtually no interest payable and that way they were able to avoid disclosure. Why wouldn’t they want that disclosed at the time? Why would the Liberal Party seek to hide a donation from Ron Walker of $4.6 million? The answer is simple: because Ron Walker and his cohort Lloyd Williams were getting a very, very good deal from the Kennett government. Remember, they got a cap put on the number of poker machines that would be in competition with them. Remember, they got their casino expanded. Remember, they were able to lift their bid for the original casino licence to exactly what Sheraton had put in. All of that happened apparently by osmosis. But now we see from documents made public in Victoria that it was two old Scotch College boys getting together and putting the fix in. That is what happened.

One of the ministers at the table asked yesterday, I think it was: how could the Victorian electorate throw out a great leader like Mr Kennett? If you want to know how the corporate state operates, just have a look at what has become available today. It has been revealed today that the former Premier of Victoria hired a hack to write the history of the Victorian Kennett government and used taxpayers’ money to do so. I believe the contract was worth about $120,000. They hired Dr Malcolm J. Kennedy—use of the initial will tell you something about him—to write this particular book. Of course, he was paid monthly and these payments were kept
secret from the department. Even departmental people did not know that this had occurred. It certainly was kept secret from the public. You just have to have a look at a couple of quotes from the book. Let us refer to one of the quotes from former Premier Kennett, who commissioned this book. It says:

He is full of ideas and energy. He drove his ministers but also inspired them to achieve all their policy objectives. The electrifying enthusiasm of the blitzkrieg parliamentary session generated a huge energy.

That is what Dr Kennedy said about his client Mr Kennett. He also talks about Dapper Don Hayward, and says:

His high-domed head suggests intelligence.

We needed $120,000 of taxpayers’ money to tell us that. It says of former Treasurer Alan Stockdale:

He was said to have radiated energy and relieves his serious demeanour with impish flashes of humour.

This is the corporate state at work: use the taxpayers’ money. This is a worse hagiography than the John Howard biography. I thought that was the worst I had ever read, but this apparently was worse. This is what has been washed out of the Victorian system.

There were elements of the Kennett government that I can acknowledge did a good job, but the style absolutely stank. And at the heart of that stench was the fundraising and the corporation new establishment that Kennett brought with him. He was never an old establishment man. He never crawled to the top end of Collins Street. He created his own establishment, and the focal point of that establishment was Walker and Williams: they provided the money. What they got in return was the casino licence. Isn’t it surprising? They got the licence and they were too dopey to make money out of it. They had to bring in the Packers, who have got a good track record of making money, to actually make it a good earner. That is what they have done. They could have easily given us a verbal agreement across the chamber that the Treasurer would exclude Greenfields from all of these other things. But, no, we have had a gun put to our head—either pass this legislation now or it has to sit for more months which will hurt other people who could benefit from it—simply to protect their mates. Senator Kemp is not part of this establishment. He is just a lackey; he is just an appendage of the Victorian establishment. He has never been central to it. I cannot accuse him of corruption. I cannot accuse him of being part of the corporate state because they just regard him as an irrelevancy in the Victorian branch of the Liberal Party.

We should have persisted with this amendment because it would have knocked off one of the great rorts of Australian politics. The Liberal Party in this chamber have opposed every tightening of the disclosure laws from 1983 right through to this year. They have never supported them. They have always opposed them because they have always wanted to get the grubby money in and hide the source. Now what they are able to do is use their associated entity, Greenfields, to raise the money and, lo and behold, they get a tax break in the process. It is an absolute disgrace.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (5.52 p.m.)—The government is refusing to accept the amendments before the parliament which go to closing a loophole in this legislation whereby so-called philanthropic donations made to shonky charitable trusts, set up to benefit political parties only, receive the same benefits as fair dinkum philanthropic donations to charitable organisations. That is what the Labor Party is trying to achieve. In the Greenfields Foundation we have an organisation that is accepted by the Australian Electoral Commission as an associated entity of the Liberal Party with the status of a charitable trust. Under this legislation—now supported although previously opposed by the Democrats—you can hide donations to the Liberal Party but receive a tax benefit by providing those donations.

This is extraordinarily unprincipled, and the Labor Party provided three simple mechanisms to allow the Treasurer, Mr Costello, or his mouthpiece in the Senate, Senator Kemp, to close the loophole. But, of course, the government would not act. And the Democrats, who had supported the Labor opposition in ensuring that this rort could not
continue, have now caved in. They are embarrassed about caving in, and so they should be. The trouble is, this particular proposition, as it relates to front charitable trusts for political parties—front political organisations—absolutely stinks. It is a scummy, sleazy, slimy operation from the Liberal Party. As far as I am concerned, the proposition is corrupt, and the opposition will have no part in it. It is shameful that the Australian Democrats have caved in and allowed donations to political parties, under the guise of charitable donations, to receive tax benefits. In this instance, of course, it is the Liberal Party through the Greenfields Foundation.

This chamber ought to work hard to try to stop this rort occurring, to hold the government accountable on this issue, to protect the integrity of our electoral laws in this country and to not allow the decent charities to be caught up in this shonky rort so typical of the Liberal Party. As I have said before, when this is explained to fair dinkum charities—they understand why the opposition have taken the position they have—they will not want any part of that sort of shonky operation. But the opposition do want the philanthropic and environmental changes to go through. We want to hold the government to account for the rort it is proposing in relation to donations to its own party. It is for that reason we will bat on, it is for that reason we will divide and it is for that reason we will not let the issue of the Liberal Party’s rort of the Greenfields Foundation go. You are not off the hook on this, Senator Kemp; we are going to keep on the case.

The TEMPORARY CHAIRMAN (Senator McKiernan)—The question is that the committee not insist on amendments Nos 8, 11 to 14, 17 and 18 and that the amendments moved by the minister in substitution for amendments 8, 11 to 13 and 17 be agreed to.

The committee divided. [6.01 p.m.]
(The Temporary Chairman—Senator George Campbell)

Ayes............ 32
Noes............ 20
Majority........ 12

AYES

NOES
Campbell, G. Collins, J.M.A. Cooney, B.C. Evans, C.V. Forshaw, M.G. Hogg, J.J. Lundy, K.A. Murphy, S.M. Quirke, J.A. * Sherry, N.J.

* denotes teller

Ayes

NOES

Resolution reported; report adopted.

DOCUMENTS
Committee Reports: Government Responses
Productivity Commission: Report

Senator KEMP (Victoria—Assistant Treasurer) (6.04 p.m.)—I table four government responses to committee reports together with a report of the Productivity Commission. I seek leave to have consideration of each response as a separate order of the day on the Notice Paper under consideration of
committee reports and government responses.

Leave granted.

*The list of documents read as follows—*

Australian content standard for television and paragraph 160(d) of the *Broadcasting Services Act 1922*—Government response, dated November 1999.

The 1998 Indian and Pakistani nuclear tests—Government response.

The effect of pricing and slot management arrangements at Kingsford Smith Airport on regional airlines and communities—Government response.

Transport—Government response, dated April 2000—

Communications, Transport and Microeconomic Reform—House of Representatives Standing Committee—Reports—

Planning not patching.

Tracking Australia.


Rail Projects Taskforce—Report—Revitalising rail.


**SENATOR BROWNHILL:**

**RESIGNATION**

**SENATOR BROWNHILL** (New South Wales—Deputy Leader of the National Party of Australia in the Senate) (6.04 p.m.)—by leave—I thank the Senate very much for giving me the opportunity to give my last speech in this chamber. I am advised that there are to be no replies to my speech, which is quite reassuring. Although my Senate leader, Senator Boswell, said he would like to say something, I have suggested that everyone wants to get on an aeroplane and get home.

It seems a long time since I came to this place. Six months after I arrived here I replaced Doug Scott, because there was a bit of togetherness at that particular stage. In the 15 years since I have been in this place, how things have changed for me. I came in with a family—a beautiful wife, Julia, four children—

*Honourable senators interjecting—*
hold a bit of a record. A bit of a sly old dog, he is. I think he has been a bit of a sly old dog in a lot of the negotiations for Tasmania. But it was a great pleasure playing with you, Brian.

The honour roll down in Old Parliament House is really quite something. I had a look at it the other day when I was down there. There are not many names left there that do not have the termination dates on the end of them. Obviously my termination date is coming tomorrow. It was a great place; it was really quite special. There were some special people down there when I came. Doug McClelland, who was the President of the Senate, was a great help and a great support to me when I first came in, and I thank him for that. I have thanked him a few times since. Sir John Carrick I used to have morning teas with. I used to have drinks at night with Reg Withers. They were two different characters. Fred Chaney was the Leader of the Opposition at the time, and he was pretty good. And, of course, there was Barney Cooney. Senator Cooney was just across the corridor. The Building Workers Union, I think it was, which he was the representative for, used to ring up continuously, but Barney was never in the office.

Senator Cooney—Oh!

Senator BROWNHILL—You were sometimes, Barney, but you weren't there a lot of the time. Sue White from my office used to answer the phone quite regularly. We became absolute experts in the trade union movement at that time. Thank you for the tuition that you gave me at the time.

George Georges did not end up all that happily with the Labor Party. He was the Chairman of the Senate Select Committee on Animal Welfare. I always remember him saying when he left the place: 'I have had two achievements in this parliament since I have been here for my 18 years.' And remember, I have been here only 15 and a bit. He said: 'You know the lights in the toilets?' I said, 'Yes.' He said: 'All we used to do was hear the bells; there were no lights. I was caught short one day. I ran down to the chamber when I heard the bells ringing and found it was only to make up a quorum for your government. So I got those two lights installed. That was one achievement.'

The other achievement he said was this. You know out in the King’s Hall where it has ‘Mind the slippery surface’ signs? Apparently, he was walking across there one day—he had very little feet; about three inches long—and he fell over and broke his ribs. But people thought he had had a heart attack, so they started to pump his chest. Every time they pumped his chest he squealed out, so they pumped him harder. Some of the Labor Party people might have wanted to do that at the time, too. Anyway, he screamed out. They thought he had had a heart attack but he hadn’t, so he got the sign put up and he said, ‘That was the other achievement.’ The thing that I learned from all those people and the reason why I mention them is because they said: ‘Play it as hard as you like in the chamber but out in the corridors walk the corridors with everyone.’ I hope I have been able to do that.

Another bit of advice was given to me by Doug Anthony before I came here. He said: ‘To yourself be true and sleep with your own conscience every night.’ I think I have done that. Some people have said, ‘And not with your secretary.’ I have and I haven’t. I have slept with my conscience and not with my secretary, and never would have even contemplated it—my wife is here today.

One of my first baptisms of fire, I guess, was when we were in opposition. It was in about 1990. I had just come back from the United Nations. Tim Fischer and John Hewson said: ‘I want you to go out and talk to the wool growers. They are coming down here because John Kerin has taken the floor price away. We want you to go out and tell them we are not going to get them the floor price back.’ Like a dutiful little fellow, I did. I did not know whether they were going to use me as a storm-trooper or as cannon fodder. I think you will find out that they used me as cannon fodder.

I think I was true to myself that day. I talked to the 3,000 wool growers. I said: ‘No way are we going to give you the floor price back.’ They were my riding instructions. I got booed for that. I said, ‘John Kerin has taken it away and we are not going to give it
back.’ I got booed again. Then I said that Bud Leventhal, who is the President of Burlington Industries in New York, the largest textile manufacturer in the States, had said that he didn’t much care what was on the sheep’s back; he only cared what had to go on people’s backs. I got booed for that because I suggested that they should look at the consumer rather than the producer. Maybe I didn’t do the right things there.

The next thing I said was that the stockpile would always override the market and until they got rid of the stockpile it would always have that bearish effect on the market. I got booed for that. Then I thought, ‘Well, hell, I’m on a hiding to nothing here.’ So I said, ‘If more of you had voted for us at the last election you would not have this problem now’, and I got booed again for that. But I think I have slept with my conscience.

Senator Herron—What happened after that? Tell us the rest of the story.

Senator BROWNHILL—What happened then was that Ron Boswell, a Queensland populist, jumped up on the back of a truck, and said: ‘I don’t know what he just said but I will give you the floor price back; I will cross the floor for you. Don’t worry about it. I’ll fix it for you.’ Bos and I have had a great association ever since. I won’t repeat the words I used when I next saw him. It was about somebody being on fire and being put out.

The other thing was the animal welfare debate. I think I achieved something in getting that debate to the middle ground because the animal activists and the animal liberationists were on one side and the alleged ‘animal abusers’, if you like to put it that way, were on the other side. Basically, that debate came to much more of a middle ground.

I am not claiming these as achievements. They are just some of the things that I felt good about afterwards. I pushed soil conservation and sustainable farming in this chamber—well, not in this one, the old one.

I take full credit for the Rural and Regional Affairs Committee and the establishment of it with Neil Bessell from the staff here in the parliament. He did a fantastic job. I wanted to form that committee so that we could get people on all sides of politics in this chamber—Liberal, Labor, National Party, Democrats, Independents and others—understanding the problems of rural and regional Australia. I think we have achieved a little bit; maybe we have not achieved everything.

I think I was the first senator to move an electoral office to regional Australia. That was done so that my staff could deal with people all the time and not be sitting in some closeted area in a major city not listening to the people. I’ve always tried to do that. I thank my staff for taking the brunt of that contact, the tears and the outrageous statements that are made some times.

The 90-odd inquiries I was on—I think it was 94 at the last count—were a great learning experience for getting on with one’s colleagues. We all work together in the Senate—a little bit different from my colleagues in the House of Representatives, who play it a bit tougher. We do achieve quite a lot in working together in this chamber. I thank all my colleagues for that.

The lowlights of my time here include 1987 and the Joh for Canberra campaign, which meant that we did not win an election that I believe we should have. Opportunities that were given to me—

Senator Robert Ray—Thanks for the 100 bucks.

Senator BROWNHILL—You may look like an Indian, but you are not the Indian bookmaker that I spoke to just recently, are you?

A highlight of my time in this place was when I was given the opportunity by John Howard and Tim Fischer to serve in the ministry in 1996. I can always remember the phone call that I got from the Prime Minister. He said, ‘You’ve got two ministries to look after and two ministers.’ I said, ‘I never expected that.’ I had always hoped, but I did not really expect at my age to get on the frontbench at that stage. I had hoped that Tim might feel a little bit of loyalty seeing I was cannon fodder for the wool industry and...
a few other things. Thanks very much, Tim, and I sincerely mean that.

I got a phone call from the Prime Minister and he said, ‘You have got two portfolios and no extra salary as a parliamentary secretary. You will get wonderful help from those two departments’—and can I put on record here that I did get wonderful help; the Department of Foreign Affairs and Trade and the Department of Primary Industries and Energy were absolutely magnificent. The other thing he said was: ‘You get the “honourable” for life.’ And I said, ‘That’ll be pretty handy. Thanks very much.’ The last thing he said was: ‘By the way, you get a state funeral if you die.’ And I said, ‘I will really be looking forward to that, won’t I?’ After that I thought, ‘This is pretty good,’ so I went out to my wife and said, ‘Do you know what, I get a state funeral if I die?’ She said, ‘Yes. But you will not have any say in it and you aren’t going to.’ She has always ruled the roost from behind the scenes, can I assure you.

John Anderson was a wonderful boss in the portfolios that he gave me to look after. I followed Nick Sherry into horticulture. We really achieved something with the National Rural Finance Summit. John Anderson gave me the job of looking after the activating committee that came out of that. People say in this place, ‘Why wasn’t it called the Brownhill committee?’ I thought, ‘God love us. I have been here a while and I do not think any committee has been named after me—there has been the activating committee and others.’ But I am very happy with what we achieved out of it. I congratulate John Anderson for the AAA package which came out of that—Advancing Agriculture Australia.

He also gave me the job of looking after the citrus industry restructure, which Nick Sherry had started. Nick had thrown the money and it was running out. I was a bit more forthright, I guess, in suggesting that the citrus industry should move into exports which he had started. I remember being in Griffith and hearing a bump on my motel door at night. When I opened the door the next morning—and they were very lucky I did not open it with my jamies on; they would have got a shock—the door fell in, the place was covered by oranges and the television camera was stuffed in my nose on a very cold morning. That was one of the things that happened to me. The other thing that happened in Canberra was, when a coffin turned up at a demonstration out here, they tried to put me in it.

When in government—and all governments have to do it—sometimes you have to do what is right and show leadership, no matter what. I thank John Anderson and Tim Fischer very much for standing behind me in getting that right, because look at what has happened to the citrus industry now. Helping increase R&D is something I am quite happy with.

Then there were the market access issues for Tim Fischer. I did 30 trade roundtables around Australia for the manufacturing and agricultural industries. The enterprise and ingenuity showcased there was magnificent.

I am proud to have been a part of the Howard-Fischer government. I am proud to have been a part of tax reform, getting the economy right and having an agenda to ensure Australia is world competitive in the 21st century.

I thank the National Party for the opportunity to be here. I thank all my colleagues. Bos, I really did love you except for that once. I thank Paul Calvert especially—and I hope Rod Kemp reads the Hansard because he always said I got too much leave. Paul, thanks very much. You cost me a fortune. Every time I got leave I had to give him a bottle of wine. I guess you have got enough to keep you going for the next few years. I must single Paul out because he has always been very helpful. Margaret Reid was not quite as helpful when she was the whip those many years ago, but I thank her for the job she has done as the President of the Senate. I am very sorry that she is not here tonight.

I want to particularly thank my two sons, Gordon and David, and their wives—this is the part that is hard—because they have done an enormous job at home that should never be asked of family when you are in this place. I think their wives have been a great help to them. I also want to thank Pru and
Dibs, our two daughters, and their husbands for their support.

They told me Doug Scott did this, so I am going to have a go. I have to give special thanks to Julia for allowing me to spend so much time here and around Australia working for our constituents in rural and regional Australia, spending so much time away from home. I hope I have made a difference for the people I came here to represent, which is all Australians, not just the people from my party.

What a change it is going to be going home. I think Julia is very worried—she tells me she is. She said that things are not going to be the same when I come home. I do not suppose they will be. I am 16 years older. But I look forward to the change. It is interesting that in the last 15 or 16 years I have slept more on my own in Canberra than I have slept at home with my wife.

I am looking forward to giving something back to my sons. I mentioned in a couple of radio interviews today what my eldest son said to me: ‘Dad, we would love to see you home. We are going to give you a Suzuki without airconditioning, a two-way radio without a handset, a hoe and a pair of pliers, and you won’t be able to talk to us but you will have to listen to us the whole time.’

Thank you all again very much. Thank you, Sue White, Ruth Gibson and Murray Hansen—my three chiefs of staff—and all the staff who have worked for me over the years. They have really done a fantastic job.

I will finish where I finished my maiden speech—and I think it might apply to me going home just as much as it does to everything else: God grant me the serenity to accept the things I cannot change, the courage to change the things I can, and the wisdom to know the difference. I thank the Senate.

Honourable senators—Hear, hear!

PERSONAL EXPLANATIONS

Senator WATSON (Tasmania) (6.24 p.m.)—Madam Deputy President, I seek leave to make a personal explanation.

Leave granted.

Senator WATSON—On Wednesday, 12 April in the House of Representatives, Mr Kelvin Thomson, the member for Wills, mentioned in speaking to the Taxation Laws Amendment Bill (No. 10) 1999 that I had met with RPC in 1996-97 concerning an Australian Taxation Office private ruling and that I was a member of a Senate committee that inquired into the Australian Taxation Office that reported recently. Taken in isolation, both appear perfectly harmless comments. My colleague the Assistant Treasurer at the time, Mr Jim Short, was also mentioned; but, in this case, the implication was to secure for RPC a private binding ruling for a certain employee benefits scheme. The attempt to secure a connection and to discredit the standing of both me and Jim Short is absolutely deplorable. At no time did I contact the ATO or responsible ministers to secure a favourable tax ruling for RPC or any other person. Such action by anybody would be reprehensible. I certainly received correspondence from the company, which I believe was sent to many other parliamentarians, including Mr Thomson, but that was not related to a tax ruling issue.

I receive correspondence from hundreds of people each year on many issues. I pursue some; others I decline. My files and notes contain no reference to ruling, only to legislation matters in relation to this sort of issue. I recall having many representations on the issue of a Labor Party amendment, however, to apply fringe benefits to an employee ownership scheme a little earlier, and the alleged concessions did not extend to private rulings. This matter was defeated in open debate in the Senate chamber. Having taken an active interest in taxation matters because of my professional training, I have received representations from many people and groups over the years. I regret the attempt to associate me with a tax avoidance scheme, particularly the alleged interference with binding rulings through the tax office—an implication, no more than that, I believe is absolutely deplorable and untrue. I believe my record in the Senate has been very strong in relation to combating tax avoidance and tax evasion and to securing propriety, compliance and fairness. In fact, if I recall correctly,
I was the first to raise the Petroulias matter in a Senate estimates committee in June 1999.

As honourable senators know, I have always pursued tax issues with a great deal of vigour, particularly to remove any injustice—but never to secure a benefit for one individual or a small group above another. Most would be aware of the leading part I played in the JCPA report 326—an assessment of tax—the first major review of the ATO since the 1930s in which the issue of rulings was extensively canvassed. So I have been actively involved in the rulings issue for a long time.

The reference to my colleague Jim Short, who has departed this place, was perhaps even more damaging. While I am not in a position to say whether meetings about particular issues ever took place, the implication that Jim Short could have taken part in any effort to secure a favourable binding ruling where the outcome may have been dubious or provided a narrow benefit to one person as opposed to the greater good of the community is deplorable.

Senator O'Brien—Mr Acting Deputy President, I raise a point of order. I do not want to remove the proper exercise of Senator Watson’s right, but I think dealing with matters relating to another person who is a former senator is not appropriate.

The ACTING DEPUTY PRESIDENT (Senator Calvert)—That point of order is correct. Senator Watson, I believe that you are rising for a personal explanation and, therefore, I hope you would keep your remarks to that personal explanation.

Senator Watson—I regret that that intervention was necessary. I know that my colleague Senator Kemp wishes to associate himself with this particular matter. He has asked that I incorporate into Hansard a joint statement by the Australian Taxation Office and the Australian Federal Police. I take great exception at any suggestion that the progress of the joint AFP/ATO investigation into the issues associated with Mr Nick Petroulias was in any way influenced by non-operational considerations. Tax Commissioner Michael Carmody said today.

This joint investigation commenced approximately 12 months ago, after the matter was referred to the AFP.

The investigation has been complex and time-consuming and has involved gathering and careful assessment of information and material. The setting of timeframes was intended to ensure that there was a proper basis for the execution of search warrants and other action.

Decisions made in relation to this matter were based solely on operational considerations.

The AFP determined the date of execution of the search warrants.

As is normal in such matters, relevant ministers’ offices were informed on the day warrants were issued.

CANBERRA
12 April 2000

For further inquiries from members of the media:

ATO Corporate Affairs
02 6216 1901 (bh)
0411 182 433 (m)

AFP Media
02 6275 7647 (bh)

DOCUMENTS

Consideration

The following orders of the day relating to government documents were considered:


United Nations—Communications—

Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [5].

International Convention on the Elimination of All Forms of Racial Discrimination [2].

Optional Protocol to the International Covenant on Civil and Political Rights [3].
Motion of Senator Cooney to take note of the documents agreed to.


ANTI-COMPETITIVE HEALTH COVER PRACTICES

Debate resumed from 12 April, on motion by Senator Harradine:

That the Senate take note of the document.

Senator CHRIS EVANS (Western Australia) (6.30 p.m.)—I wish to take note of the report of the Australian Competition and Consumer Commission, tabled yesterday. It is the first of the six-monthly reports in response to the Senate’s request for advice on anti-competitive practices by health funds or providers. The motion was passed by the Senate last year when debating amendments to the Health Legislation Amendment Bill (No. 3) 1999.

The proposal raised by Senator Harradine articulated the view of many of us that the recent changes in the health sector have seen an increasing emphasis on commercial practices, not all of which are in the interests of patients. At the time, the government said the motion was completely unnecessary and would waste the resources of the ACCC. The government sought to water down the amendment and later tried to redefine and minimise the scope of the investigations. I think the report we now have before us shows how wrong that view was. The ACCC has produced an excellent report which provides for the first time a review of many of the important competition issues affecting the health sector.

No-one reading this report could conclude that it was a waste of resources or unnecessary. The ACCC has documented a range of issues where consumers have not been given enough information and have been disadvantaged by anti-competitive practices by some health funds, doctors or hospitals. The commission found a very high demand for no-gap policies by consumers. A survey by HBF, quoted in the report, found that 91 per cent of fund members wanted to know how much their out-of-pocket expenses would be before treatment started, and 87 per cent wanted their health insurance to cover all costs so that there was no gap. This highlights the importance of real no-gap insurance and the need for informed financial consent.

The opposition will be moving amendments in the Senate to the government’s gap legislation to ensure that all doctors must tell their patients of any charges not covered by Medicare or private insurance. The commission also highlighted the importance of doctors disclosing any financial interests when they recommend that their patients use a particular hospital or service. Complaints to the ACCC on health issues have increased dramatically in recent years, and complaints concerning health insurance have doubled since 1996. I commend this report to all members who are looking for a bit of light reading over the Easter break. There is a litany of problems identified by the commission and some powerful arguments that the opposition believes merit careful consideration when the Senate considers the health insurance gap cover scheme bill later this year.

I think that this report, together with the report that will be handed down in the next few months by the Senate Community Affairs References Committee inquiry into public hospitals, will provide a very good basis for the Senate when it considers important health legislation over the next couple of years and in coming to grips with the very real problems that exist inside our health system, particularly in terms of competition but also in terms of a better functioning of the system within all its unit parts. I would also like to acknowledge the contri-
bution made by Senator Harradine in con-
ceiving and pushing the motion for this pro-
cess. I would like to thank the ACCC for car-
rying out the task so comprehensively. I hope
the government takes notice of the report and
the very important information contained
within it.

Question resolved in the affirmative.

COMMITTEES
Scrutiny of Bills Committee
Report

Debate resumed from 6 April, on motion by
Senator Cooney:

That the Senate take note of the report.

Senator MASON (Queensland) (6.34
p.m.)—I rise tonight to speak to the report of
the Senate Standing Committee for the Scrut-
iny of Bills on entry and search provisions in
Commonwealth legislation, which was
tabled in the Senate on Thursday of last
week. This report represents the most recent
efforts of this parliament to define liberal
democracy’s most pressing and most funda-
mental friction: the yearning for individual-
ism and the impulse for community, the call
for privacy of the person and possession, the
demand for effective law enforcement, the
prerogatives of the individual and the sover-
eignty of the state.

As Australians we are fortunate indeed to
live as citizens of liberal democracy. The
peace, stability and prosperity that system
brings to us are unequalled by any other
system of government developed in human
history. Unfortunately, many in our society
have become so accustomed to sharing lib-
eral democracy’s great bounty that they take
it for granted. The reality, however, is quite
precarious—in the famous words, ‘The price
of liberty is eternal vigilance.’

It is in this light that the efforts of the
committee for the scrutiny of bills and many
others have to be seen to be truly appreci-
ated. It is easy for the cynic to dismiss the
hours of meetings, and the reams of paper, of
a committee as a waste of time and a waste
of resources. The cynic, however, forgets
that it is such seemingly mundane efforts that
comprise our eternal vigilance and define the
democratic enterprise. The experience of the
last century is clear. Freedom and civil liber-
ties are frail and thus are in need of constant
nurture and constant protection. All too often
they have been trampled under the totalitar-
ian boot—in Paul Johnson’s words, ‘The
destructive capacity of the individual, how-
ever vicious, is small; of the state, however
well-intentioned, almost limitless.’ The role
of a parliamentary committee such as the
Senate Standing Committee for the Scrutiny
of Bills is to ensure that the government,
while being vigorous enough to protect the
integrity and the interests of its citizens, is
also sufficiently shackled by law and demo-
cratic oversight so as not to threaten the in-
dividual.

When writing its report, the Senate
Standing Committee for Scrutiny of Bills
was faced with the challenge of reconciling
the need for search and entry powers in ef-
fective administration of law with the need,
on the other hand, to ensure that citizens are
protected from arbitrary and unwarranted
interference by the state and its agencies. As
the reports says in introduction:

At common law, every unauthorised entry onto
private property is a trespass. The modern
authority to enter and search premises is essen-
tially a creation of statute. As such, it should al-
ways be regarded as an exceptional power, not a
power granted as a matter of course, and any
statutory provisions which authorise search and
entry should conform with a set of principles.

In this the committee implicitly followed the
principle that the onus lies with the state to
establish the case why it should interfere
with the individual and his or her possessions
and that any such interference should be
clearly circumscribed by law. The commit-
te’s most important task, therefore, lay in
developing a set of principles that in the fu-
ture would guide the exercise of entry and
search powers by the Commonwealth, its
bodies and its agencies. The committee felt
that the current state of affairs, where differ-
ent agencies were given different powers
under a variety of different acts, was quite
unsatisfactory.

I would like to briefly mention just some of
what I consider to be the most important
of the few dozen or so principles developed
by the committee in this report. In my opin-
ion they most clearly indicate the commit-
The committee believed that, the powers of entry and search being so inherently intrusive, granting them to any government agency should only be done expressly through primary and not subordinate legislation. Only in this way could parliamentary control and thus accountability be secured. The committee proposed that, in all cases, entry and search should be conducted only with the genuine consent of the occupier or, alternatively, under a warrant. The committee expressed concerns that currently various government agencies, such as the Australian Taxation Office, the Department of Immigration and Multicultural Affairs and the Australian Security and Intelligence Organisation, were able to effect entry and search without warrant. The committee recommends not only that, in future, all entries and searches where the occupier does not consent be conducted only under a warrant but also that any such warrant should be issued only by a judicial officer. This will ensure the continuing accountability and integrity of the process.

The committee also addressed the issue of the mechanics of entry and search. The committee believed that the powers should be conferred only on officials of sufficient maturity and training and who would also be subject to official scrutiny and accountability for the use and, indeed, the misuse of their power. Entry and search should be carried out in a manner consistent with human dignity and property rights. In most circumstances, it should be exercised during reasonable hours and on reasonable notice and, where it is likely to involve physical interference with people and property, the committee recommended that the power be used by, or at the very least with the assistance of, police officers.

In developing such principles the committee attempted to encompass what it considered to be best practice. Considering the intrusive nature of search and entry, the committee was of the opinion that these principles ‘should apply both to existing search and entry provisions and to proposed new provisions, should be administered by the Attorney-General’s Department, and should have statutory force.’ Only through such mechanisms would the integrity of the process be protected. In so defining powers of search and entry, this committee has sought to modestly retouch Australian liberal democracy and the living balance between the state and its citizens.

I thank all committee members, the secretariat, particularly Mr James Warmenhoven and, finally, our Chairman, Senator Barney Cooney, whose leadership, bipartisanship and commitment in this endeavour set the best example for all Senate committee work.

Question resolved in the affirmative.

Consideration

The following orders of the day relating to committee reports and government responses were considered:

Environment, Communications, Information Technology and the Arts References Committee—Interim report—ABC on-line. Motion of the chair of the committee (Senator Allison) to take note of report agreed to.

Superannuation and Financial Services—Select Committee—Report—Superannuation (Entitlements of same sex couples) Bill 2000. Motion of the chair of the committee (Senator Watson) to take note of report called on. On the motion of Senator Tambling the debate was adjourned till the next day of sitting.

Employment, Workplace Relations, Small Business and Education References Committee—Report—Katu Kalpa: A review on the inquiry into the effectiveness of education and training programs for indigenous Australians. Motion of the chair of the committee (Senator Collins) to take note of report agreed to.

Information Technologies—Select Committee—Report—Netbets: A review of online gambling in Australia. Motion of the chair of the committee (Senator Ferris) to take note of report agreed to.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Calvert)—I propose the question:

That the Senate do now adjourn.

Valedictory: Senator Brownhill

Senator BOSWELL (Queensland)—Leader of the National Party of Australia in the Senate and Parliamentary Secretary to
At 6 o’clock this evening we heard David Brownhill’s final speech as he leaves after 15 years of service to the Senate. But he did not mention in his valedictory the many years that he served the National Party. He was on the state executive for 20 years, then Deputy President of the New South Wales branch of the National Party, then Vice-Chairman and then Chairman from 1983 to 1986. In those years that he served on the state executive and, as president, he led the New South Wales National Party in a very strong fashion. He saw it in government, he negotiated the coalition agreements between the New South Wales National Party and the Liberal Party and the Senate tickets, and then he came in here to serve for a further 15 years.

I have known him for 15 years and I would describe Senator David Brownhill, as he is now and will be until he hands in his resignation tomorrow morning to the Governor-General, as a quiet achiever, a person who is held in the absolutely highest esteem by his Senate colleagues and his colleagues in the House of Representatives, who all came into the Senate tonight to wish him all the best and be with him while he made that very nice speech. You never saw David out there in the headlines but he was achieving, like a duck that looked like it was cruising across the water but was paddling like crazy underneath. Some of his achievements were that he got easy peel mandarins into Japan—and that is just about an industry in its own right—he was strong in retaining the research and development levies, he was also the joint parliamentary secretary for John Anderson and Tim Fischer and he negotiated a lot of trade agreements overseas. The other night we were invited to the Chilean embassy and many of us from this side of parliament went over to see David receive an honour for the work that he had done to promote friendship and trade with Chile. He was honoured in a most spectacular way by the awarding of a very high Chilean honour. So over the last 15 years David has been very successful in a lot of what he has done. But what he has also done is provide stability to the National Party in some very hard times, in particular in 1987 when we were in a very destabilised position and condition. His wise counsel led us through some of those very rough times.

He alluded to the famous—or infamous—back of the truck incident, and I must admit that he found it very difficult to forgive me for that. He has often brought it up over the past 15 years and today I said I would put on the Hansard record that I apologise to him for that day that he got up in the back of the truck and I also got on the back of the truck. He was very disappointed in the way that I behaved and I said to him that tonight I would put it on the record that I apologise to him.

Tomorrow morning David passes his resignation to the Governor-General. In the 10 minutes tonight that I have agreed to split with my colleague Senator Tambling, I would like to take the opportunity to wish David and Julia many years of happy retirement in which David can do some of the things that he has always wanted to do but has not been able to because of his service to the National Party and to the Senate over the past 30 or 40 years. Good luck, David, and good luck, Julia.

Valedictory: Senator Brownhill

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (6.48 p.m.)—I am very pleased this evening to second the remarks of the Leader of the National Party, Senator Boswell, with regard to our colleague David Brownhill. You will have noted in David Brownhill’s retirement speech that he illustrated a number of things, particularly a strength and a depth of character that is something very exemplary not only to all of us but also to many people. He also displayed a sense of humour that is equally important, particularly in the conduct of our work in this place and in the wider sphere of politics. Thirdly, I believe that David’s speech illustrated a real savvy, a real influence and a way of identifying results.

It is very hard in politics to make deep and meaningful relationships. I have particularly valued the personal friendship and in fact mateship that I have been able to develop
with David in his term since I came to this
chamber in 1987. Again reflecting on his
character, it is those characteristics of genu-
ineness and, frankly, love and concern that
really do demonstrate themselves in all that
he has done in this place. But, probably most
importantly, David’s efforts demonstrate to
me a very important factor that I would term
‘basic loyalty’. I would illustrate that by
saying his loyalty, firstly to his constituency,
particularly New South Wales, and, quite
frankly, throughout remote Australia stands
very high. Secondly, his loyalty to the inter-
est of the National Party, as Senator Bos-
well has just said, is unquestioned, particu-
larly the flow-on from that effect to the pri-
mary producers of this country. Thirdly, I
would identify the area of loyalty to his own
principles and to his basic decency. To me, at
all times in all debates, in all arguments and
in all committees—and in fact particularly in
government and in developing areas of pol-
icy—it is those principles and decency that
have always been reflected in what he set out
to achieve.

So I am sure I would join many of our
colleagues from previous generations in this
place and the large number of members of all
political parties, particularly those in the Na-
tional Party, who I know would want to ex-
press their thanks for David Brownhill’s
contribution as a parliamentarian and par-
ticularly as a senator. He will certainly be
missed. He will be missed by all of us in this
chamber. He will be missed in our debates
and our discussions within the National Party
fora. But I am sure that after a suitable sab-
batical we will see David emerge in different
and other areas of influence where, as I said
earlier, he will be ‘savvy’ and producing re-
results. So I would like to join with Senator
Boswell—and I know I could link into my
remarks tonight those of Senator McGauran,
who is absent this evening—in expressing
our best wishes to David and Julia Brownhill
and particularly to their family for their fu-
ture together. It is an honour and a privilege
not only to have served with a man of such
strength of character but also to share his
friendship.

Banking: Services

Senator GEORGE CAMPBELL (New
South Wales) (6.52 p.m.)—While records are
being clocked up as each major Australian
bank reports its annual profit, the banking
system in Australia faces its deepest crisis
from a consumer point of view. The policies
of the Howard government have clearly
failed to maintain even a semblance of basic
banking service in Australia. People in this
country are fed up with the lack of service
that they get from banks, and government
intervention is desperately needed. I want to
take the opportunity tonight to highlight an
important campaign called the Bank Ambu-
lance Tour that has been launched to combat
this crisis and restore basic banking service
levels.

During the past decade thousands of bank
branches have closed and tens of thousands
of jobs have gone from banking, leaving staff
workloads and customer service in a state of
crisis. In many areas of regional Australia
there is no bank in town and customers have
to travel significant distances to obtain these
basic services. There is no such thing as con-
sumer choice; you are lucky if your town has
a single branch, let alone a choice of banks.
This situation must change, and the union
representing bank employees, the Finance
Sector Union, or FSU as it is better known, is
currently embarking on an ambulance tour
through metropolitan, regional and rural
New South Wales, Victoria and Tasmania as
part of a ‘Save Our Service, Save Our Staff’
campaign. The aim of this tour is to draw
attention to the emergency situation many of
our communities face as banking services
simply disappear and to highlight the critical
understaffing problems in many workplaces.
When bank branches close, local communi-
ties suffer not only from the loss of essential
services but also from the loss of vital em-
ployment opportunities, both now and for
future generations. While the banks have
closed about 2,000 branches since June 1993
and cut many thousands of jobs, the staff
workloads have multiplied. Yet many work-
places continue to have unacceptable staffing
levels that do not cope with the workload.
This is of great concern, as understaffing of
workplaces simply creates unhealthy work-
place stress. And low job satisfaction does not allow satisfactory customer service.

More than 40,000 jobs were lost from the four major banks during the 1990s. Just this year, in New South Wales alone, Westpac has closed 30 branches, with another 27 announced to be closed by the end of June. That is more than two branches every week. These recent announcements by Westpac confirm that another 4,000 full-time equivalent jobs are to go. Analysts say that more than 300 Commonwealth Bank branches will close because of Ezy Banking, and it was confirmed today in the Victorian Supreme Court that at least 250 more branches would be lost in the proposed merger with Colonial, and over 2,700 jobs would go as a result of that merger. FSU members in all major and regional banks continue to list lack of staff and work related stress as their key concerns. ABS data has shown that there are almost one million hours overtime worked in the finance sector every week, with much of it unpaid. This is the equivalent of more than 25,000 full-time jobs. Since 1993, the four major banks have posted successive record profits totalling $35.5 billion. Significant regional bank profits over the same time, along with half-yearly profits for the majors, take this figure to more than $40 billion. The combined profit of the four major banks has increased by 286 per cent since 1993.

The FSU is lobbying the federal government to establish a social charter regarding banking services to allow all Australians to have easy access to a full range of these services. A crucial part of better service for customers and community is ensuring better staffing levels in workplaces. The Howard government’s approach to banking services has been an absolute failure. Since this government was elected, we have seen the destruction of banking services in Australia. Banking service problems are enlarged with bank mergers such as the Westpac and Bank of Melbourne merger. The current Commonwealth Bank and Colonial merger will create Australia’s largest bank but will cost many thousands of jobs. The Howard government has been content to sit idly by or even give its stamp of approval while service suffers and jobs are lost. Every time one of these mega-mergers occurs, it means more job losses and a reduction of service for consumers. The four pillars policy of the Treasurer fails to do anything about this situation. It seems that the only thing that the four pillars policy approach will deliver is four very large banks totally divorced from the needs of consumers in this community.

Most Australians are sick and tired of hearing more bad news about bank mergers, job losses and branch closures. The Finance Sector Union has drawn the line in the sand and needs all of our support. The union is encouraging its members and members of the general community to come on board and support the campaign to save services in the bush by signing petitions and writing letters of support. The FSU SOS ambulance successfully visited 13 towns in its first week on tour, gaining strong community support and media coverage. Gary Hayden, one of the FSU ambulance crew, said that the support from members and local communities has been overwhelming. ‘Customers are so sick of queuing in branches or, worse, not having a branch to go to,’ said Mr Hayden. ‘But they were more than willing to line up and sign the petition.’ The FSU has already collected more than 4,500 signatures for a petition calling on the federal government to introduce a charter of community service obligations for the banks.

The tour continues this week when a new FSU ambulance crew takes the campaign to northern New South Wales. The ambulance will spend two days in the electorate of Richmond, so I hope that residents in northern New South Wales keep an eye out for the ambulance and sign on in support of the FSU’s campaign. With the Howard government unwilling to enforce or incapable of enforcing banking service standards, this FSU campaign might force them to act. I urge all Australians to get behind the campaign to reinstate basic banking service levels through a social charter. After all, you can bank on the fact that services will only get more expensive, will become even harder to access and will provide less personal contact if the government and the major banks have their way. The campaign that is being conducted by the FSU is specifically targeted
at getting adequate and proper banking services back into regional and rural Australia, and it will do more than any lobbying or whingeing of that small rump that now sit at the end of this chamber and call themselves the National Party.

Northern Territory Parliament

Senator MURRAY (Western Australia) (7.00 p.m.)—I rise today to address the nature of the Northern Territory parliament. This parliament is characterised by a dominant executive and a weak opposition, with one-quarter of the population lacking representation and an urban voting majority often opposed to the needs of disadvantaged Territorians. I argue that the Territory is not a fully democratic society. How can anyone argue that for one political party to have a monopoly on power for just over a quarter of a century represents full democracy in practice? I think not. It is time for a substantial change to government institutions and parliamentary processes in the Territory. This pressing need is accentuated by the fact that, since the granting of self-government to the Territory in 1978, there has been no scrutiny or review of Territory governance by the Commonwealth. Moreover, in the light of the Statehood by 2001 campaign in the Northern Territory, such a review seems all the more pertinent.

In the wake of the statehood referendum’s defeat in October 1998, the Legislative Assembly’s Standing Committee on Legal and Constitutional Affairs announced that it would hold an inquiry into appropriate measures to facilitate statehood by 2001. The Democrats made a submission to this inquiry, and it was compiled with the utmost concern for enhancing the democratic fabric of the Northern Territory. As part of the Democrats submission, it was stressed that the statehood campaign provided Territorians with a rare opportunity in Australian history to take part in the formulation and adoption of a new state constitution. In this respect, it is essential that an elected people’s constitutional convention be held to ensure steps towards achieving statehood constitute a genuinely representative and democratic process. The Democrats consider that this elected convention should be required to achieve the following: first, that a draft constitution or constitutions, or the principles of a constitution or constitutions, be presented either singly or as a choice to Territorians; second, that the relationships between the cabinet, the governor and the parliament be clearly delineated; third, that the separation of powers doctrine be emphasised at the political, administrative, judicial and parliamentary levels; fourth, that appropriate protection be enshrined for the rights of all Territorians; and, last, that an electoral system be entrenched.

With reference to a new constitution, and in contrast to the CLP’s proposed minimalist constitution, the Democrats argued that a new constitution must provide for an improved electoral system and an improved separation of powers and must incorporate the fundamentals of open, representative and accountable government. Furthermore, we stated that it needs to entrench the rights of citizens and to offer protection of the environment and the preservation of land rights. With reference to parliamentary representation, we recommended that, as the current majoritarian system unacceptably discriminates against a large number of Territorians, electoral reform is central to establishing a more representative and responsive parliament in the Northern Territory. Indeed, only by implementing a shift to the Hare-Clark voting system, as is used in Tasmania and the ACT, can ordinary Territorians gain the representation they deserve. This form of proportional representation has been used to elect the House of Assembly in Tasmania since 1909. In the referendum held in 1992 in the ACT, Hare-Clark was chosen by 65 per cent of the voters as the preferred electoral system, because they realised that otherwise they could be left with a Legislative Assembly where all 17 members belonged to the same party. This result is remarkably similar to one in the United Kingdom, where an Economist/MORI government poll in 1997 found that 65 per cent of British people supported proportional representation. Furthermore, in a recent survey conducted by the Democrats in the Territory, 60 per cent of respondents indicated their preference for a change away from the majoritarian system.
Given the small population of the Northern Territory, the Democrats believe it is appropriate to retain a unicameral parliament. However, with the absence of a watchdog upper house, unicameral parliaments face a greater danger of succumbing to executive dominance. Consequently, it is essential that certain measures to enhance the strength of parliament be constitutionally entrenched. The other problem with a Northern Territory unicameral parliament is that it would always be small. A small population means few members, and from that small group a majority has to form a government. The obvious danger is a low level of talent for the ministry. This problem can be fixed by the ministry being drawn from outside the parliament. There is a clear conflict between those who want a more representative parliament through proportional representation, those who want a strong executive and those who want a talented executive. One way to achieve these three aims is for the chief executive, and his or her deputy, to be separately elected from the parliament as a whole. The argument for a strong executive can be met by the direct election of the chief political executive officer. The Chief Minister could be elected by a popular Territory election in a contest between party leaders for majority voter support. In this way, electors will continue to be encouraged to vote for a leader or head of a particular political party—or an independent, as the case may be. Additionally, political parties will be required to propose and endorse for the chief ministership candidates who are recognised as having wide support and the capacity for achievement and diligence.

Under direct election, the Chief Minister should be elected for a four-year term and the constitution should provide for unforeseen eventualities, such as death in office, corruption, maladministration and loss of the confidence of parliament. Also, the Chief Minister should not be permitted to hold office for more than two terms or for a maximum of eight years. While the Chief Minister should be able to appoint ministers, it is not necessary for them to come from the parliament. In fact, the separation of powers would make it desirable for them to come from outside the elected members of parliament, because it is not good practice for the executive to be within parliament, anyway. These external appointments should be subject to the formal approval of parliament and, should such ministers wish to introduce legislation, procedures should be put into place so they could introduce it personally.

Furthermore, the implementation of a comprehensive and effective parliamentary committee system is required as a central mechanism to ensure accountability and the separation of powers. A system of rostering ministers to appear before committees should be implemented. Similarly, the committee system should have the powers to subpoena heads of departments and other officials on legislative proposals and departmental performances. The Legislative Assembly should also have the appropriate powers of dismissal of the Chief Minister on a majority vote of two thirds, against specific charges to be constitutionally determined.

To conclude, together with the shift to the Hare-Clark system of proportional representation voting, these proposals are central to making the Northern Territory unicameral parliament much more representative, accountable and effective. These changes would ensure a more democratic and smooth transition to statehood and, even in the event of statehood being rejected again by Territorians, the adoption of a new constitution and a new electoral system anyway would significantly augment parliamentary representative democracy in the Northern Territory. The Territory’s parliament and the Territory’s system of governance that we have currently is not in the interests of good Australian democratic practice. I note the presence in the chamber of a senator for Tasmania who knows well that Hare-Clark has produced representative and capable government in Tasmania for over 100 years.

**New Economy**

**Senator WATSON (Tasmania) (7.09 p.m.)**—We have heard much of late about the new economy and the old economy, particularly in regard to the share market. More particularly, in the United States we see the scenario unfolding through movements in the Nasdaq index, which has some relevance to Australia. Silicon Valley in California is the
birthplace of the new economy and remains the primary centre. Other important areas in the U.S.A. include San Diego for biotech, Route 128 near Boston for the computer industry, Austin in Texas for semiconductors, and Seattle, where Microsoft is situated.

The Nasdaq index generally quoted is based on 100 stocks, the majority of which are new economy. The old economy stocks tend to be listed on the New York Stock Exchange, with the Dow Jones index of 30 stocks. IBM was the major high-tech stock on the Dow until recently, when Microsoft Corporation and Intel Corporation were added. In Australia, before very recently—on Monday, 3 April—the stock index usually quoted the all ordinaries index, which comprised 248 companies representing 90 per cent of the market. The new all ordinaries index in Australia is much broader and covers 99 per cent of the market by value. Six new smaller benchmark indices have also been created. But there is no equivalent of the Nasdaq in Australia.

*Wired* magazine’s ‘Encyclopedia of the New Economy’ tells us that the new economy is a world in which people work with their brains, instead of their hands; a world in which communications technology creates global competition, not just for running shoes and laptop computers, but also for bank loans and other services that cannot be packed into a crate and shipped; a world in which innovation is more important than mass production; a world in which rapid change is a constant; a world at least as different from what came before it as the industrial age was from its agricultural predecessor; and a world so different that its emergence can only be described as a revolution.

The new economy of stocks, until recently, experienced frenetic growth. Their price to earnings ratio was extremely high and unrealistic. Jeremy Siegel, Professor of the Wharton School at the University of Pennsylvania, is a renowned advocate of the stock market in the U.S. In mid-March, when the 100 largest companies on the Nasdaq were trading at an average price to earnings ratio of about 100 times, Professor Siegel issued a timely warning. He said:

> History has shown that whenever companies, no matter how great, get priced above 50 to 60 times earnings, buyer beware.

Previously, during the latter half of 1999, the Nasdaq significantly out-performed the Dow. A number of ‘dot com’ companies had successful floats and stocks soared despite no profits being made by many of these companies. PE ratios were as high as 700, whereas 15 to 50 might be considered rational in the old economy. Investors often use the terms ‘growth stocks’ and ‘income stocks’. They seem to buy growth stocks, such as new economy stocks, primarily for the expectation of capital gains, and they are interested in the future growth of earnings rather than in next year’s dividends. On the other hand, they buy income stocks primarily for the cash dividends. Stock prices today reflect investors’ expectations of future operation and investment performance. Growth stocks sell at high price to earnings ratios because investors are willing to pay now for expected superior returns on investments that have not yet been made. Most of the value of growth stocks comes from the expectation that the companies will be able to earn more than the cost of capital on their future investments. A few new economy stocks will succeed because of takeovers, but the rest will crash, as new information becomes available to investors and the previously unpredictable becomes apparent. However, some will succeed through takeovers.

Since January, with increasing discussion of the Nasdaq bubble bursting, investors have reviewed their portfolios. The last three weeks has seen a big sell-off in Nasdaq stocks. Money is flowing out of the Nasdaq, with old economy stocks the main beneficiary. The small dot com companies have dropped significantly, but the stocks with intrinsic value, such as Intel Corporation, have seen lesser market devaluation. In Australia, there has been a similar movement of shares, but not as pronounced. Media stocks have been the prime movers. It is not hard to see why, when David Hale, Zurich Group’s global chief economist, tells us that information technology represents only around one per cent of Australia’s stock market capitalisation, compared with 33 per cent in the U.S. and 40 per cent in Canada. It is certainly true
that we need more of these companies, but it is the market expectation of their performance that is the worry.

Fund managers, senior managers and directors of corporations and large financial institutions wield a lot of power in Australia. They are making a lot of decisions which influence a lot of people, yet few of them own what they control. There is also private capital and entrepreneurs operating in a high-risk and potentially high reward environment. The ideal would be a balance between the two.

David James, in an article in Australia’s Business Review Weekly, tells us that in Australia the balance is heavily skewed towards managerial capital—that is, large corporations, large funds and the boards that oversee them. I believe that corporate decision making of this managerial capital is currently being hampered because legislation is so overwhelming and duties so oppressive as to discourage inspiration and innovation. It is not surprising that we do not have more of these growth high-tech stocks. The corporate governance arrangements of a corporation determine the minimum obligations of that corporation towards its various stakeholders. The fundamental questions have to be: whom should the corporation be there to serve and how should the direction and purposes of the corporation be determined?

Corporate governance laws, however, should not be so tightly regulated as to make directors very defensive and risk averse. The loser is the Australian economy because our economic potential is undermined as we hand the value adding of innovation to international competitors. We have seen evidence of this happening because Australia has not openly welcomed the venture capital that is so desperately needed for seed funding. Unfortunately, many of our laws, such as the income tax FIF rules, and problems with limited partnerships and others, do not assist in venture capital moneys coming to Australia. So there must be a balance, and the US market is increasingly becoming aware of this as the Nasdaq continues its fall. The new economy, then, is almost a yuppie term to justify a lot of unrealistic investment where people should know better.

Wool Industry

Senator FERRIS (South Australia) (7.16 p.m.)—We now know that over 60 per cent of Australian wool growers voted to accept a two per cent wool levy in the recent Wool-poll that was conducted across Australia. This represents another crucial stage in the process of rebuilding the confidence of the wool industry, and it also represents a new chance for the many wool growers across Australia who have suffered for some years under drought and poor prices. Just under half of Australia’s 46,000 wool growers participated in the voting process, and those who did vote represented over 50 per cent of our national woolclip. In my home state of South Australia, there was a total of 81,367 votes cast after the distribution of preferences. The two per cent levy was the most popular option in South Australia and won close to 60 per cent of the vote. Interestingly, however, a total of 7,649 first preference votes, or nine per cent of the total in my state, were cast in favour of no levy at all, which would have been a very disappointing outcome given the government’s $22 million R&D contribution. So now the industry looks to yet another chapter, which began at the revolutionary Goulburn meeting back in November 1998.

In winding up AWRAP and the Woolmark company to prepare for the establishment of the new corporate entity, Australian Wool Services, wool growers are going to find yet another sting in the tail of the beleaguered industry. Those growers who believed that their levy payments would move from four per cent to two per cent on 1 July this year are in for a nasty shock. To fund redundancies for the several hundred remaining Woolmark and AWRAP employees, our growers will need to pay an extra one per cent levy for at least another 12 months. Many wool growers currently surviving on substandard incomes and very low prices may soon be witnessing the depressing prospect of people in the bureaucracy of the wool industry, whom they already regard in many cases as fat cats, being given large redundancy payments—in fact, packages higher than a wool grower’s annual return in many cases. As it currently stands, AWRAP has
336 employees on its books. Only 90 of these employees are actually based in Australia; the rest live in such countries as France, Germany, Italy, India and Japan. By June 2000, the total number of employees at AWRAP will have been reduced to 265. The cost of these 71 redundancies alone has been estimated to be $5 million, with a further $5 million being allocated to continuing the organisation’s redundancy process. In fact, this is going to cost around $10 million, with a further $8 million being allocated for additional other purposes. These are terrifying figures to wool growers who have not had a decent income for years.

As I said earlier, wool growers have been doing it very tough in this country for some time now. As well as having to survive under poor commodity prices, they have had to contend with a range of natural and other financial hardships. Now they are going to have to face a situation where they will be forced to pay for the entire $18 million to $20 million redundancy process themselves. Of even greater disappointment to me is the fact that, in order to pay for this three per cent levy, they may have to continue through to June 2001 before it is lowered to the two per cent that has just recently been endorsed by Woolpoll. Unfortunately, it appears that wool growers are now going to be left with a bill for many millions of dollars in redundancy payments. When one considers everything that wool growers have gone through since the floor price collapsed almost 10 years ago, it seems to me that it is the last thing they need right now. But there is a brighter light on the horizon. Within the next couple of weeks the government will announce the name of the interim chair who will facilitate the establishment of Australian Wool Services, the new corporate entity recommended by the Ian McLachlan inquiry. This chair and the board members must be of the highest quality, with business, financial and innovation skills capable of restoring some confidence to the producers. This great industry deserves nothing less.

The DEPUTY PRESIDENT—Order! Before I adjourn I would like to take this opportunity to wish David and Julia Brownhill all the best in David’s retirement. I hope that Julia can cope with having David at home as much as she will have to in the future. It is certainly a challenge for all spouses of members of parliament when they retire to actually get used to having their spouses at home, as we are away so frequently. To David and Julia, good luck, and to Julia, extra good luck.

Senate adjourned at 7.22 p.m.

DOCUMENTS
Tabling
The following documents were tabled by the Clerk:

Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—Part 105, dated 10 April 2000.

Diesel and Alternative Fuels Grants Scheme Act—Regulations—Statutory Rules 2000 No. 44.


Lands Acquisition Act—Statements describing property acquired by agreement under sections 40 and 125 of the Act for specified public purposes [2].


Taxation Determination TD 2000/12-TD 2000/16.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Red Baron Fishing Vessel: Sinking
(Question No. 1425)

Senator O’Brien asked the Minister representing the Prime Minister, upon notice, on 9 September 1999:

(1) When was the Prime Minister first made aware of allegations about the circumstances surrounding the loss of a fishing boat, the Red Baron, off the west coast of Tasmania in December 1995, and the subsequent search and rescue effort that was recently posted on a website.

(2) (a) How was the Prime Minister made aware of these allegations; and (b) what action did the Prime Minister take in response to these allegations.

(3) Did the Prime Minister seek advice from the minister responsible for maritime transport in relation to these allegations; if so: (a) when was advice sought on the allegations; (b) what was the advice; and (c) what action was taken in response to the advice.

Senator Hill—The Prime Minister has provided the following answer to the honourable senator’s question:

(1) Allegations regarding the loss of the Red Baron were first brought to my attention in a letter dated 17 July 1997.

(2) Both the letter of 17 July and another letter dated 15 August 1997 from the same correspondent were referred to the Minister for Workplace Relations and Small Business as the minister responsible for maritime transport matters.

(3) I did not seek advice from the Minister for Workplace Relations and Small Business in relation to these allegations. However, I understand that the Minister has responded in full.

Department of Health and Aged Care: Internal Staff Development Courses
(Question No. 1500)

Senator Faulkner asked the Minister representing the Minister for Health and Aged Care, upon notice, on 20 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 agencies 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 courses in (4).

Senator Herron—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

(1) 6,109

(2) $43,505,367 *(Total costs for internal and external training from March 1996 to June 1999).

(3) 8,323 (Note: This is an individual staff participation number and does not reflect the number of courses per staff member.)

For the Health Insurance Commission, 10,066 places have been filled on internal development courses. Data on individual staff participation rates is not collected.

(4) (a) 8
(b) (i) 5
(ii) None
(5) $6,583.

Note: These figures cover the period from 1 March 1996 to 30 June 1999. They include data from portfolio agencies and for parts of the department up to the dates they were separated from the department or portfolio by machinery of government changes.

* The department’s expenditure includes staff time as well as presenter costs as annual report data has been used.

ACSAA and HIC data did not differentiate between internal and external course costs, as the data is not separately collected.

Attorney-General’s Department: Cost of Legal Advice
(Question No. 1719)

Senator Faulkner asked the Minister for Communications, Information Technology and the Arts, upon notice, on 2 November 1999:

(1) What has been the total cost to the department, and each agency in the portfolio, of legal advice obtained from the Attorney-General’s Department in the 1998-99 financial year.

(2) What has been the total cost to the department, and each agency in the portfolio, in the 1998-99 financial year of legal advice obtained by the department from other sources.

Senator Alston—The answer to the honourable senator’s question is as follows:

The following answers have been provided by budget-funded agencies within the Communications, Information Technology and the Arts portfolio (Note: All answers to Question 1 also include advice obtained from the Australian Government Solicitor.)

Department of Communications, Information Technology and the Arts

The information requested is not readily available in the form requested. The department’s accounting system records the amount spent on legal services, which includes disbursements and other services as well as the provision of legal advice. With this qualification:

(1) $868,765
(2) $121,289

National Archives of Australia
(1) $36,244.22
(2) Nil

National Museum of Australia
(1) Nil.
(2) $15,344.66.

Australian Broadcasting Authority
(1) $237,026
(2) $172,143

Australian Broadcasting Corporation
(1) Nil
(2) $356,000.65

Special Broadcasting Service Corporation
(1) $34,729.17
(2) $185,568.17

Australian Film Commission
(1) Nil
(2) $85,589
ScreenSound Australia
(1) $133
Other legal advice has been obtained through the Department of Communications, Information Technology and the Arts and has been paid for through that department.
(2) $3,832
Other legal advice has been obtained through the Department of Communications, Information Technology and the Arts and has been paid for through that department.

Australian Film Finance Corporation
(1) Nil
(2) $252,869

Australian Film, Television and Radio School
(1) $3037.40
(2) $9989.87

Australia Council
(1) $8,395 to the Australian Government Solicitor
(2) $6,577

Australian Communications Authority
(1) $282452.55
(2) $114643.03

National Library of Australia
(1) $109,905.85
(2) $112,370.81

National Gallery of Australia
(1) $52,129
(2) $8,356

National Science and Technology Centre
(1) $6,080
(2) $2,732

Australian National Maritime Museum
(1) $58,855.76
(2) Nil.

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**Australia Post: Listing of Post Offices**

(Question No. 1773)

**Senator Allison** asked the Minister for Communications, Information Technology and the Arts, upon notice, on 19 November 1999:

Is it the case that the location and telephone numbers of individual licensed post offices no longer appear under the ‘Australia Post’ heading in the Melbourne Telstra White Pages; if so: (a) is this omission the result of action taken by Australia Post; if so, why has Australia Post taken that action; (b) what consultation did Australia Post undertake prior to taking that action; and (c) will or does this omission occur in respect of the details of licensed post offices in any other State.

**Senator Alston**—The answer to the honourable senator’s question is as follows:

Based on advice received from Australia Post.

It is the case that location and telephone numbers of individual licensed post offices no longer appear under the heading for Australia Post in the Melbourne Telstra White Pages.
(a) Australia Post decided to remove the former block listing of individual corporate and Licensed Post Offices (LPOs) from the 1999 edition of the Melbourne Telstra White Pages and replace it with a centralised telephone inquiry point for its Customer Care Centre.

Australia Post advise that the benefit of listing a single inquiry point is that post office staff are not unnecessarily diverted from serving customers to answer routine telephone calls. Customer Care Centre staff are able to provide customers with advice or switch their call to the appropriate postal facility such as a corporate post office, Licensed Post Office or a delivery centre.

(b) Unfortunately, Australia Post did not undertake any consultation with licensees prior to making the change. Furthermore, when Australia Post requested the change, it also failed to make the appropriate arrangements with Telstra to reinstate individual listings of LPOs.

Australia Post advises me that it regrets the lack of consultation with licensees and this subsequent oversight.

In an effort to rectify the situation, on 1 October 1999 Australia Post sent a free listing pro forma from Pacific Access, the owners of the White Pages, to all licensees in Victoria requesting that they complete and return the pro forma to enable an entry to be included in the 2000 edition of the Melbourne White Pages.

(c) South Australia and Western Australia list all corporate post offices and LPOs, however, many LPOs have elected to have the single Customer Care Centre inquiry number listed rather than their particular office number.

Tasmania list all corporate post offices with the single Customer Care Centre inquiry number and all LPOs with their particular office number.

New South Wales and Queensland list all corporate and LPOs and are in the process of introducing a central Customer Care Centre inquiry number. These States will consult with the licensees’ representative body before making any changes to the listing of individual LPOs.

Overseas Students: Interdepartmental Committee Terms of Reference

(Question No. 1813)

Senator Carr asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 9 December 1999:

What are the terms of reference for the inter-departmental committee established with the Department of Education, Training and Youth Affairs to address the identified problems and issues associated with the administration of overseas student visas via the Migration Act and of providers of international education services by means of the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act.

Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator’s question:

The Department believes that the inter-departmental committee (IDC) to which Senator Carr refers is one established at the request of the Minister for Education, Training and Youth Affairs to address international education issues. This IDC has been established to promote a whole-of-government approach to advance Australia’s involvement in international education.

The committee includes representation from: the Department of Education, Training and Youth Affairs (DETYA); the Department of Immigration and Multicultural Affairs (DIMA); Austrade; AusAID; the Department of Foreign Affairs and Trade (DFAT); the Department of Prime Minister and Cabinet (PM&C); and the Department of Industry, Science and Resources (DISR). The Australian Tourist Commission (ATC) and the Department of Health and Aged Care may also be represented on an ad hoc basis.

The IDC will address a broad range of issues related to international education. These are likely to include the administration of student visas via the Migration Act and of providers of international education services by means of the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act.

The terms of reference for the IDC are to:
Coordinate activities across Commonwealth agencies to ensure that the Government’s objective of enhancing the export of Australian education services is achieved with maximum efficiency and effectiveness;

Act as a conduit for information sharing and cross portfolio communication on matters relating to the export of Australia’s education services;

Discuss and provide coordinated input to any Commonwealth policy initiative that may affect overseas students and the internationalisation/export of Australia’s education services; and

Consider means by which the administration of Commonwealth policy is made as conducive as possible to the development of Australia’s education exports.

Overseas Students: List of Education Providers

(Question No. 1814)

Senator Carr asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 9 December 1999:

Can a list be provided of all providers of education and training services to overseas students which are non-exempt under the terms of the Education Services for Overseas Students (Registration of Providers and Financial Regulation) Act and that have, in 1998 and 1999, notified more than 100 students’ names for failure to meet the 80 per cent minimum attendance requirements.

Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator’s question:

The 80 per cent minimum attendance requirement did not come into effect until 1 December 1998 so there are no figures of that magnitude available for 1998. The non-exempt providers listed below are those that have notified the Department of Immigration and Multicultural Affairs during the course of 1999 of 100 or more students who have not met attendance requirements.

NSW
(1) Alpha Beta College
(2) Australasian College of Natural Therapies
(3) Australian International College of Business
(4) Australian National College
(5) Bridge Business College
(6) Clarendon Business College
(7) Insearch
(8) Kent Institute of Business and Technology
(9) Martin College
(10) NSW Business College
(11) Skywell Education College
(12) Sydney English Language Centre
(13) Sydney Institute of Business and Technology
(14) Sydney International College of Business and Computing
(15) Uniworld College
(16) Windsor Institute of Commerce

VIC
(1) Chalmers Business College
(2) Cambridge International College
(3) Hales Institute of Technology
(4) Taylors Institute of Advanced Studies

QLD
(1) Martin College
Department of Employment, Workplace Relations and Small Business: Grants to Gippsland Electorate
(Question No. 1874)

Senator O’Brien asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 21 January 2000:

(1) What programs and/or grants administered by the department provide assistance to people living in the federal electorate of Gippsland.

(2) What was the level of funding provided through these programs and grants for the 1996-97, 1997-98 and 1998-99 financial years.

(3) What is the level of funding provided through these programs and grants has been appropriated for the 1999-2000 financial year.

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

Job Network

(1) and (2) Expenditure on Job Network programs is not reported on the basis of electoral boundaries. The information provided below has therefore been compiled on the basis of payments in respect to Job Network members’ sites with postcodes located within the Gippsland electorate. While this is a reasonable estimate of Job Network expenditure within the electorate there is no guarantee that activity from these sites was solely within the electorate. Similarly, there may be Job Network members with sites which have postcodes outside the Gippsland electorate who are conducting some activity within the Gippsland electorate.

<table>
<thead>
<tr>
<th>Financial Year</th>
<th>Job Matching</th>
<th>Job Search Training</th>
<th>Intensive Assistance</th>
<th>NEIS 2</th>
</tr>
</thead>
<tbody>
<tr>
<td>1997-98</td>
<td>$8320</td>
<td>$7330</td>
<td>$466 275</td>
<td>$115 390</td>
</tr>
<tr>
<td>1998-99</td>
<td>$256 982</td>
<td>$99 960</td>
<td>$3 897 125</td>
<td>$31 288</td>
</tr>
</tbody>
</table>

Note:
2. Advance payments were made in 1997-98 amounting to 40 per cent of total New Enterprise Incentive Scheme fees payable over the contract period. Further payments were not made until the 40 per cent payments were acquitted.

(3) This information is not available, as Job Network funding is not appropriated on the basis of electoral boundaries.

Indigenous Employment Program

(1) The Department of Employment, Workplace Relations and Small Business (DEWRSB) has responsibility for administering the Indigenous Employment Program (IEP). This program is available to indigenous people and eligible employers living in the federal electorate of Gippsland that qualify for assistance. The main thrust of the IEP is to generate jobs for indigenous people in the private sector, support growth of indigenous small business, create initiatives for indigenous people to move from Community Development Employment Projects (CDEP) to permanent employment, and improve access to Job Network services.

The IEP consists of the following components:

- Wage Assistance – subsidies to employers for employing eligible indigenous jobseekers;
- CEOs for Indigenous Employment Project – incentives for major private sector companies to recruit indigenous jobseekers;
- Community Development Employment Project (CDEP) placement incentive – a bonus paid to sponsors for placing people in open employment;
Structured Training and Employment Projects – project funding for structured training in the private, public and community sectors;

National Indigenous Cadetship Project – assistance to indigenous job seekers to gain professional positions in the private and public sectors;

Voluntary Service to Indigenous Communities Foundation – matching volunteers from the wider Australian community with requests from Indigenous Communities with professional and technical skills.

(2) Funding for the Indigenous Employment Program is not resourced on the basis of electoral boundaries. Prior to the introduction of the Job Network in May 1998, the former Department of Employment, Education, Training and Youth Affairs administered the Training for Aboriginals and Torres Strait Islanders – TAP. As a result of the machinery of government changes in October 1998, the Department of Employment, Workplace Relations and Small Business assumed functional responsibility for TAP. From 1 July 1999, the Indigenous Employment Program replaced TAP.

The level of funding nationally under TAP was as follows:

1996-1997 - $65.614 million
1997-1998 - $68.748 million
1998-1999 - $46.141 million

The level of funding appropriated for the Indigenous Employment Program is $57 122 million in 1999-2000.

Work for the Dole

(1) The Work for the Dole program which is administered by the department provides funding to community based not-for-profit organisations for quality projects/activities that provide work experience and employment support to unemployed people.

The following organisations received part of the funding in one or more of Tender Rounds 1, 2 and 3, plus the Pilot Projects:

- Bairnsdale Adult Community Education;
- Gippsland Personnel Open Employment;
- Sale Access Program;

(2) Funding provided was as follows:

1996-1997 - Nil
1997-1998 - $151 000
1998-1999 - $264 000
1999-2000 - $256 000

Small Business Enterprise Culture Program

(1) The Small Business Enterprise Culture Program is contributing funding for a project in the Gippsland Electorate managed by the Victorian Eastern Development Association. It will support a Business Women’s Unit and a Business Resource Centre.

(2) Nil.

(3) 1999-2000 $23 000

Regional Assistance Program

(1) Program funding is provided through the Regional Assistance Program (RAP), which aims to generate employment in metropolitan, regional and remote Australia by encouraging business and communities to take action to boost business growth and create sustainable jobs. It provides seed funding for innovative, quality projects of value to the community.

(2) My department advises me that on the best available data to date the level of funding provided through RAP was:

1996-1997 $610 000. This figure includes $390 000 committed to the Gippsland Timber Development Inc. Business Incubator (in 1996/1997 funding was provided through the Office of Labour Market Adjustment which was the precursor to RAP).
1997-1998 $386 000. This figure includes $202 000 committed to the LEAD Incubator, which is located within the electorate of McMillan, but provides assistance to people living in the federal electorate of Gippsland.

1998-1999 $367 175 was committed. No new funding for business incubators was committed for that year.

(3) My department advises me that to date an amount of $320 000 has been notionally allocated under RAP to the Gippsland Area Consultative Committee for activity within the region for 1999-2000 financial year.

**Shark Bay World Heritage Area**

(Question No. 1912)

*Senator Brown* asked the Minister for the Environment and Heritage, upon notice, on 8 February 2000:

With reference to the answer to question on notice no. 519 (Senate *Hansard* 7 May 1997, p. 3005), in which the Minister stated, ‘The Commonwealth is committed to ensuring the protection of Shark Bay’s World Heritage values, in cooperation with the Western Australian Government’:

(1) When was the Commonwealth made aware of the Shark Bay Solar Salt Industry Agreement Act 1983 – Variation Agreement 28 October 1999.

(2) What role did the Commonwealth have in approving this variation agreement.

(3) Can the Minister recall that when Shark Bay Solar Salt last expanded its operations, causing a great deal of community concern about the impacts of the expansion on the World Heritage values (coral communities, pygmy pink snapper, marine mammals et cetera) of the area, the Commonwealth did nothing about the action because it took place outside the World Heritage Area.

(4) Did the Commonwealth support the expansion of salt mining into the Shark Bay World Heritage Area; if so, on what grounds.

(5) Given the Commonwealth’s previous inaction, what are the obligations under Commonwealth legislation to protect World Heritage areas like Shark Bay.

(6) Has the Minister, or the department, made any submissions regarding the application for expansion of salt mining in the Shark Bay World Heritage Area.

(7) Has the Western Australian Government referred the proposal for lease expansion into the Shark Bay World Heritage Area to the Commonwealth under part 7 of the Environment Protection and Biodiversity Conservation Act 1999.

(8) Can the Minister give any guarantees that should the lease expansion not be disallowed in the Western Australian Parliament, when work commences in that area, the Commonwealth will not take action to excise the area in the expanded lease from the World Heritage area; if not, does this not mean the Commonwealth is failing to provide effective protection for the World Heritage Area at Shark Bay.

*Senator Hill*—The answer to the honourable senator’s question is as follows:

(1) I was advised by the Western Australian Minister for the Environment, the Hon Cheryl Edwardes MLA, on 12 July 1999 that Shark Bay Salt had sought agreement to amend the Shark Bay Solar Salt Industry Agreement Act 1983.

On 8 October 1999 I received further advice from Mrs Edwardes that on the basis that the Variation Agreement in itself would not allow Shark Bay Salt to commence any mining activity in the extension area, and that any future works in those areas would be subject to the requirements of both State and Commonwealth environmental protection laws, the Minister for Resources Development had decided to proceed with the Variation Agreement at that time. I have received no further formal advice in relation to the matter.

(2) The Commonwealth had no role in the approval of the Variation Agreement. In response to Mrs Edwardes’ advice of 12 July 1999, I provided advice in relation to the assessment and approval process that should apply if any application for an expansion of the salt works is received.

(3) No.

(4) No.
The respective obligations of the Commonwealth and Western Australian Governments for the protection of the World Heritage values of Shark Bay are set out in an intergovernmental heritage agreement signed in 1997. Under this Agreement, Western Australia, in close consultation with the Commonwealth, has primary responsibility for management of the Shark Bay property.

The Environment Protection and Biodiversity Conservation Act 1999, which comes into effect on 16 July 2000, regulates any action that has, will have or is likely to have a significant impact on the world heritage values of a declared World Heritage property. This section applies whether that action is taken inside or outside the boundaries of the World Heritage Property.

I am not aware of any “application for expansion of salt mining in the Shark Bay World Heritage Area”.

No. The Environment Protection and Biodiversity Conservation Act 1999 is not yet in force.

The Government has no plans to alter the boundaries of the Shark Bay World Heritage Property. If and when Shark Bay Salt applies to the Western Australian Government for a licence to operate in the expanded lease area, the Commonwealth, in accordance with the Commonwealth/State Agreement, will ensure that the proposal is subject to rigorous environmental impact assessment processes available under both State and Commonwealth legislation. I expect that neither the WA Government nor the Commonwealth Government would support any proposal which poses a threat to Shark Bay’s World Heritage values.

Department of Health and Aged Care: Gavin Anderson and Kortlang

(Question No. 1928)

Senator Robert Ray asked the Minister representing the Minister for Health and Aged Care, upon notice, on 17 February 2000:

(1) What contracts has the department, or any agency of the department, provided to the firm, Gavin Anderson and Kortlang since March 1996.

(2) In each instance; (a) what was the purpose of the work undertaken by Gavin Anderson and Kortlang; (b) what has been the cost of the contract to the department; and (c) what selection process was used to select Gavin Anderson and Kortlang (open tender, short-list, or some other process).

Senator Herron—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

(1) None, although I would have no hesitation should my department, or an agency wish to have a contract with this firm as I hold them with high regard.

(2) Not applicable.

Department of Immigration and Multicultural Affairs: Provision of Income and Expenditure Statements

(Question No. 1962)

Senator Faulkner asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 23 February 2000:

Has the department, or any agency of the department, provided an annual return of income and expenditure for the 1997-98 and 1998-99 financial years pursuant to section 311a of the Commonwealth Electoral Act 1918; if so, can a copy of those statements be provided; if not, what, in detail, are the reasons for not providing those.

Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator’s question:

Yes. The Department of Immigration and Multicultural Affairs has provided this information in its annual report, as required by section 311A of the Commonwealth Electoral Act 1918. The information can be found at Appendix 1: Advertising and Market Research (page 174) of the 1997-98 annual report and Appendix 1: Advertising and Market Research (page 152) of the 1998-99 annual report. The information has been tabled in Parliament and is also available on the department’s website (www.immi.gov.au).
Adolescent Young People: Suicide Risk
(Question No. 1972)

Senator Allison asked the Minister representing the Minister for Health and Aged Care, upon notice, on 2 March 2000:

(1) Is the Minister aware that adolescent young people who have a mentally ill parent have an eight times greater risk of suicide than those who do not.

(2) Does the Minister accept that the support needs of these children are urgent and different from those of their parents.

(3) What steps have been taken to provide support for the children of mentally ill parents.

(4) (a) Is it the case that the Mental Health Branch of the department forwarded to the Victorian State Government a copy of the funding submission from the National Network of Adult and Adolescent Children who have a Mentally Ill Parent/s (NNAAM); (b) can a copy of that correspondence be provided; and (c) can a copy of the response be provided.

(5) Has the Minister; (a) raised this matter with other state governments; and (b) considered requesting the states to fund a support service for the children of mentally ill parents under the National Mental Health Strategy; if so, what has been the response.

(6) If the states will not fund an organisation such as NNAAMI to provide support for children of mentally ill parents, will the Federal Government provide direct funding for that purpose.

Senator Herron—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

(1) No.
(2) Yes.
(3) The provision of services for people with mental health problems as well as their families is a State and Territory responsibility. This includes the provision of services for children with mentally ill parents.
(4) (a) Yes.
   (b) a copy of the relevant correspondence has been provided to the honourable Senator.
   (c) a copy of the relevant correspondence has been provided to the honourable Senator.
(5) (a) No.
   (b) No. Funding for service delivery is a State responsibility and it is up to individual States and Territories to determine the best way to respond to the needs of this group in their jurisdiction.
(6) The Commonwealth together with the States and Territories will consider its role in the provision of support for children of mentally ill parents once the final report of the study on children of parents with a mental illness is available. The proper forum for this is the Australian Health Ministers’ Advisory Council National Mental Health Working Group.

Goods and Services Tax: Department of Foreign Affairs and Trade Research
(Question Nos 1983 and 1978)

Senator Faulkner asked the Minister representing the Minister for Foreign Affairs and the Minister representing the Minister for Trade, upon notice, on 3 March 2000:

(1) Has the department, or any agency of the department, commissioned or conducted any quantitative and/or qualitative opinion research (including tracking research) since 1 October 1998, related to the goods and services tax (GST) and the new tax system; if so: (a) who conducted the research; (b) was the research qualitative, quantitative or both; (c) what was the purpose of the research; and (d) what was the contracted cost of that research.

(2) Was there a full, open tender process conducted by each of these departments and/or agencies for the public opinion research; if not, what process was used and why.

(3) Was the Ministerial Council on Government Communications (MCGC) involved in the selection of the provider and in the development of the public opinion research.
(4) (a) What has been the nature of the involvement of the MCGC in each of these activities; and (b) who has been involved in the MCGC process.

(5) (a) Which firms were short-listed; (b) which firm was chosen; (c) who was involved in this selection; and (d) what was the reason for this final choice.

(6) What was the final cost for the research, if finalised.

(7) On what dates were reports (written and verbal) associated with the research provided to the departments and/or agencies.

(8) Were any of the reports (written and verbal) provided to any government minister, ministerial staff, or to the MCGC; if so, to whom.

(9) Did anyone outside the relevant department and/or agency or Minister’s office have access to the results of the research; if so, who and why.

(10) (a) What reports remain outstanding; and (b) when are they expected to be completed.

(11) Are any departments and/or agencies considering undertaking any public opinion research into the GST and the new tax system in the future; if so, what is the nature of that intended research.

(12) Will the Government be releasing the full results of this taxpayer-funded research; if so, when; if not, why not.

Senator Hill—The Minister for Foreign Affairs and the Minister for Trade have provided the following answers to the honourable senator’s questions:

(1) to (12) The Department of Foreign Affairs and Trade and its agencies have not commissioned or conducted any quantitative and/or qualitative public opinion research (including tracking research) since 1 October 1998 related to the GST and the new tax system.

Goods and Services Tax: Department of Health and Aged Care Research

(Question No. 1985)

Senator Faulkner asked the Minister representing the Minister for Health and Aged Care, upon notice, on 3 March 2000:

(1) Has the department, or any agency of the department, commissioned or conducted any quantitative and/or qualitative public opinion research (including tracking research) since October 1 1998, related to the goods and services tax (GST) and the new tax system; if so (a) who conducted the research; (b) was the research qualitative, quantitative, or both; (c) what was the purpose of the research; and (d) what was the contracted cost of that research.

(2) Was there a full, open tender process conducted by each of these departments and/or agencies for the public opinion research; if not, what process was used and why.

(3) Was the Ministerial Council on Government Communications (MCGC) involved in the selection of the provider and in the development of the public opinion research.

(4) (a) What has been the nature of the involvement of the MCGC in each of these activities; and (b) who has been involved in the MCGC process.

(5) (a) Which firms were short-listed; (b) which firm was chosen; (c) who was involved in this selection; and (d) what was the reason for this final choice.

(6) What was the final cost for the research, if finalised.

(7) On what dates were reports (written and verbal) associated with research provided to the departments and/or agencies.

(8) Were any of the reports (written and verbal) provided to any government minister, ministerial staff, or to the MCGC; if so, to whom.

(9) Did anyone outside the relevant department and/or agency or Minister’s office have access to the results of the research; if so, who and why.

(10)(a) What reports remain outstanding; and (b) when are they expected to be completed.

(11) Are any departments and/or agencies considering undertaking any public opinion research into the GST and the new tax system in the future; if so what is the nature of the intended research.
(12) Will the Government be releasing the full results of this taxpayer funded research; if so, when; if not, why not.

**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 not conducted, and does not intend to conduct, public opinion research related to the goods and services tax (GST) and the new tax system.

(2 - 10) Not applicable.

**Goods and Service Tax: Attorney-General’s Department Research**

(Question No. 1988)

**Senator Faulkner** asked the Minister representing the Attorney-General, upon notice, on 3 March 2000:

(1) Has the department, or any agency of the department, commissioned or conducted any quantitative and/or qualitative public opinion research (including tracking research) since 1 October 1998, related to the goods and services tax (GST) and the new tax system; if so: (a) who conducted the research; (b) was the research qualitative, quantitative, or both; (c) what was the purpose of the research; and (d) what was the contracted cost of that research.

(2) Was there a full, open tender process conducted by each of these departments and/or agencies for the public opinion research; if not, what process was used and why.

(3) Was the Ministerial Council on Government Communications (MCGC) involved in the selection of the provider and in the development of the public opinion research.

(4) (a) What has been the nature of the involvement of the MCGC in each of these activities; and (b) who has been involved in the MCGC process.

(5) (a) Which firms were short-listed; (b) which firm was chosen; (c) who was involved in this selection; and (d) what was the reason for this final choice.

(6) What was the final cost for the research, if finalised.

(7) On what dates were reports (written and verbal) associated with the research provided to the departments and/or agencies.

(8) Were any of the reports (written and verbal) provided to any government minister, ministerial staff, or to the MCGC; if so, to whom.

(9) Did anyone outside the relevant department and/or agency or Minister’s office have access to the results of the research; if so, who and why.

(10) (a) What reports remain outstanding; and (b) when are they expected be completed.

(11) Are any departments and/or agencies considering undertaking any public opinion research into the GST and the new tax system in the future; if so, what is the nature of that intended research.

(12) Will the Government be releasing the full results of this taxpayer-funded research; if so, when; if not, why not.

**Senator Vanstone**—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) No.

(2)-(10) Not applicable.

(11) No.

(12) Not applicable.

**Aboriginal and Torres Strait Islander Commission: Contracts to Deloitte Touche Tohmatsu**

(Question No. 2014)

**Senator Robert Ray** asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 7 March 2000:
(1) What contracts has the department, or any agency of the department, provided to the firm Deloitte Touche Tohmatsu in the 1998-99 financial year.

(2) In each instance: (a) what was the purpose of the work undertaken by Deloitte Touche Tohmatsu; (b) what has been the cost to the department of the contract; and (c) what selection process was used to select Deloitte Touche Tohmatsu (open tender, short-list or some other process).

Senator Herron—The answer to the honourable senator’s question is as follows:

(1) The Commission has engaged the firm Deloitte Touche Tohmatsu in the 1998 –99 financial year. A total of nine separate contracts were entered into during the financial year 1998/99.

(2) Attachment A sets out a brief description of the work undertaken by Deloitte Touche Tohmatsu, cost of each contract and the procurement process used to select the firm.

### ADMINISTRATIVE AND SPECIAL PROGRAM CONSULTANCIES FOR 1998/99

<table>
<thead>
<tr>
<th>Description of Consultancy</th>
<th>Procurement Method</th>
<th>Selected Consultant</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Advertised publicly (including those advertised to form a register)</td>
<td>4 Sole Supplier</td>
<td>Deloitte &amp; Touche Consulting Group GPO Box 823 Canberra ACT 2601  Duns 75-110-6147</td>
<td>$50,000</td>
</tr>
<tr>
<td>2 Selective tendering process</td>
<td>5 Under Commonwealth Contract/Memorandum of Understanding</td>
<td>Deloitte Touche Tohmatsu 123 Eagle Street Brisbane Qld 4000 Duns 75-110-6147</td>
<td>$120,000</td>
</tr>
<tr>
<td>3 Not advertised as a contract already exists</td>
<td>6 Sole quotation sought</td>
<td>Deloitte Touche Tohmatsu 123 Eagle Street Brisbane Qld 4000 Duns 75-110-6147</td>
<td>$60,000</td>
</tr>
<tr>
<td>A Specialised skills not available in ATSIC in required timeframe</td>
<td>4 Selective tendering process</td>
<td>Deloitte Touche Tohmatsu 123 Eagle Street Brisbane Qld 4000 Duns 75-110-6147</td>
<td>$60,000</td>
</tr>
<tr>
<td>B Need to access high technological experience or expertise</td>
<td>7 Ministerial Direction</td>
<td>Deloitte Touche Tohmatsu Level 26 Riverside Centre 123 Eagle Street Brisbane Qld 4000 Duns 75-110-6147</td>
<td>$60,000</td>
</tr>
<tr>
<td>To complete the OASITO Cost Model for the IT Outsourcing Project</td>
<td></td>
<td>Deloitte Touche Tohmatsu 9 Parsons Street Alice Springs NT 0870</td>
<td>$5,850</td>
</tr>
<tr>
<td>Business Agent for Business Development Projects in the Northern Territory</td>
<td></td>
<td>Deloitte Touche Tohmatsu 190 Flinders Street Adelaide SA 5001</td>
<td>$99,122</td>
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<tr>
<td>Description of Consultancy</td>
<td>Procurement Method</td>
<td>Selected Consultant</td>
<td>Amount</td>
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<tr>
<td>----------------------------</td>
<td>--------------------</td>
<td>---------------------</td>
<td>---------</td>
</tr>
<tr>
<td>To conduct a financial review of Jer-rang Horticultural &amp; Trading Co-operative Ltd</td>
<td>2E Deloitte Touche Tohmatsu GPO Box 788 Melbourne Vic 3001</td>
<td>$22,312</td>
<td></td>
</tr>
<tr>
<td>Business agents to assist BDP clients to develop their business plans &amp; determine the commercial viability. The agents may also be asked to provide Monitoring and/or Mentoring of existing businesses, or one off special investigation of existing or new businesses opportunities</td>
<td>1A Deloitte Touche tohmatsu 190 Flinders Street Adelaide SA 5001</td>
<td>$75,000</td>
<td></td>
</tr>
<tr>
<td>Grant Controller to Pwerte Marnte Marnte Aboriginal Corporation</td>
<td>3E Deloitte Touche Tohmatsu 9 Parsons Street Alice Springs NT 0870</td>
<td>$6,000</td>
<td></td>
</tr>
</tbody>
</table>

* Effective competition can be achieved through confirming invitation to known or qualified approved suppliers.

** Market factors require single tendering or a similar approach..

**Department of Education, Training and Youth Affairs: Contracts to PriceWaterhouseCoopers**

(Question No. 2027)

Senator Robert Ray asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 6 March 2000:

1. What contracts has the department, or any agency of the department, provided to the firm PriceWaterhouseCoopers in the 1998-99 financial year.
2. In each instance: (a) what was the purpose of the work undertaken by PriceWaterhouseCoopers; (b) what has been the cost to the department of the contract; and (c) what selection process was used to select PriceWaterhouseCoopers (open tender, short-list or some other process).

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 and its agencies have provided the following contracts to PriceWaterhouseCoopers in 1998-99:

<table>
<thead>
<tr>
<th>Firm</th>
<th>Purpose</th>
<th>Cost</th>
<th>Selection process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Price Waterhouse Coopers Australia (International) Pty Ltd</td>
<td>Costing Outcomes/Outputs, Costing Corporate Activities, Benchmarking of Corporate Activities</td>
<td>$140,338</td>
<td>Not advertised – Used existing Exclusive Use or Panel Arrangement</td>
</tr>
<tr>
<td>PriceWaterhouse Coopers</td>
<td>Verification of the financial questionnaire of schools which is conducted each year</td>
<td>$30,000</td>
<td>Not advertised because value was not expected to meet Departmental Threshold for advertising – Exemption obtained from three written quotes due to Pre-eminent expertise – only one supplier approached</td>
</tr>
<tr>
<td>PriceWaterhouseCoopers</td>
<td>Undertake the Review of the National Industry Advisory Arrangements Round 1, 2 &amp; 3 and first round of review of recognised training organisations</td>
<td>$375,000</td>
<td>Open Tender.</td>
</tr>
</tbody>
</table>

Following the machinery of Government changes in October 1998, the Department of Employment, Workplace Relations and Small Business will provide a separate response covering the employment related functions for the period 1 July 1998 to 30 June 1999.

The Australian Maritime College and the Australian National University are also listed under Administrative Arrangement Orders as a responsibility of the Minister’s portfolio for part or all of the period in question. The Australian National University has not been approached in preparing a response to the question because it operates with a greater degree of autonomy than other Departmental agencies.
The Australian Maritime College has not been covered by the Minister’s portfolio since October 1998, therefore, it has not been covered by this answer.

Aboriginal and Torres Strait Islander Commission: Contracts to PriceWaterhouse-Coopers

(Question No. 2033)

Senator Robert Ray asked the Minister for Aboriginal and Torres Strait Islander Affairs, upon notice, on 7 March 2000:

(1) What contracts has the department, or any agency of the department, provided to the firm Price-waterhouseCoopers in the 1998–99 financial year.

(2) In each instance: (a) what was the purpose of the work undertaken by PricewaterhouseCoopers; (b) what has been the cost to the department of the contract; and (c) what selection process was used to select PricewaterhouseCoopers (open tender, short-list or some other process).

Senator Herron—The answer to the honourable senator’s question is as follows:

(1) The Commission has engaged the firm Pricewaterhouse Coopers in the 1998–99 financial year. A total of two contracts were entered into during the financial year 1998/99.

(2) Attachment A sets out a brief description of the work undertaken by Pricewaterhouse Coopers, cost of each contract and the procurement process used to select the firm.

<table>
<thead>
<tr>
<th>Description of Consultancy</th>
<th>Procurement Method</th>
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<td>Advertised publicly (including those advertised to form a register)</td>
<td>4 Sole Supplier</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Selective tendering process *</td>
<td>5 Under Commonwealth Contract/Memorandum of Understanding</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Not advertised as a contract already exists</td>
<td>6 Sole quotation sought **</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

A Specialised skills not available in ATSIC in required timeframe

B Need to access high technological experience or expertise

E Need for an independent review

Price Waterhouse Coopers PO Box 814 Cairns Qld 4870

$7,400

Section 60 examination of Lockhart Women’s Aboriginal Corporation

Price Waterhouse Coopers Box 5195 MSO Townsville Qld 4810

$7,400

Effective competition can be achieved through confirming invitation to known or qualified approved suppliers.

** Market factors require single tendering or a similar approach.
Department of Education, Training and Youth Affairs: Contracts to KPMG
(Question No. 2046)

Senator Robert Ray asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 6 March 2000:

(1) What contracts has the department, or any agency of the department, provided to the firm KPMG in the 1998-99 financial year.

(2) In each instance: (a) what was the purpose of the work undertaken by KPMG; (b) what has been the cost to the department of the contract; and (c) what selection process was used to select KPMG (open tender, short-list or some other process).

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 and its agencies have provided the following contracts to KPMG in 1998-99:

<table>
<thead>
<tr>
<th>Firm</th>
<th>Purpose</th>
<th>Cost</th>
<th>Selection process</th>
</tr>
</thead>
<tbody>
<tr>
<td>KPMG</td>
<td>To provide assistance with preparation of the Department’s 1998-99 financial statements</td>
<td>$41,250</td>
<td>Not advertised because value was not expected to meet Departmental Threshold for advertising– 3 written quotes or greater were obtained as required.</td>
</tr>
<tr>
<td>KPMG Management Consulting Pty Ltd</td>
<td>Undertake the National Evaluation of User Choice of New Apprenticeships - Phase 2</td>
<td>$219,800</td>
<td>Open Tender</td>
</tr>
<tr>
<td>KPMG Management Consulting Pty Ltd</td>
<td>Assistance with the preparation of interim financial statements for the period of 1 July to 20 October 1998 and assist with the Financial Management Manual</td>
<td>$68,250</td>
<td>Not advertised because value was not expected to meet Departmental Threshold for advertising– 3 written quotes or greater were obtained as required.</td>
</tr>
<tr>
<td>KPMG Management Consulting Pty Ltd</td>
<td>Assessing the efficiency of the Commonwealth Capital grants program and its administration</td>
<td>$182,340</td>
<td>Open Tender</td>
</tr>
</tbody>
</table>

Following the machinery of Government changes in October 1998, the Department of Employment, Workplace Relations and Small Business will provide a separate response covering the employment related functions for the period 1 July 1998 to 30 June 1999.

The Australian Maritime College and the Australian National University are also listed under Administrative Arrangement Orders as a responsibility of the Minister’s portfolio for part or all of the period in question. The Australian National University has not been approached in preparing a response to the question because it operates with a greater degree of autonomy than other Departmental agencies. The Australian Maritime College has not been covered by the Minister’s portfolio since October 1998, therefore, it has not been covered by this answer.

Department of Family and Community Services: Contracts to Ernst and Young
(Question No. 2079)

Senator Robert Ray asked the Minister for Family and Community Services, upon notice, on 7 March 2000:

(1) What contracts has the department, or any agency of the department, provided to the firm Ernst and Young in the 1998-99 financial year.

(2) In each instance: (a) what was the purpose of the work undertaken by Ernst and Young; (b) what has been the cost to the department of the contract; and (c) what selection process was used to select Ernst and Young (open tender, short-list or some other process).

Senator Newman—The answer to the honourable senator’s question is as follows:

Preface: Where answers relate to contracts for consultancies, these details are publicly available in the FaCS and/or Centrelink Annual Reports for 1998-99 and appropriate references have been provided. Where answers relate to ‘non-consultancy’ contracts, full details have been provided as these do not appear in the Annual Reports.
FaCS

(1) 3 contracts were provided to Ernst and Young in 1998-99 by the Department of Family and Community Services (FaCS).

(2)(a)(b)(c) Details are contained on pages 300 and 315 of the Department’s Annual Report for 1998/99.

Centrelink

(1) Centrelink has entered into 6 contracts with the firm Ernst and Young in the 1998-99 financial year.

(2)(a)(b)(c) Of the 6 contracts, 1 was a Consultancy contract, details of which is available in the Centrelink Annual Report 1998-99 on Page 169. There were 5 Non-Consultancy contracts, details of which are provided in the table below.

<table>
<thead>
<tr>
<th>Contract Description</th>
<th>Total cost of contract</th>
<th>Payment made 1998-99</th>
<th>How engaged</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provision of Audit Services</td>
<td>$25,000.00</td>
<td>$16,815.00</td>
<td>Public Tender - under standing offer</td>
</tr>
<tr>
<td>Provision of Audit Services</td>
<td>$24,000.00</td>
<td>Nil</td>
<td>Public Tender - under standing offer</td>
</tr>
<tr>
<td>Provision of Audit Services</td>
<td>$20,000.00</td>
<td>Nil</td>
<td>Public Tender - under standing offer</td>
</tr>
<tr>
<td>Provision of Audit Services</td>
<td>$33,000.00</td>
<td>Nil</td>
<td>Public Tender - under standing offer</td>
</tr>
<tr>
<td>Development Management Project</td>
<td>$15,000.00</td>
<td>$4,880.00</td>
<td>Restricted Tender Training Package</td>
</tr>
</tbody>
</table>

Under the “Farm Family Restart Scheme”, Centrelink paid an amount of $2,250.00 for the financial service provided to a client by Ernst and Young in the 1998-99 financial year.

The Social Security Appeals Tribunal did not provide contracts to Ernst and Young in 1998/99.

Department of Education, Training and Youth Affairs: Contracts to Ernst and Young (Question No. 2084)

Senator Robert Ray asked the Minister representing the Minister for Education, Training and Youth Affairs, upon notice, on 6 March 2000:

(1) What contracts has the department, or any agency of the department, provided to the firm Ernst and Young in the 1998-99 financial year.

(2) In each instance: (a) what was the purpose of the work undertaken by Ernst and Young; (b) what has been the cost to the department of the contract; and (c) what selection process was used to select Ernst and Young (open tender, short-list or some other process).

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 and its agencies have provided the following contract to Ernst and Young in 1998-99:

<table>
<thead>
<tr>
<th>Firm</th>
<th>Purpose</th>
<th>Cost</th>
<th>Selection process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ernst and Young</td>
<td>Delivery of Agreement Making training in relation to the implementation of the Department’s Performance Management System</td>
<td>$84,314</td>
<td>Not advertised – Used existing Exclusive Use or Panel Arrangement</td>
</tr>
</tbody>
</table>

Following the machinery of Government changes in October 1998, the Department of Employment, Workplace Relations and Small Business will provide a separate response covering the employment related functions for the period 1 July 1998 to 30 June 1999.

The Australian Maritime College and the Australian National University are also listed under Administrative Arrangement Orders as a responsibility of the Minister’s portfolio for part or all of the period in question. The Australian National University has not been approached in preparing a response to the question because it operates with a greater degree of autonomy than other Departmental agencies.
The Australian Maritime College has not been covered by the Minister’s portfolio since October 1998, therefore, it has not been covered by this answer.

**Tubal Ligation**

(Question No. 2116)

*Senator Brown* asked the Minister representing the Minister for Health and Aged Care, upon notice, on 16 March 2000:

How many tubal ligation operations have occurred in each state and territory in each year since 1995.

*Senator Herron*—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

Tubal ligation procedure occurrences, public and private hospitals combined, Australia, States and Territories, 1994-95 to 1997-98

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>NSW</td>
<td>8,404</td>
<td>8,428</td>
<td>7,403</td>
<td>7,101</td>
</tr>
<tr>
<td>Vic</td>
<td>6,359</td>
<td>6,365</td>
<td>6,097</td>
<td>5,782</td>
</tr>
<tr>
<td>Qld</td>
<td>3,318</td>
<td>3,701</td>
<td>3,527</td>
<td>3,550</td>
</tr>
<tr>
<td>WA</td>
<td>3,070</td>
<td>3,012</td>
<td>2,893</td>
<td>2,610</td>
</tr>
<tr>
<td>SA</td>
<td>2,354</td>
<td>2,168</td>
<td>2,271</td>
<td>2,081</td>
</tr>
<tr>
<td>Tas</td>
<td>924</td>
<td>843</td>
<td>873</td>
<td>725</td>
</tr>
<tr>
<td>ACT</td>
<td>405</td>
<td>357</td>
<td>363</td>
<td>319</td>
</tr>
<tr>
<td>NT</td>
<td>330</td>
<td>306</td>
<td>266</td>
<td>278</td>
</tr>
<tr>
<td>Aust</td>
<td>25,164</td>
<td>25,180</td>
<td>23,693</td>
<td>22,446</td>
</tr>
</tbody>
</table>

Note: The coverage of this table consists of all public hospitals, and practically all private hospitals and free-standing day facilities. Only private free-standing day facilities in the Australian Capital Territory, and the one private hospital in the Northern Territory, are known to be not included.

Source: The Commonwealth Department of Health and Aged Care, National Hospital Morbidity (Casemix) Database.