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

Parliamentary Zone
Old Parliament House

Motion (by Senator Ian Campbell) agreed to:

That, in accordance with section 5 of the Parliament Act 1974, the Senate approves the proposal by the National Capital Authority to refurbish the south-west wing of Old Parliament House.

Transport and Territories Legislation Amendment Bill 1999

Second Reading

Debate resumed from 9 May, on motion by Senator Herron:

That this bill be now read a second time.

Senator West (New South Wales) 9.31 a.m.—Last night, before we adjourned, I was discussing particular parts of the Transport and Territories Legislation Amendment Bill 1999 that relate to the placing of Cocos (Keeling) workers under the Western Australian Industrial Relations Act. I was expressing concern because the people of Cocos (Keeling) and Christmas islands do vote in federal elections, do elect members of parliament to represent them here, but they do not have representation on that particular legislation, and it is not even federal legislation.

Senator Tambling—Did you say this when the Labor Party put through the Territory Law Reform Bill?

Senator West—This is an issue of concern. The previous work that had been done on this particular area was done in close consultation with the Western Australian government, with the people of Christmas and Cocos (Keeling) and with the various organisations. But the changes that have been wrought upon the people of these islands now have not been done with the approval of anybody or with consultation. This is a very important issue for people to remember. These people are having this foisted upon them with no consultation, and it would appear that some of it is actually contrary to what they previously had sought.

I also now want to turn to issues relating to the Madrid protocol. We do support that particular part of the legislation. It is important. The Madrid protocol was adopted in 1991 in response to proposals that a wide range of provisions relating to the protection of the Antarctic environment should be harmonised in a comprehensive and totally binding form, and it draws on and updates the agreed measures as well as subsequent treaty meeting recommendations relating to the protection of the environment. It designates the Antarctic as a ‘natural reserve, devoted to peace and science’. It establishes environmental principles for the conduct of all activities and prohibits mining. It subjects all activities to prior assessment of their environmental impacts. It provides for the establishment of a Committee for Environmental Protection to advise. It requires the development of contingency plans to respond to environmental emergencies and provides for the elaboration of rules relating to liability for environmental damage.

It is a very important piece of legislation. It is very important that we actually ratify it, and I understand that we thought we were right but this legislation has never been passed and, when another country signed up to the protocol, we suddenly found that we were lagging behind. But it is important. This is a wilderness area, but it is an area where people have been working, living and visiting for close to a century. As communications and technology improve, we find more and more people are actually going to visit the area, and this certainly places quite significant constraints and imposts upon the area. It is a very fragile place in terms of the ecology and the environment. Whilst the climate is harsh, things stay for a long time. The huts of Mawson and of the early explor-
ers are still quite intact or the way they left them, unless the roofs have caved in.

We are also able to see the impact of the failure of previous expeditions and bases to appropriately or adequately dispose of their waste and their refuse. That is now one of the big issues facing the people in the Antarctic and the people dealing with the Antarctic—that is, how do they undertake the reclamation work that relates to the tips and the dumps that were associated, or are still associated, with the bases? In some areas there is quite a decent cocktail of chemicals. Some of these are leaching into the sea, and it is quite interesting how they do leach and travel under the ice cap, or under the snow layer, into the sea.

You have in that area a major habitat for whales and other small animals who feed on the plankton and krill that grow there. These are fairly primitive life forms, meaning that heavy metals and other dangerous chemicals could be entering the food chain at a very early stage and so when people go fishing there, maybe illegally, for various fish or mammals they could be picking up quite heavily contaminated carcasses. The fact that they could be spreading across the world some of this contaminant is a major concern and it is a shame that this can happen.

A lot of work is being done to outline and determine how best to ensure that the overflow from these tips can be contained and how best they can be removed or whether they should be sealed. Important work is being done by the Australian Antarctic Division on that issue, and I think they are to be highly commended for the work they are doing. They are undertaking it in a very cautious and responsible manner because they realise that there is a need to ensure that whatever method is undertaken to dispose of the waste it does not cause more harm than would be caused by leaving it as it is. The work that has been done on this is not just going to benefit the Australian bases, but it is very much a cooperative effort and it will be picked up and used in conjunction with other work being done by other countries who have bases there as well.

It is a pristine area and it has significant beauty, but we have to be very conscious, careful and aware of what the impact of increasing tourism and issues like that could be on such an area. The recognition of the Madrid protocol is certainly going to help scientists and help the Antarctic to be preserved and to continue to be a very important source of landmass in the world with a number of very unique animals and unique flora that we cannot afford to lose.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (9.40 a.m.)—I thank all senators who have contributed to the debate on the Transport and Territories Legislation Amendment Bill 1999, particularly Senator West for her valuable contribution while I was dealing with something else. First of all, I indicate that I rarely agree with Senator Mackay on anything, but I do agree with her on this occasion and with Senator Greig that the timing of our providing amendments in relation to rail in particular was very tardy. I am concerned that we were remiss in not making the other parties aware of those amendments in relation to rail, particularly because the rail amendments really do have to be passed now if they are going to be passed at all. They have to be passed because, although these amendments are relatively minor in their own right, they do affect the implementation of the AN sale arrangements. They have to be passed before the end of the financial year and now is the last opportunity. I apologise to the other parties for the late advice of those rail amendments. I certainly hope that in the time since the amendments were made known to the other parties, which was about 2 o’clock yesterday afternoon, the department has been able to provide sufficient briefings to enable them to understand the import of them. It is a matter for me to try to convince them to agree or for them to point out where I am wrong. But I do hope at least that they understand and appreciate what the rail amendments are about and that they will have accepted that the amendments are relatively uncontroversial and are needed to put the arrangements into operation.

In relation to the industrial relations elements of the bill insofar as they relate to Christmas and Cocos islands, I again apolo-
The situation as it currently applies on Christmas and Cocos islands is that the Commonwealth engages the Western Australian government to supply services to those islands, mainly because the Commonwealth does not have teachers, appropriate police officers, other allied health professionals and a lot of the other service providers. We simply engage someone else to do these jobs and, in this instance, it is the Western Australian state government—under specific agreements we have made with various Western Australia state agencies—which provides services on Christmas and Cocos islands. Those people who provide those services are Western Australian government employees. They have worked in Perth, or somewhere else in Western Australia, for the Western Australian government. They have been subject to Western Australian industrial relations legislation. There was a thought that perhaps, when they went to Christmas and Cocos islands, they would have to change to federal awards. This legislation, at the request of the Western Australian government, makes it quite clear that the situation which I think actually applies now—that is, they continue to be under Western Australian industrial relations laws—is the position that remains.

That is really what the industrial relations section of the Transport and Territories Legislation Amendment Bill 1999 is all about. Whether or not you think the Western Australian laws are draconian or whatever other adjective you might like to give them—of course I would disagree with you, for the record—really, in this instance, is not relevant. We are not saying to workers in the Indian Ocean territories that they must now go under Western Australian law. We are saying, ‘You can stay under the federal law; if you want to change over to the Western Australian law, you can; if you have a WA based employer, you can if you want to.’ We are certainly not saying that they have to, but it allows those Western Australian government employees who are currently under the Western Australian award to legitimately stay there.

I again accept, Senator Greig, from your point of view particularly, that you and I are
not experts on industrial relations law at all and we struggle to understand some of the complexities of things that we are not normally comfortable with. I would not expect you to know those, as I hope people would not expect me to be an expert on those particular things. We have been trying to say to you, Senator Greig—and, as I indicated, we have been trying to get in touch with you since yesterday evening—that we can send along departmental people—not me—to brief you. Although I am a very honest and trustworthy person, I can accept that, at times, you may think I am giving a political spin, so I would not send me or my officers. But, if you would like to understand exactly what the provisions provide, please accept a briefing from departmental officials. Having got the briefing and having then understood exactly what is intended, it is then a matter for you and your party to determine what you are going to do. I would hate to think that you are making a decision on this bill on the basis of a misunderstanding of what the bill actually says—a misunderstanding that I say, certainly in my own instance, would be very understandable because it is a complex matter in an area that I am not usually involved in.

I am assured, if I can repeat, that territory residents who choose to undertake employment with a Western Australian employer will, under the government’s amendments, have the choice to enter an Australian workplace agreement or a federal agreement by agreement with their employer. Where the employment with an AWA employer would be covered by an AWA award, there would be a normal conservancy of the employment. The territory resident would still be able to seek their employer’s agreement to a federal agreement provided the Western Australian employer is a corporation.

We do not accept, I might say for the record, the opposition’s 1994 agreement with the Union of Christmas Island Workers that in fact dictated that private sector workers on Christmas Island could only be represented by the Union of Christmas Island Workers and could only be covered by federal awards or agreements. The same choices should apply for Western Australian employers and their employees when working in the IOTs as apply on the mainland. Again I say, in answer to Senator Greig, that the government is not seeking to impose Western Australian industrial legislation on anyone. Territories residents not employed by Western Australian employers will not be affected by these amendments and will retain their special access to the federal workplace relations system. Territory based employers will still work solely under the federal workplace relations system.

I hope that the issue of just what these amendments do is clarified. I accept and I repeat that I do empathise with the opposition parties because they have not had as much time as they would have liked to have a look at some of these things but I hope that the import is now clear and that both the Democrats and the Australian Labor Party senators would now be able to support that particular position.

To briefly recap on the import of the whole of this legislative package before the parliament, the purpose of the bill is to amend a number of acts to help rectify some operational and technical anomalies. The bill also allows for changes to gender specific language and for the correction of some typographical and drafting errors. Schedule 1 amends the commencement provisions of the Transport and Communications Legislation Act to overcome a technical difficulty which prevented a proclamation being made for the commencement of the amendments to the Protection of the Sea (Prevention of Pollution from Ships) Act. Those amendments relate to the discharge of sewage and the disposal of garbage from ships in Antarctic areas. As I heard the debate, I understand that all senators support that legislation and I thank them for that support so that we can deal with and implement the legislation in relation to the disposal of sewage and garbage in the Antarctic area.

Of schedules 2 and 3, one relates to the Christmas Island Act and one to the Cocos (Keeling) Islands Act. Those amendments remove the reference to a court of Western Australia which has been abolished; make some changes in the industrial relations area, which I have already spoken about; and re-
peal some obsolete provisions relating to the removal and return to the territories of accused persons and prisoners.

Schedule 4 relates to the Australian Capital Territory (Planning and Land Management) Act, allowing for there to be a quorum even though a full-time executive member has disclosed a pecuniary interest in a particular issue and absents himself or herself from the meeting. I understand that all parties are supporting that very practical and sensible amendment.

Schedule 5 relates to the Northern Territory state government. I will very briefly enter into the political debate which happened yesterday. I am sure Senator Crossin would be disappointed if I did not take up some of her political points. I will briefly also mention a couple of points that Senator Greig made. I have already apologised for wrongly informing the Senate that the act had nothing to do with the Norfolk Island Act. It did, in fact: we are changing a full stop to a colon and including one word, ‘or’; so I was wrong. But really it will not in any way impact upon the Norfolk Island areas.

I appreciate what Senator Greig said about Norfolk Island, but he was really repeating what he said in the debate a few weeks ago on the attempt by the government to provide democratic reforms for those people living on Norfolk Island. I still cannot overcome my surprise that the Democrats particularly—although I am surprised at the Labor Party—would object to a reform that made the Norfolk Island Assembly much more democratic than it now is. Senator Greig said that we do not consult enough with the territories, but I consult very regularly with the Norfolk Island government and the Chief Minister. I go across for formal intergovernmental meetings and I am going across on one again very shortly and taking some of my ministerial colleagues. We go out of our way to consult very closely with the Norfolk Island government and the parliament, and I reject any suggestion that we do not consult with them. I get across to the Christmas and Cocos islands as much as I can—which is not very often, I regret to say. I try to be there and consult with the locals on the ground as often as I am able. Of course, as I think Senator Greig mentioned, we do have an administrator there who is in constant contact with the people of Christmas and Cocos islands and understands their views.

Senator Crossin, Senator Greig and Senator Hutchins then had the very curious argument which, I think, with respect, smacks of the hypocrisy that sometimes is displayed by the Australian Labor Party and, to a degree, by the Democrats. First of all, they are saying that we should consult more with the territories, that we should do what they say and not try to impose the Commonwealth’s will on Norfolk Island or Christmas Island, but that we should listen to what they say. But when it comes to the Australian Capital Territory and the Northern Territory, the people of those territories, who elect their own governments and whose governments then determine what things need to be done and we have to pass some legislation to enable those people to have their own say, suddenly the Democrats and the Labor Party say, ‘Oh no, we don’t want to allow the Northern Territory’s democratically elected assembly to have any say in this; we don’t want the Australian Capital Territory’s democratically elected assembly to have a say in this. We want the Commonwealth government to go over the top and to impose our will on them.’

In relation to parliamentary secretaries, as we indicated during the debate, it was a request from the former Chief Minister to introduce that, to allow that to happen if the democratically elected Northern Territory Legislative Assembly so determined to appoint parliamentary secretaries. We are not appointing any parliamentary secretaries. That is up to the democratically elected government in the Northern Territory. We had a lot of humour and a bit of cynicism from the opposition senators yesterday about the Northern Territory assembly, but that is all because for 26 years—

**Senator Mackay**—For 25 years.

**Senator IAN MACDONALD**—For 25 years—thank you, Senator Mackay—the Liberal Country parties in the Northern Territory have been returned, election after election after election, because they do what the local people want. The Labor Party can-
not win on the ground in the Northern Territory and so they come down here and seek the assistance of the Democrats to thwart the will of the Northern Territory people by having this parliament override the wishes of the Northern Territory people. Do you call that democracy?

What a hypocritical argument in the two territories! Here, for 25 years, the Labor Party have been trying to win that argument in the Northern Territory and the Northern Territorians will not have a bar of the Labor Party and all the rubbish they go on with. They keep rejecting them time after time. The Labor Party cannot get their way there, so they come down here and, with the help of the Democrats, try to thwart the will of a properly and democratically elected government in the Northern Territory. (Time expired)

Question resolved in the affirmative.

Bill read a second time.

In Committee

The bill.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (10.01 a.m.)—I table a supplementary explanatory memorandum relating to government amendments to be moved to this bill. The memorandum was circulated in the chamber yesterday.

The CHAIRMAN—I understand there has been a running sheet circulated, and we are working off that. The question is that the bill stand as printed.

Senator MACKAY (Tasmania) (10.02 a.m.)—I wish to make some comments in relation to the amendments that we received late yesterday. Senator Macdonald is right—we do rarely agree. But on this occasion I am totally aware of the fact that the unfortunate circumstance that occurred with respect to the rail amendments was out of his control. I understand from discussions with the shadow minister that there were several contacts between Minister Anderson’s office and his office yesterday, in a very difficult period, obviously, because of the nature of the budget that was being brought down. I am advised by the shadow minister that we will now be supporting the rail amendments that the government has put forward, but I wish to emphasise the views of the shadow minister, which I understand were communicated in no uncertain terms to Minister Anderson’s office, that this is no way to run a business. We appreciate the expeditious way that we must proceed, therefore we will be supporting the Australian National Railway Commission amendments.

As to the second lot of amendments that deal with the industrial relations aspects, unfortunately, Senator Macdonald, there has been no briefing—and I appreciate this may also be out of your control—as I understand it between Minister Reith’s office and Mr Bevis’s office in relation to this matter. We did make an offer yesterday—I am not sure whether the Democrats are prepared to echo it—that we defer some of these amendments to allow us time to consider them. We simply have not had time, because of the intervention of the budget, to consider them. It may well be that you are correct—that some of the amendments that have been drafted since the House of Representatives debate do ameliorate some of our concerns—but at this juncture we are not in a position to support the government amendments without a full briefing similar to the briefing you offered Senator Greig. So at this juncture we will be pursuing our amendments. Given the fact that we do not fully appreciate or understand the nature of the government’s amendments, we cannot support them at this point if the government persists with the committee stage of this bill. I am sorry, but that is the way it is. I reiterate we did offer yesterday, both to Minister Macdonald’s office—and I appreciate this is not directly within their responsibility—and directly in the chamber to adjourn after the second reading and reconsider the committee stage at a later point. This may still be possible; otherwise, unfortunately, we will be pursuing our amendments.

I wish to go to some of our amendments and reiterate what our concerns are, and, inter alia, I would like to raise a couple of questions that I would like the minister to consider and perhaps respond to. We are currently quite happy to support the agreement
that was reached in 1994. That agreement was not simply with the Christmas Island Workers Union; it was with the ACTU, the Western Australian government and the Commonwealth. In 1994 that agreement involved all three parties, including the Western Australian government, and we had no difficulty with that. That agreement was to protect the entitlements of public sector workers on Christmas and Cocos islands. It is my understanding, and I have been advised by some of my colleagues, that the police on Christmas Island are Australian Federal Police and not provided by the Western Australian government. However, there are a number of other public sector workers that are employed on Christmas and Cocos islands through the service delivery agreements. We are quite happy to sign up to something that was negotiated and agreed to by those three parties, but this, in our view, goes substantially further than that. Clearly the minister takes the word of the Western Australian government in relation to this matter. All I can say on that is the Western Australian government has had a change of heart since 1994 and clearly wishes to extend the industrial relations powers further than that.

In a briefing that the minister was kind enough to organise with his territories department we asked a number of questions in relation to the 1994 agreement as to the nature of the correspondence that went between the Commonwealth, the ACTU and the Western Australian government at that point. The reason we asked that is that we wanted to pin down precisely what that agreement was. The minister in his written response said that he was advised that his department did not appear to have this correspondence, and I understand that in the briefing which I attended together with my colleague Martin Ferguson with the territories people they said that it might be in the Department of Employment, Workplace Relations and Small Business.

At this point I would assume that the department has had with the effluxion of time sufficient capacity and resources to have a look for that correspondence. We certainly would reiterate our request for that. It has been some time since the briefing occurred. We would like to ask again: where is the correspondence? I simply cannot understand why the department would not have copies of it. It was only 1994; we are not talking about 10 or 20 years ago. We would also like to know what the department or the minister’s office did in order to confirm the terms of the earlier agreement. We were also seeking information with respect to that. We would also ask, as we did in the briefing, what negotiations in fact took place between the Western Australian government, the Commonwealth and the ACTU at that point, and what was the nature of those negotiations. I have a number of other questions, but I might leave it at that to allow the minister, Senator Greig or my other colleagues who are here to respond to questions that we have raised thus far.

**Senator IAN MACDONALD** (Queensland—Minister for Regional Services, Territories and Local Government) (10.09 a.m.)—Senator Mackay has raised a number of issues. I cannot explain why the department cannot find the correspondence. It is almost six years ago now, and there was a previous government. I do not know what happened when the government changed. Perhaps some material found its way to a shredder or something! For the record, I do not say that seriously but simply to emphasise that I really cannot elaborate on that. I cannot throw any light on the question. I am advised by my department that they have not been able to locate that easily. I suspect that they probably have not turned over every piece of paper in the whole department looking for it, but it is not readily available. But again, Senator, whilst discussions that were held some time ago are of course important, I do not know that they would ever be taken to reach the status of a firm and binding agreement between the Commonwealth government—albeit the then Commonwealth government—and various other parties. I understand that they were part of discussions which the government at the time perhaps thought were not a bad idea. There were things perhaps thought about being legislated that never quite happened. So I really cannot assist further in relation to that.
Just dealing with the other matter that Senator Mackay raised about the industrial relations matters in the bill, I am going to propose—and risk the wrath of the Manager of Government Business in the Senate—that we should finish the committee debate insofar as all other matters are concerned and then report progress and adjourn the debate to enable some further discussions on the industrial relations elements. I say that because—and again I repeat myself—it is a complex issue and difficult for me to follow easily, but it may well be that the amendment we are proposing finds real favour in the minds of the Labor Party and the Australian Democrats. If that is a possibility, then I think we—

Senator Crossin—Extend WAIR laws to the territories? I don't think so.

Senator IAN MACDONALD—I half heard Senator Crossin’s interjection. My understanding is that once the full import of the amendment we have just moved, and only gave you notice of yesterday afternoon, is confirmed it may well address some of the concerns that the Labor Party and the Democrats had. I am not sure whether you were here during my second reading speech, Senator Crossin—you were?—but I just was emphasising that it is really putting beyond doubt the situation which I think currently exists. In short, that is that Western Australian government employees working on the island can retain their Western Australian government awards. It does not apply to other workers on the territories. We are not forcing them under a Western Australian award. They can stay where they are, and I think there is no intention that they would move. It is simply at the request of the Western Australian government that Western Australian government employees who are only working temporarily in the Indian Ocean territories have the clear right to retain their Western Australian award status.

In the possibility that that is accepted by the Labor Party and the Democrats it seems to me, for want of delaying the debate for a little while today or perhaps even until tomorrow, unfortunate if we have to get rid of that, if all parties are almost close to agreement. It is worth the delay to see if there is an agreement. Once the departmental officials can brief the Labor Party and the Democrats as to just what exactly it means, the other parties can inquire and can cross-examine the departmental people by themselves on just the import of these rules. If at the end of that cross-examination session—that understanding session—the parties still say, ‘We understand what all that means, but as a matter of policy we disagree,’ we can vote them down and get on with the rest of the bill, which I would very much like to do either today or tomorrow because the other elements are important. But I think it is worth a little delay to just see how far apart we are on those matters.

So I propose that we deal with the other issues, apart from the industrial relations areas. I think we are in agreement on those issues, except for the issue of the parliamentary secretaries in the Northern Territory. If the parties are against that, I might say that we are not going to die in a ditch over it. The current Chief Minister is not terribly concerned about it. What this legislation from the Commonwealth does is to simply enable the Northern Territory government to do what the Northern Territory government has decided to do—what the people of the Northern Territory, through their elected government, thought was right for the Territory. We are not providing for any number of parliamentary secretaries and we are not providing a salary for them. We are giving the Northern Territory parliament—the Northern Territory people through their elected parliament and government—the right to say, ‘Okay, we do want parliamentary secretaries, we do want to pay them, we do want the Remuneration Tribunal to work out what they are worth and we do want to appoint another two or three, or however many there might be.’ We are not going to appoint them; we are simply enabling the Northern Territory government—the Northern Territory people through their elected parliament and government—to do that, if the Northern Territory people want that done. We are not doing it; we are giving them the right to do it should they want to.

I would hope that the other parties would accept that it is the right of the Northern Ter-
ritory people through their properly elected parliament and their government to determine these things rather than the right of those of us sitting here in Canberra. All we want to do is to enable that. I would hope that the other parties would agree with that provision. Apart from that and the industrial relations matters, as I read the debate, all parties are agreed. It would be appropriate that we finish the debate on that, at the convenience of the Senate, and then perhaps adjourn to allow some further discussions to be held on those industrial relations amendments. I seek leave to move government amendments (1), (2) and (11) together:

Leave granted.

Senator IAN MACDONALD—I move:

(1) Clause 2, page 1 (lines 7 to 9), omit the clause, substitute:

2 Commencement

(1) Subject to this section, this Act commences on the day on which it receives the Royal Assent.

(2) Item 1 of Schedule 5A is taken to have commenced immediately after the commencement of Schedule 1 to the Australian National Railways Commission Sale Act 1997.

(2) Clause 3, page 1 (line 11), omit “Each Act”, substitute “Subject to section 2, each Act”.

(11) Page 17 (after line 10), after Schedule 5, insert:

Schedule 5A—Amendments relating to the sale of the Australian National Railways Commission

Australian National Railways Commission Act 1983

1 Subparagraph 67AZR(1)(a)(i)


Australian National Railways Commission Sale Act 1997

2 After item 4 of Schedule 3

Insert:

4A Registration of transfers after repeal

Despite the repeal of the Australian National Railways Commission Act 1983 by this Schedule, section 67AZJ of that Act continues to apply, in relation to any right, title or interest in land that vested in a person under section 67AE or 67AM of that Act before its repeal, as if the repeal had not happened.

3 Schedule 3 (heading appearing immediately before item 7)

Repeal the heading, substitute:

Port Augusta to Whyalla Railway Act 1970

Senator MACKAY (Tasmania) (10.17 a.m.)—I want to indicate that from the Labor Party’s perspective we are not averse to the idea of dealing with all of the items other than the industrial relations items. I just wish to make the point to the minister that, if the intention is to simply report progress for a short period of time, I do not think we will have the time to deal with that today or potentially tomorrow. Certainly we are happy—and we are interested in the contribution from Senator Greig on this—to deal with the Australian National Railways Commission amendments today because we appreciate the urgency that is required there. As to the industrial relations issues and the briefing that has been offered—which, on behalf of the opposition, we appreciate and will be participating in—we are quite happy to go along with that. But if this element of the bill is to be deferred, I suggest to the minister that perhaps bringing it on in the next sitting week may be the way to go because the timing is going to be very difficult for us. We are also happy at this point to deal with the amendments concerning the parliamentary secretaries and the amendments on mandatory sentencing that have been put forward by the Democrats today. We are happy to defer the IR issue, but we would prefer, from our point of view, that it not be reconsidered until the next week of sittings.

Senator GREIG (Western Australia) (10.19 a.m.)—I simply echo the sentiments of Senator Mackay and indicate that, as a matter of courtesy, I would be only too happy to allow for you and your department to further brief whom you feel it is necessary to brief. I do not want that to be seen as indicative of
sudden Democrat support for what you are proposing, but any briefing is accepted. I also add that the Democrats are perfectly happy to deal today with all of the other items on the agenda, if that is possible. As to whether we can come back to the industrial relations matters today, I do not know, but if the opposition feels that they would prefer more time I would be supportive of that.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (10.20 a.m.)—If we can be satisfied that the committee debate on all the other matters besides the industrial relations elements can be finalised today but not voted upon, I would like to take the opportunity to conduct the briefings. The rail matters are time crucial to 30 June, but of course we are running out of parliamentary time. If I can persuade, and I am sure I can, the managers of government and opposition business to agree to this being brought on at some time in the future—simply for the other parties to say, ‘Yes, we agree with the industrial relations matters’ or ‘No, we do not agree with them’ and perhaps provide a 20-minute explanation of why they do or why they do not—to finish the debate, then the bill could be dealt with next week some time. Is parliament sitting?

The TEMPORARY CHAIRMAN (Senator Crowley)—We are not sitting for another three weeks, Minister. We have estimates.

Senator IAN MACDONALD—I would still take the chance of reporting progress and adjourning. I will have to take some advice on what the latest day is that we can deal with the rail matters. If it becomes impossible to do other than deal with them today or tomorrow, we will have to take our chances. In the hope that there may be some agreement on the other issues, I propose that we continue along those lines. We can report progress and adjourn till later today and then perhaps at that time give a better indication of when the matter could be brought on again for the other issues.

I accept that today and tomorrow it may be difficult for both Democrats and Labor Party spokesmen to be briefed, but I am anxious for that brief to be made available. I repeat this so that there can be no misunderstanding as to the import of exactly what the government is proposing. I wish I were more of an expert on this so that I could explain that on my feet today but, even if I could, I suspect that no-one in the other parties would believe me. It is better that the other parties get a briefing from independent public servants, the departmental officials, on the issue to see whether the amendments as proposed are acceptable to them. I will leave that there. If there are other issues that senators want to raise on matters apart from the industrial relations issues, I am more than happy to enter into the debate and to try to answer questions as helpfully as I can, then proceed as I have suggested.

The TEMPORARY CHAIRMAN (Senator Crowley)—The question before the committee is that amendments Nos 1, 2 and 11 moved by the government be agreed to. Do people understand that we are proceeding with those at the moment?

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (10.25 a.m.)—I would like to speak again in fairness to Senator Greig, who was not involved in a little discussion then. Senator Greig, we were just discussing the time critical elements of the rail sections of the bill. The Senate meets again in the week commencing 5 June. Subject to further advice, it is my understanding that that would be sufficient to get the time critical parts of the railways bill through. If by chance we have reached agreement on the IR stuff by then, we can deal with it all very quickly on 5 June or at a time in that week convenient to the managers and whips. If there is no agreement, again we can deal with it all very quickly and get the time sensitive elements of the railways bill which everyone agrees upon through in the time that is required. That is what we were just talking about, to bring you up to date.

The TEMPORARY CHAIRMAN—As I understand it, the committee is prepared to proceed and look at the amendments associated with the Australian National Railways Commission, parliamentary secretaries and mandatory sentencing before reporting progress. The question before the committee is
that amendments Nos 1, 2 and 11 moved by the government be agreed to.

Question resolved in the affirmative.

The TEMPORARY CHAIRMAN—We now move to opposition amendment No. 3 from sheet 1788. The opposition is to oppose schedule 5 relating to parliamentary secretaries.

Senator CROSSIN (Northern Territory) (10.26 a.m.)—Before we do that, I would like to ask the minister, Senator Ian Macdonald, a number of questions. Minister, this is a request made to the government under the former Chief Minister, Shane Stone, who is of course now the President of your federal Liberal Party. I understand it is not the same position shared by the current Chief Minister, who in fact took up office in February last year. My questions to you then are: why has it taken nearly 15 months since the change of chief ministers for this legislation to come before the Senate, and why is the federal government not abandoning this pursuit of creating federal secretaries when it is not the will of the current Chief Minister?

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (10.27 a.m.)—In absolute frankness, this was a request made by the then Northern Territory government of my predecessor. It is that long ago. Senator Crossin, you ask why it has taken that long to get this far. You have been around long enough to know how horribly difficult it is to get any legislation through this chamber in particular and through the parliament in general. Unless the bill has a classification that gives it great urgency—and there are not a lot of those—they are delayed for many years. You raise an exceptionally good point. The solution regrettably is not in the government’s hands; it is in the hands of the senators who comprise the majority in the Senate.

Whilst I do not deny the cooperation of Labor and Democrat senators at times in getting those urgent bills through, I think anyone would concede that we do waste a great deal of time in the Senate. We waste a great deal of time on motions and discussions that are not related to legislation. It is for this reason that these types of bills get put on the list. I think this has been on the list for quite a long period of time. It does not take priority in drafting instructions. It does not take priority because we know what has to be done and what will fill up the time.

This is a request that was made to my predecessor by a former Northern Territory Chief Minister. It was put in the system. It is here now. I understand the current Chief Minister was asked about it and said, with absolute frankness, ‘No, it’s got nothing to do with me. I don’t know anything about it.’ He was being perfectly frank and honest, as I know Mr Burke would be. He is a very honest and frank person. It then came to light that the request was activated. But you are quite right: I do not think it is a life and death issue for the current Northern Territory government. It is not something we are going to go to the wall on. If the Senate does not like it, let us vote it down and go on. But I do emphasise that we are not creating parliamentary secretaries. The federal parliament provides the constitution for the Northern Territory parliament. We are providing the wherewithal for the Northern Territory people to make the decision. We are not creating one new parliamentary secretary. It would be up to the Northern Territory government to do that, not us. We are simply saying, with this amendment, ‘If you want to do it, you can do it.’ If it is voted down, it is voted down, and so be it. That is the democratic process. I hope that answers your query, Senator Crossin.

Senator CROSSIN (Northern Territory) (10.31 a.m.)—There was no need to table the bill in the parliament and to pursue the issue of parliamentary secretaries if the current Chief Minister is not waiting for these positions to be created so the Northern Territory government can, in turn, act upon this. As I understand, there is absolutely no urgency or request for this to happen. I then go to the fact that the Commonwealth supplies the Northern Territory with at least 80 per cent of their revenue. Let us say, for example, this amendment gets up and they do then choose to have five parliamentary secretaries. Will there be an obligation upon the Commonwealth to increase the funding to the North-
ern Territory government by virtue of revenue to pay the additional $100,000-plus that would be needed to pay these parliamentary secretaries? Will there be additional future revenue to the Northern Territory government or has the Commonwealth decided the allowance to be paid to these parliamentary secretaries will be found within existing revenue provided to the Northern Territory?

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (10.32 a.m.)—Senator Crossin, you ask the questions. I am not sure you do not know the answers. But let me elaborate. We provide the Northern Territory government, the Northern Territory people, with a certain amount of money. They raise some revenue themselves. Because we believe in self-government and because we believe the Northern Territory people are first-rate Australians, not second-rate Australians, we believe the Northern Territory people do have the right and the ability to consider issues, to elect the representatives they want and to elect the government they want. We trust Northern Territorians. We treat them like other Australians. We do not say to them, 'Look, we don’t think you can make these decisions.' We say, 'If you think mandatory sentencing is a good idea, we think you have the right to determine that.' We do not treat Northern Territorians as second-rate citizens.

We give them an amount of money. If they decide to appoint extra parliamentary secretaries and to pay them big amounts of money or if they decide to increase the salaries of all parliamentarians of the Northern Territory, that is an issue for Northern Territorians. If the voting public do not like it, they will vote them out next time. We accept they have that democratic right. We accept they have the right to make those decisions. If they pay themselves more money, if they have a lot of new parliamentary secretaries and pay them big salaries, that means they have that much less money to spend on other things. But isn’t it up to the Northern Territory people, voting in their election, to say to their parliamentarians, ‘Hey, we don’t want you to spend this money on your salaries. We want you to spend it on some roads or some schools and, because you did the wrong thing, we’re going to vote you out?’ They have the right to do that. They do not need Big Brother down here looking after those things for them.

We give them a fixed amount. We are not going to increase revenue by one cent to the Northern Territory government to help them pay for salaries for their ministers and parliamentary secretaries. They will get the same amount of money. If the Northern Territory people decide to have parliamentary secretaries, to pay them a lot of money and to accept that the consequence is they will have less to spend on roads, that is a matter for Northern Territorians. It is not a matter for this chamber sitting down here in Canberra. We want to say to the Northern Territory people: ‘You want parliamentary secretaries. That’s a decision for you to make. All we’ll do is give you the “constitutional” right to do that if you so choose. After that, it’s up to you.’ We are just treating Northern Territorians sensibly—as first-rate Australians, not as second-rate Australians who cannot look after their own destiny in these issues, as you might suggest they are.

Senator CROSSIN (Northern Territory) (10.35 a.m.)—I find the last comment personally offensive. Minister Macdonald, given your platitudes about the Northern Territory government being able to exist within the resources you give them, and seeing there is an amendment here that goes to mandatory sentencing, you might want to explain how your answer fits within the fact that you have just given them $5 million to bail them out of their mandatory sentencing problems. If your argument held water, if your argument were true, they should have been able to find the money for the interpreter service and the diversionary programs themselves—within their current correctional services budget. You might like to explain now why you need to give them $5 million to bail them out of that problem.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (10.36 a.m.)—We give all the state governments money to do lots of things with. There are lots of discussions, lots of arm twisting, I
guess you might say, and lots of debates on how much the Commonwealth should give the state governments in New South Wales, in Queensland, in Victoria—additional money for all sorts of things. It happens daily and the Northern Territory is no different.

The point you raise is a good one. If the Northern Territory people think that mandatory sentencing is an appropriate way for Northern Territorians to go, surely that is a matter for them to determine. If they think that more money needs to be spent on remedial action, then that is a matter for the Northern Territory people to understand and to work towards. Their government will approach the Commonwealth very often for additional money for all sorts of things, but it is a decision that the Northern Territory government, elected democratically by the people of the Northern Territory, should determine.

Senator Crossin, you have taken some offence at something I said. I apologise if I have caused you some personal offence there; I did not intend to. But I make the point that we consider that Northern Territorians are able to make their own decisions, the same as Queenslanders, Victorians or Tasmanians can. So if they elect a government to do something, no matter how silly it is, it is a matter for the Northern Territorians. If another government says, ‘Look, we don’t trust you to make these decisions,’ then you are treating those people as second-rate Australians. I do not treat Northern Territorians as second-rate Australians; I treat them as first-rate Australians who are able to have their say and to make decisions through their properly elected parliament and their democratically appointed government.

Senator Crossin makes a good point in terms of federal-territory relations about the $5 million that was handballed to the Northern Territory as part of a deal with the Prime Minister and Chief Minister Burke. But it gets worse than that: it is not just the amount of $5 million mentioned by Senator Crossin. We learned from yesterday’s budget that the promised $63 million to be available for legal aid for all Australians has now been slashed somewhat and that $17 million of that amount has now been shunted up to the Northern Territory to facilitate the diversionary programs that have been put in place. The Territory refuses to repeal the mandatory sentencing laws but, instead, has tried to circumvent that falsely, inefficiently and wrongly with a series of programs. It ultimately would have been far better dealt with by the repeal of the mandatory sentencing legislation itself, which we will deal with next.

The question is: how do we as a Senate and how do we as a parliament feel about that? The Democrats feel it is entirely inappropriate. The Top End is top heavy when it comes to ministers and now there is a request for parliamentary secretaries. Could I suggest to the Territory government that it would be far better to amalgamate many of the ministries they have up there at the moment and dispense with the notion of, or need or argument for, parliamentary secretaries. I forget who was in here yesterday—it may have been Senator Crossin—who mentioned all of the ministers that exist in the Territory.

Senator Greig—It was Senator Hutchins.

Senator Greig—Thank you, it was Senator Hutchins. It was an extraordinary number, given the small population of the Northern Territory. I am advised that the ACT, for example, has no parliamentary secretaries. I fail to see therefore why the Northern Territory should need them.

Senator Crossin makes a good point in terms of federal-territory relations about the $5 million that was handballed to the Northern Territory as part of a deal with the Prime Minister and Chief Minister Burke. But it gets worse than that: it is not just the amount of $5 million mentioned by Senator Crossin. We learned from yesterday’s budget that the promised $63 million to be available for legal aid for all Australians has now been slashed somewhat and that $17 million of that amount has now been shunted up to the Northern Territory to facilitate the diversionary programs that have been put in place. The Territory refuses to repeal the mandatory sentencing laws but, instead, has tried to circumvent that falsely, inefficiently and wrongly with a series of programs. It ultimately would have been far better dealt with by the repeal of the mandatory sentencing legislation itself, which we will deal with next.
Senator MACKAY (Tasmania) (10.41 a.m.)—I just want to assist the government. We will be putting the government out of its misery in relation to this schedule and voting this down and, in so doing, probably assisting Senator Macdonald in relation to the request he had from Senator Macdonald’s predecessor and from the current Chief Minister’s predecessor. So we will give you a hand and vote this down for you, Senator Macdonald.

But I cannot let this pass without saying that we should be honest about this: there is no strong position from this government in relation to self-determination, otherwise the Northern Territory would have euthanasia laws, otherwise the ACT would have safe injecting rooms and otherwise the government would listen to the Norfolk Islanders in relation to voting rather than not consulting them on the basis of self-determination. We assume that we can look forward to the minister opposing the Prime Minister’s proposed ban in relation to Internet gambling, which I know the Norfolk Islanders, the ACT government and the Northern Territory government are all extremely keen on. Minister, we will help you and the government and put you out of your misery by not supporting this provision.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (10.42 a.m.)—I will just comment on what Senator Mackay said. The ACT people through their democratically elected parliament and government wanted 999-year leases. But the Labor Party senators and Democrat senators here thought again, ‘We will treat the ACT people as second-rate citizens. We will treat them as people who cannot make up their own minds on this. We will ignore the wishes of their democratically elected people and we will vote that down.’ So I think we have to be consistent in the way we approach these things. We as a government have always attempted to do what is required by the various democratically elected assemblies.

I cannot help but make the point in relation to Norfolk Island that, when it comes to a matter of basic democratic rights for all Australians, this parliament has a role. Whilst it is true that the Norfolk Island Assembly did not support our attempt to make their legislature more democratic, the reason they did not, Senator Greig, was that the people we were trying to help do not get a vote. They are Australians in a part of Australia who are denied a vote. So, of course, they had no say in it. They could not express their views through the Norfolk Island government because they have no say in electing the Norfolk Island government. We were trying to say in that instance, ‘All Australians, no matter where they live, are entitled to the same democratic rights, and we as a federal parliament think those democratic rights should apply.’

Senator Greig also mentioned the fact, as I think Senator Hutchins did yesterday, that the Northern Territory government is top heavy. Again, that is a matter for the Northern Territory people to determine. If they think their government is top heavy, then they should vote it out. But for 25 years the people of the Northern Territory have, in my view, very sensibly returned the Country Liberal Party time after time after time and have rejected the Australian Labor Party time after time after time. So, generally speaking, the people of the Northern Territory are pretty happy with the way the Country Liberal Party government in the Northern Territory operates. If you talk about governments being top heavy, Senator Mackay would not want me to mention Tasmania.

Senator Mackay—They’ve reduced the numbers.

Senator IAN MACDONALD—I know that the Liberal Party in Tasmania did run to the election on reducing those numbers. I do not criticise Tasmania for this. The fact is that Tasmania is a relatively small state. It has 12 senators, it has a lot of government ministers—

Senator Mackay—So you want to change that, do you?

Senator IAN MACDONALD—No, I am not going to change anything. I think you will confirm for me, Senator, as a Tasmanian, that the Tasmanian government has a few parliamentary secretaries, and some
might say that the Tasmanian government is
top heavy as well. But I do not say that, be-
cause I leave that to Tasmanians to deter-
mine. I know that Tasmanians are able to
make their decisions and, if they want to be
top heavy, they will vote to be top heavy.
The same should apply to the Northern Ter-
ritory. If the people there want to be top
heavy, it is up to them to determine that; it is
not for the Commonwealth government here.

Senator Mackay has indicated the Labor
Party are not going to support this. There is
another party here, but I think Senator Greig
indicated earlier that he was not going to be
supporting it. I am not going to prolong that
debate. If the parliament does not do what
the Northern Territory government might
have asked it to do, then that is a matter for
them. All we were doing was enabling them;
we are not appointing any more parliamen-
tary secretaries. I will not prolong the debate.
I am a realist. If the numbers are not with us,
no amount of talking by me will change the
position, so perhaps we should get on and
deal with that.

Senator MACKAY (Tasmania) (10.47
a.m.)—I had hoped to close the debate last
time, but I am afraid I cannot resist the
temptation to comment on the Tasmanian
situation. Whilst other matters are being
sorted out, I may make some comment in
relation to the Tasmanian situation. I just
want to correct a view of Senator Ian Mac-
donald’s. Of course, the Labor Party as well
went to the election with a policy for the re-
duction of numbers in Tasmania. I have to
say that, when you go down to the Tasma-
nian parliament now, it is a very, very small
affair indeed. In fact, I suspect it would be
smaller than the Norfolk Island Assembly.

Senator Quirke—And nowhere near as
well paid as the Northern Territory.

Senator MACKAY—That is right. Great
strides were made in relation to the reduction
of numbers in Tasmania. Tasmanians recog-
nised that they were over-governed, and they
voted for the party that supported the reduc-
tion of numbers, which of course was the
Labor Party, and we won. I do not think it
was a good idea of Senator Macdonald’s to
use Tasmania as an example, I have to say,
given that we have comprehensively won
government there in a majority and we, of
course, hold all five seats. So, yes, I think the
Tasmanian people have exercised their
democratic rights. I think they in fact have
delivered a judgment on the coalition both at
the state and the federal levels.

I also wish to take up an interjection by
my colleague Senator Quirke in relation to
payment. He is correct; the Tasmanian mem-
bers are not paid anywhere near as much as
the Northern Territorian members. I admit-
tedly was quite astounded—and I regard it as
salutary—by the couple of speeches from
Senator Crossin and Senator Hutchins in
relation to the amount of money that NT
parliamentarians are paid. As I understand it,
they are paid the same as federal backbench-
ers. Were this amendment to be put through,
my understanding is that the remuneration
tribunal determinations would apply and
would flow through, and the parliamentary
secretaries in the Northern Territory—these
are the two people Senator Hutchins outlined
yesterday who did not already have jobs—
would potentially seek the full remuneration
of $20,000-odd.

I believe that money is richly deserved by
parliamentary secretaries here, I have to say,
and we supported that. I think it has been an
oversight in the past, given the workload of
parliamentary secretaries, that those posi-
tions have not been the subject of some re-
numeration. But let us get real here: we are
talking about the Northern Territory govern-
ment. They should reduce their numbers.
The Tasmanians have bitten the bullet. If
they are paid the same amount of money as a
federal MP, then I think, if the people were
given a chance to vote on that, they may ac-
tually change it.

I do not wish to prolong this debate any
further. I indicate to the chamber that I am
seeking to give people time to sort out an-
other matter, rather than just talking for the
sake of it. I wish to indicate to the chamber
again—and my colleague Senator Cooney
may wish to make some brief comments as
well in relation to this, if he would not
mind—that we will be opposing this.

Senator COONEY (Victoria) (10.51
a.m.)—I listened to Senator Ian Macdonald
making the comparison between the territo-
ries and the state of Tasmania and talking about the operation of democracy. But the difference is that, if Tasmania does something in its parliament, we do not bring a bill up here. In other words, Tasmania acts as a self-contained state under the Constitution.

The difficulty with the territories—and this bill is a great illustration of this—is that the federal government keeps going in there, so we are now talking about making provisions for a parliamentary secretary in the government of the Northern Territory. We would never do that with the government of a state. We would never say, 'We're going to bring this provision in to support one parliamentary secretary, two parliamentary secretaries or three parliamentary secretaries.' We would never do that with Western Australia, South Australia, Tasmania, Victoria, New South Wales or Queensland, but we do it with the Northern Territory.

This parliament makes laws in reference to the laws that will operate on Christmas Island or the Cocos (Keeling) Islands. That shows that the relationship is different. It also shows that this parliament can and does interfere, if you want to use that word, or—if you want to look at it in a different way from 'interfering'—it does exercise its proper powers in relation to these territories. I just think that looking at Tasmania is not a fair comparison to make in this debate where it is the territories that are under the direct jurisdiction of the Commonwealth parliament that are concerned. I will be interested in what wise words of wisdom you have about that, Minister.

The TEMPORARY CHAIRMAN (Senator Chapman)—The question is that schedule 5, part I stand as printed.

Question resolved in the negative.

The TEMPORARY CHAIRMAN—we now move to Democrat amendment No. 1 on sheet 1793 revised.

Senator GREIG (Western Australia) (10.53 a.m.)—As we are dealing with an omnibus bill which deals with the territories, we Democrats consider that it is another opportunity to address the issue of mandatory sentencing. You would be aware, Chair, that an agreement was reached recently with the Chief Minister of the Northern Territory, Mr Burke, and our Prime Minister in relation to the issue of mandatory sentencing in the Territory and the way in which it was resolved—and I say resolved in terms of a political resolution rather than a social or, I think, moral resolution.

We know from the extraordinary evidence—and some senators here in the chamber were direct or participatory members—of the inquiry which was held into mandatory sentencing both in my home state of Western Australia and in the Territory. Ideally I would love this amendment to be able to approach both Western Australia and the Northern Territory but, because of the nature of the bill before us, it can only deal with the Northern Territory. So we come back to the issue of mandatory sentencing as it exists only there.

There is, I think, a strong feeling in the general community and certainly with the government that the issue of mandatory sentencing is over, that it is finished, it is complete and should no longer be dealt with because it has been finalised. We Democrats make the point that that is not the case, that mandatory sentencing still exists in this instance in the Northern Territory. It has not been repealed.

We know from the deal that was struck with the Chief Minister and the Prime Minister—as Senator Crossin has mentioned—that $5 million has been presented to the Northern Territory government for discretionary programs such that police themselves now have the discretion—and I am alarmed by that particular development—to determine which juvenile offenders they believe are worthy of discretionary programs and which offenders should actually be prosecuted under the mandatory sentencing proposals. The deal also included the notion that the definition of 'juvenile' be changed so that it would mean youths under the age of 18 years. In addition to that, an interpreter service was provided so that indigenous youths would have the opportunity—which, alarmingly, they do not have now—to have somebody to speak to in their own tongue if and when they were prosecuted under the mandatory sentencing laws within the Northern Territory. As I said, there is more money...
for discretionary programs and a special juvenile court has been established. But that was the wrong answer to what is clearly a difficult question.

When the particular announcement was made that that deal had been struck, a number of commentators at state and federal levels had much to say on it. I refer here to a press release of Monday, 10 April, from Dr Gordon Hughes, President of the Law Council of Australia, in which he says:

The Law Council of Australia has said that today’s joint announcement by the Prime Minister, Hon. John Howard MP, and the Chief Minister of the Northern Territory, the Hon. Denis Burke MLA, is simply “window-dressing” and does not substantially address, in any way, mandatory sentencing in the Northern Territory.

The press release goes on to state:

“This is simply political window-dressing which, on the face of it, vests more power in the Territory’s police force” said the President of the Law Council, Dr Gordon Hughes. “The real remedy—

would have been to abolish mandatory sentencing, and to restore judicial discretion to judicial officers, in sentencing matters.

It was interesting also that, during that particular debate and prior to that deal being struck, Sir Ronald Wilson, who has a long and commendable history in working on these indigenous issues, in discussions I had with him argued quite strongly that both Western Australia and the Northern Territory—and I stress that we are dealing only with the Northern Territory here—breached the Convention on the Rights of the Child and the Treaty on the Elimination of Racial Discrimination. I am not convinced, by any stretch of the imagination, that that particular scenario has changed on the basis of the deal that has now been struck, because the laws are still on the statutes. Sir Ronald argued also that the Northern Territory was in breach of the International Covenant on Civil and Political Rights simply because of the arbitrary nature of sentencing. Mandatory sentencing in my home state applies after three strikes and only after break and enter offences—and this can range from stealing a biscuit from the fridge to bashing the occupants of the house—and there is no judicial review.

The argument that mandatory sentencing in the Northern Territory assists victims of crime, which is a common call from the Chief Minister, is quite simply false. It obscures the fact that those jailed simply go to the ‘university of crime’, as it were, and are most often destined to reoffend—often with more serious offences. The use of section 122 of our federal Constitution makes it very clear that the Commonwealth can legislate for the territories—and there has been some argy-bargy debate here today on the issue of the voluntary euthanasia bill where the government felt quite enamoured of, and were quite enthusiastic about, stepping into that particular debate and invalidating that proposal by the Territory.

In summary, Sir Ronald Wilson was telling me some months ago that the Northern Territory clearly breaches international human rights treaty obligations in relation to the mandatory sentencing laws on its statutes. The Human Rights (Mandatory Sentencing of Juvenile Offenders) Bill 1999, which has passed this chamber, is clearly constitutionally valid and there is no solid legal, moral or social argument to separate the issues in Western Australia and the Northern Territory.

It was interesting that, on the day that particular deal was struck, there was a joint press release from the Prime Minister, Mr Howard, and Chief Minister Burke in which they said that they had discussed the issues of mandatory sentencing in the Northern Territory. The Prime Minister expressed the Commonwealth’s particular concern about the practical impact of that policy on juveniles and then went on to explain the particular scenario which unfolded in terms of how he was going to address that. Frankly, the only good thing to come from that is the fact that the Northern Territory legislation has been amended—and I quote from the Prime Minister’s own press release:

... so that a person will be treated as an adult from 18 years of age rather than 17 years at present.

It continues, and this is the particular point I want to make:
Apart from this, the mandatory sentencing provisions of the existing law will remain unchanged.

So I take this opportunity today, and I will continue to take every opportunity where it arises, to remind both the Senate and the electorate at large that this issue is not over. It is not finished. Mandatory sentencing still exists in the Northern Territory, and I plead to the Senate today to support this amendment such that the Territory government would no longer have the right or jurisdiction to create or impose such laws. Therefore, I move:

(1) Schedule 5, page 17 (after line 10), at the end of the Schedule, add:

Part 3—Mandatory sentencing

57 Subsection 4(1)

Insert:

child, for the purposes of this Act, is a person under 18 years of age.

58 At the end of section 6

Add:

(2) Despite the provisions of this section, the powers of the Legislative Assembly do not extend to the making of laws which would require a court to sentence a person to imprisonment or detention for an offence committed as a child.

59 Application

To avoid doubt, an enactment of the Legislative Assembly that is contrary to subsection 6(2) of the Northern Territory (Self-Government) Act 1978 has no force or effect as a law of the Northern Territory, except as regards the lawfulness or validity of anything done in accordance with that law before the commencement of the Transport and Territories Legislation Amendment Act 2000.

60 Transitional

Any person in prison or detention at the commencement of the Transport and Territories Legislation Amendment Act 2000 pursuant to an enactment that is contrary to subsection 6(2) of the Northern Territory (Self-Government) Act 1978 for an offence committed as a child, must, within 28 days after the day on which the Transport and Territories Legislation Amendment Act 2000 commences, be brought before the court that sentenced him or her for reconsideration of the remainder of the sentence in accordance with subsection 6(2). The court has full discretion to vary the sentence if it thinks it fits in all the circumstances of the offender and the offence.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (11.01 a.m.)—At other times I would criticise Senator Greig for not giving us appropriate notice of his intention to move an amendment but, seeing I am guilty of the same lack of notice in some of the amendments I have moved, perhaps I will not be able to criticise Senator Greig in this instance. It is very difficult for me to even obtain instructions from the relevant minister in relation to this element of what is obviously an omnibus bill. I am not even sure what the government’s position on this might be, Senator Greig. I would have thought, and can I suggest to you, that this is an inappropriate way to deal with what many people and obviously you consider to be a very, very serious and major issue. There are other ways to deal with this particular piece of material.

I am not even sure of the constitutional validity of this type of amendment. I understand that it is very similar to a private member’s bill that is currently before the chamber. I have not followed it that closely, but there are private member’s bills around, there are other bills around, and I make no comment on whether they are within standing orders because I simply do not know. But, because we have not been given sufficient time to adequately determine this, it does become very difficult to debate the issue as it now stands. Senator Greig, if it is an important issue, as I accept you genuinely believe it is, one would have thought that it is an issue which should be properly debated by people who are properly briefed on the issue. I am not properly briefed, and I cannot enter into the substantive debate.

If perchance this amendment were to achieve majority support in the Senate, the impact of that would be that the bill would be rejected in the House of Representatives. It would then at some time come back here
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SENATE

and there could be substantial delays. You are aware from the previous discussions that we have had about the other matters that are germane to this particular bill that there are some time sensitive elements of this bill which we were hoping to deal with in a way that suited you and the Labor Party senators by 30 June, and I repeat that they are the rail amendments. If perchance this amendment were to achieve support in the Senate—and of course I do not know how the Senate will vote on it—it could mean there are delays which could then impact upon a number of other important issues in this bill which are very time sensitive.

Senator Faulkner—But what is the agreed timing on the third reading of the bill?

Senator IAN MACDONALD—Because there are some elements of industrial relations legislation which are yet to be clarified because we were a fraction tardy in providing the sorts of briefings to both the Labor Party and the Democrats that would clarify those issues on the industrial relations, the scheme we had more or less agreed to in the chamber was that we would deal with the rest of the debate. We would then report progress in the committee and, subject to further advice, would bring it forward to tomorrow to get rid of the IR matters. But the intention was that it would come forward in the week beginning 5 June.

Senator Faulkner—So your time critical comments do take account of that?

Senator IAN MACDONALD—What I am talking about is that they would be dealt with and dealt with very quickly. If they were agreed to, they would go back to the House of Representatives for perfunctory endorsement and become law and then come back here. If the debate on this drags on, if it encourages further debate in the other chamber—these are all things I am unaware of—then we could find that we will be in a position where the time critical elements of this bill in relation to railways will not be implemented in sufficient time to allow proclamation by 30 June. That is my concern. This is a serious issue. It is one about which a number of senators obviously feel very strongly. In recognition of that, perhaps it is an inappropri-
that the government is not without fault in this area itself. So that tends to diminish the strength of the minister’s argument in that particular area. I have certainly looked as closely as I can at Senator Greig’s amendment in the time that has been available to me. I make the point that I think it appears to be consistent with the position that the Labor Party has taken on the mandatory sentencing issue in this parliament. I do not have any doubt that that is the case. I am so advised and I am certainly willing to accept the advice that I have been given in relation to the policy question that is before the chair.

However, this does raise one other substantive point—and that is, the appropriateness or otherwise of having such a debate in this sort of legislation, and there is an issue for the chamber in relation to that particular matter. I think we have to consider the appropriateness or otherwise of dealing with the mandatory sentencing issue in portfolio bills such as the one we have before the chamber at the moment. I think this is a matter for all senators to give serious consideration to. Sure, you can have a range of parliamentary tactics that bring forward serious matters of public debate, but I think we have already seen in the way that the very important public issue of mandatory sentencing has been dealt with and moved as an amendment to this legislation that it has not achieved the same level of parliamentary focus or scrutiny that has been the case with other legislation that has been brought before the chamber on behalf of senators in the opposition, the Australian Democrats, through Senator Greig, and Senator Brown, who has also sponsored legislation in this chamber. I think that is the difficulty we are grappling with in this debate.

Simply put from the opposition’s perspective: yes, we fundamentally agree with the sentiments and spirit of the amendment that Senator Greig has moved. For that reason, we would support such an amendment. But I make this serious point to the chamber: we have to look at the appropriateness of dealing with the mandatory sentencing issue in this way. I think you could sustain a strong case that it is too important an issue just to tack it on to a portfolio bill such as the one we are debating now. I do not think it is achieving the level of consideration it deserves in the chamber as a result.

I think it is something that the federal parliamentary Labor Party would want to examine in terms of its appropriateness as a parliamentary tactic, because I have concerns about that. I would not want to see every portfolio bill in Senator Macdonald’s area of ministerial responsibility have an amendment about mandatory sentencing, when the Senate has expressed its view on, and has had serious and focused debates on, this issue with legislation before the chamber on other occasions. So that is the balance. It is not an easy balance to determine what the appropriate course of action is.

I think this is something that Senator Greig might give some consideration to in the future. No doubt this is a matter that the Australian Democrats will focus on but, as far as the opposition is concerned, yes, our position on this issue is clear. It is clear, and we have been consistent on it. And we will be consistent on it again today. As a result, we will support the amendment that stands in Senator Greig’s name, but we will need to examine seriously how we will deal with this issue, given our clear commitment and position in relation to the mandatory sentencing issue. We will need to examine the appropriateness of this debate being dealt with via the vehicle of portfolio bills in Senator Macdonald’s area of ministerial responsibility. I think it is fair to say, and I think Senator Mackay has been considering this issue, that we will have a look at that. I know Senator Crossin, my colleague from the Northern Territory, has a very strong interest in this issue also. We will look at that, but we do not want anyone to be under any illusions as this debate progresses today about Labor’s commitment on this issue, and that is why we will take the position to support the amendment before the chair.

I make clear to all senators in the chamber that all of us in this chamber—not just the Labor Party—are going to need to look at what this might mean in terms of other legislation and this legislation that has come before the chamber, given that the parliament has now had a number of opportunities to
debate and consider legislation on mandatory sentencing in detail. As far as the Labor Party is concerned, we will consider that in the time that is available; and that will be somewhat easier to do because it does appear, in this case, that even the third reading of this bill has been delayed somewhat. It is not going to alter our voting behaviour in relation to the amendment before the chair, because, as I said, our position is clear. I do not want our position to be misunderstood and I certainly do not want our position in any sense to be misrepresented, but this is not the best and most appropriate vehicle to debate the question of mandatory sentencing.

I would commend anyone who is thinking about the strength of this argument to consider the nature of the debate in the chamber today. It has not received the attention and focus that we have given this really important issue previously. This is one of the most important public policies issues on the political agenda in this nation, and it deserves appropriate consideration. We ought not belittle the debate in any sense by tacking it on to all the portfolio bills that come through in this area. I think the Senate will have to consider that in the time available to it in the future.

Let no-one misunderstand our commitment: we will be supporting the amendment, and that is of course consistent with the position that the federal parliamentary Labor Party has taken on this matter now for many months.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (11.20 a.m.)—I accept the position of the Labor Party. I understand that the amendment proposes something that they, in a policy sense, have indicated federally that they support. Senator Faulkner has left the chamber but, perhaps if he is still in hearing distance, I have another proposal that may enable the matter to be considered more fully. I agree entirely with Senator Faulkner, as I indicated previously to Senator Greig, that this is, in the view of some people—and I accept what Senator Greig has said and what Senator Faulkner and members of his party have said—a very important issue. It would appear, if it is voted on today, that it is going to be voted on without any real debate at all and without any government speaker having a substantive view on the matters before the chamber. As I indicated before, I am the only government speaker listed to speak. I am not going to debate the issue because I am not fully briefed on it. It is not something in my portfolio, so it is not something that I have some independent expertise on.

Even if the amendment is passed, it is passed in a pretty second-rate way, if I may say so: without proper debate, without any alternative arguments being put, and in such a way that it is tagged on to a bill that is very time sensitive—a bill that perhaps in some people’s minds does not have the same human rights element. That is not my sentiment, but I know that other people have that sentiment. The bill that it is attached to is fairly much a machinery bill but a very important one dealing with the sale of Australian National and things that have to be done by 30 June. Whatever happens with this, it is going to be squeezed at both ends because of the time sensitive nature of other elements of this very omnibus bill. It has caught the government by surprise and, as I and Senator Faulkner said, I cannot berate you for that, Senator Greig. I can only say again that, because it has caught the government by surprise and because we have no position on it and there are no speakers here to debate the substantive part of the bill, it seems a very inappropriate way to deal with the legislation.

Senator Faulkner asked me some questions about the processes. He obviously thought my answers would not be worth listening to, because he has left. In any case, the questions were perhaps rhetorical, since he would have a better understanding of the processes of the parliament than I would. If you want an expert opinion on that you may speak to the Clerks; or perhaps Senator Campbell, our Manager of Government Business, could give a better indication of the processes. But let me have a go at it, in attempting to answer Senator Faulkner’s questions.

As I understand it, what has been arranged is that when we have dealt with these amendments in committee we will report
progress. We will then at a later stage deal
with the industrial relations elements of the
bill, in a very speedy fashion. We will be
more or less be giving either a yes with a 10-
or 20-minute explanation or a no with a 10-
or 20-minute explanation, and it will be fin-
ished. The committee will then report and,
whatever the decision in relation to the IR
bill, the committee’s report will be adopted.
It will then go to a third reading here and
then back to the House of Representatives,
because there is an amendment which the
government has introduced which has not yet
been dealt with by the House of Representa-
tives. The House of Representatives would,
we would hope, then adopt the government’s
amendment, and it would then come back
here and be dealt with relatively perfuncto-
arily and would pass.

But if we are involving this element of the
mandatory sentencing amendment of Senator
Greig’s, then we do not know what is going
to happen. We do not know what is going to
happen in the House of Representatives; we
do not know what is going to happen in this
chamber. While Senator Greig, Senator
Mackay and I are involved in the proces-
sional part of this debate, there are other
senators in the chamber who may not share
our views on the timeliness or otherwise.
There is Senator Harradine, Senator Harris
and Senator Brown—all of whom may have
a very different view on what happens proc-
cessionally after this—not that I worry about
that too much, except that it then impacts on
the time sensitive nature of the rail amend-
ments. We could find ourselves in July still
debating this amendment when the rail
amendments have reached their use-by date.
Even if we voted on this today, assuming
there were no other speakers, that still does
not alter the fact that when it comes back
from the House of Representatives it opens
up a whole new opportunity for all sena-
tors—not just the Democrats, the Labor
Party and the Liberal Party—to debate it. We
may find, as I say, that we are out of order in
the whole thing.

Because of the fact that little notice was
given and the government is not prepared,
the best way to deal with this might be to
report progress before a vote is even had on
this particular element—unless of course
Senator Greig were convinced that he should
withdraw it and bring it on in some other
form on some other day. But he is not con-
vinced of that, and so perhaps we should
report progress now, before any vote is taken
on this amendment, and deal with the indus-
trial relations elements as we have already
discussed. Perhaps those who are more in-
volved in this aspect of the omnibus bill
could then have a talk and see which is the
right way to deal with it. That might be the
best way to proceed at this time.

I accept, and again I repeat, that Senator
Greig is very genuine about this. It is some-
thing that I know he has had a longstanding
commitment to. I accept that the Labor Party,
as Senator Faulkner has announced, is very
committed to the thrust of this policy issue. I
certainly do not in any way suggest that, by
deferring it, either the Democrats or the La-
bor Party or anyone else is resiling from a
position which they genuinely hold. But I do
think that, in the interests of getting through
this parliament a bill which is machinery and
which deals with a number of minor but very
important issues that are time sensitive, per-
haps it is better at this stage to defer the
committee stage later to deal with this matter
again when the IR matter is determined,
hopefully in the week beginning 5 June, and
that in the meantime the parties and the In-
dependent senators can determine which is
the best way to proceed with this particular
issue.

Senator HARRADINE (Tasmania)
(11.29 a.m.)—I have only recently focused
on this. I apologise to the committee. I did
not realise that the mandatory sentencing
matter was going to be debated here. I under-
stand the amendment was foreshadowed or
distributed sometime yesterday. I really feel
that if we are going to move such an
amendment now we have the opportunity to
do it properly and to cover the people that
need to be covered; not only the children but
also those people—particularly, as it so hap-
pens, Aboriginal people in their late teens
and early twenties—who are the main recipi-
ents of mandatory sentencing in the Northern
Territory. The committee will recall that on
the last occasion I asked why use the exter-

nal affairs power, which only limits your ability to cover mandatory sentencing of children. Why not utilise the territories power and cover the situation of those young people who are not children but who are 17, 18, 19 or 20, for example, who are most affected by the mandatory sentencing laws of the Northern Territory?

A principle is a principle. If the principle is that mandatory sentencing is an unjustified attempt by the executive to interfere with judicial prerogative, then that is a principle that should apply not only to children but also to late teenagers, for example. I understand the reason that was given for utilising the external affairs power because of the rights of the child convention. But now we have an opportunity here to fix it up properly. Clearly the legislation that is before us is founded on the territories power. That is the constitutional power which vests this parliament with the right to pass legislation in respect of the territories. We do not do it often, but we have done it in the past. I recall one instance—to overturn the Territory’s euthanasia legislation. I am supporting the minister’s proposal to report progress for reasons other than those he might have. I would do that to try to fix up the amendments so as to cover the situation while we have got the chance.

Progress reported.

A NEW TAX SYSTEM (FRINGE BENEFITS) BILL 2000

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

In Committee

A NEW TAX SYSTEM (FRINGE BENEFITS) BILL 2000

The bill.

The CHAIRMAN (11.34 a.m.)—The A New Tax System (Fringe Benefits) Bill 2000 is not regarded by the government’s advisers as a bill imposing taxation within the meaning of section 53 of the Constitution. The bill however results in taxpayers paying significantly more taxation, and the government amendments to the bill have been circulated as requests.

The only basis for the amendments being requests would be that the bill imposes taxation. In the past government advisers have framed amendments as requests where they increase the amount of taxation payable under a bill on the basis of the third paragraph of section 53. That paragraph refers to Senate amendments not increasing any proposed charge or burden on the people, but for amendments to fall within that paragraph there must be a proposed charge or burden on the people to be increased. In other words, in the case of a tax bill it must be imposing higher taxation on taxpayers. It would probably best reflect the past decisions of the Senate in relation to the tax legislation if the bill was regarded as a bill imposing taxation and therefore the amendments treated as requests. Any other amendments moved to the bill will be treated as requests on that basis.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (11.36 a.m.)—I table the supplementary explanatory memorandum and a replacement supplementary explanatory memorandum relating to the government amendments to be moved to this bill. I am advised that the memorandum was circulated in the chamber on 13 April and on 10 May this year respectively.

Senator IAN MACDONALD (Queensland—Minister for Regional Services, Territories and Local Government) (11.37 a.m.)—by leave—I move requests Nos. 1, 2, 4, 5, 7 and 8:

(1) Schedule 1, item 2, page 4 (lines 25 to 29), omit paragraph (b) of step 2, substitute:

(b) the employer is a government body and the duties of the employment of one or more employees are as described in paragraph 57A(2)(b) (which is about duties of employment being exclusively performed in or in connection with certain hospitals); or

c) the employer is a public hospital described in subsection 57A(3) (which is about public hospitals other than hospitals connected with the Commonwealth, a State or a Territory); or

d) the employer is a hospital described in subsection 57A(4) (which is about hospitals carried on by non-profit societies and associations);
(2) Schedule 1, item 2, page 5 (line 3), after “(a)”, insert “, (c) or (d)”.

(4) Schedule 1, page 11 (after line 9), after item 10, insert:

**10A Paragraph 57A(2)(b)**

Repeal the paragraph, substitute:

(b) the duties of the employment of the employee are exclusively performed in, or in connection with:

(i) a public hospital that is a public benevolent institution; or

(ii) a public hospital that is not a hospital of the Commonwealth, a State or a Territory and is not established by a law of the Commonwealth, a State or a Territory; or

(iii) a hospital carried on by a society that is a non-profit society for the purposes of section 65J or by an association that is a non-profit association for the purposes of section 65J;

**10B At the end of section 57A**

Add:

(3) A benefit provided in respect of the employment of an employee is an exempt benefit if the employer of the employee is a public hospital other than a hospital:

(a) of the Commonwealth, a State or a Territory; or

(b) established by a law of the Commonwealth, a State or a Territory.

(4) A benefit provided in respect of the employment of an employee is an exempt benefit if the employer of the employee is a hospital carried on by:

(a) a society that is a non-profit society for the purposes of section 65J; or

(b) an association that is a non-profit association for the purposes of section 65J.

Note: Subsection 65J(5) explains:

(a) which societies are non-profit societies for the purposes of section 65J; and

(b) which associations are non-profit associations for the purposes of section 65J.

The heading to section 57A is altered by adding at the end “and some hospitals”.

(5) Schedule 1, page 14 (after line 36), after item 14, insert:

**14A Paragraphs 65J(1)(c) and (d)**

Repeal the paragraphs.

(7) Schedule 1, page 19 (after line 9), after item 16, insert:

**16A Subsection 65J(4)**

Repeal the subsection.

(8) Schedule 1, page 19 (after line 17), after item 17, insert:

**17A Subsection 135Q(1) (note)**

Omit “, and government bodies employing persons to work in hospitals that are public benevolent institutions”, substitute “and employers of employees connected with certain hospitals”.

**Senator CHRIS EVANS (Western Australia) (11.38 a.m.)—** I seek your indulgence, Madam Chairman, and just ask whether there is going to be a statement by the government. I do not know whether Senator Macdonald is handling this bill or if he is just filling in while the minister responsible enters the chamber. I guess if I speak for a couple of minutes it might allow him to find that out as well. As I understand it from reading the press release, these amendments reflect an agreement reached between the government and the Democrats regarding changes to the A New Tax System (Fringe Benefits) Bill 2000. I assumed that first the government and/or the Democrats would want to speak and explain the package to the parliament. I was intending to respond to those comments in terms of the debate about quite substantial amendments to the bill. I am not sure whether Senator Macdonald was aware that he was going to be providing that sort of explanation or not, but obviously it is important legislation. It is legislation that has been subject to a number of changes in policy and a great deal of public debate. So I am just a little surprised. I understand that there may be a minister other than Senator Macdonald handling it, but I suspect that Senator Murray might want to say something, and I do not know whether Senator Woodley would. It was my intention to respond to those contributions. I would like some guidance from
Senator Macdonald as to who is handling the bill and whether there is any explanation to be provided.

**Senator IAN MACDONALD** (Queensland—Minister for Regional Services, Territories and Local Government) (11.39 a.m.)—My expertise on this is great, and I would have looked forward to look explaining it and entering into the debate, but I see my colleague Senator Kemp is here. He being larger than me, I would not want to stand in his way. So, Senator Evans, Senator Kemp obviously will be taking this through, much as I would have liked to.

**Senator KEMP** (Victoria—Assistant Treasurer) (11.40 a.m.)—Senator Macdonald, with your outstanding performance in the Senate this morning it struck me that you may well have been the person to take this through, but I know that you have been busy, and I will therefore assume the reins. The explanation for these requested amendments—(1), (2), (4), (5), (7) and (8)—which I think was requested by the shadow minister at the table, provide for the consistent FBT treatment of public and non-profit hospitals by replacing the rebate which is currently available to non-government public hospitals and non-profit hospitals with the FBT exemption which is available to public hospitals which are public benevolent institutions.

**Senator CHRIS EVANS** (Western Australia) (11.41 a.m.)—I was interested in whether the minister was going to give us a more general explanation of the package, rather than particularly these amendments. You missed the introduction of the bill, Senator Kemp. It would be important for this to be put on the public record. I will not be opposing the package—I will have a few comments to make—but I just think it is necessary that the debate occur and that we actually put on the record what has occurred and what is proposed by the package. That has not happened. I am happy to put my spin on it as the first point, if you like, but I doubt that that is the preferred government option. So I suspect the government had better do that.

**Senator KEMP** (Victoria—Assistant Treasurer) (11.41 a.m.)—Thank you. I thought that in fact the debate had moved on. Perhaps my rapid praise for my colleague was too fulsome too early. I had been tied up elsewhere. But let me, first of all, make some general comments, as requested by the shadow minister. The A New Tax System (Fringe Benefits) Bill 2000 implements the second phase of the government’s tax reform package for fringe benefits. The bill will provide consistent FBT treatment between public and non-profit hospitals. Those hospitals which are currently eligible for 48 per cent rebate will have the rebate replaced by the exemption provided to public hospitals that are public benevolent institutions.

With effect from 1 April 2000 the bill will cap certain fringe benefits eligible for concessional treatment to $17,000 grossed up taxable value for employees of public and private not-for-profit hospitals. With effect from 1 April 2001 the bill will cap certain fringe benefits eligible for concessional treatment to $30,000 grossed up taxable value for employees of all public benevolent institutions that are not hospitals or where the employer is a rebatable employer. These caps do not place a limit on the use of other FBT exempt benefits, such as superannuation minor benefits less than $100, laptop computers, work related mobile phones and other miscellaneous benefits. Further, the concessional methods of valuing certain benefits will also increase the total value of benefits that can be provided without breaching the cap.

The bill will also extend the application of the current FBT exemption for remote area housing benefits for primary producers to all employers. In addition, the bill gives an exemption from FBT for housing benefits provided by public and non-profit hospitals, charities and police services in a place which is at least 100 kilometres from a town of 130,000 or more people. This enhances the delivery of health, charitable and police services to communities in regional Australia. The bill will also allow an FBT exemption to primary producers in remote areas for most meals provided to their employees.

Finally, the bill introduces a new FBT gross-up formula to help neutralise the tax treatment between fringe benefits and cash salary following the introduction of the GST,
ensuring that the GST law interacts properly with the FBT law. The A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Amendment Bill 2000 will make minor technical corrections to the A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999 to ensure consistency between the Medicare levy surcharge imposed under that act and the additional Medicare levy imposed under the Medicare Levy Act 1986.

Of all senators on the opposition benches, I think Senator Evans has had a long interest in this issue. I well remember being pressed by Senator Evans at Senate estimates and other hearings about the concessional treatment that was available, particularly in the hospital area. I give credit to Senator Evans. It is very rare for me to give credit to anyone in this chamber on the other side—particularly Senator Evans, but I think it is fair to say that he took a longstanding interest in this particular issue and urged the government to take some action. I could make a cheap political point and wonder why, in 13 years in office, Labor did not take action, but I am not the sort of senator to make that point, Senator Evans.

Senator Chris Evans—Particularly me.

Senator KEMP—particularly Senator Evans, but I think it is fair to say that he took a longstanding interest in this particular issue and urged the government to take some action. I could make a cheap political point and wonder why, in 13 years in office, Labor did not take action, but I am not the sort of senator to make that point, Senator Evans.

Senator Chris Evans—I urged the Labor Treasurer, too.

Senator KEMP—I note that interjection. You will have that recorded in the Hansard. This issue has, I think, been very extensively debated in this chamber. I think the Labor Party went to an election with a policy and, given the political pressures, it was not possible in the end for Labor to sustain that policy. We of course had negotiations with the Democrats, who, I might say, put some views to us. In the end I think Senator Woodley and Senator Murray will probably be happy to say that their particular concerns have been accommodated by the changes that are in this bill and by the further amendments that have been brought forward. I do think, if I may say so, it is now time—and I very much welcome Senator Evans's comments that the Labor Party will not be opposing these amendments—to pass this bill. I think it is important that we get this bill through the parliament now to give certainty to people. I urge senators to allow the speedy passage of this important bill, a bill which I might say has had a very difficult birth but is now here before the chamber.

Senator WOODLEY (Queensland) (11.47 a.m.)—I will make a reasonably lengthy contribution now rather than speaking at every point because I think that will hopefully cover the rest of the debate. Let me begin by also placing on record my appreciation of the contribution of Senator Evans. Although the discussions were held between the government and us, he was aware of those and, as much as I could tell him—which was not much—I did try to keep him informed of what was happening.

Senator Kemp—We thought the discussions were confidential, Senator.

Senator WOODLEY—They were confidential in terms of any detail, Senator Kemp, but, in terms of the broad scope of what was happening, I kept Senator Evans informed, simply because he has been very responsible in all of the debates on this issue. I also want to commend him for keeping on the record the idea of a Senate inquiry into this issue, because I think that was one of the things that prompted the government to finally agree to an independent inquiry. That might have been a catalyst along the way, so that was helpful. Let me also say that on the part of the government I believe they have acted responsibly in agreeing to the propositions we put to them. Let me outline in brief some of the agreements that we reached with the government.

I suppose I am only reiterating what Senator Kemp said, but I did want to underline the fact that we convinced the government that the cap of $17,000 on charities should be increased to $30,000 and that they should extend the start-up date for that cap to 1 April 2001. As I have said, one of the most critical things in all of this was that the government agreed to institute an independent inquiry into the whole definition and tax treatment of charities. We have yet to agree on the terms of reference and on the people for that inquiry, but I can inform the government that we have been working on this and I believe we will have some words ready for them this week. I also add that, as part of
that, there is a particular problem with indigenous communities and indigenous service bodies. This problem is to do with the fact that, because of the cuts in government funding over a period of time to indigenous organisations, they have used the fringe benefits tax concession more than anyone else—they have been forced to do so. For example, Aboriginal medical services are able to fund the provision of doctors up to about $70,000—which I think this chamber would understand is way below what a doctor would expect, particularly in a remote area—so they have often doubled that in terms of using the fringe benefits tax concession.

We need, as part of an inquiry, a particular emphasis on the needs of indigenous communities and indigenous organisations. The government has agreed that Dr Wooldridge and ATSIC will monitor that. I am not sure how that will be done, but I am also writing to Dr Wooldridge about some suggested terms of reference for that particular aspect of the inquiry. I have suggested to him that the Hall Chadwick study of Aboriginal medical services in the Northern Territory, which I believe was funded by the government, was a very good model that the government might be prepared to endorse for a wider overview of all indigenous organisations and that that would fulfil the agreement we have. In terms of the charity not-for-profit sector, the Democrats are very pleased that the government has agreed to the measures we brought before it and that these amendments will proceed to enable those measures to be put in place. My leader is going to cover the medical aspects, so I thank the chamber.

**Senator LEES (South Australia—Leader of the Australian Democrats) (11.52 a.m.)—**I want to specifically address the section of the bill that relates to the hospital system. My colleague Senator Woodley has done an outstanding job in his negotiations with the charitable sector, making sure that their needs are met. This area falls within my portfolio. We have been concerned for some time about the way in which packaging was basically spiralling out of control. Obviously, something had to be done. It had been accepted by successive governments as a legitimate way of states meeting the needs of their hospital systems. I want to stress here that I believe the Commonwealth did not help by not funding hospitals adequately. The level of funding for our hospitals now is almost to the level where they cannot even upgrade essential equipment, and basic maintenance cannot be done. You can understand the states finding a mechanism and using it quite widely, but now it has got to the point where we are not talking just about doctors being packaged; we are also talking about nursing staff, and I understand that in some hospitals it is down to the groundsmen.

We had to look at this issue. However, we could not have looked at the issue and with just one stroke of the pen made the changes that the Commonwealth wanted to make. The Commonwealth, as I said, has to carry some responsibility for the fact that salary packaging has gone on year after year without any intervention. Yes, we had to look at the issue, and once we looked at what the states were doing the end result was a compensation package of $240.5 million over three years. We are now looking to government to give us some further undertakings on the process and the mechanism of how that division will be made.

The aim of the compensation is to ensure that salaries do not fall. Obviously, there will be some adjustments made by hospitals under the new arrangements with the lower cap. In some instances, hospitals, particularly the hospitals that are not yet using it fully, will probably decide to extend packaging out. That will help to balance, for example, the impact of their top surgeons being heavily packaged. That packaging now has to be brought back to a more reasonable level, with the money to compensate the doctor so she or he does not lose any real income. Over time, the states will obviously have to pick up the bill. This package is designed to soften that process so that there is no loss of income by the doctors.

As of this financial year, group certificates are required to include data on the value of fringe benefits being provided. Hospitals are required to provide group certificates to the ATO by 14 August this year. The total value
of reported fringe benefits from group certificates will be representative of the total future FBT costs faced by hospitals. We actually have a mechanism already in place where we can track where FBT is being used and how extensively it is being used. This data could be used to distribute the compensation funding on a pro rata basis to the hospitals that are actually using it.

Our main concern with the mechanism is that it should get the money through to the people who are now being packaged and it should be transparent so that all of us can see how it is working and where the money is going. As you can imagine, there are some real concerns in the medical community that state governments will somehow manage to absorb parts of it, that it will go back into that great black hole of state budgets and not be seen in full. I think it is essential that the government today put down more details of its processes and what it believes should be done so that the people affected by the FBT changes can be confident that the package of money will be equitably distributed and that they will not be losing any income at all and their salaries will stay at the current level. I am calling on the government now to give an explicit commitment that the mechanism for compensation will reassure us and the medical community that the stakeholders will receive their fair share and that we will not see any adverse impact on our public hospital system.

Senator CHRIS EVANS (Western Australia) (11.57 a.m.)—I want to make a few remarks to respond to the comments of the minister and the Democrats and to put the Labor Party position on the record. I think it was important that we had that more general debate because of the history of this legislation and the changes that have occurred since its original introduction. Otherwise, I think people reading the second reading speeches might get completely the wrong impression of what we are passing here today. A lot has changed between then and now.

First of all, I would like to thank the minister and Senator Woodley for their kind remarks. I feel a bit out of sorts. I am much more used to being abused, and it is much more comfortable because you know where you stand. This is very unnerving. I knew when Senator Woodley made reference to me in his press release that it would cause me no end of grief with my colleagues. Thank you for that, Senator Woodley. I am not sure whether or not it was a calculated move to try to ensure Labor’s support for the agreement, but I appreciate the remarks. Seriously, Senator Woodley and I have both had a long interest in this issue since we entered the parliament, and we both remarked on the old Productivity Commission report when it came down in 1995. I was one of those then urging the Labor government to do something about what was a potential explosion in these things. I have said that before. From that period on, we saw rapid growth in the use of the FBT concession. I think it is fair to say that it was a fairly small problem at that stage and it became a much bigger problem. That is why we have supported the government’s attempt to put some accountability and transparency into the system, to put a cap on and to have proper reporting. The major flaw in what has occurred is the way it has been done. People got a wink and a nod from the tax office and thought that, provided they did not package more than 30 per cent, the tax office would not go through their books with too fine a toothcomb and that, if they went over that, they were fair game.

That is not a proper way to implement public policy. We needed transparency in the regulations and guidelines for not-for-profit and charitable organisations and anybody else eligible for concession. We did not have that. The key issue in this debate was that proper regulation. A whole range of people did not take advantage of some of the measures they could have taken advantage of, because it was not clear to them that it was legal or appropriate. Others quite frankly abused the opportunity by going through at a million miles an hour with all guns blazing to take full advantage of what was seen as a bit of a loophole. We had, therefore, an inconsistent application across the industry and a lot of concern from many people about whether they were doing something that was legally and morally appropriate. Organisations had real debates about that and, because of the squeeze on funding from both
Commonwealth and state sources and because of the difficulties of fundraising, those were very difficult debates for a lot of organisations.

The key thing to come out of this is that we get some accountability and transparency, a cap and a proper regulation in the system. What has been lacking is proper information about what the appropriate cap is. While I accept that the Labor Party have moved from this position, since about August last year we argued for a full public inquiry. We are not able to get good hard information about the extent of the use of the FBT concession and the impact of the FBT concession’s capping or removal on those organisations. There is not a lot of hard data around. There is not a lot of evidence to support the argument as to the various proposed caps. For instance, the government has moved from a $17,000 cap to a $30,000 cap on not-for-profit organisations. What is the justification for $17,000 versus $30,000? The point is that no-one really knows. I do not even think we are sure about what the impact of the Commonwealth’s revenue will be as a result of these changes.

We always argued from the first principle of having an inquiry, which would establish the costs, the benefits, the current practice and the impact of various measures. That has not happened, and we are now dealing with the legislation without that proper information. That is just the way it has evolved. That is politics. We would have preferred that way; we argued for that approach. That has not occurred. We accept that the Democrats and the government came to an arrangement based on the need for the government to get on with the legislation, without that proper information. That is politics. We would have preferred that way; we argued for that approach. That has not occurred. We accept that the Democrats and the government came to an arrangement based on the need for the government to get on with the legislation, their need to progress, and the Democrats and others—like the Labor Party—were looking to protect the not-for-profit sector from what would have been quite adverse effects from the original proposition. We accepted that, after some evidence during the GST inquiry, there would be serious adverse effects for the not-for-profit and charitable sector as a result of the original proposition, and we accepted that we did need to move and that the Labor Party needed to change their policy and look at ways of protecting those organisations from adverse impacts.

It is not our preferred route, and we were not party to the final arrangement between the government and the Democrats. But I have, as Senator Woodley would acknowledge, tried to work with Senator Woodley to get a better outcome. I appreciate his cooperation, although I do want to put on the record that he did not breach any government confidentiality, despite my working hard on him. One of the key things that comes out of this is the delay until next year. That is important, because the not-for-profit sector were in a position of not knowing what was going to occur, and it would have been a complete shambles. A whole range of people who were salary packaged in both the public system and the not-for-profit system were going to have to have their whole salary arrangements renegotiated in a very short time and without proper information. It would have been very stressful for a lot of people, stressful on organisations and very poor industrial relations. So the delay is important.

The one good argument against the inquiry, given the lateness of the debate, is that this now at least gives people almost a full year to plan for the changes. We would have preferred the inquiry route. We argued for it. We accept that is not going to occur.

I do acknowledge that the amendments moved today and the arrangement between the government and the Democrats have produced a better outcome for the not-for-profit sector. Whether it is the best public policy is the key issue, and I am not trying to be overcritical or make a political point. But, because we did not have the inquiry and because we did not have the full information, no-one knows the full public policy implications of this. That is, therefore, a bad public policy outcome. It would have been better to do it the other way around, but I do accept that this deal provides a much better outcome for charities and the not-for-profit sector. That is obvious. It takes the pressure off and gives them transparent and accountable guidelines for dealing with the concession.

I want to note that, with the arrangements for public hospitals, I share some of the concerns that Senator Lees just raised. I was a
bit concerned when she raised them, because she signed up to the deal, and she seemed to be raising the very questions that I had about how it is all going to work. Given that the arrangements for the FBT concession’s use in public hospitals has varied from state to state and hospital to hospital, we do need to understand—I am not clear in my own mind—how this compensation package is to be administered. I, like her, want to ensure that it does get through to the intended recipients and that it is used for the purposes identified—that is, to allow them to continue to employ good quality staff and to compete with other providers. I note that none of this money is for new services. This is purely a compensation package, partial compensation for the effect that the FBT concession proposal has on public hospitals. In no way can it be seen as adding to the provision of public health services in the country. It will go a long way towards alleviating the impact that otherwise would have occurred in reducing their capacity to provide services. I do think it is incumbent upon the government to provide some detail today as to how that is to work or at least some indication of what arrangements are in place to negotiate with the states about implementation. I look forward to the Assistant Treasurer’s contribution on that.

Senator Woodley has mentioned that, as part of the arrangements between the government and the Democrats, there are two inquiries to be held. The first is dealing with the question of indigenous health organisations and the impact on them. I am very pleased that that issue has been identified. I have had a lot of representations from indigenous health organisations. I have recently visited the Kimberley since the announcement and again those organisations spoke to me about the particular problems they have in that regard. So I look forward to that being a positive inquiry. I also hope that we get some progress on that front well before 1 April next year when implementation commences, otherwise it will mean nothing. I am sure Senator Woodley’s experience in making such arrangements will ensure that these arrangements are watertight in terms of the impact of the inquiry.

The second proposed inquiry will be into the definition of charities. I just make the point that we wanted a much broader inquiry and we wanted to look at the impact of the FBT on the charitable sector as part of that inquiry. That clearly now will not happen. In effect, what we are doing now is offering our solution to that problem in this legislation. Nevertheless, the definitions of charities and not-for-profit organisations and the taxation treatment of those are important issues. This government has gradually drawn the charitable and not-for-profit sector into the tax net. I think that has had a range of adverse consequences for them. We need to examine how we treat charitable and not-for-profit organisations in terms of taxation and other arrangements.

It is a debate we need to have, particularly with the expansion of schemes like Job Network and the increasing role of not-for-profit organisations in providing what were formerly government and company provided services. There is a real question about what the appropriate roles of charitable and not-for-profit services in this country are, how they are funded and how they are taxed. Those issues go quite a way beyond what is proposed by the inquiry into the definition of charities and not-for-profit organisations. Nevertheless, I hope that makes a contribution to that debate and is a first step in that debate.

I know there is some anxiety on the part of some in the charitable and not-for-profit sector about opening up those issues, but they do need to be opened up. We have seen a quite a change in the way the charitable and not-for-profit sector operate in this country, the services they provide and how they fund themselves. We need to have a public policy debate on what their appropriate role is, what their relationship to government is, and how we fund and tax those organisations. I for one constantly question some of the charitable and not-for-profit organisations about what they do differently from the for-profit sector in some of the service areas, because it is often claimed that they provide a qualitative difference. It is important that we examine what those differences are, how we value them and therefore how we structure
regimes that encourage or promote their participation in servicing the needs of our community.

I am not opposed to that inquiry although I am a bit concerned that the detail is yet to come and, a few weeks on, we still have not had an announcement. I hope it is not something that drops off the agenda as the government basically gets its legislation through today. Maybe its commitment to, or enthusiasm for, the inquiry might wane if it is not held up to the mark, but I am sure Senator Woodley will keep the pressure on and make sure that the inquiry occurs. As I say, I would have preferred a broader scope but, as far as it goes, it is important that the inquiry does occur. I hope that adds to the debate.

I do not intend to oppose any of the amendments or the arrangements entered into between the government and the Democrats for changes to the A New Tax System (Fringe Benefits) Bill 2000. We accept the arrangement entered into, we accept it is a better package than was originally proposed, so we will not be opposing any of the measures. I do agree with the Treasurer in the sense that it is time for this matter to be brought to a head and it is time to allow the sector to have some certainty about where we go from here.

Senator MURRAY (Western Australia) (12.12 p.m.)—From the Democrats’ perspective, three senators with specific responsibilities have been involved in this debate on the A New Tax System (Fringe Benefits) Bill 2000: the first is Senator Woodley, who has a broad remit for the churches and charitable sector; the next is Senator Lees as leader and health spokesperson; and I am the third, and I have responsibility for tax policy in the broadest sense. But this issue captured the attention of the entire Democrat party room. That happened because the churches, charities, not-for-profit and community sector is so broad and has such a wide range of organisations; huge numbers of employees; hundreds of thousands; and billions of dollars in assets—most of which are undervalued—that, very frequently, we forget just how large that sector is in Australian social and economic life. I suspect that the Labor Party had the same broad interest in it as a result. The very breadth and depth of that sector is now attracting increased policy attention because of its size and nature.

I want to deal with the inquiries issue first. We have been lobbying the government—at times, barracking the government—for two inquiries: one into definitions and one into the sector as a whole. At the time we first discussed and raised that idea with senior representatives of the sector—churches, charities and not-for-profit organisations—they reacted very favourably. They subsequently advised the Labor Party of our views and the sector’s views, and the Labor Party came on board. The Labor Party’s interest in this matter, as expressed very effectively by Senator Evans, has been very helpful because the need for such an inquiry is a very important one in terms of broad public policy needs.

The government have now come on board with the first stage of the inquiry, not yet with the detail, but they have not come on board with the second stage. Let me tell you what I mean by that. The first stage, as we heard earlier today, refers to the need to review the definitions. The definitions in tax law affect who falls inside and outside various tax concessions and exemptions. Therefore, it is a matter of acute self-interest by those affected to have those matters properly assessed and properly understood. The public benevolent institutions, charities, churches and so on very much rely on English historical law and case law which is several centuries old. Those definitions no longer fit modern society and the scope of non-government organisations—NGOs—such as community organisations, charitable organisations and church organisations.

Senator Kemp—Too narrow or too broad?

Senator MURRAY—That is why we want it to be reviewed by an independent body. I take the interjection: the minister said, ‘Too narrow and too broad.’

Senator Kemp—Or too broad.

Senator MURRAY—That is the concern. There are those who fall outside right now who want to get inside for obvious reasons—that is, because tax concessions and benefits
will be to their advantage—and there are those who are inside who are afraid that a definitional inquiry would end up with them being put outside. The fact is that some deserve to be in and some certainly deserve to be out, but we want the principles which allow a large number of organisations and a large number of people to get tax concessions and incentives to be clearly established, because it is a cost to the taxpayer and it is a cost to the economy. It is not just a benefit in terms of the services they provide.

The Democrats, the senior representatives of those sectors, the Labor Party and now the government all accept that that definitional inquiry should be adopted. However, there is a broader need. Only recently—indeed, I think last year—the government, as a result of negotiations with us over the tax reform program, commissioned a Charities Consultative Committee in the tax office. That committee has opened up a great deal more understanding in the tax office as to the specific needs, the specific problems and the specific prospects for a separate view that should be taken for not-for-profits, church, charitable and community organisations as a whole.

Members of this chamber know—but it is probably not necessarily widely understood in the community—that the tax office run certain lines, certain organisational structures, whereby they examine the taxpayers within those sectors. For example, there is small business and large business, those sorts of sectors. Our instinct is that it will be necessary in due course to establish such a line or such a specialisation for the not-for-profit sector. Therefore, we argue that it is necessary to have a Ralph type review for that sector which would encompass the whole range of interaction with the tax system—how they interact with the indirect tax system, the income tax system, FBT and PAYE; the whole basis of the evaluation and the throughput of moneys within that sector; and what view should be taken in public policy terms of how they should be managed.

We have argued very strongly with the Treasurer to pursue that second broader inquiry. Senator Evans indicated that he, too, on behalf of the Labor Party, has that view. The government have not yet committed themselves to that view. However, the Treasurer has not expressed opposition; he has merely said that he needs more time to think it through. Watching his sometimes weary face, I think he probably has enough on his plate right now without that longer term prospect. I am deliberately putting these points to you, Assistant Treasurer, because I think it should be a longer term objective of the government; it is not something that needs to be resolved tomorrow. It could take a year or more, as did the Ralph review, but it is certainly something that needs to be addressed. The definitional inquiry, however, does need to be resolved and dealt with urgently. That is enough from me on the inquiries side.

I will move on to the tax policy that we are faced with here. Some of this FBT discussion makes people's eyes glaze over, but it really is about the fact that members of the church, charitable and not-for-profit sector have for some time been accorded tax concessions and benefits which are not available to the private sector and the community as a whole. If you decide in those circumstances to discriminate in favour of a sector, it needs to be for good and sound public policy reasons. Those good and sound public policy reasons have, frankly, been the recognition that tax benefits such as an FBT concession will allow those organisations to deliver far better services at a lower cost than they otherwise could. But we should clearly understand that it does result in an inequality between ordinary private sector workers and workers in this sector. Over some time, in the discussion on policy and in the development of a view on this, I pulled out an indicative view as to what this means in terms of the tax rate which somebody in the private sector might have to carry and the tax rate which somebody in the charitable sector might have to carry when their gross salary is the same.

However, before doing so, I should emphasise that the FBT cap deals with those elements of salary packaging which have to be taken into account; there are many exempt items which fall outside of that. In salary
packaging, you might, for instance, want to
give somebody the advantage of using a
computer. That would be worth $2,000 a
year. In my money, I always talk about that
being after tax; you would have to earn
$4,000 to deliver that. You might have a mo-
bile telephone, which would be worth $2,000
a year; newspapers, which would be worth
$500 a year; professional journals, $500 a
year; office support systems, $500 a year;
frequent flier possibilities of $200 a year; an
electronic diary of $300 a year. You can bang
that very quickly up to $6,000. I think, by
and large, our FBT system is quite generous.

At the outset, when the Democrats heard
the government’s public policy intention, we
said, ‘That’s right, there shouldn’t be an
open-ended FBT exemption; any tax conces-
sion should be appropriately capped or lim-
ited.’ I think that is the very remark Senator
Evans was making on behalf of the Labor
Party—that, in public policy terms, there
need to be boundaries and limits on these
things. But I will give you an idea of what I
worked out as a broad indication. On a
$70,000 salary, the effective tax rate of
somebody in the private sector could work
out at 26.3 per cent, and in the charitable
sector it could work out at 16.7 per cent—in
other words, a 10 per cent advantage. We
say, for good public policy reasons, that kind
of advantage can be justified. But we should
recognise that it does mean that a private
sector person does not enjoy the same tax
concessions, the same tax benefits, as some-
body working in the charitable sector.

I think the cap of $17,000 for the hospitals
sector and the $30,000 cap for the charitable
sector end up as being generous. That is my
personal opinion. I think the addition of the
extra elements negotiated by the Democrats
with the government, such as the remote
housing concession, do contribute materially
to making sure that needs are looked after
where they need to be applied.

Having said that, we must therefore rec-
ognise that, for an ordinary worker in chari-
ties, churches or hospitals, at an ordinary
worker’s salary, a cap of $17,000 grossed up
value or $30,000 grossed up value is a great
deal of money. For people on much higher
salaries it will result in a tightening up of the
tax system. With the exception of those who
are needed particularly in rural and remote
areas of Australia, who need to be of a very
high standard and, therefore, to be well paid,
by and large, our belief is that the package
we have negotiated with the government will
deliver the appropriate policy outcomes
whilst still taking into account the very real
need for a high standard of service from
those organisations. As a result, most of the
sector has been fully supportive of what has
been negotiated by the government. In clos-
ing, I would like to indicate that Democrats
sheet 1777 is being withdrawn and therefore
should be disregarded on the running sheet.

Senator KEMP (Victoria—Assistant
Treasurer) (12.26 p.m.)—Quite a wide range
of issues has been raised. I listened very
carefully to what was said by Senator
Woodley, Senator Murray, Senator Evans and
Senator Lees. Very briefly, in relation to one
of the matters raised by Senator Lees and
noted by Senator Evans, to assist with the
transition of the new FBT arrangements, the
government will provide grants to public and
not-for-profit hospitals of $88 million in
2000-01, some $80.5 million in 2001-02 and
$72 million in 2002-03.

There were some issues raised as to how
these grants would be allocated. Let me just
state clearly that it is the intention of the
government that these grants will get through
to those hospitals which are affected by the
cap. While the implementation details are
still to be worked through, transitional assis-
tance will be pro rataed on the basis of the
financial impact of the FBT arrangements on
public and not-for-profit hospitals. I think the
intention of us all is at one here, if I have
read the debate correctly. As I have said, the
transitional arrangements and the imple-
mentation details are being worked out, but I
hope that the comments I have made have
given some comfort to those who raised this
issue in the debate.

There were some discussions on the in-
quiry from Senator Evans, Senator Woodley
and, indeed, Senator Murray—who, again,
has had a longstanding interest in this issue
and, I might say, along with his colleague,
has made a constructive contribution to the
debate. We may have had our differences on
this bill but, of course, at the end of the day we have to settle arrangements. That is what has been done. I do not propose to go over those debates. But the issue of the nature of the inquiry was raised. I think that probably the best thing I can do is just to read into the Hansard the comments from the Treasurer’s press release on this. It states:

The Government has also agreed to the establishment of an independent inquiry into definitional issues relating to charities, churches and not-for-profit organisations. The intention will be for the inquiry to be completed by the end of this year. The Government will consult further with the Australian Democrats on the terms of reference for the inquiry.

That is a direct quote from the Treasurer’s press release, and I think that probably gives a high degree of comfort to the Democrats.

We note Senator Murray’s comments that the Treasurer has been working hard. I can only say that that is absolutely correct. Nonetheless, the Treasurer has great capacity for work, and I am sure that he will turn his mind to some of those other issues as soon as he is able. That probably covers the substance of the issues that were raised. This has been a constructive debate. My understanding is that the Democrats are now withdrawing all their amendments. Am I correct in saying that?

Senator Murray—That is correct.

Senator KEMP—I think the only amendments now before the parliament are those which are being moved by the government. We have to deal with these current amendments which are before the chair, but it seems to me that we may be able to speed the journey if I move all the other government proposals for amendments at the one time. If people are agreeable to that, I will proceed on that course. Perhaps we can deal with those amendments before the chair and then decide the future course of the debate.

Requests agreed to.

Senator WOODLEY (Queensland) (12.31 p.m.)—I have one quick question before we move to the vote on that. Minister, thank you for your explanatory comments about the mechanism to deliver the $240 million compensation. One of the concerns we had was that that money would hopefully flow through to the people whose salary packages are being affected by the cap that we are imposing and the other arrangements we are making rather than simply pocketed either by the state or the hospital concerned. Can you give us some comment on that?

Senator KEMP (Victoria—Assistant Treasurer) (12.31 p.m.)—Correct me if I am wrong, but the general argument was that the hospital was being affected. I think your argument is that the savings have been appropriated by the hospital. We will look at all the issues, but the intention is to make sure that it gets through to the hospitals. The hospitals, as the employer, will then have to make a decision as to what in fact then occurs. This is a debate which I have entered into briefly, left and come back to, but my understanding is that the primary concern of the Democrats was that the original proposals meant that the hospitals who had appropriated the savings, by your argument, would lose them. I do not know if that gives you total comfort, but I am aware of this issue. In fact, I raised this with my advisers, and it is something which has clearly turned your mind as well. We will note your comments but, without further study, I am a bit loath to go further in this debate than I have already.

Senator CHRIS EVANS (Western Australia) (12.33 p.m.)—I have one question I want to ask the minister, and I thought I might as well do it now, with your indulgence, Mr Temporary Chairman. Minister, can you place on the record the impact of the final arrangements in terms of police officer remote housing? As you know, that has been one of the issues of concern in terms of the FBT treatment of police officer remote housing, particularly in states like my own of Western Australia where officers are required to live in police premises in remote communities and are obviously on call 24 hours a day—it is pretty much a round the clock job. There has been a great deal of concern about their treatment.

I think I understand the outcome of the arrangements in terms of that, but it has been an issue of concern for a number of people. Because of the arrangements made in terms of remote housing, I just want to be clear on
the impact on police officers required to reside in police quarters in remote communities, whether this 100 kilometres from a city or town of 130,000 people is the requirement in terms of being exempt or not. So I would appreciate your putting on the record the government’s understanding of the FBT treatment of police officer remote housing accommodation.

Senator KEMP (Victoria—Assistant Treasurer) (12.35 p.m.)—Thank you, Senator, for your remarks. I have had that discussion with the relevant police associations that have been very active around Parliament House, and I would not be breaching any confidence if I suggested that I was one of a great number of senators who were visited. I gave them a proposal, which they said they accepted but wanted to look very closely at the detail. The bill gives an exemption if a housing benefit is provided by police services in a place at least 100 kilometres from a town of 130,000 or more people. This, we believe, enhances the delivery of police services to communities in regional Australia.

It is actually a provision which applies on the same basis as the exemption for FBT housing that this bill provides for public and not-for-profit hospitals and charities. So it is the same test for the police which applies to those other bodies. We have listened to the concerns which they have raised. They raised with us a number of other issues, but I think this is the fairest way to deal with them. One could always argue that you should go further—and I am sure that the relevant associations may well argue that—but this was the proposal that the government decided to move forward on and discussed with the relevant police associations. I think it is a good outcome. I think it should be welcomed by the police. It deals with a problem which we all became aware of. I welcome the support which my colleague Senator Evans has given.

With the permission of the chamber, I propose to move all the remaining government requests—that is, requests (3), (6) and (9) on sheet DT215, requests (1) to (9) on sheet DG216 and request (1) on sheet DT212. My understanding is that this covers all the requests that the government is moving. Perhaps we can now ensure that these are passed through the Senate and that the certainty which we all hope to deliver to the relevant associations can now be delivered.

The TEMPORARY CHAIRMAN (Senator Chapman)—Is leave granted for those requests to be moved together?

Leave granted.

Senator KEMP—I move:

(3) Schedule 1, item 2, page 5 (lines 8 to 14), omit step 3, substitute:

Step 3 If step 2 does not apply in respect of one or more employees of the employer:

(a) reduce the individual grossed-up non-exempt amount for each such employee for the year of tax beginning on 1 April 2000 to zero; and

(b) reduce the individual grossed-up non-exempt amount for each such employee for a later year of tax by $30,000, but not below zero.

(6) Schedule 1, item 16, page 16 (lines 9 to 27), omit steps 2, 3, 4 and 5, substitute:

Step 2. Reduce the individual grossed-up non-rebatable amount for each employee of the employer:

(a) to zero for the year of tax beginning on 1 April 2000; and

(b) by $30,000, but not below zero, for a later year of tax.

Note: Paragraph (a) means the employer’s aggregate non-rebatable amount for the year of tax beginning on 1 April 2000 will be nil.

Step 3. Add up the results of step 2 for all the employer’s employees.

Step 4. Multiply the sum from step 3 by the FBT rate. The result is the employer’s aggregate non-rebatable amount for the year of tax.

(9) Schedule 1, page 20 (after line 5), after item 21, insert:

21AA After subsection 140(1)

Insert:

(1A) However, this Act operates in relation to a housing benefit provided in respect of the employment of an employee of an employer described in subsection (1B) or in respect of the employment of an employee described in subsection (1C) or (1D) as if:
(a) a reference in this Act (except in paragraph (1)(a), this paragraph and subsection 140(4)) to an eligible urban area were a reference to an eligible urban area that is an urban centre with a census population of not less than 130,000; and
(b) subparagraph (1)(b)(i) were omitted.

(1B) Subsection (1A) applies in relation to each of the following employers:

(a) an employer that is a public hospital that is a public benevolent institution;
(b) an employer that is a public hospital other than a hospital:
   (i) of the Commonwealth, a State or a Territory; and
   (ii) established by a law of the Commonwealth, a State or a Territory;
(c) a hospital carried on by:
   (i) a society that is a non-profit society for the purposes of section 65J; or
   (ii) an association that is a non-profit association for the purposes of section 65J;
(d) an employer that is a charitable institution.

(1C) Subsection (1A) also applies in relation to an employee:

(a) whose employer is a government body; and
(b) whose duties of employment are performed in a police service.

(1) Schedule 1, item 2, page 7 (lines 2 to 4), omit “involved the provision of goods or services where, on their acquisition by the person who provided them, that person was entitled to input tax credits”, substitute “are GST-creditable benefits (see section 149A)”.

(2) Schedule 1, item 2, page 7 (line 29) to page 8 (line 2), omit “involved the provision of goods or services where, on their acquisition by the person who provided them, that person was entitled to input tax credits”, substitute “are GST-creditable benefits (see section 149A)”.}

(3) Schedule 1, item 7, page 9 (lines 13 to 16), omit “involved the provision of goods or services where, on their acquisition by the person who provided them, that person was entitled to input tax credits,”, substitute “are GST-creditable benefits (see section 149A),”.

(4) Schedule 1, item 7, page 9 (lines 23 to 25), omit “involved the provision of goods or services where, on their acquisition by the person who provided them, that person was entitled to input tax credits,”, substitute “are GST-creditable benefits (see section 149A),”.

(5) Schedule 1, item 7, page 10 (lines 4 to 12), omit step 1, substitute:

Step 1. Identify, in respect of each of the employer’s employees, the fringe benefits that are not taken into account under step 1 of the method statement in subsection (3), and work out under Division 3 for each of those employees the individual fringe benefits amount for the year of tax in relation to those fringe benefits.

(6) Schedule 1, item 7, page 10 (lines 15 to 23), omit step 3, substitute:

Step 3. Identify, in respect of each of the employer’s employees, the excluded fringe benefits for the year of tax that are not taken into account under step 3 of the method statement in subsection (3), and add up the taxable values of all those excluded fringe benefits.

(7) Schedule 1, item 16, page 18 (lines 6 to 8), omit “involved the provision of goods or
services where, on their acquisition by the person who provided them, that person was entitled to input tax credits”, substitute “are GST-creditable benefits (see section 149A)”.

(8) Schedule 1, item 16, page 19 (lines 2 to 4), omit “involved the provision of goods or services where, on their acquisition by the person who provided them, that person was entitled to input tax credits”, substitute “are GST-creditable benefits (see section 149A)”.

(9) Schedule 1, page 20 (after line 5), after item 21, insert:

21A After section 149

Insert:

149A What is a GST-creditable benefit?

(1) A benefit provided in respect of the employment of an employee is a GST-creditable benefit if either of the following is or was entitled to an input tax credit under Division 111 of the A New Tax System (Goods and Services Tax) Act 1999 because of the provision of the benefit:

(a) the person who provided the benefit;

(b) a person who is or was a member of the same GST group (as defined in that Act) as the person who provided the benefit.

(2) A benefit provided in respect of the employment of an employee is also a GST-creditable benefit if:

(a) the benefit consists of:

(i) a thing (as defined in the A New Tax System (Goods and Services Tax) Act 1999); or

(ii) an interest in such a thing; or

(iii) a right over such a thing; or

(iv) a personal right to call for or be granted any interest in or right over such a thing; or

(v) a licence to use such a thing; or

(vi) any other contractual right exercisable over or in relation to such a thing; and

(b) the thing was acquired (within the meaning of that Act) or imported (within the meaning of that Act) and either of the following is or was entitled to an input tax credit under that Act because of the acquisition or importation:

(i) the person who provided the benefit;

(ii) a person who is or was a member of the same GST group (as defined in that Act) as the person who provided the benefit.

(1) Schedule 1, page 19 (after line 25), after item 19, insert:

19A Subsection 136(1)

Insert:

GST-creditable benefit has the meaning given by section 149A.

Senator MURRAY (Western Australia) (12.38 p.m.)—There was one question I meant to ask the minister. The FBT changes for charities and churches will commence from 1 April 2001. But the FBT changes for hospitals, both public and not for profit, commenced on 1 April 2000. My office and probably other senators’ offices, and perhaps your office, have been receiving inquiries from people affected by the legislation as to exactly how the new system will work. Minister, is there any form of information campaign or release of material, particularly to the state bureaucracies, to ensure that the actual message as to how this will work will get out to the affected people in a form which is complete and very clear? Obviously when there is any change the people affected do get concerned.

Senator KEMP (Victoria—Assistant Treasurer) (12.39 p.m.)—I have been advised that a campaign is being run by the ATO about changes to the FBT, and seminars will be run throughout Australia to assist people to become aware of what these changes mean. From the government’s point of view, it is clearly important that people understand what we have done. It is clearly important to the tax office that people can comply in a way which minimises their work but meets the terms of the law. So I think it is in everybody’s interests that people are properly informed. Clearly the ATO will monitor this carefully to ensure that the information is getting out. If it becomes apparent that people are still not sure, we would obviously look at further steps which could be taken. You raise a valid point. I think there will be a lot of requests for the EM and the Hansards in which we have debated this legislation. I think we can all help to ensure that people are appropriately informed. I think this is an
outcome which people will generally welcome. You and Senator Evans and I knew that concerns were being expressed about the original proposal. I think we are all aware of those. We may differ on how we all react to that, but, as I said earlier in this debate, in the end you have to reach a compromise and I think this has been reached. I hope that gives you the assurances you are seeking.

Senator Murray (Western Australia) (12.41 p.m.)—Minister, could the ATO provide my office or Senator Lees’s office with copies of written material which is going out?

Senator Kemp (Victoria—Assistant Treasurer) (12.41 p.m.)—I am happy to give that assurance. I noticed my advisers listening intently to what you said then and they have already made notes. I am sure that as soon as it is available that will be forwarded to your office, Senator.

Requests agreed to.

Bill agreed to, with requests.

A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Amendment Bill 2000 reported without amendment or requests; report adopted.

Third Reading

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

MATTERS OF PUBLIC INTEREST

The Acting Deputy President (Senator Chapman)—Order! It being almost 12.45 p.m., I call on matters of public interest.

Regional Australia: Hunter Valley

Senator Tierney (New South Wales) (12.44 p.m.)—Today I rise to speak on matters relating to regional Australia and the Hunter Valley in particular. Senator Calvert, who is present in the chamber, actually gave me the whips’ Blue Hills award at the end of last year for speaking so frequently on this issue, but it is certainly a story that needs to be told because there are quite a lot of misconceptions out there in regional Australia about what is happening in the Hunter Valley and, in particular, what has happened since the downsizing of BHP. For example, people think there is no steel industry in Newcastle anymore, and I want to correct that impression.

The main thing I want to talk about is the economic miracle that is occurring in the Hunter Valley. Since the downsizing of BHP, there has been considerable growth in employment. Each month since BHP shut its steel making division, employment in the Hunter Valley has continued to rise and unemployment has continued to fall. One of the reasons for that is that the whole nature of the Hunter Valley economy is changing quite dramatically. Newcastle has had the image of a smokestack town for a very long period of time, and that is actually embedded in the national psyche to the point that some people cannot think of it as anything else. As a matter of fact, my mother-in-law, who has been coming to Newcastle for many years—she used to spend her holidays in Mayfield in the 1930s—still has this image of a smokestack town because that is how it was and that is what is embedded in her mind. A lot of people who have travelled over the years through Newcastle have the same view, but there is a huge change.

As I drive into Newcastle to my office each day, I pass BHP. The first thing I notice is the clear skies over Newcastle because steel smelting, which is the filthy end of the steel making business, has gone. We still bring steel billets up from South Australia and we continue to roll steel. BHP has had a long history in Newcastle; it has had a great history. It also has, through its spin-off steel divisions, a great future. Often people do not understand the amount of steel that is still produced, rolled and goes out the gate in Newcastle. For example, a lot of people are unaware that Smorgon, the old Comsteel, has an arc furnace in Newcastle. It still produces 400,000 tonnes of steel a year from raw material, and at the BHP site 1½ million tonnes of steel is still rolled from those billets that come up from South Australia into rod, bar,
wire and tube, and they still go out the gate, serving all the downstream steel industries in the region.

Over at BHP, and at its new associated company that it is spinning off, they are still employing 1,800 people in the production of steel. I want to make that point very clear because it is still a city that produces steel. What is happening is an expansion of a vast array of other industries. Even at the point where BHP were about to shut down, they were only employing one per cent of the Hunter Valley economy. BHP were employing 2,600 people, and the work force in the Hunter Valley is now up to 246,000. So let us get that in the scale which it deserves: BHP, in their final days in Newcastle, were only a very small part of the economy. They are still a part of the economy and are still producing steel, but they are only a part of a very diverse and wide-ranging economy, and those things are continuing.

Let us have a look at the big employers in the Hunter Valley at the moment. First prize goes to the Hunter area health service—it is the biggest employer; the second biggest employer is the University of Newcastle; and a huge industry in that area is the aerospace industry based at Williamtown. It not only employs thousands of people to support the biggest fighter base in Australia—with the FA18s located there—but also employs a range of spin-off surrounding industries that support the aerospace industry. For example, we are creating up there the lead-in fighters—they are actually being built at Williamtown. There are plans to attract a whole range of other aerospace industries. Of course, beyond that, there are magnificent tourist facilities in the Hunter Valley, which are creating a larger and larger throughput of people who come to that beautiful region for their holidays. We have the Barrington Tops, the Blue Water Wonderland at Port Stephens, Lake Macquarie, Historic Newcastle, Historic Maitland and the surrounding areas. That industry is absolutely booming.

There is a lot of confidence in the town. That confidence was not shaken a great deal even when BHP shut. When BHP announced its downsizing, that created a drop in confidence for a few months, but that confidence came back incredibly quickly. The event that brought that back was Newcastle’s great win in 1997 in the football when the Knights took out the premiership for the first time. This had an amazing effect on the whole city. People there support the Knights and they really showed that on the day of the premiership when the team was leaving: tens of thousands of fans lined the streets and roads leading out of Newcastle to cheer them on. When the team came back, of course, there were even more people there. There was a civic parade. There was enormous pride in the city at that time. We had been tracking consumer and business confidence when BHP announced its downsizing, and for three months it fell and kept dropping until we won that football game. The interesting thing that happened economically was that, as soon as we won the game, confidence jumped right back to where it had been before BHP announced its downsizing, and it has stayed above that level and continued to climb ever since.

We now have a place with enormous confidence. It has record high employment. We have a drop in unemployment month by month. The figures for the March quarter show that there is a 13.1 per cent increase in the work force over the previous period last year. There are 262,000 people working in the Hunter Valley in a wide variety of industries. Job growth is very strong. The new jobs are concentrated not in the manufacturing area but in the service sector. There has been a growth in both full-time and part-time jobs. There are rising rates of female employment, and people who were not previously looking for work are now entering the work force.

Newcastle and the Hunter are on the cutting edge of what is happening to change employment in this country. It is an excellent case study of how we are moving from the smokestack age to the information and service age, and the Newcastle and Hunter economy is at the forefront and is reflecting that. The federal government has given a lot of assistance in the transition process that is taking place at this time. The Prime Minister came to Newcastle in 1997 and it showed the maturity of the city that, during his time
there, there was not one protest, not one banner. He was welcomed to the city with a major civic reception. He stayed for two days, listened to what the region wanted and then provided for it through the Hunter Structural Adjustment Package. He also set up a Prime Minister’s task force to specifically advise him on the needs of the Hunter. Over the 2½ years since that visit, we have been rolling out quite a number of projects which are aiming to build up the infrastructure of the Hunter Valley.

Unlike the state Labor government, what we are doing federally is actually creating, through the public sector, basic infrastructure which private businesses can then leverage off and create new businesses and new jobs. That is happening quite dramatically. We have set up projects like the Maitland Transport Hub. We put $1½ million into that transport hub, and what we have seen happen since then is that companies like Daimler Chrysler, the old Mercedes-Benz, have set up their trucking operation in the area and that Blue Ribbon Coaches have set up their centralised operations there. We are seeing around that research park, since we delivered that money two years ago, a whole lot of related industries attracted there.

We also funded the Hunter water pipeline. With half a million dollars of investment from the federal government, they were able to get a loan of $10 million. Within six months they had actually constructed that pipeline that links in to every vineyard in the Hunter Valley. What this will now do for the Hunter, which produces some of the best wines in Australia, is to give it a secure water supply into every vineyard. That will increase grape yield and increase production by an expansion of the vineyards. This will then kick on to an expansion in the wineries, the restaurants, the resorts and other economic activity—including, increasingly, residential activity in the beautiful Pokolbin area near Cessnock. That sort of growth, with just a small amount of public money, leverages an enormous amount of economic activity.

We have done that through the whole program. We had Joe Hockey, the Minister for Financial Services and Regulation, come up two weeks ago to relaunch the Newcastle Stock Exchange. This was created in the 1930s and shut in the early 1980s. What we have now done, with the new type of information economy that we have developing in Australia, is to reopen a regional stock exchange which will actually aggregate very small amounts of money into investment pools which will then be spent in regional Australia. This is a landmark stock exchange. It is much cheaper to list there than it is through Sydney, and we think this will attract regional funds from right around Australia and will create regional investment right around Australia as a result.

Small businesses have been part of this operation as well. It is not just big business. Small businesses are the hope of the future and, through these projects, we have stimulated quite a lot of small business. Another amount of funding we gave was $500,000 to the business incubator in Lake Macquarie. As people come in, they operate a very small business in its early stages and they get the support of having an office, fax, phone and such facilities. They get mentoring advice from experienced business people for the first year. The research shows that, instead of 70 per cent of new businesses failing, when you have business incubators supporting them 70 per cent of them succeed. The research also shows that those people who do start in those businesses each go on to employ six other people.

We have an enormous amount of economic activity developing in the Hunter Valley, and that is growing and expanding, particularly through new big businesses which are actually expanding within the Hunter region and particularly in the services area. One of the best examples of that is Impulse Airlines, run by local businessman Jerry McGowan, who has now moved through to creating a national network of airlines in competition with Qantas and Ansett. You all remember the case of Compass, which tried to take on Qantas and Ansett and failed. Impulse is trying the same thing but in a very different way. It is an existing airline that is expanding, and that is one very good reason why it will succeed. The second reason is that we are in a very different regula-
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tory climate under this government. We have a situation now where, through the ACCC, we are very confident that they will have a much better show of developing. Ansett and Qantas are responding by dropping fares. They are increasing their services, and jets are coming into the area. This is great for regional Australia.

What I have outlined today is quite a lot of developing economic activities. We have moved from the smokestack age through to an information service economy. The federal government has put enormous resources into supporting this. I urge this parliament, given the great kick-off we have had over the last three years, that this continue. With strategic, targeted, public investment we can leverage an enormous amount of private investment, particularly in regional and rural Australia.

Jessup International Law Moot Court Competition 2000

Senator GREIG (Western Australia) (12.58 p.m.)—I rise this afternoon to speak on the topic of the Jessup International Law Moot Court Competition held earlier this year. In doing so, I want to particularly congratulate the university students Nehal Bhuta, Emily Hudson, Peter Henley, Simon Moglia and Katie Young on becoming world champions in the Jessup International Law Moot Court Competition 2000 held in Washington DC this month. This most prestigious international competition brought together teams from over 80 countries.

The Philip C. Jessup International Law Moot Court Competition is a moot court exercise for students of international law. The competition was founded in 1959 by a group of international law students from Harvard University, Columbia University and the University of Virginia. Originally named the International Law Moot, it was renamed in 1963 in honour of Judge Jessup, then an international legal practitioner, scholar, teacher and member of the International Court of Justice from 1961 through to 1970.

The Australian rounds of this competition between participants from tertiary institutions across Australia were all held at the Law School of the Australian National University. The finals were held in the High Court, presided over and assisted by international lawyers drawn from the ranks of other judiciary, senior Queen’s Counsel, the Solicitor-General of Australia, senior members of the Attorney-General’s Department and the Department of Foreign Affairs and Trade. Academics and members of the diplomatic corps experienced in international law also participated. It was a very prestigious line-up indeed.

Over 60 lawyers are required to judge the 12 teams normally participating in the preliminary rounds. The Australian team that went to Washington comprised a contingent from Sydney and Melbourne universities. In Washington, during the first round of heats, the Melbourne team beat teams from Germany, Costa Rica, Canada, the Dominican Republic and then Sydney, while in the quarterfinals the Melbourne team beat Greece and in the semifinals Mexico fell to Melbourne’s superior talents. The finals, which were hotly contested, saw Melbourne beat the team from Venezuela to become world champions for this new millennium. Two of the judges involved in the final rounds were the recently retired Judge Stephen Schwebel of the International Court of Justice and Gavin Griffiths, Australia’s former Solicitor-General.

This competition is far more than a debating session held over a few weeks. Students spend more than 12 months in preparation in both researching their topic and raising the necessary funds to participate in this international competition. The Melbourne team was coached by Ian Malkin and Sundhya Pahuja from the law school at their university. The work is arduous. Participants research, draft and then orally defend memorials, responding to issues posed in a hypothetical problem of international law. The topic debated in this year’s competition was about vaccine trials. Given the current nature of the debate in this country on genetically modified foods and biotechnology generally, it was perhaps timely and very appropriate as a topic of choice.

Australian students have been the most successful in the records of the competition. This year we again hit the top spot. Australian teams have been winners in the interna-
tional final three times and runners-up on numerous other occasions. Much of this is due to the support which the Australian rounds of the competition receive from the judiciary, legal practitioners and government officials, many of whom are ex-Jessup mooters.

It is perhaps ironic that at a time when the Australian government is seeking to wind back Australia’s participation in international law fora, particularly in the area of human rights, as a country we are producing state-of-the-art excellence in international law. How sad it would be if the rich talent which has been readily exhibited by this enthusiastic team from Melbourne University were contrasted by the lack of political will here in our own country. As I have stated before, respect for international law requires all the international norms and statutes—not only the economic and military ones but the human rights aspect of this area of jurisprudence also.

Congratulations must also go to the team from Sydney University for their hard work and dedication which saw them rise to the finals of this terrific competition. These competitions have proven to be a great training ground for some of Australia’s most outstanding legal minds. All teams from around Australia who participated in the domestic heats are to be commended for their performances. I trust these young lawyers will go on to have promising careers in the judiciary, legal profession, corporations, universities, perhaps parliaments, and diplomatic and international organisations. I am sure they will uphold Australia’s strong tradition of legal excellence in their future careers. On behalf of my Australian Democrats colleagues, I sincerely congratulate the team and their coaches from the Melbourne University.

Chronic Fatigue Syndrome

Senator HARRIS (Queensland) (1.04 p.m.)—I rise today to recognise a group of people who are severely disadvantaged in our modern society—the sufferers of a condition called chronic fatigue syndrome, often referred to as ME as well. These people suffer from vast variations of symptoms in relation to this disease or medical condition. For too long I believe the Australian government has failed to sufficiently recognise the importance of CFS/ME.

There are certain things that lead to the expansion of chronic fatigue syndrome in our modern society. First of all, I would like to briefly look at what is chronic fatigue syndrome. It is a debilitating illness characterised by general malaise, extreme fatigue after physical or mental exertion, muscle aches and pains; severe headaches, and problems with concentration and memory. I believe it goes further than that as well—also chemical sensitivity can bring on such conditions as a reaction to sunlight and obviously an adverse reaction to the use of chemicals. How is chronic fatigue syndrome presently diagnosed? There is actually no single specific test to diagnose chronic fatigue syndrome. The diagnosis is made by looking at the patient’s history and the debilitating effects it has on their daily lives.

Some of the issues that contribute to chronic fatigue syndrome stem possibly from the continual increase in pesticides and antibiotics that are used in the preparation of food today. At the present moment ANZFA is looking at and assessing a further 16 chemicals. It is also looking at proposals to extend the use of up to 30 pesticides. The National Toxic Network and the Total Environment Centre are both heavily involved in campaigning on pesticide issues, as are many other local groups.

I would like to both recognise and put on record the work that is done by the ACT group on chronic fatigue syndrome. They primarily have been the motivation behind today’s jigsaw puzzle that we have at the present moment outside the front of Parliament House. This very clearly depicts that chronic fatigue syndrome is far more than one or two elements; it is quite substantial. There are so many different segments of the condition that I could not relate them all here today. Suffice it to say, it goes much further than a person’s inability to carry on their normal life because of fatigue. That is a substantial part of it, but the chemical sensitivity is also a compounding factor in this condition that these people find themselves suffering from.
Pesticide and antibiotic residue levels, MRLs, are assessed and set ultimately by ANZFA after consultation with different groups of people. I believe that we need to look at other aspects that are contributing to this debilitating condition; that is, the amount of chemicals in the building materials that we use, both in our commercial buildings and in our residential homes, and the effects of those chemicals in the atmosphere within the areas in which we work and reside in our homes. We also need to look very closely at the chemical content or residue that is in the food that we consume, because we are, to a large degree, what we eat. We have proposals worldwide at present to use genetically modified ‘organisms’, as they call them—I prefer to call it food, because they are genetically modifying the food that we are consuming. I believe that one of the areas that will, in the future, impact severely on sufferers of chronic fatigue syndrome is the ability to genetically modify plants so that they will be able to be sprayed with ever increasing chemicals and at ever increasing dosage rates.

We only need to look at soya as an example. Soya has been genetically altered to be able to withstand Round Up without any detriment to the soy bean itself or to the growth of the plant. However, in the assessment of that soy, I believe that the scientific analysis that was carried out on the soy beans was carried out on soy that had been grown in laboratory conditions and had not even been exposed to Round Up whereas, in reality, when the soy is grown in broad crops it is sprayed with Round Up. I do not believe that the scientific analysis of that has been sufficient to have an understanding of the chemical residue in the soy bean itself.

We also need to look at the use of antibiotics in the food that we use. There has been some recent evaluation of antibiotics used in food, and it was decided that the veterinary use of antibiotics is not contributing to antibiotic resistance. I believe that the use of antibiotics is now going much further than veterinary use and is being used in an inappropriate way in the production of food that we ultimately consume in our diets. If we look at genetically modified cotton and its ability to be sprayed with chemicals, the cotton product itself is not of concern, but the cotton seed that is actually introduced into the food chain by way of feedlot through our meat is of concern.

Where do I believe that we need to move? We need to move in the direction of the government officially recognising chronic fatigue syndrome as a medical condition. We then need to look at the building criteria that we use in the construction of our buildings and, where possible, substantially reduce chemicals that are used in the production of those building materials. The third issue—and I believe this is one of the more important issues—is that we need to look at the food chain that we are consuming. I believe that we need a reduction in the permissible levels of chemical residues in our food, not going the other way to actually allow greater residual levels.

But coming back to the chronic fatigue sufferers themselves, what can we do as a society in recognition of their condition? We need a greater understanding within the medical fraternity for doctors to be able to identify at much earlier stages the symptoms of chronic fatigue. We need to be more flexible for these people in their daily lives, particularly in the needs that are placed upon them in the workplace. We need to test periodically the physical limits imposed on the sufferers, both by the illness and the stresses of modern day life. The people who have chronic fatigue syndrome definitely need a very understanding and supportive family unit; they need friends; and they need assistance from the communities. In some cases where the condition is extremely debilitating, we need to put in place home care; they need special sickness benefits; and they also need counselling.

Can the chronic fatigue syndrome be overcome? Yes, it can, but it is a very long road. It is interesting that when, along with my fellow senators and the members from the House of Representatives, we were speaking to the group earlier on, I apologised for the fact that I had the flu and was having a little difficulty in speaking. One gentleman very poignantly pointed out, ‘Well, I’ll swap with you any day.’ What he was referring to
was the fact that within two or three days I will be over my flu and feel well again whereas, in his condition, he is facing this in all probability for the rest of his life. Yes, CFS can be cured if the community that we live in places sufficient understanding and sufficient resources into scientific analysis of the condition and we look towards improving our use of chemicals in our way of life.

Sitting suspended from 1.19 p.m. to 2.00 p.m.

CENTENARY OF FEDERATION: JOINT SITTING

The PRESIDENT (2.00 p.m.)—Order! I advise the Senate that earlier today, in company with the Speaker of the House of Representatives, I witnessed, by video link to the theatrette in this building, a joint sitting of the two houses of the Victorian parliament.

At that sitting, a motion was proposed by the Premier, the Hon. Steve Bracks, seconded by the Leader of the Opposition, the Hon. Denis Napthine, and supported by National Party and other speakers. The motion invited both houses of the Commonwealth parliament to return to Melbourne on 9 and 10 May 2001 to commemorate and celebrate the centenary of the first meeting and sittings of the Commonwealth parliament. The motion was agreed to unanimously. As senators will be aware, 99 years ago today the Senate and the House of Representatives held their first sittings in the Victorian parliamentary chambers. Appropriately, the Victorian government has this day invited both houses of the Commonwealth parliament to return to Melbourne on 9 and 10 May 2001 to commemorate and celebrate the centenary of the first meeting and sittings of the Commonwealth parliament.

When the motion is formally received, it will be listed as an item for Senate business. I know that senators will join me in thanking the Victorian parliament for its invitation.

MINISTERIAL ARRANGEMENTS

Senator ALSTON (Victoria—Minister for Communications, Information Technology and the Arts) (2.01 p.m.)—by leave—I inform the Senate that Senator Robert Hill, the Minister for the Environment and Heritage and the minister representing the Prime Minister, the Minister for Trade, the Minister for Foreign Affairs and the Minister for Forestry and Conservation, will be absent from the Senate today and tomorrow. Senator Hill will be leading an environmental industry delegation to China. During Senator Hill’s absence I shall be minister representing the Prime Minister, the Minister for Foreign Affairs and the Minister for Trade. Senator Minchin will be representing the Minister for the Environment and Heritage and the Minister for Forestry and Conservation.

QUESTIONS WITHOUT NOTICE

Department of Finance and Administration: Litigation

Senator CONROY (2.02 p.m.)—My question is to Senator Ellison, representing the Minister for Finance and Administration. Can the minister explain the background to the potential liability of $4.3 billion as a result of claims for damages against the Commonwealth in relation to litigation involving the Department of Finance and Administration which is referred to in the budget papers?

Senator ELLISON—The claim that Senator Conroy has alluded to is one which it is not appropriate for me to comment on, and he knows full well the reasons for that.

Senator CONROY—Madam President, I ask a supplementary question. Why does the Portfolio Budget Statement of the Department of Finance and Administration make no mention at all of such a huge potential liability which is approximately equivalent to the entire budget of the department?

Senator ELLISON—It is a well-known fact that this is the second budget we have done on the basis of accrual accounting, and of course that takes into account a whole range of liabilities, assets, which were not taken into account previously by other budgets. There is absolutely nothing untoward in disclosing any potential liability; in fact, accrual accounting demands it and it is part of our Charter of Budget Honesty—something which we abide by and the opposition, when it was in government, never had.
Budget 2000-01: Living Standards

Senator LIGHTFOOT (2.03 p.m.)—My question is addressed to the minister representing the Prime Minister, Senator Alston. Will the minister inform the Senate how last night’s budget announcements will improve the living standards for all Australians, and in particular how the tax burden is being reduced for Australian families?

Senator ALSTON—Last night’s budget is very good news for all Australians, but particularly for families. We are very much concerned to promote stronger families and stronger communities, so there is $240 million over four years to establish a partnership between government, families and communities. There is $65.4 million there for child-care choice. Families are particularly interested in jobs for their children and themselves, so $2 billion over four years for the new apprenticeships program is similarly very good news. The growth in jobs has now exceeded 650,000 new jobs through the strong economic growth we have achieved by taking the tough decisions.

But I think what families are particularly impressed by is the discipline that this government has shown when that is contrasted with the ill-discipline of its predecessor. In other words, this fifth budget of ours is the fifth in a row that is in surplus. We have not borrowed one cent—you have to go back to about 1910 to even get a comparable performance. In the last five budget years of our predecessors they managed to rack up $80 billion in debt, and in our five years we have reduced that by $50 billion. That is a monumental achievement because it enables us to deliver not only $9 billion off debt; it then translates into interest rates which still see Australians paying $225 less per month for the average home mortgage than they were paying when the coalition was elected in 1996. So there is a great deal to be excited about for ordinary families. But I think the most significant news of all that comes out of this budget is the Labor Party’s response to it. If we look at what Mr Crean had to say, with a touch of the Melhams, on 3LO this morning about the Timor tax, he was absolutely livid that this source of revenue had been taken away from them—like a boy missing his candy:

Do you support the decision to remove it?
What we support is our troops in Timor.
Well, can you say it’s a good idea not to have it now?
Now, now, just understand we accepted it because our troops had to be supported in Timor.
But do you support removing it?
And the government said it didn’t have the funds to do it. We’re not going to stand in the way for full support for our troops.

They ran this for a couple of hours this morning and then they dropped it like a log because they know it is a classic example of Labor’s propensity to spend—high tax, high debt, not interested in reducing the debt. They are livid that we have gone down that path. They actually very much resent the fact that we have delivered $12 billion in tax cuts.

Did anyone hear Mr Beazley on AM this morning? He basically said, ‘Look, it is terribly unfortunate they have wasted this money on debt retirement. They could have spent it on the knowledge economy.’ The knowledge economy is actually a two-word policy. It is Labor’s mantra that they trot out every time. It is obviously research driven sloganising. But, really, about the only people that are in need of any help from the knowledge economy would be people like Senator Conroy, who does not even know the difference between cash and accrual accounting, as was rather pathetically demonstrated in the estimates committee recently.

Senator Robert Ray—You tell us about it, Dick.

Senator ALSTON—I know you have to defend the altar boy. I understand that. But if he is on the frontbench he ought to be able to look after himself. So you had Mr Beazley bleating about the fact that we had actually used part of the surplus to come up with a compensation package. In other words, what Labor is saying is they do not support the compensation package. They would reduce the tax cuts. They would do anything to spend more money. They wanted that Timor tax kept in place. That is very bad news for Australian families. It simply means that if
Labor can get their hands on more hard-earned money they will splash it up against the wall, as they did in spades. (Time expired)

Senator LIGHTFOOT—Madam President, I thank the minister for his erudite answer, and I ask by way of a supplementary question: is the minister aware of any alternative policy proposals, and what would be the impact if these proposals were implemented?

Senator ALSTON—If we look at what those in the community have said about this budget we do not get too many disagreements about—

Senator Faulkner interjecting—

Senator ALSTON—Look at the people who are actually affected; do not look at some of the journalists that you might have spun a line to, that will last you about 24 hours. You can go through the business sector, you can go through the Australian Industry Group, the rural sector, the health sector; they are all glowing in their endorsements. But do you know the best endorsement of all? Mr Beattie. Do you know what he marked this budget at? Ten out of 10. You cannot do any better than that. I will bet you if you stretched Mr Beattie he would be a red-hot advocate of the privatisation of Telstra, because he knows he would be able to get his hands on the proceeds and spend them on roads and everything else in Queensland. Mr Bacon is not far behind, I have got to say. Mr Bacon is a very enthusiastic, if not explicit, supporter of privatisation of Telstra. Of course, they all are. We know from John Lyons’s article that Mr Beazley basically is in favour. (Time expired)

Budget 2000-01: Income Tax

Senator COOK (2.09 p.m.)—My question is to Senator Kemp, representing the Treasurer. How does the minister explain that according to the tables on page 5-6 and 5-20 of Budget Paper No. 1 Australian taxpayers will be paying $5.1 billion per year more in income tax in 2003 than they do now?

Senator KEMP—Thank you to Senator Cook for what I would have to say is a really predictable question. Let me just note that Senator Cook’s—I think this is correct to say—fourth most famous quote is that the Labor Party is a high tax party. Senator Cook, noting your love of taxes and noting your frankness, it is not surprising that the Labor Party finds itself in complete and utter confusion over the budget. We are delivering the largest tax cuts in Australian history. The Labor Party refuses to guarantee these tax cuts. The Labor Party says that it believes that there should be a higher deficit. The Labor Party has pointed to areas where it thinks there should be increased spending. The question is: how is the Labor Party going to raise the money? We will have to wait until Thursday night, won’t we, until Mr Beazley fesses up and tells us how he is going to raise this money and what is going to happen to these largest tax cuts in Australian history.

These tax cuts are worth some $12 billion and will cut individual income tax collections by around 10 per cent. The opposition—and I notice that Senator Cook just attempted to do this—claims that these tax cuts will go in one year. The rises in income tax collections I think in those tables that Senator Cook was referring to are due solely to growth in the economy, more people in jobs and wages growth. The coalition makes no apology for creating jobs and reducing unemployment to its lowest levels in a decade. There is a very big issue now before the Australian people. The issue is that the Labor Party cannot be allowed to get away with its disgraceful performance on fiscal and budgetary policy. The Labor Party has refused to guarantee the income tax collections that we are delivering, and here Senator Cook gets up and in his question attempts to demean these largest income tax cuts in Australian history. Senator Cook, the test will be the Australian people. The Australian people know that we are delivering large tax cuts. Many Australian families will benefit to the order of $40 to $50 a week.

Senator Faulkner—Answer the question.

Senator KEMP—I have answered the question. When these tax cuts come through the Australian people are going to ask: will Labor take away these tax cuts? What we want to know and what the Australian people want to know is what is Labor’s policy on these tax cuts. Will they guarantee these tax
cuts in their policy as they go to the next election? I think the Australian people will be looking very closely for answers on Thursday night from Mr Beazley.

Senator COOK—Madam President, I ask a supplementary question, and I remind the minister that the value of the tax cuts will erode within a year but the GST will go on for ever. Since my question was not answered, as a supplementary I will ask it in another way. Turning to the documents, Minister, is it not the case that table 3 on page 5-6 of Budget Paper No. 1 and table A1 on page 5-20 reveal that each taxpayer be paying around $600 a year more in income tax in the year 2002-03 than they are paying currently?

Senator KEMP—This is absolutely fantastic. We are delivering huge tax cuts to the Australian people and Senator Cook is attempting to argue that these tax cuts are not being delivered. Senator Cook, we will test our position against your position. We recall your famous statement that the Labor Party is a high tax party. Let me tell you: the coalition is a low tax government. We will deliver those tax cuts and we want the Labor Party to guarantee those tax cuts in its policy—or else Australians will draw the correct conclusion that the Labor Party plans to raise income taxes. That is the issue you will have to face up to, Senator Cook.

Rural and Regional Australia: Services

Senator EGGLESTON (2.15 p.m.)—My question is to the Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald. Will the minister inform the Senate about budgeted initiatives aimed at providing improved services to rural and regional Australia?

Senator IAN MACDONALD—This budget provides real fairness for rural and regional Australians and, as well, it is a responsible budget that rural and regional Australians will endorse. First of all, it delivers on the tax cuts for all Australians, the tax cuts which will be particularly welcomed by rural and regional Australians. It provides for the first time ever the wherewithal to give rural and regional Australians access to the same sorts of health services that city Australians take for granted. As well as that, it will provide Australians living in remote and rural Australia with access to quality education, something that was denied them by the Labor government during its 13 years in office. It will also continue the good work started by the Howard government in the provision of transaction and financial services to rural and regional Australia. The budget is fair for those reasons. It is responsible because it will remove huge costs from the exports that emanate from rural and regional Australia and because it will remove from all rural and regional Australians the very high burden of transport costs. We will be reducing the cost of petrol for transport trucks by 24c a litre and the cost of fuel for business use by between 7c and 10c a litre. So they are tremendous policies.

The shadow minister—I might say the city-centric shadow minister—for rural services said that this budget was ‘a sad joke’. That was his description of it. Unfortunately he has rarely been in rural and regional Australia, and his view is not shared by others, particularly people in rural and regional Australia. For example, the Adelaide Advertiser stated that this budget ‘is the biggest boost for health for people living in rural and remote Australia since the advent of the flying doctor’. The National Farmers Federation congratulated the government on targeting rural health as its top priority and it also welcomed the commitment we made to the discount factor for farm business being increased from 50 per cent to 75 per cent. The Isolated Children’s Parents Association also congratulated the government on doing what they have been calling for. Madam President, the list goes on.

I am asked by Senator Eggleston as well whether I am aware of alternative policies. I am; I am aware that the Labor Party have a proposal to maintain fuel excise. So instead of giving away that 24c a litre cost, the Labor Party’s policy is to maintain it. The Labor Party increased fuel excise from 9c to 44c a litre in their time, and they want to maintain those increases. As I understand their policy, they also want to maintain the wholesale sales tax and maintain the GST in a rolled back form. Further, they want to
keep the RTC program, the Rural Transaction Centres program, which is an initiative of the Howard government. The Labor Party have form when it comes to policies for rural and regional Australia. Their policies made rural and regional Australians pay 17 to 20 per cent on overdrafts. They made rural Australians pay the interest on $80 billion of debt that rural Australians got no benefit from, but rural Australians had to pay the interest on that $80 billion debt that the Labor Party ran up. The Labor Party policy, as demonstrated during their 13 years in office, was to close 277 postal outlets. That is their record.

(Time expired)

Senator EGGLESTON—Madam President, I ask a supplementary question. Could the minister advise the Senate of any other initiatives which have been taken in this budget to improve conditions in rural Australia?

The PRESIDENT—That is really not a supplementary question to the answer.

Senator Ian Campbell—Madam President, I raise a point of order. I think it is very important that a decision is made to rule out points of order that seek an expansion of a minister’s answer. I would put it to you that the question asked by Senator Eggleston is entirely in order in that it asks the minister to expand on and continue outlining a range of initiatives. It is obviously very hard for a minister in this government extolling the virtues of regional policy to do so in four minutes. It would indeed probably take the minister the rest of the afternoon to even scratch the surface, but I think it is entirely in order for Senator Eggleston to ask for an expansion. I would ask you reconsider your ruling.

The PRESIDENT—I will have a look at the question, the answer that was given and the supplementary question and let you know if I think there is any change that should be made.

Public Hospitals: Funding

Senator O’BRIEN (2.22 p.m.)—My question is addressed to Senator Herron. Why has the government in this budget comprehensively ignored the findings of the independent inquiry conducted by Mr Ian Caltles in October 1999 that funding to public hospitals should be increased by $630 million this financial year and indexed under future federal-state health agreements? Why has the government failed to put any new money at all into public hospitals in this budget?

Senator HERRON—The federal government have put an enormous sum into health care since we came into government four years ago. As part of that, there was a negotiated health care agreement with the states. Greater funding went into the public hospitals through that health care agreement. Even Senator O’Brien would agree with that statement. There is no question about it. It is a question of fact. In addition to that, we have differentially funded the private hospital system to get over the problem that we inherited, where many people had dropped out of private health insurance and an extraordinary burden was put on the public hospital system as a result of the fallout of the private hospital system. We have brought in major initiatives to redress the imbalance that occurred. Medicare and the public hospital system can only survive providing there is a balance between the public hospital system and the private hospital system, which we had before the Labor Party came to power 13 years ago.

We have influenced this by putting an enormous sum of money into subsidising private health insurance to take the pressure off the public hospital system. It does not seem to get over to the Labor Party that if you follow the system that they want, which is more funding going into the public hospital system to the detriment of the private hospital system, you end up with a socialised health system. We know that is the Labor Party policy. If it is not the Labor Party policy, what is their policy in relation to health? They have not got one. They are referring to the Castles report, but they have not got a policy of their own. Where is the Labor Party’s policy? What is it? I see Mr Beattie in Queensland has announced the GST as his policy. I would like to read from it. Mr Beattie has put a half page advertisement in today’s Courier-Mail which states:
Register for the GST by 31 May 2000 ... Comply with administrative arrangements to be advised by relevant Departments.

Mr Beattie and the Queensland government say:

Register for an Australian Business Number (ABN) with the Australian Taxation Office by 31 May 2000.

Mr Beattie gave us 10 out of 10 for our budget. Far be it for me to compliment Mr Beattie, but where is the Labor Party in relation to policy, let alone health policy? Where is the Labor Party in relation to the GST? Senator Cook disclosed his hand today. He said that the GST would be in forever. That was Senator Cook's statement. It will be in forever, irrespective of whatever governments come in. Senator Cook displayed the Labor Party's policy in relation to the GST. It is in the Hansard. I refer you to the Hansard. Senator Cook said, 'The GST will be in forever.' The Labor Party has finally admitted that the GST is in forever. Referring back to the question asked by Senator O'Brien—

Senator Faulkner—Madam President, I rise on a point of order. I draw your attention to the fact that Senator Herron is raving. Could you please draw the minister's attention to the question that Senator O'Brien asked?

The PRESIDENT—There is no point of order.

Senator Herron—I am promoting the GST because health services will be GST free. I will be very interested to hear what Mr Beazley will say on Thursday night about the GST and public hospitals. Under the health care agreements, the public hospitals have always been run by the states. What does Mr Beattie do? He is very much in favour of the GST. As Paul Keating said, 'Never get between a state Premier and a bucket of money.' That is why the states are backing the GST. They want it so they can get more money, because all the GST is going to the states and they will get more money. They will have more money to put into their public hospitals, which are their responsibility. They are the states' responsibility, and the states are promoting the GST.

Environment: Funding

Senator Bartlett—My question is directed to the Minister representing the Minister for the Environment and Heritage, Senator Minchin. I refer to comments by the Prime Minister as recently as February this year stating: Salinity is a huge issue ... a very big issue in Australia.

In his statements last year, he said: Salinity is a huge challenge for this country. Water conservation is a huge challenge for Australia.

The Prime Minister's own council which looks at these issues has also estimated that the capital value of land lost due to salinity is over $700 million and that lost production and damage to infrastructure is worth another quarter of a billion dollars. Minister, given such facts, how can the government...
possibly justify the $62 million decrease in last night’s budget for environment spending on the Murray-Darling Basin, Bushcare, the National Wetlands Program, National Land and Water Resources Audit and the National Landcare Program?

Senator MINCHIN—In Senator Hill’s absence, I refer to the brief I have received on this matter, which suggests that the independent Natural Heritage Trust mid-term review *Dryland salinity and associated vegetation management* found that the various federal government agencies and industry, through the R&D corporations, are investing about $25.4 million per year in this matter, of which NHT provides $18.8 million, or about 74 per cent. In addition to its investments in dryland salinity mitigation, the Commonwealth is a partner in the Murray-Darling Basin Ministerial Council, which has a major role in addressing dryland and instream salinity in the Murray-Darling Basin. The commission advises that, in the years 1999-2000 to 2001-02, the Commonwealth is providing just over 10 per cent of the total investment of $2.5 billion in sustainable natural resources management in the Murray-Darling Basin. So it would appear that the Commonwealth’s commitment is profound. I congratulate the Adelaide *Adver—*

tise* for reporting today: More than $77 million will be spent in the next two years to help save the River Murray. An additional $6.8 million will be spent in the upcoming fiscal year on a national river health program aimed at identifying priorities to ‘protect and repair the health of Australian rivers’.

In this budget—and Senator Hill should take great credit for it—expenditure on the environment is at record levels. In 2000-01, combined spending on the environment is estimated at more than $1 billion—a 30 per cent increase on the last financial year.

Senator BARTLETT—Madam President, I ask a supplementary question. I note the minister’s answer that the Commonwealth has invested around $25 million in salinity issues, of which the NHT has contributed about three-quarters. The minister may not be aware that the CSIRO has estimated the expenditure needed to make even reasonable progress on this issue could be upwards of $30 billion. Given that last night’s budget was absolutely silent on maintaining environment funding past June 2002, when the existing Natural Heritage Trust funds—which make up 75 per cent of the expenditure the minister highlighted—run out, why is the government saying nothing about the future funding of the environment budget? Why won’t the government allocate core budget funding to address these issues, which the Prime Minister himself has stated are of absolute importance and are a huge challenge for the country?

Senator MINCHIN—Like a whole range of programs in the environment area, forward estimates are made but, as programs expire, decisions are made at the appropriate time as to the reinstitution of those programs. That happens across the government, and the same attitude should be taken to environment expenditure as is taken in other areas. The government does place a very high priority on environmental matters. There is a major piece of work going on in relation to salinity, particularly in the Murray-Darling, through the auspices of a ministerial committee and also the Prime Minister’s Science, Engineering and Innovation Council. It is a critical issue for this country, and I look forward to further announcements from the government on that matter.

**Foreign Aid: Target**

Senator HOGG (2.33 p.m.)—My question is to Senator Alston, representing the Minister for Foreign Affairs. Can the minister confirm that Australia’s foreign aid is projected to fall in 2000-01 to 0.25 per cent of GNP? Isn’t this the lowest level for foreign aid in more than 30 years—indeed, as far back as comparable statistics extend? Will the minister inform the Senate of the government’s target for foreign aid as a percentage of GNP?

Senator ALSTON—The figure for overseas aid in 2000-01 is $1.6 billion, which is a nearly $100 million increase over the 1999-2000 budget estimate, which is an increase of four per cent in real terms. This represents
an ODA to GNP ratio of 0.25 per cent, which is still above the latest average for all donors of 0.24 per cent. In constant prices, it is larger than the average Australian aid budget over the past 30 years. The government has demonstrated its willingness to respond generously and quickly to emerging needs—additional funding in 1999-2000 for East Timor, the Heavily Indebted Poor Countries Initiative and the East Timorese and Kosovar evacuees in Australia—resulting in an expected ODA outcome of $1.65 billion, with an ODA to GNP ratio of 0.27 per cent. The quantity of ODA is only one aspect of aid flows; the quality of those flows is also important.

Senator HOGG—Madam President, I ask a supplementary question. The question that I posed was not answered by the minister. I asked: what is the government’s target for foreign aid as a percentage of GNP? Further, hasn’t the government effectively endorsed the view expressed by its 1997 Simons committee review of our foreign aid program that the longstanding 0.7 per cent target should be abandoned?

Senator ALSTON—It is fair to say that that figure has been more honoured in the breach by governments around the world, but it is a UN designated target that has been nominally in place now for 25 or 30 years. Governments do their best in the circumstances that apply to them to achieve appropriate outcomes. We regard the aid budget as a very important one. It does provide us with an opportunity to assist a number of developing countries. As I have indicated, the figure that we are expecting to achieve this year is higher than the average level of all other donors. We are not in the business of trying to predict the circumstances of future years. Obviously, circumstances change—in some instances, quite dramatically, and East Timor would be a classic example. At this stage, the ODA to GNP ratio looks set to increase from the previously estimated 0.25 per cent to 0.28 per cent for 1999-2000. However, the latest figures were higher than the forecast growth. (Time expired)

DISTINGUISHED VISITORS

The PRESIDENT—Order! I draw the attention of honourable senators to the presence in the President’s gallery of a parliamentary delegation from the Republic of Indonesia, led by the Vice Speaker of the House of Representatives, His Excellency Mr Soetardjo Soerjogoeritno. On behalf of honourable senators, I welcome you to the Senate and trust that your visit to this country will be both informative and enjoyable.

Honourable senators—Hear, hear!

QUESTIONS WITHOUT NOTICE

Bowel Cancer Screening: Funding

Senator HARRIS (2.38 p.m.)—My question is directed to the Minister representing the health portfolio. In the 2000-01 budget, the government has appropriated $22.3 million over a four-year period as additional costs through the increase in permanent immigration while over the same period, with bowel cancer affecting one in seven Australians, the government has appropriated only $7.2 million for a pilot program to screen 50,000 people. Is it appropriate to be increasing the cost of health to permanent immigrants to the detriment of the early detection of bowel cancer?

Senator HERRON—Bowel cancer is the most common cancer affecting all Australians. In females the most common is breast cancer and in males it is lung cancer associated with cigarette smoking. Bowel cancer is an important topic as raised by Senator Harris in this regard. The question of whether screening is effective or not is subject to pilot programs. There have been many pilots done. In fact, the first pilot in Australia was done in my own state of Queensland in Rockhampton under the auspices of the Lions program at the time. The difficulty with those screening programs is their implementation in terms of documentation, but they have been shown to be effective if they are done correctly.

Senator Harris’s question related to the extension of health care benefits to immigrants to this country or to people that are here on a temporary basis. If they are covered by the Medicare agreements and they are able to access Medicare, then of course they are entitled to the same benefits as other Australians in relation to screening programs for bowel cancer. There is no question that
there needs to be more work done on the early detection of bowel cancer and the detection of polyps, particularly with colonoscopies and screening programs. I think that has been addressed. It is covered under Medicare and will continue to be. Further funding has been allocated under the Commonwealth-state health agreements as well so that it can be done both in the public hospital system and in the private hospital system.

**Hearing Services Program: Funding**

Senator DENMAN (2.41 p.m.)—My question is addressed to the Minister representing the Acting Minister for Family and Community Services. Can the minister inform the Senate how many of the 150,000 hearing impaired Australians will suffer as a result of the $24 million cut to the Hearing Services Program in last night’s budget? Can the minister confirm that, as a result, age pensioners and children will have to wait longer to receive or be refitted for a hearing aid?

Senator HERRON—I have always been very wary of accepting a statement from the other side as fact. However, with Senator Denman, I probably make an exception to that because of her attitude, in that most of the questions that she asks are factual, but I think somebody has fed her a line. The aged care initiatives announced in the budget last night have built on the government’s demonstrated commitment to providing high quality services for all older Australians, and the agreement also covers initiatives in relation to the Hearing Services Program. We have also announced the rural and regional health care program and the adjustment grants for small rural and regional aged care facilities. They will provide an extra $30.8 million over four years to improve the quality of services to older people in rural Australia. The government is determined that aged care residents receive high quality standards of care.

Senator Carr—What about hearing aids?

Senator HERRON—I have mentioned the accreditation measures already in place. They underpin the efforts made by providers to introduce systems of continuous improvement. Over that time, other funding goes towards $11.7 million over four years to give additional support to allow the Aged Care Standards and Accreditation Agency—

Senator Carr—What about hearing aids?

Senator HERRON—Madam President, I will answer the question as I see fit to answer it. I will not respond to interjections on the other side. Perhaps the senator on the other side cannot hear the answer, but I am happy to tell him that the government is providing $6.4 million over four years to subsidise accreditation fees for small facilities and $10.9 million over four years to provide for residential aged care fees.

The ability to hear can make a profound difference to a person’s quality of life. In recognition of this, the federal government will spend close to $460 million over the next four years to ensure that high quality hearing services continue to be delivered to many older Australians. Senator Denman would be pleased to know that this ensures that over 300,000 adult Australians each year access quality hearing services that may otherwise have been unaffordable.

Senator Carr—is it going to be less money for them or not?

The PRESIDENT—Senator Carr, there is an appropriate time for you to ask questions and now is not it.

Senator HERRON—to ensure the continued sustainability of the Commonwealth Hearing Services Program, some important measures will be introduced from 1 October this year. These include: the introduction of a hearing rehabilitation only item in the schedule of hearing services for clients who do not need a hearing aid to achieve a satisfactory rehabilitation outcome but would benefit from training and various auditory and communication strategies; an extension of the period between hearing services voucher issue from one to two years, unless a clinical need to have a reassessment earlier can be demonstrated; and an increase in the period between hearing aid refitting from four to five years, unless there is a clinical reason to have a refit earlier. We are devoting, as I said, close to $460 million over the next four years to ensure that high quality hearing
services continue to be delivered to many older Australians.

Senator DENMAN—Madam President, I ask a supplementary question. That quote you have just read is from your budget paper No. 2, page 110, but that adds up to a cut. So can the minister confirm that in addition to the $24 million cut to the Hearing Services Program, the government is insisting on charging all Australian hearing impaired people 10 per cent GST on all the repairs they need to keep their hearing aids working?

Senator Cook—Gotcha.

Senator HERRON—No, Senator Cook has not got me. He might think so, but I think the important thing is to realise that all health care is GST free. If it is a medical service provided by a medical practitioner, it is GST free. More importantly, what is the Labor Party policy? What is the Labor Party policy on this particular matter? If nothing else in relation to health care, what will the Labor Party do in relation to this particular item? Will we hear that from Mr Beazley on Thursday night? I suspect not because they have not got a policy. But I would specifically ask Mr Beazley on Thursday night to tell us what his policy is in relation to the provision of hearing services under his own GST.

Budget 2000-01: Income Tax

Senator TCHEN (2.46 p.m.)—My question is to the Assistant Treasurer, Senator Kemp. Will the minister inform the Senate how last night’s budget will deliver $12 billion in personal tax cuts as promised, in full and on time? Will the minister give details about the positive reaction the budget has received? If time permits, would the minister inform the Senate whether he is aware of any alternatives to the government’s policy as outlined by him last night?

Senator KEMP—I thank Senator Tsebin Tchen from Victoria for that very important question. Of course, the income tax cuts that this government is going to deliver are a central feature of the tax reform package, and that is one of the reasons why Australians are looking forward to 1 July. We are delighted that we have been able to deliver this as we promised, on time and in a responsible fashion.

This year’s budget is the fourth consecutive coalition budget to be in an underlying surplus. We have received many endorsements for this budget. How wrong was Senator Faulkner about the press reaction? Let me show just how wrong, once again, the Leader of the Opposition in the Senate was. Let me just quote from some press comments. The Certified Practising Accountants, CPA Australia, has ‘commended the federal government on its delivery of a $2.8 billion surplus budget’.

Senator Conroy—How much of the $500 million did they get?

Senator KEMP—I know that you are sensitive about this, Senator Conroy, as well you should be. After the comments that you have made on this budget, you are right to be sensitive, but I will come to you later. Let me continue. Mr David Edwards said:

The announced $2.8 billion surplus was both welcome and necessary to ensure that there are reserves on hand to counter any future downturn in activity.

So one of Australia’s major accountancy bodies has strongly endorsed our surplus. Let me quote from a number of other sources. Today’s Herald Sun reported:

The Business Council of Australia gave the budget a resounding thumbs up and commended the maintenance of a strong structural surplus into 2000-01.

David Buckingham, the executive director, had this to say:

This is the budget that business wants—virtually no measures specifically directed towards business itself but a business structure that should ensure the economy continues to expand and prosper. A large cash surplus while keeping tight control on spending was always the highest priority and this budget has delivered.

That is a comment from Mark Paterson of the ACCI.
Let us face it: you would have to say that, amidst the strong praise this budget has received, the Labor Party are critical, as they have been of all the other budgets which have delivered one of the world’s great growth economies. The Labor Party are going around saying that the surplus is inadequate and that it has been squandered. This begs the question—and I think this is important, Senator Conroy; I said I would come to you, now could you please listen—if you think the surplus we have delivered is not an adequate surplus, what would Labor do differently? What spending would Labor cut? What taxes would they increase? These are big questions and the Australian public want to know the answers to these questions. I understand that Senator Conroy is going to stand up and take note of these answers after question time, and some of my colleagues will wait to hear that. If there is any further information that Senator Tchen would like, I am quite happy to assist.

Senator TCHEN—Madam President, I ask a supplementary question. I thank the minister for his answer. However, I draw his attention to one part of my original question: is he aware of any alternatives to the government’s policy as outlined last night?

Senator KEMP—Thank you, Senator Tsebin Tchen, for that important supplementary. It is a bit hard to discern whether the Labor Party has got a tax policy. We know the Labor Party plans to keep the GST; we know that. There is no argument now that it will keep the GST. What we have heard, however, is that there will be some roll-back. What we want to know is: what is that roll-back—and my colleague Senator Herron has referred to that—and how will that roll-back be financed? That is why we will be tuning in very carefully to Senator Conroy when he stands up to take note of answers, because we want to find out the answers to these key questions.

Look at the way the Labor Party speaks about our tax cuts. The opposition leader said that the tax cuts ‘squander the surplus’. The largest tax cuts in Australian history, delivered in a responsible fashion, and Mr Beazley calls it squandering the surplus. This is why the public are very nervous about Labor and tax. They remember what Senator Cook said: the Labor Party is a high tax party. Let me make the point that Mr Beazley has got to come clean on why the Labor Party will not guarantee the tax cuts. (Time expired)

Veterans: Home Care

Senator SCHACHT (2.53 p.m.)—My question is addressed to Senator Ellison representing the Minister for Veterans’ Affairs. Can the minister give details of why the Department of Veterans’ Affairs was dissatisfied with the quality of care provided to veterans by the Department of Health and Aged Care under the home care program, which has now led to home care for veterans being transferred from the Department of Health and Aged Care to the Department of Veterans’ Affairs? Further, can the minister explain how the Department of Veterans’ Affairs can provide an improved home care service to veterans, when the Department of Veterans’ Affairs is required to provide savings of $57 million over four years in providing this home care service?

Senator ELLISON—Through the Veterans’ Home Care program, the department will now provide a wide range of home care services to the veteran community on similar terms to those currently provided under the Home and Community Care program. This in no way has anything to do with the ability of the department of health to administer that program. This is a great initiative; it is a great expansion of services to veterans. Senator Schacht is trying to beat up this issue and trying to say that it is dissatisfaction with the department of health when, in fact, it is a great initiative; it is an expansion of services to veterans in this country. Such things as home help, personal care, garden maintenance and other services will be available to veterans who are assessed as needing such services to enable them to live independently. This new program will commence from 1 January this year. It will offer targeted support aimed at improving and maintaining the health and wellbeing of veterans. Who better to deliver this to the veterans of Australia than the Department of Veterans’ Affairs? What we are doing is expanding
What is available to those veterans. This is good news for veterans in Australia.

Senator SCHACHT—Madam President, I ask a supplementary question. First of all, Minister, I think you are reading the wrong program; you are reading about the extension of the program. But I ask you, Minister—and you may have to take this on notice to get it checked—is it true that the savings of $57 million will be achieved by reducing the number of bed days presently used by veterans? Therefore, Minister, can you inform the Senate of how many bed days will have to be saved and how many veterans will not be admitted to hospital to achieve the savings of $57 million required by the government?

Senator ELLISON—Senator Schacht is really struggling with this. We have announced great initiatives for veterans in this budget, including Vietnam veterans. Senator Schacht knows full well that we are increasing expenditure for veterans in this budget, and his scare tactics will not confuse or fool them. They will know that this is a good budget for veterans.

Budget 2000-01: Unemployment Projections

Senator STOTT DESPOJA (2.56 p.m.)—My question is addressed to the Assistant Treasurer. Can the minister explain how Treasury arrived at a projected fall in the unemployment rate to 6.25 per cent by June 2001, given that the unemployment rate is already beginning to rise again—to 6.9 per cent last month—and that the monthly ANZ job advertisement series recorded a 0.8 per cent fall in the weekly average of job advertisements for April—the number of vacancies is now 3.6 per cent lower than the October 1999 peak—and, thus, the underlying trend is downward? So could the minister explain how Treasury arrived at this optimistic figure?

Senator KEMP—Let me make a couple of comments. The government have been very successful in delivering increased jobs, and we take great pride in that. Equally, the government take great pride in winding back the very high levels of unemployment that were left to us by the previous government. When we survey the wreckage of the Labor years, the wreckage of their high taxes and high borrowing, we can see that perhaps one of the worst effects of this—and, of course, the recession that, according to Labor, we had to have—was the large number of Australians who found themselves without a job. This government takes great pride, Senator Stott Despoja, in winding back the levels of unemployment. We regard that as one of the key priorities of this government. That is the reason why we have to have responsible budgets. That is the reason why we have to create a climate which enables the economy to grow. So the point I make to you is that, if you look at the budget forecasts, you will see that the Australian economy will continue to grow strongly in the current year. This perhaps will not be quite at the same levels as the previous year but certainly at very strong levels. I think that we can take great pride that this will help create those real jobs that we believe are so important in this economy.

It is important to get the economic settings right. If you do not get those settings right, you do not deliver the real outcomes that this government wants. Madam President, if you survey the press comments today, if you survey the comments that have come out from industry in particular, Senator Stott Despoja, you will see this budget as being particularly good for business and, it follows from that, particularly good for creating jobs.

Let me just add a couple of other observations which are important. We are seeing, of course, an upsurge in the world economy. What we are seeing is strong export growth—and this is particularly good for those sectors. But we take great pride in delivering the outcomes that we have had. Some of the decisions we have had to take, Senator Stott Despoja, have not been easy decisions. If I reflect on the comments that some of your colleagues made on those early budgets of ours which enabled Australia to survive the Asian crisis and which enabled Australia to bring down the levels of interest rates, Senator, the decisions we made at that time were not easy; they were opposed by many in this chamber. But we have delivered, Senator Stott Despoja, in spades.

I think the senator should take comfort from the good growth prospects of the Aus-
tralian economy. Senator Stott Despoja should particularly note the very supportive comments that this budget has received from business—after all, many of the new jobs are going to be created in the business community. The senator should also take note of the fact that the unemployment levels have continued to fall in this country, and she should take note that this is a government that, because its settings are responsible, delivers real outcomes, and the one we take particular pride in is the fall in unemployment.

Senator STOTT DESPOJA—As a supplementary question, I ask the minister again: how did Treasury arrive at the 6.25 per cent figure in relation to the unemployment rate? Even if I note the minister’s comments in relation to his growth forecast generally, how does the government expect to contain unemployment rises in the wake of the Olympics and further job shedding by the private sector when this budget does not actually contain any job creation measures? How does the government intend to explain to unemployed Australians that the only unemployment initiative in this budget is yet another obstacle to accessing income support, the preparing for work agreement, which is actually intended to raise $212 million in revenue over the next four years? Can the minister tell us how Treasury arrived at 6.25 per cent without the rest of the rhetoric that we have heard in his previous response?

Senator KEMP—I must say that that was a rather unkind comment from Senator Stott Despoja at the end of that question. I think it is a pity that this type of debate occurs in this chamber. Senator, I have only one minute, so I refer you to Budget Statement 2: Economic Outlook. This, in a very comprehensive fashion, outlines the outlook for both the domestic economy and the international economy and looks at the growth prospects in the Australian economy. I suggest, Senator, that you should look at that. Frankly, if you look at the sorts of comments you have made about our policies over the last four or five years and then you look at the outcomes we have achieved, I suspect that an analysis would show that, compared with Treasury, Senator Stott Despoja, you have been hopelessly wrong on many occasions.

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

DOCUMENTS
Return to Order

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (3.03 p.m.)—Senators would recall that the Senate ordered on 21 October 1999 and on 10 April 2000 that I provide copies of documents provided to the Minister for Health and Aged Care in relation to magnetic resonance imaging. I have previously responded to parts 1 and 2 of the 21 October 1999 order, and I now table documents pursuant to part 3 of that order. This also satisfies the order of 10 April 2000.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Genetically Modified Crops: Tasmanian Legislation

Senator HERRON (Queensland—Minister for Aboriginal and Torres Strait Islander Affairs) (3.03 p.m.)—Madam President, I have a supplementary answer to the question asked of me by Senator Brown yesterday, and I seek leave to have that incorporated in Hansard.

Leave granted.

The answer read as follows—

Questions on notice asked by Senator Brown of Senator Herron yesterday

Why has the Government turned down the Tasmanian Government’s request for an opt-out clause in the gene technology bill?

There are a range of legal risks associated with an explicit opt-out in the Commonwealth legislation. These include constitutional risks, risks in terms of Australia’s international obligations and risks regarding national consistency. Recognising these legal risks, the Commonwealth has not adopted a policy of an explicit opt-out in the Commonwealth legislation.

Why has the Government not responded to requests from the Tasmanian Minister for Agriculture, Mr Llewellyn, that there be no further field trials in Tasmania in the near future?

There is currently no legislation in Australia that prohibits the growing of genetically modified field trials: neither Tasmanian State legislation (which the Tasmanian Government could have
developed at any time over the past 10 years if it wished) or Commonwealth legislation.

I note that this is why Mr Llewellyn’s own Department is able to auspice field trials of genetically modified organisms (GMOs) in Tasmania, in collaboration with Glaxo Wellcome Australia Ltd.

The Commonwealth is, however, actively engaged in the development of a national regulatory system for GMOs, which would prohibit all GMOs unless a license has been issued by an independent regulator, based on an assessment of the risk.

If Tasmania is concerned about the risks with GMOs, I would urge the Tasmanian Government to be a party to this rigorous regulation, which will be fully operational by 3 January 2001.

Thirdly, why is the location of the genetically engineered crops in Tasmania and elsewhere not made available?

The location of field trials in Tasmania and elsewhere, down to the level of identifying the local government area, is information that is made available to local and State Governments and to any interested member of the Australian community on two separate occasions for each and every field trial. In fact this information is made available on two separate occasions during the approval process.

There are issues of commercial confidentiality which precludes further information beyond this. We are, however, addressing this under the new regulatory system introduced as soon as possible.

Finally, will the Government emulate New Zealand in establishing a Royal Commission to look into this matter?

No. The focus of the Commonwealth Government’s efforts is on the introduction of the new GMO regulatory system. This has been developed through extensive consultation, and with the highest level of input and cooperation with all State and Territory Government representatives.

We believe that this regulation represents international best practice in the regulation of GMOs.

**Supplementary questions**

I ask further specifically about the failure of the Minister to respond to his Tasmanian counterpart’s request that there be no further field trials at this stage - a moratorium on field trials.

The Government as a whole has taken the decision that a moratorium on GMOs is not warranted. Genetically modified products in Australia are extensively controlled by existing regulators including the National Registration Authority (for agricultural and veterinary chemicals), the Therapeutic Goods Administration (for medicines), the Australia New Zealand Food Authority (for food) and the Australian Quarantine and Inspection Service (for imports).

All of these systems draw on the Genetic Manipulation Advisory Committee (GMAC) for advice on biosafety matters. In the light of the effectiveness and rigour of these bodies, a moratorium is not supported by this Government. Rather, what we need is the strong new regulatory system the Government will introduce shortly.

Is the Government going to consider the New Zealand option - that is, while their royal commission takes place, there is a 12 month voluntary moratorium on further crops and experimentation?

My earlier responses on moratoriums in this country refer.

Finally, in view of the fact that there is not a Royal Commission in Australia, would the Government facilitate by mutual convenience, if it is so, the Royal Commission in New Zealand, headed by former Chief Justice Sir Thomas Eichelbaum, to sit in Australia and take evidence?

The purpose of the New Zealand Royal Commission is to recommend changes to New Zealand’s current legislative, regulatory, policy or institutional arrangements for addressing genetic modification technologies and products in New Zealand.

The New Zealand Government has not asked for Australian assistance in the conduct of their inquiry and I have no reason to anticipate such a request.

**Department of Finance and Administration: Litigation**

Senator ELLISON (Western Australia—Special Minister of State) (3.04 p.m.)—I wish to briefly add to an answer I gave to Senator Conroy earlier today in question time. The question related to a matter which is the subject of litigation in the courts at the moment, and I want to make it clear for the record that this is a contingent liability and it is a matter which the Commonwealth will be vigorously defending. It appears in the budget outlook and strategy, which is a place for fiscal risks, and, as part of the new accrual accounting process, has been the sub-
of press speculation, which, of course, is of no surprise to anyone.

Immigration: Zimbabwe

Senator VANSTONE (South Australia—Minister for Justice and Customs) (3.04 p.m.)—Yesterday, Senator Cook asked a supplementary question of me, and I have some information for him. I seek leave to include it in Hansard.

Leave granted.

The answer read as follows—

On 10 May 2000 Senator Cook asked a supplementary question:

Can the Minister confirm that casualties among black Zimbabwean farm workers are very high and that race is not and will not be a factor - whatever Senator Lightfoot’s views might be - in assessing the claims of Zimbabweans seeking migration to Australia or in Australia determining, in your words, Minister, ‘burden sharing assistance’ in relieving the problems in Zimbabwe?

I now provide the following information:

Australia’s Migration and Humanitarian Programs are non-discriminatory.

All applications for humanitarian or non-humanitarian visas will be assessed individually against legal requirements set out in the Migration Act and Regulations.

To date, at least 19 people have died in the political violence in Zimbabwe. The dead include 3 white farmers and 16 black farm workers, city residents and peasants.

Budget 2000-01

Senator COOK (Western Australia—Deputy Leader of the Opposition in the Senate) (3.05 p.m.)—I move:

That the Senate take note of the answers given by ministers, to questions without notice asked today, relating to the 2000-01 budget.

I particularly want to take note of the third question, which was asked of the Assistant Treasurer. Last night’s budget was a false budget. Last night’s budget has been universally panned by the critics. In fact, if last night’s budget was a play, you would never open it on Broadway, given what the economic pundits have revealed about it. Last night’s budget was a budget full of accountability tricks, tricks aimed at masking the real weakness of the Australian budgetary position and tricks aimed at masking an understanding by the Australian electorate as to what in fact this government has now foisted upon them.

Last night’s budget includes a phoney surplus, includes income tax cuts that disappear in one year, includes a GST that the government pretends is not theirs and includes a complete failure to invest in Australia’s future. All of those in the present context are important economic crimes against the Australian people. But the worst, if you had to rank them, is the last—no preparation for Australia’s future. There is little or no investment in the Australian science system. There is no investment in national infrastructure, something that is complained about loudly by the National Farmers Federation. There is little attention to regional development in this nation. When the people in the Australian bush are screaming out for greater assistance to help develop their regional economies, they get very little attention from this government. As we have just heard in the last question from Senator Stott Despoja, there is no investment in jobs and there is no investment in making Australian industry more internationally competitive so that we can compete more effectively on the global stage, strengthen our economy and find real high paid, high skilled jobs for Australian workers. That is the most damning part of last night’s budget.

Let me turn to the issue of the phoney surplus, because this is something that economic commentators have paid attention to. Treasurer Peter Costello claims a budget surplus of $2.8 billion. This is achieved entirely by fiddling the budget. There are three key fiddles: reducing record outlays by providing a $1.65 billion GST top-up payment to the states as a loan, not as an outlay; including the asset sale of the mobile phone spectrum in the budget as a contribution to their surplus; and shifting almost $700 million of Reserve Bank dividends from 1999-2000 to 2000-01. So the claimed surplus of $2.84 billion goes: state GST grant fiddle, deduct $1.65 billion; sale of spectrum fiddle, deduct $2.6 billion; Reserve Bank dividend fiddle, deduct $0.68 billion. The real out-
The income tax cuts which disappear in the space of one year are a matter of grave concern for all Australians. We have heard that compensation for the introduction of a regressive and confusing tax, the GST, will be paid for by massive income tax cuts. Well, will they? No-one believes it. In fact, we remember the words of the Prime Minister: ‘No-one will be worse off as a consequence of the GST.’ We now know that is an outright untruth. But the income tax cuts disappear in the space of two years and we end up having to pay more in income tax, $600 on average per year per Australian, after two years. The budget papers—and I gave the references to the Assistant Treasurer in my question today—show that to be a fact. There is a graph in the budget paper which sets out the growth in revenues for income tax.

Senator PATTERSON (Victoria—Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs and Parliamentary Secretary to the Minister for Foreign Affairs) (3.10 p.m.)—Once again, the ALP is trying to justify its poor economic credentials by trying to tear down this government’s responsible budget and the initiatives of this government and by trying to attack the government’s economic performance. In doing so, the ALP is trying to hide what a dismal mess it left. Actions speak louder than words. When you look at the actions of the former Labor government, you see exactly what sort of economic disaster they left us with. After 13 years of government, they are not prepared to admit that they left us with an 11.2 per cent unemployment rate and that they left us with $80 billion worth of debt.

It is very hard for the Australian public to understand what $1 billion means. It is hard for me to comprehend $1 billion. They left us with $80 billion and the interest on that $80 billion of debt was the equivalent of what was being spent on education and one other whole portfolio. So we saw whole portfolio budgets being eaten up by paying interest on the debt. What they did was live off the next generation—live off future Australians, young Australians. Senator Stott Despoja comes in and says that she represents young people. I did not hear her bleating about the appalling debt that the Labor Party was getting us into. Before the last election, they hid the fact that there was an extra $10 billion worth of debt, a $10 billion black hole in the budget.

When they were caught out and it was pointed out that we inherited a $10 billion deficit that they had failed to tell us about, along with the other $70 billion of debt, Gareth Evans, who then, thankfully for the Australian public, became the shadow Treasurer, said, ‘Yes, but that was a deficit that would have and could have been corrected.’ Then he went on to say, ‘You have to have a reliable Treasury and it was the Treasury forecast that let us down.’ That was what he said on Nightline in May 1998. He said, ‘It wasn’t the product of any big spend-up or any undiscipline by the Labor government; it was just some lousy figuring by Treasury on their inflation and growth projections which had serious implications on the revenue side.’ That is the way he explained away $10 billion.

What else did they do? Somebody on the other side asked a question about the foreign aid program today. The implication was that the Labor Party would spend more money on foreign aid. Let me ask you: where would they get it? Would they get it from increasing taxes? Most probably the answer is yes because they did not want to get rid of the Timor levy. Would they get it by rolling back the GST? Most probably the answer is yes. But ask us what they are going to roll back and we will tell you the complications in that. Or would they get it from borrowing from overseas? Maybe they would because they are very good at borrowing. They borrowed $80 billion in the last five years in government—$10 billion of which they failed to tell us about. They were borrowing $1 billion a year to pay for social security fraud. Senator Newman has rolled back, in
terms of social security fraud and overpayments, $1 billion a year. Of that $10 billion that they had borrowed in their last year, $1 billion was borrowed from the future of every young person in Australia, $1 billion was borrowed to pay for social security fraud. That is the record of mismanagement of the Labor government.

What else did they do? They sold Qantas, the Commonwealth Bank and the airports and put that money into recurrent funding. They did not use it to retire debt. The $80 billion debt is now back to $50 billion—we have retired $30 billion of that debt. We have reduced the interest payment on that. If the Labor Party came back in, we would be looking at them borrowing money, going on a spending spree, putting up taxes and borrowing from Australia’s future, instead of having a sensible and balanced policy which would enable economic growth, reduce inflation, reduce interest rates, reduce unemployment and give young people in Australia a future and not borrow from their inheritance.

The coalition is about delivering sustainable long-term growth and fully funded taxation reform that delivers the tax cuts that we promise, unlike Labor who promised 1-a-w law tax cuts and then reneged on them. (Time expired)

Senator CONROY (Victoria) (3.15 p.m.)—I am disappointed that Senator Kemp has been unable to stay to listen to the debate, although I hope he is listening in his office. Senator Kemp and I had a budget breakfast debate this morning with the Institute of Chartered Accountants. Senator Kemp both at the budget breakfast and here today quoted from the newspapers. The breakfast was early this morning, and he probably sat up late working on his speech, so when he arrived at the breakfast, I am sure they said, ‘We have so many papers with so many quotes about the budget, but we have only had time to collect these one or two for you.’ I was hoping he would be here to hear the newspaper headlines that he missed because he clearly has not had a chance to read today’s papers. I will give a small sample of the headlines from today’s papers.

Senator Carr—The Australian, for example.

Senator CONROY—The Australian is an excellent choice to start with, Senator Carr. The headline in the Australian is ‘Dial-a-surplus’.

Senator Ferguson—That is one of the Murdoch papers.

Senator CONROY—The headline in the Age—not a Murdoch paper—is ‘Costello juggle draws fire’. The headline in the Sydney Morning Herald—not a Murdoch paper—is ‘Costello the gambler’. ‘Suspect surplus’ says the Sydney Morning Herald; ‘Phoney surplus’ says the Financial Review; ‘An illusionary budget surplus’ says the Age; ‘Budget shows policy hypocrisy’ says the Australian; ‘Tímor tax: fraud on the electorate’ says the Australian; ‘Budget surplus a lot of hot air’ says Malcolm Maiden in the Age; Steve Burrell in the Sydney Morning Herald says, ‘A big fat zero and credibility is in deficit’; Bryan Frith in the Australian says, ‘Budgetary cures across the spectrum reek of snake oil’; and Mark Westfield in the Australian says ‘It’s magic: plucking money from thin air’. I will disappoint Senator Ferguson here today, but the real corker comes from Stephen Koukoulas in the Financial Review—not a Murdoch paper—and the headline is—

Senator Ferguson—He is a Labor supporter.

Senator CONROY—He has not often been a Labor supporter. I am not meaning in any way to cast aspersions on Mr Koukoulas, but I am willing to bet that, if I counted the articles, you would be ahead of us. His headline reads: ‘Costello pulls very iffy rabbit out of hat’. He starts his column by saying:

There was a hope that the Treasurer would pull a rabbit out of a hat in the 2000-01 Budget. Alas, the rabbit was dead. And it is starting to smell. It is a big-spending, big-taxing budget. There is a pea and thimble illusion regarding the size of the overall public sector in Australia.

And that goes to the heart of the credibility of this document. This is a document that delivered us lower growth, lower employment growth, higher inflation and—although
you will not see the figures added up in the document— for the first time ever they have admitted, but not by adding the numbers up, that the inflation rate in the June quarter will be 6 ¾ per cent; and that is based on all their very favourable assumptions.

We have seen the dodgy assumptions about world growth and exports. Apparently Treasury has not noticed that Japan is in recession; apparently Japan is coming out of recession because the Australian Treasury has decided it is. It has been in recession now for almost 10 years but, according to the Treasury document, Japan is about to come bursting out of the blocks and deliver us some export income above and beyond what we have been able to muster from Japan for the last 10 years. The Treasury has not noticed that Alan Greenspan will put up interest rates in America. That will have a double whammy effect because it will further slow the American economy and that will lead to knock-on effects in Australia, where we will have more interest rate increases.

Senator LIGHTFOOT (Western Australia) (3.20 p.m.)—I find it a bit rich that the other side completely forget—

Senator Conroy interjecting—

Senator LIGHTFOOT—Yes, and some of them are literally rich, too. I find it a bit odd to accept that the Labor Party can stand up in this august chamber and criticise the government for bringing in a surplus. This is not the smoke and mirrors budget of 1996 when there was going to be a surplus in that budget. What did we find out when we came in? We found not a surplus but a $10.4 billion deficit. That is the only year since this government has been in office that there has been a deficit— because of that $10 billion fiscal hoodwinking by the other side.

It only confirmed my suspicions when I came into this federal parliament: you cannot trust the Labor Party, federally or in the states, with the till. They are irresponsible when it comes to matters fiscal. You cannot do it. I thought, ‘$10 billion: this reeks of the Khemlani years again!’ What were they going to do? Were they going to borrow $10 billion again from the Saudi Arabians, as Mr Khemlani was going to do, to prop up the government in those awful years of the 1970s? Was that what they were going to do? Yet they have got the temerity—and the audacity, I might say—to stand here and criticise the government for bringing in one of the best budgets that this chamber has seen for 90 years.

What have we done? We have taken what my colleague Senator Patterson referred to as $30 billion off the $80 million debts that Labor had racked up, but she meant to say $50 billion and I correct that at her direction. We have taken $50 billion off the $80 billion that the Labor Party had racked up to the taxpayers of Australia. We are going to reduce unemployment further, to 6 ¾ percent. Incidentally, in doing that, in that wonderful single move of reducing that deficit, we have not done that sort of thing for 90 years, not since 1910 and the Scullin government has there been anything like this. And we did it without borrowing any money. The temerity of that opposition to say to us that we have delivered trickery, a pea and thimble trick, to the people of Australia! I find that a bit hard to swallow, when you look at the history of the other side.

What have we done besides that? Let me get in, in the few minutes that are available to me, something that I think is part of the great budget for the year 2000-01, and that is for older Australians and veterans, whom I have a great interest in. Weekly pensions have been increased by 25 per cent of the total male average weekly earnings. Hearing services—and someone on the other side criticised us with respect to hearing services!— will get $460 million over four years to be spent on ensuring quality hearing services.

Senator Carr—That is a reduction, Ross.

Senator LIGHTFOOT—I am not quite sure whether Senator Carr is interjecting or whether he has got Tourette syndrome. Whatever it was, I cannot understand what he was saying. Then for quality nursing
homes there will be $11.7 million for an accreditation and compliance system and $6.4 million over four years for subsidised accreditation. Simplifying the income testing process for residents of aged care facilities gets $10.9 million. The veterans home care program will free up to 20,000 places in general home and community care programs. The National Strategy for an Ageing Australia gets $6.1 million to continue. There are adjustment grants for small and rural care facilities: $30.8 million to ensure that people in rural and regional areas have access to quality age care.

I find some of the things that the other side have said quite appalling. It is not just knocking the government; it is knocking your own country. I get a bit sick and tired of you blokes on the other side knocking Australia all the time. You are not just trying to bring down this government; you are actually denigrating your own country. This is a wonderful country. It is a wonderful budget. It was delivered by a wonderful government. I trust and hope and pray that we keep you away from that treasury bench—because you are fiscally irresponsible—for many, many years to come.

Senator SCHACHT (South Australia) (3.25 p.m.)—I rise to take note of the answers incompetently given by the government in trying to explain this misbegotten budget they put before us last night. In particular, I support the remarks made by Senators Cook and Conroy, commenting about the general figures and the false assumptions in this budget. I want to turn to the question I asked of Senator Ellison representing the Minister for Veterans’ Affairs. I do it now with even more enthusiasm, in view of the fact that Senator Lightfoot raised the issue of what this budget did for veterans.

Senator Lightfoot did not point out something—as I in my question to Senator Ellison pointed out. It is true that there was a transfer of the veterans home care service from being administered and run by HACC to now being taken over by the Department of Veterans’ Affairs. That in itself I would support. I think it is better to have veterans treated in all the services they need by the Department of Veterans’ Affairs. However, Senator Lightfoot and Senator Ellison did not point out what is in the budget papers. Certainly, Senator Lightfoot, you were right to say that the budget papers show for the HACC department, on page 112, that the measure of transferring the veterans home care service to the Department of Veterans’ Affairs will in fact increase the reach of HACC programs by potentially 20,000 people. That means that they have identified 20,000 veterans who are presently getting HACC support and they will now get it through Veterans’ Affairs. Fine.

But when you go to Budget Paper No. 2 and to the portfolio budget statements dealing with Veterans’ Affairs taking over this new program, page 38 of the portfolio statement for Veterans’ Affairs says, when you look through the out years, under ‘Veterans Home Care’, that in total $57 million is going to be the savings required or the cuts imposed by this government on veterans. They will have to deliver the same amount of service that HACC delivered, but with $57 million less. That is in the budget paper on page 38, and it is also in Budget Paper No. 2 on page 166. You did not see any press statement from the minister giving these figures, nor from the Treasurer. Even though the Treasurer in his budget speech last night mentioned about the transfer to Veterans’ Affairs, they did not mention that they had imposed a $57 million cut over four years on how this program is to be delivered.

What they have imposed on Veterans’ Affairs is a disgraceful con trick. They have announced that there is additional money to provide extra services for Vietnam veterans as a result of the morbidity study. The opposition supports that. They have also announced increased benefits for the review of the service entitlements for service men and women from 1955 to 1975 in South-East Asia. That in total comes to an average increase of about $14 million a year. But what they then imposed on Veterans’ Affairs was, ‘You have got to go and find as much savings as you can to pay for this increase.’

What have they done? They pulled an old trick. They said, ‘You take over the running of the veterans home care program from
HACC, and you’ve got to find, over four years, savings of $57 million.’

Senator Lightfoot—Rubbish!

Senator SCHACHT—It is in the budget papers, Senator Lightfoot. This is a disgrace to the veterans. It means you either will have to reduce the quality of service and the number of people that can have access to a hospital or you will have to reduce some other benefit that the veterans department has to make up to a total of $57 million. This is a pea and thimble trick. It is an example in the micro of what you have tried to do in the macro in this budget—using pea and thimble tricks to hide the reality that there is a structural deficit in the budget. All the assumptions in this budget for the next 12 months are dodgy, as most respected commentators have said. The budget for the veterans affairs department shows that what you have done to veterans in the micro is what you have done in the macro. This is a disgraceful outcome. I look forward very much to the Senate estimates committee and to asking further questions on this matter. (Time expired)

Question resolved in the affirmative.

Environment: Funding

Senator BARTLETT (Queensland) (3.30 p.m.)—I move:

That the Senate take note of the answer given by the Minister for Industry, Science and Resources (Senator Minchin), to a question without notice asked by Senator Bartlett today, relating to the 2000-01 budget and funding for the environment.

As always happens at budget time, governments are happy to trumpet various amounts of funding they are putting into particular programs, and yet when, as often happens, you look behind the trumpeting you see that what is being put into various programs is actually being cut in many aspects. In the area of the environment—an area that the Prime Minister himself has stated is one of major significance—particular components of which, such as salinity, are huge problems of national importance, the government’s funding commitments do not reflect their rhetoric. Funding for some of the programs such as Waterwatch and Rivercare for the Murray-Darling 2001 program is clearly going downwards, according to the government’s own papers, and their forward projections are that it will continue to go down.

I think that points to the other major looming concern in relation to the government’s environment funding: the huge gap that is appearing as the Natural Heritage Trust runs out. Despite the government’s commitment at the time the Natural Heritage Trust was established from some of the proceeds of the sale of the first parts of Telstra that no money would be used to replace core program items in the environment department budget, that commitment clearly has not been kept and NHT money clearly has replaced basic core environment department funding over a number of years. That will leave us with a situation where, when the NHT runs out at the end of next year, there will be a massive hole in this country’s environment budget at a time when we are slowly starting to realise the enormity of some of the environmental problems that we have and the huge funds that are needed to remedy some of these situations. The Prime Minister’s own Science, Engineering and Innovation Council, at their meeting to look into dry land salinity and its impact on rural industries, highlighted the hundreds of millions of dollars cost because of lost productive agricultural land, lost production and other costs to farmers, and yet their overall input into it is decreasing rather than increasing.

In his answer today to my question, Senator Minchin went on at length—as ministers tend to do about some of the government’s marvellous environment measures and the funding it has put into them—and congratulated his government on that performance. I think it is worth highlighting that, were it not for the Democrats and the more than one billion dollars we have managed to get out of this government in environment funding as part of various negotiations and agreements in the course of this last year, it would not even be a case of treading water in the environment budget as shown last night; we would have had a massive decrease in the overall funding for the environment. I think it is worth highlighting that the government and the minister, Sena-
tor Hill, or his representative, Senator Minchin, should be glad that the Democrats have been forcing the government to spend more than they wish to in these areas, because otherwise they would have absolutely nothing to trumpet in their budget.

If you look at their overall statement ‘Investing in our Natural and Cultural Heritage’ that was put out last night and all the new measures that are contained in it in terms of overview of funding for the environment, virtually every single one of them was squeezed out of this government by the Democrats. From major expenditure items such as the Greenhouse Gas Abatement Program—over $400 million—to smaller measures such as the alternative fuels grants scheme, the national biotechnology strategy and the development and commercialisation of renewable energies, virtually all those measures, apart from Adelaide airport noise amelioration, were Democrat initiatives and measures that the government was forced to agree to. It is worth pointing the finger not just at the looming major hole in the environment budget in a couple of years time but at the fact that we are treading water or indeed going slightly backwards in this year’s environment budget. Were it not for the Democrats and the multimillion dollar measures that we have managed to get out of this government over the last 12 months, we would indeed have a huge hole present even now. It is a major problem and it is one that the government must fix before the next election. (Time expired)

Question resolved in the affirmative.

NOTICES

Presentation

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

That the Senate—

(a) notes that:

(i) 12 May 2000 is Loud Shirt Day, and

(ii) Loud Shirt Day aims to raise community awareness of hearing impairment;

(b) congratulates the Coral Barclay Centre for Children with Hearing Impairment on being awarded the Alexander Graham Bell Association for the Deaf Program of the Year 1999, for excellence in services rendered to deaf children and their families; and

(c) notes that this is the first time that a centre outside North America has received this award in its 100-year history.

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

That the Senate—

(a) notes that the report of the Rural and Regional Affairs and Transport Legislation Committee on the Albury-Wodonga Development Amendment Bill 1999 identified inequalities in relation to local government rates foregone by Albury City Council and Hume Shire Council since 1973;

(b) calls on the Government to address the inequities identified in the committee’s report by providing for infrastructure investment an amount of money equivalent to the rate payment plus interest which would have been made by the Albury-Wodonga Development Corporation to local government since 1989; and

(c) urges the Government to use this grant to assist with funding a second road link across the Murray River, thereby obviating the need for the highly unpopular internal Albury-Wodonga freeway bypass.

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

That the Senate notes that the so-called biggest tax cuts in history disappear in just one year but the goods and services tax remains forever.

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

That the Senate—

(a) notes that BHP’s new Australian-based manufacturing operation, Market Mills, will set up headquarters in Newcastle;

(b) recognises that Market Mills will employ 1 800 people in Newcastle and will combine the already Newcastle-based Rod and Bar, Wire, Structural and Pipeline and the Sydney Steel Mills;

(c) notes that Smorgans is continuing the arc furnace production of steel and that Austeel is proposing Australia’s only production of specialist stainless steels at Steel River in Newcastle; and
(d) welcomes the continued growth of Newcastle’s steel industry despite the closure of BHP’s steel smelting division.

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

That there be laid on the table by the Minister representing the Minister for Transport and Regional Services (Senator Ian Macdonald), no later than immediately after questions without notice on 5 June 2000, a response to the final report prepared for the Federal Office of Road Safety by Roaduser International Pty Ltd, Investigation into the specification of heavy trucks and consequent effects on truck dynamics and drivers, which sets out action proposed by the Government in respect of each recommendation in the report, and will assist those vehicle owners who have been directly affected, both financially and in terms of their personal health, by the impact of faulty truck design on their businesses, particularly those on the verge of bankruptcy.

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

That the Senate—

(a) notes:

(i) the New South Wales Carr Government and the Minister for Education and Training (Mr Aquilina) have mishandled the state budget and cut education funding to some private schools to the tune of 40 per cent, and

(ii) that schools were notified of the cuts after yearly school budgets had been made on the premise of receiving a certain amount of funding, and that some schools were notified after they received reduced cheques;

(b) condemns:

(i) the rate at which the New South Wales Government and the ‘Aquilina levy’ are slugging schools with reduced funding to pay for the State Government’s shortfall in the Olympic budget, and

(ii) the cuts to the funding of private schools, which are forcing parents, particularly from regional and remote areas who have to send their children away from home to attend school, to ‘fork out’ extra money; and

(c) urges the Carr Government to own up to New South Wales taxpayers and admit that a mishandling of the Sydney Olympic Games budget is the reason for budget cuts to most of its social programs.

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

That the Senate notes that:

(a) it is 91 days since former Senator Parer resigned as a senator for the State of Queensland;

(b) the Queensland Liberal Party, whilst having selected a successor to replace Senator Parer, continues to extend the previous Queensland record of 68 days for the replacement of a Queensland senator;

(c) factional fighting in the Queensland Liberal Party and the Liberal Party’s own insistence have ensured that the Queensland Parliament will not be faced with the appointment of a replacement until Tuesday, 16 May 2000 (97 days since Senator Parer’s resignation); and

(d) the day of swearing-in of the successor to Senator Parer is likely to be 5 June 2000 at the earliest (a total of 117 days since Senator Parer’s resignation—a new Australian record); 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 during this time.

NOTICES
Withdrawal

Senator CALVERT (Tasmania) (3.37 p.m.)—On behalf of Senator Coonan, pursuant to notice given on the last day of sitting on behalf of the Regulations and Ordinances Committee, I now withdraw business of the Senate notices of motion Nos 1, 5, 9, 10, 11 and 12 standing in the name of Senator Coonan for 10 sitting days after today.

COMMITTEES
Selection of Bills Committee Report

Senator CALVERT (Tasmania) (3.38 p.m.)—I present the seventh report of 2000 of the Selection of Bills Committee.

Ordered that the report be adopted.

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

The report read as follows—
1. The committee met on 9 May 2000.
2. The committee resolved to recommend—
   (a) That the provisions of the following bills be referred to a committee:

<table>
<thead>
<tr>
<th>Bill title</th>
<th>Stage at which referred</th>
<th>Committee</th>
<th>Reporting date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Taxation Laws Amendment Bill (No. 11) 1999</td>
<td>Immediately</td>
<td>Economics Legislation</td>
<td>20 June 2000</td>
</tr>
<tr>
<td>Family Law Legislation Amendment (Superannuation) Bill 2000</td>
<td>Immediately</td>
<td>Select Committee on Superannuation and Financial Services</td>
<td>14 August 2000</td>
</tr>
<tr>
<td>New Business Tax System (Alienated Personal Services Income) Tax Imposition Bill (No. 1) 2000</td>
<td>Immediately</td>
<td>Environment, Communications, Information Technology and the Arts</td>
<td>8 June 2000</td>
</tr>
</tbody>
</table>

(b) That the provisions of the following bills be referred to a committee as shown below, subject to the bills having been introduced in the House of Representatives before this report is considered:

<table>
<thead>
<tr>
<th>Bill title</th>
<th>Stage at which referred</th>
<th>Legislation committee</th>
<th>Reporting date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Broadcasting Services Amendment (Digital Television and Datacasting) Bill 2000</td>
<td>Immediately</td>
<td>Environment, Communications, Information Technology and the Arts</td>
<td>8 June 2000</td>
</tr>
<tr>
<td>Telecommunications (Consumer Protection and Service Standards) Amendment Bill (No. 1) 2000</td>
<td>Immediately</td>
<td>Environment, Communications, Information Technology and the Arts</td>
<td>19 June 2000</td>
</tr>
</tbody>
</table>

(c) That the following bills not be referred to committees:
Aviation Legislation Amendment Bill (No. 2) 2000
Primary Industries (Excise) Levies Amendment Bill 2000

The Committee recommends accordingly.

3. The Committee deferred consideration of the following bills to the next meeting:
   (deferred from meeting of 19 October 1999)
Taxation Laws Amendment Bill (No. 10) 1999
   (deferred from meeting of 23 November 1999)
Customs Amendment (Anti-Radioactive Waste Storage Dump) Bill 1999
   (deferred from meeting of 30 November 1999)
Criminal Code Amendment (Theft, Fraud, Bribery and Related Offences) Bill 1999
   (deferred from meeting of 11 April 2000)
Customs Amendment (Alcoholic Beverages) Bill 2000
Excise Amendment (Alcoholic Beverages) Bill 2000
International Tax Agreements Amendment Bill (No. 1) 2000
Petroleum Excise Amendment (Measures to Address Evasion) Bill 2000
   (deferred from meeting of 9 May 2000)
Environmental Legislation Amendment Bill (No. 1) 2000
Financial Sector Legislation Amendment Bill (No. 1) 2000
Fuel Sales Grants Bill 2000
Fuel Sales Grants (Consequential Amendments) Bill 2000
Product Grants and Benefits Administration Bill 2000
New Business Tax System (Integrity Measures) Bill 2000
New Business Tax System (Miscellaneous) Bill (No. 2) 2000
Privacy Amendment (Private Sector) Bill 2000 (Paul Calvert)
Chair
10 May 2000
Appendix 1
Proposal to refer a bill to a committee
Name of bill(s):
Taxation Laws Amendment Bill (No. 11) 1999
Reasons for referral/principal issues for consideration
To appraise the unilateral over-riding of Australia’s treaty obligations by amending domestic legislation. To address retrospectivity, start dates and other.
Possible submissions or evidence from:
Treasury, Corporate Tax Association, Institute of Chartered Accountants in Australia, Australian Tax Office
Committee to which bill is referred:
Economics Legislation Committee
Possible hearing date:
Possible reporting date(s): As soon as practicable
Vicki Bourne
Appendix 2
Proposal to refer a bill to a committee
Name of bill(s):
Family Law Legislation Amendment (Superannuation) Bill 2000
Reasons for referral/principal issues for consideration
To inquire and report on the provisions of the bill. Principal issues (non-exclusive list):
- impact on Superannuation Complaints Tribunal
- cost implications of bill – including cost of education campaign to promote bill, and tax implications due to splitting of ETPs
- requirement for legal advice
- interaction with Consequential Amendments Bill to be introduced
Possible submissions or evidence from:
Law Council of Australia, superannuation industry, AGS, ATO
Committee to which bill is referred:
Senate Select Committee on Superannuation and Finance Services
Possible hearing date:
At the discretion of the committee.
Possible reporting date(s): 14 August 2000
Kerry O’Brien
Appendix 3
Proposal to refer a bill to a committee
Name of bill(s):
New Business Tax System (Alienated Personal Services Income) Tax Imposition Bill (No. 1) 2000 and related bills
Reasons for referral/principal issues for consideration
To appraise the effectiveness and impact of these bills on anti-avoidance measures.
Possible submissions or evidence from:
Treasury, Australian Tax Office, CFMEU, ACTU, Housing Industry Association, Master Builders Association, Australian Chamber of Commerce and Industry
Committee to which bill is referred:
Economics Legislation Committee
Possible hearing date:
Possible reporting date(s): As soon as practicable
Vicki Bourne

NOTICES
Postponement
Items of business were postponed as follows:
General business notice of motion no. 553 standing in the name of Senator Allison for today, relating to welfare services for at-risk school students, postponed till 11 May 2000.

COMMITTEES
Rural and Regional Affairs and Transport Legislation Committee
Extension of Time
Motion (by Senator Calvert, at the request of Senator Crane)—by leave—agreed to:
That the time for the presentation of the report of the Rural and Regional Affairs and Transport Legislation Committee on the Australian Quarantine and Inspection Service and the importation of salmon be extended to 8 June 2000.

Rural and Regional Affairs and Transport References Committee

Extension of Time

Motion (by Senator Bartlett, at the request of Senator Woodley)—by leave—agreed to:

That the time for the presentation of reports of the Rural and Regional Affairs and Transport References Committee be extended as follows:

(a) the development of the Brisbane Airport Corporation’s Master Plan for the future construction of a western parallel runway—to 29 June 2000; and

(b) air safety—to 14 September 2000.

KEYS, SIR WILLIAM

Motion (by Senator Abetz, also at the request of Senator Schacht and Senator Bourne)—as amended by leave—agreed to:

That the Senate—

(a) notes:

(i) the death of Sir William Keys in Canberra on Wednesday, 3 May 2000,

(ii) Sir William’s service with the army in New Guinea and Borneo during World War II, where he was wounded in the Battle of Tarakan,

(iii) Sir William’s distinguished service in Korea with the Third Battalion, Royal Australian Regiment, which was recognised with the Military Cross,

(iv) Sir William’s contribution to the Returned Services League, serving as the President from 1978 to 1988 and as the National Secretary from 1961 to 1978, and

(v) the dedication of Sir William, like many Australian servicemen and servicewomen who have served in Asia, to improving relations with the region and support for human rights; and

(b) extends its condolences, on the death of Sir William, to his wife Dulcie, and their daughters Elizabeth, Amanda and Tammy.

COMMITTEES

Public Accounts and Audit Committee

Report

Senator CALVERT (Tasmania) (3.41 p.m.)—On behalf of Senator Gibson, I present the following report and documents of the Joint Committee of Public Accounts and Audit:


Executive Minutes on Joint Committee of Public Accounts and Audit report:

No. 366—


Department of Employment, Workplace Relations and Small Business executive minute, dated 29 September 1999 and covering letter, dated 30 September 1999.

No. 367—

Australian National Audit Office executive minute and covering letter, dated 6 October 1999.


Senator CALVERT—I move:

That the Senate take note of the documents.

Leave granted.

The statements read as follows—

REPORT 375 ANNUAL REPORT 1998-1999

Madam President, on behalf of the Joint Committee of Public Accounts and Audit, I present the Committee’s Report No. 375—Annual Report 1998-1999.

Madam President, under the Public Accounts and Audit Committee Act 1951 (PAAC Act), the
JCPAA is required to prepare a report on the performance of its duties during the year. I will briefly discuss the Committee's highlights of the year.

This financial year saw the consolidation of the Joint Committee of Public Accounts and Audit's role as the Audit Committee of the Parliament with its new responsibilities under the Auditor-General Act, 1997 coming into effect on 1 January 1998.

The Committee has long supported the concept of the Auditor-General being an independent officer of the Parliament. In 1996 it tabled a report entitled Guarding the Independence of the Auditor-General which recommended legislative guarantees of audit independence for the Auditor-General and an extension of the Auditor's mandate to include performance audits of Government Business Enterprises. The report also recommended an enhanced role for the Committee in the appointment of the Auditor-General and Independent Auditor and in determining the level of appropriations for the Australian National Audit Office. The Committee's recommendations were incorporated into the present legislation.

On 4 February 1999 the Committee exercised its review power to approve the appointment of an Independent Auditor for the Commonwealth by holding a public hearing to consider the suitability of the Government's nominee for the position. By means of this approval process the Committee sought assurances that the nominee was suitably qualified for the position, whether there was any existing or potential conflict of interest, the extent of the nominee's experience with audits of Commonwealth agencies, and of the resources available to undertake such audits. After examining the nominee, Mr Michael Coleman of the accounting firm KPMG, the Committee affirmed its approval of the appointment.

The Committee also considered the draft budget estimates of the Australian National Audit Office by means of a slightly revised process. The Committee sought and obtained the agreement of the Minister for Finance and Administration to table its Report on the draft estimates before the Budget was brought down on 11 May 1999.

Inquiry Highlights

Committee reports tabled during the 1998-99 financial year included those on the New Submarines Project of the Department of Defence, on Asset Management by Commonwealth Agencies and on Australian Government Procurement. In addition two review reports of hearings on Auditor-General Reports for the second and third Quarters of 1997-98 were tabled.

The Committee was invited to carry out an inspection of one of the Collins Class Submarines by the Managing Director of the Australian Submarine Corporation (ASC) Mr Hans Ohff. The inspection took place on 28 April 1999.

In its review of the management of Commonwealth assets the Committee found that a cultural change was needed in order for public servants to better appreciate the value of the assets they manage. Such change should, in the Committee's view, be actively promoted by agency chief executives, as well as by the Department of Finance and Administration through an asset management forum for the sharing of expertise.

The issue of the management of Commonwealth Government purchasing is the subject of another of the Committee's inquiries for the year. Like asset management, procurement is another function which has been devolved to agencies. The Committee found that the rate of devolution in recent years had resulted in inconsistent service delivery, and in a loss of oversight and coordination of purchasing at the whole of government level.

Recent Committee inquiries into public service agencies have demonstrated shortcomings with respect to contract management. Such findings are significant in an environment where many government services have been subject to commercial contestability and contracting out and in which responsibility for successful risk management has been devolved to agency heads. The Committee has embarked on an inquiry into contract management in the Australian Public Service in an attempt to identify systemic problems in contract administration and to develop better practice standards which can be applied across agencies.

The biennial conference of the Australasian Council of Public Accounts Committees (ACPAC) held in Fremantle during 22-23 February 1999 provided the JCPAA with the opportunity to brief members of public accounts committees from the States, Territories, New Zealand and Papua New Guinea, on the range of its new responsibilities under the amended Public Accounts and Audit Act. The JCPAA Chairman, Mr Bob Charles MP, was elected Chairman of ACPAC for the years 2000-01.

May I conclude, Madam President, by thanking the secretariat for its support throughout the year. Madam President, I commend the Report to the Senate.

REPORT 366: Review of Auditor-General's Reports 1997-98, Second Quarter

As part of this review, the Committee examined two performance audits of the Auditor-General
which focused on equity in employment in the Australian Public Service, and matters relating to a contract between the Department of Employment, Education, Training and Youth Affairs (DEETYA) and South Pacific Cruise Lines Limited (SPCL).

The JCPAA made four recommendations which were agreed to by the Government.

REPORT 367: Review Of Auditor-General's Reports 1997–98, Third Quarter

This quarterly report examined three performance audits of the Auditor-General which focused on DEETYA International Services, the sale of Brisbane, Melbourne and Perth Airports, and selected functions of the Child Support Agency. The Committee made four recommendations which Government has supported.

REPORT 368: Review Of Audit Report No. 34 1997–98, New Submarine Project, Department Of Defence

Madam President, the Committee gave top priority to its review of the New Submarine Project. The review examined findings raised by the Auditor-General in Audit Report No. 34. Of the Committee’s seven recommendations, six dealt with administrative matters and one with policy issues. The Government has supported the six recommendations relating to administrative matters.

The Committee's policy recommendation number five is currently under consideration by the Minister for Finance and Administration. As part of this recommendation, the Committee requested that legislative provision be provided for, either through amendment of the Auditor-General Act or the Finance Minister's Orders, to enable the Auditor-General to access the premises of a contractor for the purpose of inspecting and copying documentation and records directly relating to a Commonwealth contract. The Committee considers access powers proposed in this recommendation are an essential part of enhancing Parliamentary scrutiny of Executive Government and, accordingly, will monitor progress with this recommendation.

REPORT 369: Australian Government Procurement

The Committee made 12 recommendations of which 11 were responded to as part of a Government response in November 1999. The Executive Minute responded to Recommendation 9 which was supported by the Government.


This quarterly report examined three performance audits of the Auditor-General which focused on aviation security in Australia, the planning of aged care, and the costing of services. The Government supported, supported with qualification, and noted the three recommendations made by the Committee.

Madam President, in conclusion I am pleased with the high rate of support for the Committee’s recommendations as indicated in these Executive Minutes. However, in addition to noting Executive minutes in this way, the Committee will at various times seek to monitor the extent to which recommendations have been implemented.

Question resolved in the affirmative.

Scrutiny of Bills Committee

Senator O'BRIEN (Tasmania) (3.42 p.m.)—On behalf of Senator Cooney, I present the sixth report of 2000 of the Standing Committee for the Scrutiny of Bills. I also lay on the table Scrutiny of Bills Alert Digest No. 6 of 2000, dated 10 May 2000.

Ordered that the report be printed.

HEALTH LEGISLATION AMENDMENT (GAP COVER SCHEMES) BILL 2000

Report of the Community Affairs Legislation Committee

Senator CALVERT (Tasmania) (3.42 p.m.)—On behalf of Senator Knowles, I present the report of the Community Affairs Legislation Committee on the provisions of the Health Legislation Amendment (Gap Cover Schemes) Bill 2000, together with the Hansard record of the committee’s proceedings and submissions received by the committee.

Ordered that the report be printed.

COMMITTEES

Community Affairs Legislation Committee

Senator KNOWLES (Western Australia) (3.43 p.m.)—I present the report of the Community Affairs Legislation Committee on the reconvened additional estimates hearing concerning the investigations into magnetic resonance imaging scanner installations, together with the Hansard record of the committee’s proceedings.

Ordered that the report be printed.
Auditor-General’s Reports

The DEPUTY PRESIDENT—I understand that an arrangement has been reached outside the chamber, and I table the report of the Auditor-General relating to magnetic resonance imaging services at this stage in the proceedings in order to facilitate a single debate on the Auditor-General’s report and the report of the Community Affairs Legislation Committee on the same subject. Therefore, in accordance with the provisions of the Auditor-General Act 1997 I present the following report of the Auditor-General:


Senator CHRIS EVANS (Western Australia) (3.45 p.m.)—I move:

That the Senate take note of this document and of the report tabled earlier today.

This Auditor-General’s report is the most damning indictment of a minister that you could possibly expect to receive from an Auditor-General. It proves the case that the ALP has prosecuted in this place and at estimates committee inquiries for the last two years. It establishes that, as a result of a meeting almost two years ago to this day, the minister leaked to a group of radiologists details of a supply-side budget measure dealing with MRI machines. As a result of him providing information to those radiologists at that meeting on 6 May, they went out and purchased machines. A number of the machines were purchased by members of the committee present at that meeting, but the rest of the industry got to hear of this decision as well. We have evidence that 33 new MRI machines were purchased in the four days following that meeting in the lead-up to the budget, at a cost of about $3 million each. You do not go out and buy an MRI machine off the rack and you do not go out and commit $3 million of your own money unless you are pretty sure you are going to get a return on that money.

As a result of the meeting on 6 May, those radiologists, and other radiologists who were informed of the decision, knew that they would get a return on their money. How would they get a return on their money? Because the taxpayers of Australia would pay for it through Medicare rebates. The minister leaked information which resulted in every Australian taxpayer in this country having to pay more taxes—he leaked what was in the budget. The Auditor-General draws the links and makes the case that, as a result of the minister raising that issue in the meeting, the radiologists knew what was in the budget. The minister had got the tick the day before and when he went along to meet with the radiologists to finalise the agreement they were seeking to make on control of radiology measures he gave them this information.

The Auditor-General found that all of the radiologists at that meeting said that the minister or someone from the government raised this issue. There was a discussion that the budget might include a measure meaning that machines on order at the date of the budget—on 12 May—would receive Medicare rebates. Only 50 or so machines were currently in operation in Australia at the time, but 33 more machines were ordered in a matter of four days. You do not go out and spend $3 million on a whim or on the basis of a rumour; you go out and spend that if you know something. The radiologists at that meeting knew about this because Dr Wooldridge had told them. He told them, so they were in the know about the budget decision. This is insider trading at its worst and it has cost every taxpayer in this country money.

The minister has to resign. He has failed all standards required of a minister. He leaked a commercially sensitive decision that cost the taxpayers of Australia millions of dollars. The Auditor-General has established that case. The Labor Party has pursued this for two years. The minister at every stage has sought to delay the inquiries and has refused to provide answers to avoid a proper investigation, but after three investigations we finally got there. The Auditor-General sets it out chapter and verse. People ought to read this report because it is a stunning indictment
of the minister—it proves that he leaked budget information. In trying to curry favour with the radiologists and in trying to get a deal on longer-term measures, he told them what was in the budget.

One of the reasons we know that is that the people at the meeting told us, and they gave affidavits to the Auditor-General to establish that. But a whole range of other facts are now being revealed that establish the case that there was a budget leak and that the leak came from the minister. I could never understand, when pursuing this matter, why there was not an investigation. I kept asking the department at estimates: why did you not have the normal budget leak inquiry—call in the investigators, check telephone records and do all those sorts of things? Do you know why there was no budget leak inquiry? Because they knew who had leaked it. They knew it came from the highest placed person possible in the whole operation: the minister. As a departmental secretary you cannot order an inquiry into a leak when you know that the culprit is the minister. That is why there was never an investigation. In two years there was never a proper investigation into the leak. The best that happened is that a couple of senior officers had a chat. They all agreed that it was not them and they dropped the matter. No-one worried about the millions of dollars it cost taxpayers and no-one bothered to pursue it. Why? Because they knew where the leak had to come from.

There were only three people present at the meeting where the critical information was passed to the radiologists: the minister, his adviser and one departmental bureaucrat. That bureaucrat, after one round of estimates, was transferred to the blood bank and has not been seen since. We have not been able to question her about what happened. The key person at that meeting—the lead negotiator for the government—was the minister. The Auditor-General nails him, and nails him good and proper. He says that, because of that meeting, the radiologists knew and therefore went out and acted. As I say, you do not spend $3 million of yours or anybody else’s money unless you know something. They knew that they needed Medicare rebates to make those purchases profitable—to get a return on their money. So they went out and purchased 33 machines. Talk about a Christmas spree!

That means that they purchased eight machines per day. They were out there buying machines hand over fist. Why would you do that, when there had been only 50 or so machines in Australia in the 20 years before that? They did it because they knew that they were going to get a return. Minister Wooldridge said to them, ‘You will get a return for your buck because the rebates are in the budget. The Prime Minister signed off on it yesterday, so you are okay.’ We also know that the radiologists, as a result of that meeting, signed up to the deal. This was a two-way process: they gave something, so they got something back. The minister’s and the department’s defence would have us believe that the radiologists signed up to the deal not knowing what was going to happen in terms of the supply of machines—that they were somehow that naive that they were going to agree to an arrangement which would cap their income while not knowing how many MRI machines they were going to be able to access to generate that income. You have to accept that they were either very naive or complete fools if they were going to sign up not knowing what his side of the bargain was.

What we do know is that the minister knew on 6 May because the Prime Minister and cabinet had ticked off on his side of the bargain, and he told them, ‘The deal can be finalised today because I know what is in the budget. It’s all fixed. You blokes will be happy. You can sign the deal.’ That is what happened. His actions caused a significant drain on the Commonwealth purse. Millions of dollars were spent on funding MRI rebates on machines that should never have been approved and would never have been purchased without the leak. We know all that. We know that since then they have had to rescind that decision, but again it took almost two years for them to rescind that decision. The minister has tried for the last two years to hide the facts and to deny that the leak occurred. There was no investigation. Only through the opposition pursuing this has this matter come to light. Otherwise, he was hoping that it would blow over, that he would
get away with it and that no-one would hold him accountable. Well, he is accountable. He must be held accountable by the parliament, he must be held accountable by the Prime Minister and he must resign. This is one of the most serious offences a minister could be accused of, and the Auditor-General has proved the case. The Auditor-General has established the case that the minister leaked budget information as part of his negotiations with radiologists and that as a result there was a blow-out in the order of machines—a commercial advantage to many and a huge cost to the taxpayer.

Despite all the denials that there are any problems and the minister continuing to defend his actions and deny that there has been a problem over the last two years, we have gradually learnt the extent of the problem. We have learnt the fact that there were 50-odd machines ordered over and above what was expected and the fact that many people were in the know because the word got out. But he has denied all this. It has taken three inquiries to finally establish it. I note in the document today that, when questioned by the Auditor-General with some fairly strong legal powers at his control, the minister on this occasion, despite giving very strident denials in the parliament, said, 'I can’t say I didn’t make a comment, but I didn’t disclose the mechanisms of supply.' The minister gave a much weaker response when faced with the Auditor-General pressuring him under oath about what might have happened. This is the minister who has denied that there has been a problem for the last two years and has refused to acknowledge the legitimate public policy concerns here.

We have had three reports into this matter, all providing further evidence of the minister’s bungling and complicity in this leak. One was released on Christmas Eve, one was released on the evening before Good Friday and this one has been released the day after the budget. What a trifecta! And this is a minister who is open and accountable! It just so happens that the return to order documents we have been seeking for a year have been tabled this afternoon as well. It is just too damn convenient. This minister is trying to survive what is a damning indictment of his own performance. He is responsible for costing the taxpayers of Australia millions of dollars. He must go. (Time expired)

**Senator KNOWLES (Western Australia)**

(3.55 p.m.)—I am absolutely astounded at this ongoing assault on the Minister for Health and Aged Care, Dr Wooldridge. I would like to see every member of the opposition party go under oath to give evidence in the way the minister did to the Auditor-General. The fact of the matter is that the allegations constantly being made by Senator Evans, Senator Crowley, Senator Faulkner and anyone else who wants to buy into the system are not being made under oath; they are just wild allegations being made under parliamentary privilege. Go outside these doors and make the same allegations against Minister Wooldridge that you have made in here. The answer to that is that you are not game to do so. As part of the 1998 budget, the minister announced that an important new technology named magnetic resonance imaging would be funded under the MBS.

**Senator Robert Ray interjecting**—

**Senator KNOWLES**—The Labor Party might like to listen for five seconds. They might actually want to know the truth. This announcement was part of a bigger diagnostic imaging package which the Labor Party had completely overlooked for the people of Australia. The people of Australia wanted access to MRI at a reasonable cost. What Minister Wooldridge was trying to do with this policy and what he has actually achieved with this policy is to make that facility available to more Australians at a reasonable cost. That has covered up for a Labor Party failure of 13 years in government when they refused to make such a tool available for imaging. Now there are 17 units accessing public funding in non-metropolitan areas.

**Senator Crowley interjecting**—

**Senator KNOWLES**—Here we have Senator Crowley interjecting again. She does not listen, she did not hear what I said, she has not read the report and still she is trying to correct something that is wrong. It would be lovely if Senator Crowley would go under oath just to wake up in the morning. I want to make sure that the Senate knows the facts
surrounding this. Dr Wooldridge was the one who asked the Auditor-General to inquire into the processes surrounding the development of the 1998 budget measure on MRI and the diagnostic imaging package. It was Minister Wooldridge who set the inquiry in train. The Auditor-General has now released the report of the inquiry into the probity and effectiveness of the arrangements to improve access to MRI. Minister Wooldridge has recognised and thanked the Auditor-General for undertaking such a comprehensive process in a relatively short time frame.

I would like to remind the Senate that this report was requested by the minister, not by anybody else. According to the report, the minister wrote to the Auditor-General on 18 October requesting ‘an audit inquiry into, and reporting on, the probity of the processes surrounding the negotiation of the agreement between the government and the diagnostic imaging profession’. The minister specifically asked the Auditor-General to focus on accusations that people had inappropriate access to budget information that would have given them commercial advantage. The report says that the minister also indicated that ‘he would welcome any observations the Auditor-General may have about how similar processes might best be handled in the future’. The minister also agreed to a request by the Auditor-General to extend the scope of the audit to ‘put beyond doubt the Auditor-General’s authority to cover the role of the minister and that of his staff’ in the process. In short, the minister has nothing to hide. It is in the interests of good government that there be an open and transparent process. That is what the Labor Party do not like. That is not the way they operate. In this regard, the Auditor-General has undertaken a very thorough inquiry.

As the Auditor-General’s inquiry was operating under sections 18 and 20 of the act, he was able to review all relevant documents in the department, the HIC and the minister’s office—including retrieved electronic communications—and to undertake over 75 personal interviews with the minister, his staff, government officials and radiologists. Where the Auditor-General felt it necessary, evidence was taken under oath. The minister gave evidence under oath, yet the Labor Party—who have not shut up for one second since I stood up—still will not say why they will not commit any evidence to oath.

**Senator Robert Ray interjecting—**

**Senator KNOWLES**—Is there any chance that Senator Ray might be shut up in this debate so that I can make some comments? I did not interrupt Senator Evans’s contribution.

**Opposition senators interjecting—**

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order!

**Senator KNOWLES**—The inquiry’s conclusions and findings are important. I note the Auditor-General makes reference to a number of findings and conclusions in relation to the process. In summary, these are as follows. There was:

... no substantive conclusion about inappropriate disclosure of budget sensitive information ...

How did Senator Evans, Senator Ray, Senator Faulkner, Senator Crowley and all the rest of them get from the report that the minister is guilty? It is not in there. The report states:

The Department’s approach to risk management in the development of the MRI policy measure was uneven.

It further states:

... the Department’s management of the probity arrangements surrounding the negotiations for the MRI measure was not adequate for the circumstance ...

It further states:

There was a lack of adequate documentation by the Department ...

It further states that the investigation by the HIC could have been more effectively managed and that the HIC’s procedures for managing the perceived conflict of interest of board members did not work appropriately on all occasions.

With respect to each of these conclusions, I want to make the following point: there was no leak. The report states that no substantive conclusion can be drawn in the light of contradictory evidence. In particular, the Auditor-General found that:

All participants agree that the Minister did not discuss what measures would be in the Budget.
That is paragraph 76, for the Labor Party's reference. Again, the Auditor-General reports:

All College members who attended the meeting of 6 May 1998 agree that the Minister did not reveal Budget measures.

That is paragraph 2.27, for the Labor Party, who cannot read. Further, the report states:

... there is no evidence that the Minister had any discussions between 6 May and Budget day with any parties outside of government with respect to MRI supply measures ...

The inquiry’s findings in this regard are clear. The minister stands by his statements to the House of Representatives and elsewhere and the evidence he has given under oath that neither he nor the officers accompanying him at the meeting on 6 May 1998 leaked any information about the supply-side controls to apply to MRI machines. The Auditor-General also notes that the recollections of most participants in the various discussions do not support the view that the Commonwealth’s consideration of the option of including machines on order as at budget night was discussed with the college prior to the budget. Nor is there any record of any such discussion, including amongst the college records. So let the issue of the leak be put to rest. It just did not happen. But that does not stop the Labor Party claiming that it did. They simply will not read the report. They simply will not look at the way in which the Auditor-General has investigated this matter.

Any process of high-level negotiation carries with it some element of risk. As the ANAO notes in paragraph 34:

High level risks ... were in the overall context identified and managed. However, insufficient consideration was given to risk identification and management for some aspects of the policy development process ...

The key point is that the design of the policy responded to the risks identified. The department put into place a number of eligibility criteria, including siting arrangements, accreditation requirements and comprehensive clinical indicators. There had to be unconditional and enforceable contracts in place at 7.30 p.m. on 12 May, and this had to be attested to by way of statutory declaration. As a result of these measures, the HIC has been able to carry out its investigations, which have resulted in 19 referrals to the DPP. In view of the larger than expected number of applications for eligibility, the minister acted to enforce a cut-off date of 11 October 1999 for these applications. Further, the minister then acted to change the eligibility date from 12 May to 10 February 1998, which was the time that negotiations with the college commenced. As soon as the minister was advised that there were problems on the order side, he took appropriate and decisive action to ensure the government’s objectives could be met without putting the taxpayer at risk.

In summary, risks were identified and responded to appropriately. The report recognises:

... the policy was properly authorised and ... the Department met the formal requirements of the Budget process.

However, there was clearly inadequate documentation of the negotiations with the college and of the development of the supply-side measure itself. This is a matter that the minister has asked his department to pay particular attention to, but this shortcoming is not characteristic of his department in any way, shape or form. The HIC investigations are important. The minister is exceedingly disappointed at the length of time it took the HIC to undertake their investigation. However, the HIC had to be thorough, be fair to all parties and follow a proper process. The magnitude of the possible fraud surprised everyone, not least the HIC investigators. The paper trail was extensive and complex, the number of people that needed to be interviewed was large and there were conflicting stories. The minister is now satisfied that everything that could have been done was done. The matter is now with the DPP, and we should await the conclusions of that process.

On the issue of potential conflicts of interest at the HIC board level, paragraph 119 of the report states that the ANAO found no evidence ‘that the course of the investigation was influenced improperly’. The minister has asked the HIC board to follow up with the audit conclusions on governance matters. It is important to recognise that the Auditor-
General’s findings and conclusions focus only on the role played by the government in the development of the MRI measure. While the minister is disappointed that an inquiry needed to be undertaken at all, the minister is pleased there has been no evidence found of wrongdoing on the part of the government—no evidence whatsoever. For the Labor Party to continue to come in here and say that this report contains evidence is plainly wrong.

Senator Calvert—It is not going to do their image any good.

Senator KNOWLES—That is precisely right, Senator Calvert. It is not doing their image any good, if they ever had one in the first place.

Senator Robert Ray—Just read it, boofhead.

The ACTING DEPUTY PRESIDENT—That is out of order, Senator Ray.

Senator KNOWLES—You have to be one to know one. Naturally, the Auditor-General’s report does not go to the probity of the actions of non-government players. Broadly speaking, the minister is sure that all parties acted in good faith. Other processes, such as the investigations being undertaken by the Health Insurance Commission, should help to complete the picture in relation to actions of particular individuals. But this government did not sit on its hands, unlike Labor; the minister did not sit on his hands. The minister has substantially improved access to MRI at the same time as reining in unsustainable expenditure on diagnostic imaging that ran out of control under Labor.

Senator Crowley—Oh dear, oh dear.

Senator KNOWLES—Senator Crowley could not care less what went out of control under Labor. That is why when she was a minister she was called ‘dozy Rosy’. Notwithstanding particular shortcomings in departmental processes, the overall outcome is a very good one for the Australian public. That is not what the Labor Party are concerned about. The outcomes for the Australian public do not worry them in the slightest. At each step along the way, the minister took action where it was needed and as advised by his department vis-a-vis; the overall agreement with the college; the tightening of the supply-side measures, particularly the statutory declarations; the HIC investigation and report to him; the 11 October cut-off of applications for equipment eligibility; the shifting back of the date for eligible orders from the budget to 10 February 1998; the commissioning of the Auditor-General’s report; and the bringing forward of the review of MRI, the Blandford report.

In short, the government should be applauded for the measures it has taken for they are delivering a good result for the Australian public. Not once in all of this—I have chaired all the meetings that have been conducted into this inquiry—have the Labor Party recognised the importance of this policy for the people of Australia. It will be interesting today to see whether they finally recognise the importance of this policy for the people of Australia. They failed after 13 years of government to deliver this facility at a reasonable cost. That is what this government has done. And now Labor can do nothing but criticise and be petty and paltry, calling for a minister’s resignation over something that is right and proper and over something which he has been proven to be correct.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (4.10 p.m.)—Senator Knowles has had the benefit of a speech provided by the department and minister, who have had this Auditor-General’s Report No. 42 into MRI services in their hands for over a month—plenty of time, you would think, to prepare a minister’s defence on an issue like this. But this report is so condemnatory of the minister, so scathing of the minister, that no defence can be provided even if you have a month to look at the draft report provided by the Auditor-General. I want to briefly take the Senate back to the history of this MRI issue.

Two years ago the Minister for Health and Aged Care went to a meeting at night in the Sydney office of the Royal College of Radiologists. It was one week prior to the 1998 budget, and the topic of conversation there was a cosy chat about what was going to be in the budget. Amazingly, no notes were kept of that critical meeting. The claim is that no secrets were let slip but, in the following four
days, no fewer than 33 new orders were paid for MRI machines.

For two years, the minister has fought desperately to keep the lid on this ministerial scandal, this growing MRI scam. The opposition, quite rightly, have fought relentlessly in this chamber and in the House of Representatives. We have asked dozens of questions; we have raised the issues at successive estimates hearings; and, bit by bit, we have winkled the truth out on this issue. The handling of the MRI issue is part of a pattern of Minister Wooldridge’s. This is how Minister Wooldridge does business: he has acted without regard to the public interest; he has stonewalled when he has been questioned; he has refused to admit there has been a problem; and he delayed time and time again in deciding to establish a proper inquiry.

We have had three inquiries. We have had the Health Insurance Commission inquiry report released on Christmas Eve, which found that grounds existed to prepare briefs for prosecution in 19 cases involving up to 250 radiologists and that civil recovery of funds was required in a further eight cases. We will hear the full story of that, of course, only when those cases go to court. Then we had the report by Professor Blandford that was released on the evening before Good Friday. He confirmed what the minister was told, before he started down the road of giving private radiologists access to an MRI Medicare rebate, that Australia has enough machines already and another seven could fill any gaps in rural Australia. Instead, because of Minister Wooldridge’s process, we have had over 40 surplus MRI machines and we have had a financial headache and scandal not only for the government but also for the radiologists and their bankers.

Now we have the Auditor-General’s report pushed out on the day after the budget is brought down to try to minimise the political impact of the scandal that is engulfing the minister for health in the Australian government. That is just a continuation of the cover-up tactics that we have seen from Dr Wooldridge for so long. The government knows that the Senate itself will not be meeting for another few weeks, and the minister hopes he can avoid scrutiny by hiding behind coverage of the budget.

What we have here is a pattern. This is the way that Minister Wooldridge does business. This minister has a very peculiar inability to spot a conflict of interest. He could not see a conflict in having his department negotiate multimillion dollar contracts with the people who were potential beneficiaries. He could not see a conflict in meeting with his friends in the College of Radiologists to discuss budget secrets. No, he could not see a conflict in appointing Dr Barry Catchlove, a man who had just ordered six MRI machines, to the position of chairman of the Health Insurance Commission. He could not see a conflict in appointing his fundraiser, Dr Rick McLean, to the position of chair of the Radiation Health and Safety Advisory Council on $25,000 a year. He could not see a conflict in awarding his friend and supporter, Dr Jack Best, contracts worth hundreds of thousands of dollars without public tender. That is the way this minister does business.

There is a pattern with this minister of shonky political fundraising and letting those in the medical profession buy political access to the minister for health. Of course, it is the same with the radiologists, and it is going on. Dr Wooldridge delivered a budget briefing at a fundraiser in Sydney for an organisation chaired by his friend Dr Best. It is still going on. At this fundraiser was Dr McLean—they are all in it together. What did Dr Wooldridge extol at a recent budget briefing? None other than the work of Dr Best done at a cost to the taxpayer of $230,000 with travel expenses of over $80,000. Dr Best has undertaken a publicly funded stocktake of rural health that is now being used as a blueprint for the Liberal Party to restore its sinking stocks in the bush.

This is the way that Minister Wooldridge does business. This is the Dr Wooldridge pattern: ‘You scratch my back, I’ll scratch yours.’ That is Dr Wooldridge’s approach and he has now been exposed by the Auditor-General. The Auditor-General is scathing about the department, too. Look what he says in paragraph 34:

The Department’s approach to risk management in the development of the MRI policy measure was uneven.
Paragraph 35 says:
The ANAO concluded that the Department’s management of the probity arrangements surrounding the negotiations for the MRI measure was not adequate for the circumstances.

Paragraph 36 of the A-G’s report says:
There was a lack of adequate documentation by the Department of the negotiations with the College.

Paragraph 36 goes on:
Official records were not taken or maintained of some significant briefings of, and decisions by, the Minister.

Paragraph 38 states:
There were 33 machines ordered in the four working days between 7 and 12 May (Budget night) 1998, according to statutory declarations provided to the HIC ... the possibility of some prior knowledge of, or speculation about, the inclusion of machines on order in the MRI Budget measure cannot be ruled out.

Paragraph 40 states:
It is noteworthy that five of the eleven radiologists involved in the negotiations were associated with practices that allegedly ordered nine machines prior to the Budget.

Senator Knowles, in her prepared statement, asked where the Auditor-General says that Dr Wooldridge is guilty. I will tell you where the Auditor-General says that. He says it in paragraph 42 of his report:

Statements have also been made by College representatives who attended the meeting on 6 May 1998 with the Minister that, although the Minister did not reveal what measures would be in the Budget, there was discussion of the option to include machines on order as at Budget night. All but one have stated that this was initiated by the Minister (the other has indicated this was initiated by the Minister or the departmental official present) within the general context of College concerns about restrictions on sites ... On the other hand, the Minister, the Minister’s adviser and the departmental officer present, dispute the radiologists’ recollection of the meeting. They do not recall the specific matter of machines on order being discussed. Against this background, including related developments over the preceding month, the meeting of 6 May 1998 seems to have had some influence on the following surge in orders for machines, either directly or indirectly.

Senator Knowles and the government ask where Dr Wooldridge is found guilty by the Auditor-General. Where is Dr Wooldridge found guilty by the Auditor-General? In paragraph 42 of his report.

If you do not like paragraph 42, go to paragraph 43, where the Auditor-General says:
... the ANAO considers that, on the balance of probabilities, the evidence does at least suggest that negotiation and consultation with the College representatives and open debate on supply control issues created an environment where some participants may have deduced, or actually become aware, that the Commonwealth was giving consideration to the inclusion of machines on order in the Budget measure.

That is what he says. The Auditor-General says Minister Wooldridge is guilty. Of course Minister Wooldridge should go. Minister Wooldridge should go because the Auditor-General has set out in scathing terms in his report why he should resign and why, if he does not resign, the Prime Minister should take the appropriate action. Perhaps the Prime Minister might even consider his discredited Code of Ministerial Conduct, which says:

It is vital that ministers and parliamentary secretaries do not by their conduct undermine public confidence in them or the government.

Dr Wooldridge has. Further, it states:

Ministers must be honest in their public dealings and should not intentionally mislead the Parliament or the public.

Minister Wooldridge has not been honest in his public dealings and has consistently misled the Australian public and the parliament. Under the heading of ‘Accountability’ it states:

Ministers do, however, have overall responsibility for the administration of their portfolios and for carriage in the Parliament of their accountability obligations arising from that responsibility. They would properly be held to account for matters for which they were personally responsible, or where they were aware of problems but had not acted to rectify them.

Dr Wooldridge not only is personally responsible and personally has to take the rap but also has to take the rap for his department on this one. He was right in there, and so was his personal staff, from the very beginning.
This is the administrative equivalent of insider trading. This affair shows an abject failure on the part of Dr Wooldridge, a minister of the Crown. It has taken the opposition almost two years to uncover all the detail about the scan scam. But we have worked assiduously on that and we have done very well, even with all the attempts that have been made by Dr Wooldridge and the government to cover up, not to answer questions, not to provide documents and not to respond to orders of the Senate. But, finally, the Auditor-General has come down with a report that finds Dr Wooldridge guilty of the charges that the opposition have made, which leaves Dr Wooldridge with no alternative but to resign. The facts in this multimillion dollar scam are now public for all.

Senator Robert Ray—Who will do the fundraising?

Senator Faulkner—I do not know, Senator Ray, who will do the fundraising. But I do know this: the fundraising is part of the pattern of Dr Wooldridge’s conduct. Dr Wooldridge operates on this principle; you scratch my back and I’ll scratch yours. That is the Wooldridge approach to ministerial responsibility. That is how he conducts himself and that is how he conducts his ministerial affairs. He has to go. He has to go directly because of his revelation to the radiologists of the details of the budget supply-side measure and particularly because of the fact concerning the number of MRI machines on order on budget night. Five or six radiologists at the meeting have indicated that the minister himself initiated this discussion. You have a situation where the Auditor-General is convinced that this disclosure is what led radiologists to get their orders in before budget night and directly resulted in 33 orders for MRI machines in the four days prior to the budget. The Auditor-General says in his report that this minister himself was deeply involved in insider trading of market sensitive information with millions of taxpayers’ dollars at stake.

But, secondly, this minister ought to go for his maladministration of his own department. He has to take the rap for the administrative failures in the department of health and the administrative failures in the negotiations with the radiologists—during many of which he and members of his staff were present. What a disgraceful performance from the minister for health. If ever a minister should go, this minister should. Minister Wooldridge must resign. The Prime Minister must ensure, under his much-discredited code of ministerial responsibility, that Dr Wooldridge resigns today.

Question resolved in the affirmative.

TAXATION LAWS AMENDMENT BILL
(No. 11) 1999
First Reading
Bill received from the House of Representatives.

Motion (by Senator Minchin) agreed to:
That this bill may proceed without formalities and be now read a first time.

Bill read a first time.

Second Reading

Senator Minchin (South Australia—Minister for Industry, Science and Resources)
(4.31 p.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 amendments to the income tax law to give effect to the following measures:

International tax agreements
This measure will implement the amendment announced in the Treasurer’s Press Release of 27 April 1998 by changing the International Tax Agreements Act 1953 to require that the tax treaties be interpreted in accordance with their intention of maintaining Australia’s taxing rights over alienations or effective alienations of real property situated in Australia.

Capital gains tax corrections and other minor amendments
This Bill will also make some minor amendments and correct some unintended consequences that occurred when the capital gains tax and certain other provisions were rewritten as part of the Tax Law Improvement Project. None of the amendments change the way the provisions originally worked.

Income tax deductions for gifts
The Bill will amend the income tax law to extend the time within which donations to the Shrine of Remembrance Restoration and Development Trust, the St Patrick’s Cathedral Parramatta Rebuilding Fund and the Australian National Korean War Memorial Trust will be tax deductible.

**Income of non-resident sportspersons and sporting clubs or associations**

This measure will amend the income tax law to remove income tax exemptions currently available to certain non-resident sportspersons and sporting clubs or associations.

The amendments ensure that the income of all non-resident sportspersons and sporting clubs or associations, earned in Australia, will be taxed consistently.

The amendments will apply from 1 July 2000.

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

I commend the Bill.

Debate (on motion by Senator Denman) adjourned.

**NOTICES**

**Presentation**

Senator Carr—by leave—to move, on the next day of sitting:

That the Senate notes the failure of the Minister for Health and Aged Care (Dr Wooldridge) to protect the budget process in relation to the provision of Medicare rebates for magnetic resonance imaging services.

**BILL RETURNED FROM THE HOUSE OF REPRESENTATIVES**

Message received from the House of Representatives indicating that the House has agreed to the amendments made by the Senate in place of Senate amendments Nos 8, 11 to 13 and 17 to the following bill:

Taxation Laws Amendment Bill (No. 8) 1999.

**JURISDICTION OF COURTS LEGISLATION AMENDMENT BILL 2000**

**Consideration of House of Representatives Message**

Message received from the House of Representatives returning the Jurisdiction of Courts Legislation Amendment Bill 2000, acquainting the Senate that it has agreed to amendments Nos 1, 3, 5, 6, 8 and 9 made by the Senate and amended Senate amendments Nos 2, 4 and 7, and requesting concurrence to the amendments made by the House.

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

_House of Representatives message—_

**SCHEDULE OF THE AMENDMENTS MADE BY THE SENATE TO WHICH THE HOUSE OF REPRESENTATIVES HAS AGREED WITH AMENDMENTS:**

(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.

(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.
(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 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.

AMENDMENTS MADE BY THE HOUSE OF REPRESENTATIVES TO SENATE AMENDMENTS:

(1) Senate amendment (2) (proposed new subsection 9A (1B)) of the Administrative Decisions (Judicial Review) Act 1977):

Omit “the Crown”, substitute “the prosecutor”.

(2) Senate amendment (4) (proposed new subsection 51AA (2B)) of the Corporations Act 1989):

Omit “the Crown”, substitute “the prosecutor”.

(3) Senate amendment (7) (proposed new subsection 39B (1CB) of the Judiciary Act 1903):

Omit “the Crown”, substitute “the prosecutor”.

Motion (by Senator West) agreed to:

That the Senate adopt the recommendation of the first report of 2000 of the Procedure Committee, which provides that standing order 62 be amended as follows:

(a) by adding a new paragraph (2):

(2) Reports of the Auditor-General in respect of which no motion is moved on their presentation, and orders of the day for adjourned debates on such reports, shall be placed on the Notice Paper for consideration on Thursday at the time for the consideration of committee reports and government responses under general business, after those reports and responses; and

(b) by renumbering existing paragraphs (2) and (3) and adding “and Auditor-General’s reports” to the heading of the standing order.

CORPORATIONS LAW AMENDMENT (EMPLOYEE ENTITLEMENTS) BILL 2000

In Committee

Consideration resumed from 12 April.

(Quorum formed)

The bill.

Senator CONROY (Victoria) (4.35 p.m.)—I move opposition amendment No. 1:

(1) Schedule 1, page 3 (after line 26), after item 4, insert:

4A After Division 6 of Part 5.7B

Insert:

DIVISION 6A—LIABILITY OF A COMPANY FOR THE DEBTS OR LIABILITIES OF A RELATED BODY CORPORATE

588YA LIABILITY OF A COMPANY FOR THE DEBTS OR LIABILITIES OF A RELATED COMPANY

(1) When a company is being wound up in insolvency, the liquidator, a creditor of the company or the Commission may apply to the Court for an order that a company that is, or has been, a related body corporate pay to the liquidator the whole or part of the amount of a debt of the insolvent company. The Court may make such an order if it is satisfied that it is just to do so.

(2) In deciding whether it is just to make an order under subsection (1), the matters to which the Court shall have regard include:
(a) the extent to which the related body corporate took part in the management of the company; and

(b) the conduct of the related body corporate towards the creditors of the company generally and to the creditor to which the debt or liability relates; and

(c) the extent to which the circumstances that gave rise to the winding up of the company are attributable to the actions of the related body corporate; and

(d) any other relevant matters.

(3) An order under this section may be subject to conditions.

(4) An order shall not be made under this section if the only ground for making the order is that creditors of the company have relied on the fact that another company is or has been a related body corporate of the company.

The new division 6A deals with the liability of a related body corporate for debts of a company being wound up in insolvency. Proposed subsection (1) would enable the liquidator, a creditor of the Australian Securities and Investments Commission, to apply to the court for an order that the related body corporate pays to the liquidator the whole or part of a debt of an insolvent company. The court may make such an order if it is just to do so, having regard to the matters listed in subsection (2).

Senator McGauran—Did you write this?

Senator CONROY—Thank you, Senator McGauran, for your contribution. I look forward to your informed contribution on this bill shortly. The purpose of subsection (4) provides that an order may not be made under these provisions if the only ground for making the order is that creditors of the company have relied on the fact that another company is, or has been, a related body corporate of the company. This amendment is aimed specifically at corporate entities which seek to restructure and avoid their financial responsibility to employees. More specifically, the bill addresses the circumstances of the corporate restructuring undertaken by Patricks in 1998 when sacking its workforce. The employees of Patricks labour hire companies were left basically without any claim to accrued entitlements like annual leave and sick leave, redundancy payments and long service leave. These accrued entitlements could only be made against their direct employer, who was now a Patricks company in receivership. Any employee of a corporation is potentially at risk of this type of corporate restructuring.

As I said earlier, the parliamentary Joint Committee on Corporations and Securities heard evidence that the use of this type of corporate restructuring is increasing at an alarming rate. Labor does not accept that employers have the right to artificially manipulate their corporate entity to avoid their legal obligations to their employees and accordingly has moved this amendment. This provision will give greater security to employees in relation to their accrued legal entitlements. This amendment is necessary and it is urgent. The number of companies going into external administration is increasing, and it is becoming only too clear that those companies are failing to make the provisions for employee entitlements. One company with which I am familiar and have dealt with is a transport company called Gosch, who restructured themselves into two companies—one hiring the employees and the other contracts. They unfortunately were placed into external administration, and the company employees were unfortunately going to receive almost nothing as part of a corporate structure. I simply wish to make it clear to the chamber that this is not an isolated situation, it is not an unusual situation and it is certainly not restricted to textile companies or waterfront companies. It is a common standard tactic across corporate Australia.

The amendment Labor is proposing is a sensible amendment. The court, in exercising its discretion as to whether to make an order that a related body corporate pay the whole debt of an insolvent company, is only to exercise its discretion when it is just to do so. Subsection (2) of the new section lists some matters for the court to consider. These matters respect the fact that in Corporations Law each company is a separate legal entity. However, the court should be permitted to raise the corporate veil between related body corporates in certain circumstances, and the
courts have demonstrated that there will be circumstances when that is appropriate. In this amendment the Labor Party is also saying that there are circumstances when it is appropriate to make a corporation liable for the debts of their related body corporate. It is appropriate to raise the corporate veil when the corporate entity has been artificially manipulated to avoid legal obligations owed to employees. This new provision will give greater security to employees in relation to accrued legal entitlements. This amendment should be supported.

Senator MURRAY (Western Australia) (4.39 p.m.)—The Labor Party amendment before the committee is very similar to the Australian Democrats amendment which has been circulated in respect of this bill and is in the same terms as amendments I moved to the Company Law Review Bill 1997 and the Financial Sector (Shareholdings) Bill 1998. I will briefly encapsulate the history of those amendments. When I moved those amendments in the committee stage of the Company Law Review Bill 1997 they were supported by Labor, but when the bill came back from the House the amendments were not insisted on by Labor and therefore fell away. When I moved them again to the Financial Sector (Shareholdings) Bill 1998, both Labor and the coalition rejected them. So I am pleased and the Australian Democrats are pleased that these amendments have come back largely in the form we put them in and that they now have full Labor support to such an extent that they are moving them. Given the similarity of my amendment to the Labor amendment, if Labor’s amendment is successful, I will not be moving mine. If theirs is not successful, then there will be no point in moving mine. Either way, my amendment will not be moved. Therefore, I formally advise the chamber that I will withdraw my amendment.

The Labor amendment has the effect of providing a court with a discretion to make related companies liable for the debts of an insolvent company after having regard to a number of factors. The matters to which the court must have regard are: the extent to which the related company takes part in the management of the company, the conduct of the related company towards the creditors of the company generally and the creditors to which the debt or liability relates, and the extent to which the circumstances that gave rise to the winding up of the company are attributable to the actions of the related body corporate. These kinds of matters have been around ever since the 1988 Law Reform Commission’s inquiry into these very factors. So it has had a long gestation. From those factors it can be seen that it is not merely the relationship between the two companies that gives rise to liability; it is the conduct of the related company towards the creditors of the insolvent company. That is very important—it is not the relationship but the conduct. This bill, from the government’s perspective and in terms of Labor’s amendments, is very much related to conduct. That is an important point to make.

The ill that we are attempting to address in this Labor amendment is entities structuring themselves in such a way as to avoid liability or responsibilities by interposing companies with little capital backing between creditors, employees and the company within the group which has substantial assets—in other words, deliberately restructuring themselves and then conducting themselves in a manner by which they can avoid their obligations to creditors, particularly employees. In 1988 the Law Reform Commission conducted a general insolvency inquiry. As part of that inquiry, the commission considered the possibility of making related companies liable for the debts of an insolvent company in certain circumstances, and the commission recommended that companies should be so liable. The commission produced a draft section and that draft was the basis of our amendments in 1997 and 1998 and the Labor amendment today.

The government has made it known to us that the Corporations and Securities Advisory Committee, CASAC, is presently considering the issue of court ordered contributions and the recommendations of the general insolvency inquiry. I am heartened that that consideration is taking place. However, I have no reason to believe that the issues that CASAC is considering will differ from the issues con-
sidered by the Law Reform Commission some 12 years ago. We all know what the history has been of these kinds of transactions not only over the last few years but also over a couple of decades. We feel it is time to take action on the issue. Therefore, the Australian Democrats will support Labor’s amendment No. 1 on sheet 1779 revised.

Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (4.45 p.m.)—The government will be opposing the amendment. It is interesting to have the history of this amendment from the Harmer committee from 1988 retold to us by Senator Murray, because Senator Murray continues to highlight the Labor Party’s lack of consistency on this proposal. To the extent that Labor have refused to support this amendment almost year in, year out, for the last 11 or 12 years, they have shown some consistency, but the fact is that when their union mates have obviously put their heavies on to them they have changed their minds.

That highlights a couple of facts. As you know well, Mr Chairman, most members of the Australian Labor Party in the Senate are former union officials and well over 60 per cent of the voting stock in Australian Labor Party preselections is held by the unions. The unions have the ALP as a wholly owned subsidiary and related group. There is no doubt that the union movement still controls the Labor Party. We will see this of course at their national conference when the Labor Party are dictated to in regard to their policies for the next election wholly and solely by the trade union movement, who control the Australian Labor Party. That is exactly what has happened here. I do not need to actually retell all the history, because Senator Murray has done it perfectly. When Mr Harmer’s committee reported in 1988 and said, ‘This is a good idea; this is what you should do; this is how you should protect employee entitlements,’ what did the Australian Labor Party government do? They said, ‘No, we are not going to do that.’ There were very good reasons why they chose not to do it, and that is why the government will be opposing it now: it basically destroys the entire concept of the corporation.

Senator Conroy interjecting—

Senator IAN CAMPBELL—It says that, if one corporation incurs debts and liabilities, another corporation—an entirely different legal entity under the Labor Party’s loopy proposal—would be responsible for those debts and liabilities. Why create a corporate identity? It is not unusual to see Senator Conroy opposite, whose understanding of Corporations Law, financial services and regulation generally is not, at the very least, at the standard where he should be the shadow spokesman. He does not do his homework or study. He comes into debates with a cursory knowledge of the subject and tries to wing his way through them. Often when you read the contributions he makes to debates, it is embarrassing to him and the Labor Party but, because he is such a bit player in the Australian Labor Party, we do not seek to embarrass him. He has come in here twice in the last three years and said, ‘No, we are not going to support this.’ He would not support Senator Murray’s amendments, but he comes in now and says, on behalf of his party, that they are going to support it. But for years and years in government they did not do this. It is a bit
like their approach to deficits and surpluses. They have become experts on surpluses now and on whether you can have a good surplus or a bad surplus. They ran on average $10 billion a year deficits year in, year out, for nine out of 13 years. We deliver a $2.8 billion surplus, the fourth surplus in a row, and they have the hypocrisy and the audacity—

Senator Conroy—I rise on a point of order. Mr Temporary Chairman, I cannot hear you making rulings because of Senator McGauran’s interjections. I was wondering if you would be able to make him quiet.

The TEMPORARY CHAIRMAN (Senator Lightfoot)—I will take that into consideration next time, and I am sure there will be a next time, Senator Conroy.

Senator IAN CAMPBELL—I think Senator Conroy was appealing to you under the standing order which is headed ‘The pot calling the kettle black’. I think the important thing to understand is that this is total hypocrisy. The Labor Party have all of a sudden become experts on surplus. This is from a party that have virtually never run a surplus in their life, in all of their years in federal government postwar. I think they have run about three surpluses in all of the years that they have been in office federally since about World War II. They are the biggest borrowers in Australian history. Year after year, they have spent tens of billions of dollars and, all of a sudden, when it comes to employee entitlements, it is exactly the same behaviour. What did Simon Crean say on the television about the budget when—

Senator Conroy—What has this got to do with it?

Senator IAN CAMPBELL—I will tell you what it has got to do with it, as the person has who has just raised a point of order about interjections interjects. This has to do with the Labor Party’s hypocrisy. In other words, ‘Do not do what we did in government; do not look at what we did in government.’ Except for Senator Peter Cook, all of them are very embarrassed about what happened under the Hawke and Keating years. When Mr Crean was asked, ‘What did you do with asset sales? What did you do with spectrum receipts when you were in government?’ he said, ‘We are not in government; they are in government. Don’t talk about that,’ and quickly changed the subject.’ Ask Mr Crean and the Labor Party what they did about employee entitlements when they were in government, and the answer is absolutely nothing. All of a sudden you have a Liberal-National Party coalition government that is doing more about employee entitlements in four years than these blokes even thought about doing in 13 years.

We have these amendments to the Corporations Law and we have the Employee Entitlement Support Scheme—two very important initiatives which will supply real, deliverable support for employees, support that you can touch and feel, and all in less than four years of a Liberal-National government. What did Labor do in 13 years? Nothing. Mr Harmer said, ‘Here is a report. This is what you can do,’ and still you did nothing. It must be very embarrassing to turn up, if you are a Queensland senator, in the Breakfast Creek Hotel or into a trades hall anywhere in Australia and to have your union mates in the Labor Party saying, ‘Look, this coalition government is actually doing quite a good thing.’ I have spoken to Greg Combet about this. I said to him, ‘What do you say to your mates in the Senate now about why they didn’t act on Harmer?’ I have got to say that Greg Combet will not say this publicly but he will say it privately: he will reinforce that the Keating and Hawke governments’ performance in relation to employee entitlements was a disgrace. It must very embarrassing. So no wonder, Senator Murray, that they have been dragged kicking and screaming to support your amendment.

They do not have the humility to support your amendment. They have to write their own—or grab yours, probably. They probably found an old copy floating around from the Financial Sector Reform Bill. Senator Conroy probably told someone to find Murray’s amendment, and they got the old white ink out and coloured it out, got their crayon out and wrote Senator Conroy’s name where he had rubbed yours out. They could have at least said, ‘We’ve looked at Senator Murray’s amendment and, after 12 years of consideration, we have come to our senses
and Senator Murray is right.’ But no, they have to write their own one, change a few words, get the white ink out, get the crayon or the pencil—I do not think they have let Senator Conroy loose with a biro yet: I think he has just gone from crayons to pencils.

So the government will not support this amendment. I say that, very importantly, for all of the reasons that the Hawke government opposed the Harmer reforms, for all the good reasons the Keating opposed these reforms—because you effectively destroy the foundational corporations principles—we will not be doing this. The government will not allow the employee entitlements bill to pass into law if the Senate passes this amendment. I say again that we will not allow it to pass into law. So those senators who take the decision to destroy the fundamental corporate concept by breaking down the legal entity of a corporation will in effect ensure that the benefits of this legislation will not flow to employees around Australia. We have very carefully looked at how you construct a regime to protect employees by amending the Corporations Law. We believe that our amendments provide a significant improvement to those protections. We believe not only that the amendment would significantly hurt the underpinnings of the principles of the Corporations Law by breaking down the boundaries around a corporate entity but that it has a number of other significant flaws in it. They do leave bodies corporate liable for any debts and not just those relating to employee entitlements, and so it opens up a Pandora’s box there.

The amendment is framed very broadly and will leave bodies corporate with an unascertainable and potentially unbounded liability for the debts of related insolvent companies. The proposed amendment provides little meaningful guidance to a court and, more importantly, to directors of companies in group structures. The amendment begs the question of what is just and from whose perspective the court is to consider it. In contrast, the provisions in the bill as it stands focus on the protection of employee entitlements where there is a deliberate attempt to avoid their payment. The protection is available even where the company in question is not insolvent, making it a proactive protection. The government’s amendment targets the objectionable conduct in relation to protection of employee entitlements. It is not a bill that targets the liability of corporate groups generally.

I also say that the ALP amendment, while it on the one hand seeks to broaden the scope of liability, also has the effect of being more narrow than the government’s proposed amendment. The government’s proposed offence has coverage beyond group companies and related bodies corporate. It can apply to any person who enters into an agreement or transaction for the purpose of avoiding or reducing payment of employee entitlements. Under the general principles of criminal law, a penalty could be imposed on people who aid or abet a breach of the provision.

It is also important for the record to note that the Corporations Law already provides substantial protections against asset stripping by related companies. The law provides that holding companies can be liable for debts incurred by the subsidiaries while insolvent, and this places sensible and usable restrictions on the liability of companies for debts of their subsidiaries. The government’s bill will widen this duty to cover uncommercial transactions as well as debts.

Senator Murray referred to the consideration by CASAC of corporate groups, and the issues that have been mentioned by me and Senator Murray would clearly fall within the ambit of CASAC’s inquiry. There is no way that the government would seek to pre-empt the advisory committee’s consideration of these issues. Why have an advisory committee advising on these important issues that are related to the amendments before us and then just ignore that work? You might as well close CASAC down. Very many eminent people spend hours, days and months of their time, cumulatively, advising the government and the parliament on these matters—as people like Senator Cooney would know better than just about anybody in this chamber. That is not to say that their decisions or opinions will ultimately be accepted by the government or the parliament; but why would you even have an advisory committee if, in a preemptive way, you just ignore their considera-
tion? It sends a very bad message to the good men and women of Australia who put themselves forward to serve on those committees, only for the government to say, ‘Stuff you; we’ll do it anyway.’

We in this government will never ignore the regime put in place in the national corporations scheme put in place by the federal Labor government and supported by, as I again recognise, Senator Cooney as the then chairman of the Legal and Constitutional Committee who was responsible for that legislation to establish Australia’s corporate scheme. We will not ignore the sound requirement—as you, Mr Chairman, would appreciate more than most in this place—to seek, through consultation and approval of any measure in relation to the Corporations Law particularly as it pertains to the former jurisdiction of the states in this matter, the approval of the Ministerial Council of Corporations, a body made up of the attorneys-general of each state, a body put in place to ensure that this is a truly national scheme.

(Time expired)

Senator COONEY (Victoria) (5.00 p.m.)—Senator Ian Campbell has spoken about the concept of corporations and about the fact that people’s ideas on what should be the responsibility of corporations change as time goes by. I think that is correct. Corporations Law is a member of a group of issues that keep changing. We will be debating in the future and we have debated in the past laws that relate to workplace relations. They change as different situations arise. Matters dealing with compensation for people injured in the workplace is another area in which the laws keep changing to try to cover issues that arise in particular contexts. The Family Law Act is another one that is constantly changing as people—legislators, judges—strive to obtain a result that meets the need then expressed. And so it is with the legislation that the government brings forward on this occasion, that is, the Corporations Law Amendment (Employee Entitlements) Bill 2000. This bill put forward by the government changes the Corporations Law in dramatic ways and visits quite significant penalties on people who would deny employees their benefits—just benefits that they have earned through the sweat of their brow.

The concept of the corporation, as you know, Mr Temporary Chairman Hogg, originally was that people who were the owners of an enterprise and who were also workers in the enterprise who benefited from the enterprise and managed the enterprise would be protected from ruin if they went about their business in a proper fashion and without harming other people in a deliberate or negligent way. It was thought that people who went about their business in that way should be protected from ruin if their business did not succeed as well as it might have. Originally, the concept of a corporation was one where the owner, the workers and the people who benefited were all of the same identity. Since then it has developed to the point where the managers of companies are not the only owners; you have got shareholders and you have got people who buy in and out of the company to take such benefits as they can, and they are separate from the people who actually manage the company. So it has become quite complex. You have companies owning companies, you have companies that are closely related in the sense that they might have common directors and you have people who are directors of one being very influential in the other. It is always a case by case matter as to whether a particular company—particularly related companies—is related in such a way that it should take responsibility for the debt of the company in which it has influence. In other words, if we talk about this in terms of company A and company B, are company A and company B, although separate identities, so closely related that one should take responsibility for the other? That is a difficult question, and it is a matter that should be decided on a case by case basis. The amendment that has been suggested by Senator Conroy, 588YA, attempts to overcome the problem of when is A properly liable for the debts of B and when is it not.

This particular amendment leaves that question up to the decision of the court, and that is a very proper approach to take in this instance. The courts, may I say—if I can digest for a minute—built up a lot of the law
that relates to companies; a lot of the company law that we now operate under began in the courts. You will remember the debate that took place in the eighties and early nineties about whether company legislation should leave everything up to 'fuzzy law', as was said, which meant that general principles were set out in the act, the various instances that arose that led to problems were dealt with by the judges and the judges continued to make the precedents that they had up until then, or whether it should be black-letter law.

I remember the Attorney-General at the time was Mr Duffy, a very eminent Attorney-General, may I say, and a very eminent lawyer. He, I think, favoured the black-letter approach, although a lot of lawyers and a lot of people in business said that the fuzzy law was the right approach. This section put forward by Senator Conroy on behalf of the opposition is one that is, I think, a fuzzy law type. It is appropriate that it is, because it is very difficult to state as a matter of general principle when a particular company should take responsibility for the debts of another company. This sets out in subsection (2) certain principles that should guide it. They are not exhaustive because they include these four points, but they are inclusive rather than definitive of what the courts might take into account.

But, as I said before, the courts are used to this; it is their bread and butter. The Federal Court has been quite brilliant in this area, and it is a great pity that a lot of their jurisdiction in this area is going to be taken away following the Wakim case. But the Federal Court has produced quite brilliant judgments on this. The supreme courts of the various states have decided these issues for over a century. It goes back to the English courts, which developed the principles that we now look to. This is a good provision. May I say, it is not devoted simply to people who have been left in a disastrous state because their remuneration, their wages, their long service leave and what have you have not been paid. It simply says this:

(1)When a company is being wound up in insolvency, the liquidator, a creditor of the company or the Commission may apply to the Court for an order that a company that is, or has been, a related body corporate pay to the liquidator the whole or part of the amount of a debt of the insolvent company. The Court may make such an order if it is satisfied that it is just to do so.

Far from being a radical clause, it is a conventional clause in the sense that it deals with a problem in a conventional way. That is illustrated by the fact that it will be set out in that part of the Corporations Law that deals with these sorts of issues. I just go down the index of the contents of the Corporations Law in the area where this particular amendment will go. The headings read: Division 1—Preliminary; Division 2—Voidable transactions; Division 3—Directors' duty to prevent insolvent trading; Division 4—Director liable to compensate company; Proceedings against director; Proceedings by creditor; Liability of holding company for insolvent trading by subsidiary; and so on. This will fit neatly into this area and give the courts the proper opportunity of deciding when a company should pay up in justice. To simply say this is anything but a reasonable proposition is, I think, to say that we do not really rely on the courts of this land.

Senator Campbell was talking about approaches taken previously, the history of matters. I think it is fair enough to talk about the history, but in the end we have to make a decision in the light of the realities that exist at this time. If we go to the realities that exist at the moment, we have places like Cobar, Wodonga and Grafton that have become symbols of the sorts of things that can happen to workers.

Senator Ian Campbell—What about all the failures during the recession though, Barney?

Senator COONEY—I understand all that. The Corporations Law had not been developed to the point where that ought to have happened. I did some work in the old days for the Australasian Meat Industry Employees Union, under the auspices of that great—

Senator McGauran—You're to blame. Wally Curran's gone.

Senator COONEY—You have mentioned Wally Curran? He is a neighbour of the senator and a most outstanding union leader.

Senator Ian Campbell—Still drink at the John Curtin Hotel?
Senator COONEY—No, no; he has an Australian medal, an OAM. He was brilliant in the arts, brilliant as a union leader, brilliant as a political mind.

Senator McGauran—Wally Curran was brilliant in the arts?

Senator COONEY—He was and is. And, may I say, secretary of the meatworkers union. And you, Mr Temporary Chairman Hogg, would know in your capacity as union leader that he was one of the great luminaries in the union movement in the past. But the reality is that the number of meatworkers who have been left without proper remuneration or any remuneration at all because of companies that go into liquidation and then, in a phoenix way, come up again is a great illustration of why there is a need to make sure that those companies that are related are, in a way that satisfies a judge, responsible for the debts of the first company.

Senator MURRAY (Western Australia)
(5.12 p.m.)—It is always useful to follow Senator Cooney, because as a lawyer, a legislator and an experienced senator he has a considerable interest and ability in the area of Corporations Law. I thought his contribution was helpful in terms of both putting this matter into perspective and enabling the issue to be aired. The parliamentary secretary made the point—and I said it was an important point—that we have to distinguish between relationship and conduct. Parliamentary secretary, in much of your rebuttal of the need for the amendment you did focus on relationship and how this amendment would put at risk the autonomy of legal entities and their ability to stand alone. However, I believe your focus should be on conduct not relationship. If you have a look at the government’s own bill, it does focus very much on conduct. This amendment requires the court to establish whether conduct was such that it should take action. Not only would an employer have a considerable defence in these circumstances but of course within the court process—in contrast to black-letter law, prescriptive law—there is always the opportunity to appeal. And in the generation of the court process, case law will be developed.

You did put the rhetorical question to the Senate, Parliamentary Secretary, as to how you would determine whether something was just. My understanding of Senator Cooney’s points is that he clearly said that determining whether something is just is very much within the ambit of a court’s understanding and daily practice. It is not as difficult as you may have implied. If you look closely at the amendment concerned, it states:

When a company is being wound up in insolvency, the liquidator, a creditor of the company or the Commission may apply to the Court for an order that a company that is, or has been, a related body corporate pay to the liquidator the whole or part of the amount of a debt of the insolvent company.

It is very precise because it then states:
The Court may make such an order if it is satisfied that it is just to do so.

Then in clause (2) there is a very wide set of considerations that the court should have regard to, none of which interfere with its absolute discretion in this matter. The clause states:
... the matters to which the Court shall have regard include:
(a) the extent to which the related body corporate took part in the management of the company—in other words, it has to determine that there was a direct and very personal interaction in conduct terms between one company and the other by the same officers—
(b) the conduct of the related body corporate towards the creditors of the company generally and to the creditor to which the debt or liability relates—
those matters would, to a large extent, be issues of fact—
(c) the extent to which the circumstances that gave rise to the winding up of the company are attributable to the actions of the related body corporate.

If the actions of one set of directors and the management in the dominant company result in an outcome in a subordinate company which results in that company being unable to meet its obligations, clearly there is a link. To say that such a link should not be capable of jurisdiction by a court is in a sense allowing an immoral situation to continue—one that has applied in the past and that will apply in the future if clauses similar to these are not taken into law. The parliamentary secretary made the government’s approach clear.
He said that the government would not accept this amendment—that they would reject it in the House of Representatives—and that it would return to the Senate. That is a kind of threat.

**Senator Ian Campbell**—It is a statement of fact.

**Senator MURRAY**—Yes, but as you know, the Senate will make up its own mind, and thereafter events have a certain train. I always wonder why, when such statements are made, the government does not consider the alternative possibility—that is, to improve or make better those areas of an amendment that they regard as inappropriate. I make these points to you, through the chair, Parliamentary Secretary, because it is clear to me from the minister’s statements, the explanatory memorandum and the bill that you condemn immoral conduct and that you are seeking to address it. This just adds to the ability to address immoral conduct by companies who avoid their obligations to creditors, particularly employees. In that sense, to dismiss this solely because you believe it attacks the independence and autonomy of legal entities—because you concentrate on the relationship aspect—I think does a disservice to the cause or the problem that you are trying to address.

To summarise, I agree with Senator Cooney that this is fuzzy rather than prescriptive law. This is law which enables a court to make a discretionary judgment taking into account the merits of each individual and each particular case. I agree with Senator Cooney that it is entirely within the history, knowledge, experience and understanding of the courts to do this job appropriately. I do not think for one minute that it would put at risk the corporate structure and the normal daily conduct of corporations under the Corporations Law in our society. Therefore, having made such strong statements, Parliamentary Secretary, I am sure that you are not going to change your mind. But I would at least suggest to you and your advisers that, when this is being considered in the House of Representatives, you might consider the alternative remedy to rejection—that is, to improve this to meet any of the particular objections you may have, and then the Senate could consider that. For our part, we have, as you know, been committed to this for many years—we have been consistent in our support of it—and we do think it is appropriate law.

**Senator IAN CAMPBELL** (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (5.21 p.m.)—I was not going to speak again, but I do want to ensure that Senator Murray and all the other honourable senators know that the government have very closely considered this option. It is something that has clearly been considered in detail by the department and the minister. As I said, it is also currently before CASAC, so it is not something that we are being pig-headed about and saying that we are not going to do. It is actually something that we have under close consideration. I certainly did not try to make this point—that we are not going to go ahead with this—in a threatening way. I think it is fair to say that Senator Murray would know better than most that, in terms of previous amendments to the Corporations Law, we have accepted a number of amendments that he has moved, and they have gone into law. Sometimes we have not been entirely happy about those amendments and sometimes it has been a balancing act between what we regard as the negatives of some of the amendments and what we regard as the positives of the rest of the bill. But that is compromise, and that is unfortunately what life in the real world is often about, both outside and inside this place.

We have looked at this option. We believe, and I will quickly reiterate, that the proposed offence in the government’s bill extends beyond group companies and related parties. It can apply to any person who enters into an agreement or transaction for the purpose of avoiding or reducing the payment of employee entitlements. The amendment limits recovery to group companies or related parties and will most likely result in a gap. Transactions could be deliberately structured not to involve related parties. We believe it is seriously flawed. We have looked at the amendment closely, and we have had it before us for some weeks, as you know.
CASAC, our advisory committee, are looking at it. We are not being dogmatic about this, but I do think it is fair that everybody involved understands the government’s position on this, which is that we will not be accepting this amendment at any stage and that insistence on the amendment will obviously have the effect of this proposed legislation not becoming law.

Senator MURRAY (Western Australia) (5.23 p.m.)—I have one question for the parliamentary secretary. Would you be able to make available to the Senate CASAC’s advice once it is complete, or is that confidential to the government?

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (5.24 p.m.)—It will be a public report, as I think all CASAC advice is. Certainly it was when they operated under my ministry. Could I also say that we have made available, and will continue to make available, to you or to any other honourable senator the minister’s time—and I know Mr Hockey has made himself available to you to discuss this—and the time of his very competent and useful staff.

Senator CONROY (Victoria) (5.24 p.m.)—Mr Temporary Chairman Hogg, I would like to draw to your attention the previous contribution of parliamentary secretary Ian Campbell as you were not in the chair. It was a very broad ranging contribution, and it has actually drawn me into this debate. He canvassed many issues from yesterday’s budget and its relevance to this debate. I would like to draw your attention to that because I would not want to be deemed to be wandering far and wide when the parliamentary secretary has made a very broad ranging contribution on this debate.

I am moved to make a contribution because some of the facts seem to have escaped the parliamentary secretary, which is surprising because the parliamentary secretary has been involved in debate on these amendments moved by the Labor Party previously. In actual fact, with the support of the Democrats back in 1998 on the Wallis bill, we had the numbers. This chamber actually passed them. It is not, as the parliamentary secretary is trying to portray, that the Labor Party has been tardy in the last few years in pursuing this issue. With the Democrats, we jointly successfully moved and passed the amendments in this very chamber. The parliamentary secretary himself stood up—and I was here that day—and sought agreement from the Democrats and the Labor Party to withdraw the amendments because the Wallis bills were being held up because the House of Representatives was refusing to accept them. We made it clear that, even though we believed in these amendments and in the necessity of these amendments, we would cooperate with the offer that the parliamentary secretary made to the Democrats and to the opposition to conduct a hearing of the Joint Parliamentary Committee on Corporations and Securities. The government gave its word that it would support the parliamentary committee holding that hearing.

Senator Sherry—That is right. They did.

Senator CONROY—Thank you, Senator Sherry. Senator Campbell’s word was given, not just on his own behalf but on behalf of the government. The Democrats and the opposition withdrew their amendments and allowed the speedy passage of the Wallis package. At the time I thought it was very generous of both the Democrats and the opposition. After that, Senator Campbell, as I have raised with you previously, the election intervened. Following the election, I sought to remove the terms of reference on the committee, as is required to re-establish an inquiry. I moved that at the committee, and to my dismay government members and senators broke the word of the government and the parliamentary secretary in moving that the terms of reference not be re-established. I have raised it with you once before in the chamber that this happened. You undertook to find out what had happened and to ensure that the members of the committee understood that it was not just a parliamentary secretary, Ian Campbell, off on his own personal frolic; it was a government commitment to hold the inquiry. Unfortunately, the Democrats at the time—Senator Murray, as I am sure you remember—decided that it was not an appropriate time either. I was a little taken aback.
Senator Murray—Because the bill was coming up.

Senator CONROY—Unfortunately—and we made the point at the time—the bill did not cover all of it. The fact that we are moving these amendments indicates that the bill does not cover the areas that we wanted to hold, but I accept in good faith that you hoped that the inquiry that would subsequently take place would cover these issues. Unfortunately, we are a little bit more suspicious of the government. Once those bills arrived, we found that—surprise, surprise—they did not cover the areas particularly relevant to Patrick. We were a little disappointed that the government members continued to block and defy your commitment and the government’s commitment and would not allow us to hold the free-ranging inquiry that you had promised we would be able to hold.

It was disappointing that that continued to be the position, and it was disappointing, Senator Murray, that at the time you took the position you did. But these are swings and roundabouts. We all have our wins and losses, and that was one of mine. I have had a few losses at the hands of the government and the Democrats. I would like to think there were more wins than losses but, in opposition, I suspect there are more losses than wins. There is a very famous one, Senator Murray, and you know which one I mean.

Senator Sherry—Tell us!

Senator CONROY—No. I would not want to mention the Packer family in the context of this debate. That would be making an unfair reference. The other Liberal party scoundrels, those in Victoria, are responsible for the Patrick debacle—the Scanlans and the Corrigans, who are all intimately involved in other corporate fraud in Victoria.

Senator Calvert—Hang on!

Senator CONROY—Sorry, Senator Calvert, did you have something to say?

Senator Calvert—Bet you wouldn’t say that outside the door!

Senator CONROY—Senator Calvert, please. The casino and the Packer family are not benefiting from today’s debate as they have from the largesse of this government—and, unfortunately, the Democrats—in previous debates. Those are some of the losses I refer to. I have been provoked by Senator Campbell’s contribution. He sought to draw yesterday’s budget into this debate, so I feel I must respond on behalf of the opposition. The deceitful behaviour that it is characterised by Patrick was equally characterised by the government’s budget yesterday. Yesterday’s budget portrayed a surplus. Senator Murray, I am sure you have had a chance to crunch the numbers, and you have picked up those rorts. I heard the Democrats ask a question on those very rorts today. Those rorts include pretending that an asset sale should be used as a revenue offset and included as revenue. That is the sort of shonky budgeting that has gone on in these corporations.

Senator Sherry—What about the loans to the states?

Senator CONROY—I will come to that, Senator Sherry. The sort of corporate shonkiness that this amendment goes to the heart of was evident yesterday in the budget. As Senator Sherry has indicated, asset sales were classified as revenue. Senator Murray, I do not think you were there last week when I asked Greg Smith—who is a fine and outstanding bureaucrat for Treasury; one of the most highly considered Treasury officials—about the sale of spectrum. He said that it was ‘of course’ a capital item. Those were Mr Smith’s own words. But the government turned up yesterday with a bodgie classification, did not want to admit to a cost and got flushed out because they were under so much heat in the budget lockup. They lost control of the debate in the budget lockup. Is it any wonder they have copped a bath in the public today? They were forced to issue a clarifying memorandum. Do you know what time they gave it to us, Senator Murray? I am sure you got it slightly ahead of us. I would not want to suggest for a moment that you are their favourite, ahead of us, but I am sure you did not get it at five minutes to seven, as you were about to walk out of the lockup.

Senator Murray—Half past seven.

Senator CONROY—Oh dear, you are slipping, Senator Murray. On your behalf, I will remonstrate with them that they treated
you so shoddily in the lockup yesterday. But it indicated to us at the time, in the lockup, that this was an extraordinary development—that the government were on the run in their own lockup. They could not get out of their own lockup fast enough. They had been caught with their hand in the cookie jar; they were trying to have their cake and eat it. Then, as Senator Sherry has already indicated, we had the case of the classification of a state grant as a loan. You may ask: how on earth could you classify a state grant as a loan? Let me tell you the story, Senator Murray. Again, the sorts of shonky practices that companies like Patrick have been involved in are highlighted by these shonky accounting practices—and I know you care about accounting standards, Senator Murray, because you have supported me in a very important statement by this parliament about accounting standards. I know you supported me on that, and I know you have a deep and abiding interest.

Unfortunately, because the government did a deal with the Democrats on the GST on issues like the small, struggling business of the Packer family—and, because of those amendments, the Democrats gave extra cash to the Packer family—the government got less revenue for the states. That was one of the outcomes. There were many others, but that was the highlight for me—the struggling family business of the Packers getting a $10 million subsidy, courtesy of the Democrats. Under the new agreement, the government were required to maintain the revenue base of the states in the transitional period to the full flow-on from the GST revenue coming to them. That amounts to $2.6 billion coming to them—that is $2.6 billion that the federal government have to give to the states to keep their commitment arising from a variety of changes. Did you notice that, in the budget papers, they very kindly set your amendments aside? They have even described, in a budget document, ‘the Democrat amendments’. Wasn’t that good of them? I am sure you welcome that. You are able to walk around saying, ‘Look, we did this.’ Most others think they were just trying to drop you in it with the financial markets, but I think they were doing you the favour of giving you a bit of extra publicity, Senator Murray. I think that was their motive. I think they were very kind to you when they did that.

But I will go back to the point of the discussion: what we saw was the $2.6 billion broken into two separate transactions. An amount of $1 billion was accurately described as a grant because, when you describe something as a grant, you have to put it in the budget papers. What happened to the other $1.6 billion? It was not included in the budget papers; it is actually described elsewhere in budget documents as a loan. If you describe it as a loan to the states, it does not have to be included as a grant, a revenue or an expenditure. You might ask: what is wrong with the fact that they had chosen to pull this sort of dodgy rort a la Patrick and the fact that they had got away with classifying a state grant as a loan? We actually have a couple of states where we are in government so we have been able to check this out. We have phoned them and asked, ‘Could you tell us the terms of this loan?’ The states have fessed up. They do not really care how they get the $2.6 billion; they just want their money.

Senator Sherry—You will never get the money back from the states.

Senator CONROY—That is exactly right. They do not care how it is classified; they, frankly, could not care less how this particular money that comes to them is classified from the Commonwealth end. They have told us that in three years time, when they pay back their loan, do you know what the government have agreed to do? Up their grants in three years time by the amount of the loan they are paying back.

Senator Sherry—It sounds like a deferral of an expenditure to me.

Senator CONROY—Yes, it does sound like the deferral of an expenditure. It is the exact sort of shonky practice that Patrick and a variety of corporations in this country are being investigated for at various stages by ASIC. That is exactly the sort of behaviour that ASIC traditionally investigate, and this government has been caught red-handed. What we have is a budget deficit of close to $2 billion. The third of the rorts, which I may come back to as time does not permit me to
cover it right now, involves the Reserve Bank again. The Reserve Bank made $3 billion or $4 billion worth of profit this financial year on its various activities, which it pays traditionally as a dividend to the government. What has happened this year? (Time expired)

Senator CHAPMAN (South Australia) (5.39 p.m.)—It is important to respond to Senator Conroy’s comments on the promise by the government that there would be an inquiry into the issue of employee entitlements and also to respond to his comments on the terms of reference of that inquiry. The first point that needs to be made is that promised inquiry—I understand that promise was made by Senator Ian Campbell—was in fact delivered. The Joint Statutory Committee on Corporations and Securities initiated an inquiry into the issue of employee entitlements in the middle of 1999.

Following that inquiry being initiated, we became aware as a committee that the government intended to legislate in this field. Therefore, the committee agreed to defer that inquiry pending the provision of that legislation. I have to say that decision to defer the inquiry was agreed to by Senator Murray, and it was also agreed to by a member of staff in Senator Conroy’s office. Although Senator Conroy himself was overseas at the time, the matter was raised with his office and his office agreed to accept the deferral of that inquiry pending the legislation. Subsequently, the committee prepared an issues paper on the matter of employee entitlements based on the submissions which we had received. Having already advertised for submissions with regard to our pending inquiry, we prepared an issues paper based on those submissions, and that issues paper was provided to Ministers Reith and Hockey to assist them in the preparation of the legislation. So that is the chain of events in terms of the inquiry.

When the Corporations Law Amendment (Employee Entitlements) Bill 2000 came forward this year, we proceeded with our inquiry into that legislation. Senator Conroy has said that the terms of reference for that inquiry were not adequate. In actual fact, the terms of reference under which that inquiry was conducted were the exact terms of reference that were initiated by Senator O’Brien in this chamber in referring the bill to the Joint Statutory Committee on Corporations and Securities for inquiry. I had actually drafted terms of reference to initiate an inquiry into the legislation on the part of the committee but, overlapping that, the Senate itself referred the matter to the committee. In the final wash-up, the terms of reference that applied were the terms of reference as moved by Senator O’Brien and determined by the Senate chamber. Senator Conroy has absolutely no grounds for complaint with regard to whether or not the inquiry was adequate and in particular whether or not the terms of reference were adequate, because they were the terms of reference that came from his side of the chamber.

Senator CONROY (Victoria) (5.42 p.m.)—I must respond to Senator Chapman’s very, very misleading response.

Senator Chapman—They are the facts.

Senator CONROY—The facts are that I moved after the election for the re-establishment of the inquiry and that before the election we had gone as far as setting a hearing date and drawing up a witness list, as you well know. That was how far down the track we had gone in the inquiry on agreed terms of reference before the election intervened. Those are the facts. Then, after the election, when I sought to re-establish that inquiry with the original terms of reference, that is when you ratted on the government and you ratted on the word of the parliamentary secretary—that is when you defied them and you voted me down. And you did so, unfortunately, with the support of the Democrats at the time. Those are the facts.

Senator Chapman—They are not. Go and check with your own office.

Senator CONROY—Then we get to the purported agreement that Senator Chapman was good enough one day to phone my office and speak to my staff while I was overseas. What a coincidence, Senator Chapman. I happen to be overseas, and you happen to make the phone call to my office.

Senator Chapman—I was overseas myself.

Senator CONROY—And you made no attempt to contact me personally. I do have a
mobile phone, you do have my number and you know, as I do, that you can leave messages and it is possible to get return phone calls—this technology is wonderful. But, no, you decide you will just phone up and allegedly speak to my office. I do not want to call you a liar, Senator Chapman, but if you force me to I will. I will leave it as we have discussed previously and say that what took place was a misunderstanding, but at no stage did the Labor Party agree to the terms of reference you claim we agreed to. I am prepared to leave it as we have discussed.

The TEMPORARY CHAIRMAN (Senator Hogg)—Order! Senator Conroy, address your remarks through the chair.

Senator CONROY—I am prepared, through you, Mr Temporary Chairman, to leave it as just a genuine misunderstanding because both parties were overseas at the time and communications were affected. I am prepared to leave it at that, Senator Chapman, but if you want to insist then I will defend the integrity of my office. I am prepared to leave it as just a genuine misunderstanding.

However, the terms of reference that were finally agreed to were not the terms of reference that were originally sought and, more importantly, originally agreed to by the committee and you. It was made quite clear prior to the last election that we were seeking an investigation into the Patrick situation and the government agreed, and last time I checked you were part of that government. I would have expected you to honour the word of Senator Campbell and honour the word of the government. So those are the facts. The inquiry did not take place in the terms that had been previously agreed to.

Senator Chapman interjecting—

Senator CONROY—I am being provoked, Mr Temporary Chairman, so I will respond. Senator Chapman, you may not have been in the chamber when the legislation was voted on and the amendments were passed, and then Senator Campbell stood up and sought the goodwill of the Democrats and the opposition to withdraw our successful amendments because there was a bipartisan agreed desire to pass the Wallis bills urgently. It was the goodwill sought by Senator Campbell that led to you voting to establish the terms of reference that you originally agreed to. Then, after the election, when I sought to re-establish the inquiry on the same basis that you had previously agreed to, you voted me down. Those facts are all on the record of the committee and I will willingly debate with you the minutes of the committee.

Senator Chapman, you have come in here and tried to misrepresent what transpired and you have said that you did not defy the government. Maybe you got the fix in from the government and they said, ‘Make them wait for the legislation.’ Even after the legislation came out, we indicated that we were not happy with it. It did not cover the issues that we sought to go to. You still refused to allow us the original terms of reference which you had previously agreed to. We considered that you acted in bad faith. We raised it in the chamber, as Senator Campbell well knows. I actually took him through the sequence of events and explained that it seemed there was a communication problem with the commitment given in this chamber and recorded in Hansard that we could hold an inquiry on the terms that we desired and that had been set out in that bill. But Senator Campbell indicated to us, when it was raised the second time, that he believed he had given his word.

Senator Campbell is a man of honour; I have no doubt about his word. Each and every other time Senator Campbell has stood up in here and given his word on behalf of the government, Senator Campbell’s word—whether or not he has been directly involved in the delivery—or the government’s word has been kept. Senator Chapman, you and the coalition members on that committee are guilty of defying Senator Campbell’s word and causing his name to be sullied in this unfortunate fashion. I do not hold Senator Campbell responsible for this particular act. I do not hold Senator Chapman responsible for your conduct. I hold you responsible for your conduct—no one other than you.

Senator Chapman—You should leave the Senate and go on the stage.

Senator CONROY—Thank you for your endorsement, Senator Chapman; I appreciate
your confidence. I am not as confident in my capacities in the way you are suggesting.

Senator Calvert interjecting—

Senator CONROY—I appreciate your support as well, Senator Calvert. I am, again, not as confident in my capacities in that field. I would like to return to the third part that I was talking about. The Reserve Bank made a $3 billion or $4 billion profit in this financial year which they have remitted to the government as a dividend, as is the requirement. What has come to light in the last 48 hours is that the Reserve Bank have held back nearly $700 million of dividend for the purposes of giving it to the government in the next financial year. So if you take the $1.6 billion rort of misclassified expenditure—that is, misclassifying a loan so that it does not look like a grant—add the near $700 million of Reserve Bank dividend that should be rightfully classified as receipts in this financial year but you are rorting the system and having it delivered next financial year, you actually find that this government is shonkily trying to pretend it is running a surplus when in actual fact it is running a $2 billion deficit. Those are the true figures. As the Trade Practices Act and other acts of parliament do not apply to government accounting, there is no redress for ordinary Australians—

Senator Ian Campbell—Mr Temporary Chairman, I raise a point of order: we have now had Senator Conroy speaking for about 25 minutes on a range of issues, none of which have anything to do with the bill before the chamber. I think at some stage he should be asked to make some remark that at least bears some resemblance to the employee entitlements bill which is before us at the moment.

Senator CONROY—On the point of order: as I indicated at the beginning of my first contribution, Senator Campbell ranged widely over budgetary matters.

Senator Ian Campbell interjecting—

Senator CONROY—What about Simon Crean last night? How did Simon Crean last night on the radio get into a debate on this issue if you were not ranging widely, Senator Campbell?

Senator Ian Campbell interjecting—

Senator CONROY—I was happy to allow the flow of the debate. I am not afraid of the debate.

The TEMPORARY CHAIRMAN—Order! Senator Conroy, what is your point?

Senator CONROY—My point is that a consistent position should be adopted by the chair. Senator Campbell was allowed to range widely, and I simply seek the same latitude as Senator Campbell received from the previous chair. Mr Temporary Chairman, you unfortunately were not here to witness or listen to all of Senator Campbell’s contribution.

The TEMPORARY CHAIRMAN—On the point of order, I draw your attention to the amendment that is before the chair, Senator Conroy. I understand that there has been a wide-ranging debate on this issue but, nonetheless, you should at least draw your remarks to the issue that is before the chair. I think the wide-ranging debate has been tolerated by me on both sides.

Senator Ian Campbell—You had better read the Hansard to determine whether it was wide ranging.

Senator CONROY—Once again, the parliamentary secretary is defying the chair in a flagrant manner.

The TEMPORARY CHAIRMAN—Senator Conroy, I am not asking you to make any interpretations. I have ruled on the point of order. I am drawing your attention to the amendment that is before the chair and asking you to contain your remarks to the debate that is currently before the chair, given the context in which other remarks have been made before the chair and previously to other chairs prior to my assuming the chair.

Senator CONROY—Thank you, Mr Temporary Chairman. I was just making the point that the sort of corporate shenanigans that this amendment is trying to catch include trying to mislead shareholders and mislead workers with accounting shonkiness, which this government has displayed in the last 48 hours. If this government were forced to ad-
here to the same standards which now will be delivered by this bill for the protection of workers, ASIC would have been knocking on the Treasurer’s door last night seeking an explanation for the sorts of outrageous misrepresentations and corporate accounting shenanigans that we have seen in the Patrick case.

Do not let the Patrick case be forgotten. Time is a great healer. But those who were involved and who went down to the docks—and I know, Senator Cooney, you were down at the docks, and I visited the docks on occasion—would know of the sort of shenanigans that we are trying to stop with this bill: the dogs on chains, the balaclavas, the un-Australian acts, this government being in the dock on conspiracy to breach its own laws. That is the sort of behaviour which this amendment seeks to stamp out—how this government was complicit in having ordinary Australians sacked simply because they were members of a union. The Prime Minister even admitted that every single union member had to be sacked. It did not matter whether they were involved in an industrial dispute with Patrick or not. It did not matter whether there were world-leading productivity issues at stake. It did not matter that the company had not put any money into upgrading its machinery and equipment and, therefore, that you could not achieve world productivity standards. It made no difference. The Prime Minister said, ‘Every unionist has got to go’—clearly in breach of his own laws.

So this amendment is designed to catch the sorts of shenanigans of Patrick, the sort of corporate spivery of Scanlan and Corrigan—Liberal Party mates in Victoria who have been in it up to their necks in a whole range of corporate scams—and the sorts of scams that this government has been caught red-handed with yesterday on the budget. This amendment deserves the support of this chamber. This amendment deserves the support of the government. I welcome Senator Murray’s support, and I hope that we can conclude this debate reasonably soon.

Senator COONEY (Victoria) (5.57 p.m.)—Apropos of what Senator Campbell has said and as Senator Conroy has said about Senator Campbell, I wish to say that Senator Campbell is a person who does look at these matters fully and with consideration. He said that, nevertheless, the government would not be looking at the amendments put forward by the opposition. Of the amendments put forward by the opposition, this particular one, proposed section 588YA, attempts to make a company responsible for money that is owed by another company to which it is related, in a way that is fair and just. Senator Campbell was concerned that this would hit at the heart of the concept behind corporations.

Perhaps I might say for a start that corporations are very much the subject of legislation of the parliament. I think that originally we may have had some charter from the king. But, fundamentally, corporations are creations of statute. In that sense, parliament can make them, and break them for that matter—not that it would ever want to break them. But certainly parliament would want to restrain them, and that is proper for parliament to do since companies are the creature of the legislative process.

The proposed government amendments show just how serious it is about these matters. Proposed section 596AB—entering into agreements or transactions to avoid employee entitlements—says:

(1) A person must not enter into a relevant agreement or a transaction with the intention of, or with intentions that include the intention of:

(a) preventing the recovery of the entitlements of employees of a company; or

(b) significantly reducing the amount of the entitlements of employees of a company that can be recovered.

So this is proposing that people should not go about planning things in such a way that anybody who is owed money by companies—and we have been talking about employees here—should be denied what is rightfully theirs by some person, or a group of persons, entering into agreements and transactions to ensure that those creditors and those employees in particular do not get what is duly theirs. The penalty proposed for people who commit that offence is, according to schedule 3 of the bill, 1,000 penalty units or imprisonment for 10 years, or both. That is a very
heavy penalty and shows the significance that is placed on this by the government. Subsection 2 of proposed section 596AB states that this applies:

... even if:

(a) the company is not a party to the agreement or transaction; or

(b) the agreement or transaction is approved by a court.

The scheme is that anybody who enters into an agreement or transaction that will deny a worker his or her entitlements, his or her wages, or indeed any creditor of the company that enters into an agreement to deny them their true entitlements, will be punished, even if that agreement was sanctioned by a court and even though the company is not a party to the agreement. It would be sanctioned, of course, by the court without the court knowing the intention that lay behind it. There are a couple of concepts behind this proposal—one being that parliament ought to step in and make sure that the people who act in the way that is dealt with under this section ought to be punished for denying people their rights and another being that people ought to be punished, even though the company was not party to the agreement, or the company was not involved, as it were, with that agreement. So there is this concept of having persons outside the company made responsible in a very solid way for what the company does.

That concept lies behind the proposal of the opposition to introduce a law that makes related companies responsible for the debts of a company that denies its workers their entitlements. The opposition’s proposal requires that the two companies—the company that has the debt and the related company—have joined, as it were, in an enterprise that results in this difficulty, or that in some way has a relationship to it because subsection 4 of this opposition amendment says:

An order shall not be made under this section if the only ground for making the order is that creditors of the company have relied on the fact that another company is or has been a related body corporate of the company.

So it has to be more than just a related company. It has to be a related company that in some way has helped the company owing the worker his or her wages, has in some way done work, carried out transactions, entered into agreements or done something with that debtor company that has led to that debt. That idea of one company being liable for another company’s debts has precedent, and I refer to section 588B of the Corporations Act, which sets out when a holding company is liable for the company that it is the holding company to and so on.

So I would invite the parliamentary secretary and the government to consider proposed section 588YA going into the Corporations Law. As I say, it comes from a long tradition of one company being responsible for another. It comes from a long tradition of parliament regulating companies in the interests of the creditors. It comes from a long tradition of parliament trying to balance the good that comes from allowing corporations, allowing people who are members of the corporations, to take actions and to develop innovative products and services without the fear that they might go broke doing so and measuring that against the fact that companies that have their liability limited in some way can also inflict terrible damage on those to whom they owe money. I put it to you that this is a very sensible proposal put forward by the opposition.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (6.06 p.m.)—I will really try not to delay this, but Senator Cooney said that we were not going to consider it. I actually said very clearly in my last intervention in the debate that we have considered this very closely, and CASAC are currently considering this very matter—the most senior eminent body of advisers is actually considering this. We have looked at it very closely, as did the Hawke government and the Keating government. I think Mr Duffy may have even looked at it—it was just at the time when Mr Duffy was the Attorney-General—and he rejected it for the same reasons, I presume, that the government is rejecting it now.

The only other issue I picked up amongst the points you made is that you gave the example of two companies, company A and company B, being related and, to use your
words, ‘entering into an enterprise to deprive employees of their entitlements’. The very case you articulated, I am informed, would be caught under the provisions of the bill as it stands—that is, company A and company B being related parties entering into an enterprise to ensure that employees did not get their entitlements would be caught under the provisions of this bill without this amendment.

Senator COONEY (Victoria) (6.07 p.m.)—I thank the parliamentary secretary for that and also stand corrected on the proposition that you say that this is being considered. I take it that the reference to ‘a person’ in 596AB includes a company as well as an individual.

Amendment agreed to.

Senator CONROY (Victoria) (6.08 p.m.)—I move opposition amendment No. 2:

(2) Schedule 1, page 9 (after line 17), after item 5, insert:

5A After subsection 1317J

Insert:

Application by creditor

(2A) A creditor of the corporation may apply for a compensation order.

This amendment means that if a corporation has contravened a civil penalty provision creditors will be able to apply to a court for a compensation order. Currently, only ASIC or the corporation can apply for a compensation order. This amendment will assist employees where ASIC has proven the contravention of a civil penalty order. In that case, a creditor can apply to the court for a compensation order if the corporation has suffered damage. It will allow employees to take an active role in recovering their entitlements where a civil penalty provision has been proven to have been contravened. Employees want that role. They want to know that their employee entitlements are safe or, if they are lost due to the unscrupulous actions of a director, that they can be recovered. Employees do not at the moment have that security. They deserve that security. This amendment will mean that the risk that the assets of a corporation will be diminished by the actions of unscrupulous directors is reduced. It will maximise the amount of assets which, in the event of insolvency, are available to be distributed to employees. It will enhance the opportunity of employees to recover, to protect their employee entitlements. This bill is an inadequate response to the issue of employee entitlements. More needs to be done. The amendment should be supported.

Senator MURRAY (Western Australia) (6.10 p.m.)—We are referring here to amendment No. 2 on sheet 1779 revised, moved by Labor. The Democrats have considered that amendment. The effect of the amendment is to allow individual creditors to apply for compensation orders under the civil penalty provision division of the Corporations Law. There are a couple of reasons we do not support the amendment, and we have conveyed these to the Labor Party. We are concerned with the possibility of the company and several creditors bringing separate actions based on the same circumstances. That would create problems with any of the parties negotiating settlement of an action if a full discharge could not be given to a dependent. Furthermore, the company could expend unnecessary resources defending multiple actions by creditors based on the same circumstances. We do support the goal of the Labor Party of trying to give greater power to individual creditors, but, from a technical perspective, we think this provision could create more problems than the benefits it delivers. Therefore, we do not support the amendment.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (6.12 p.m.)—The government will oppose this amendment. So as not to delay the committee’s deliberations, it is fair to say that we concur with the reasons Senator Murray has articulated.

Senator CONROY (Victoria) (6.12 p.m.)—I am disappointed that the Democrats have chosen not to support us on this one. This is not dissimilar to some of the issues that we have all been grappling with about how we capture and protect and enhance the protection. I know the words sometimes do not always mean the same to us as they mean in a legal sense, and we have to be very careful how we frame these laws. We are very
conscious that we are in a position to not cause unintended consequences. I know we have had discussions on other bills to try to find common words that we have been unfortunately unsuccessful in agreeing on because the legal interpretation of what we would mean would probably be different from that which we actually intended. This is something we have to be very conscious of. I am conscious of the concerns of the Democrats, and I hope that we are able to reach consensus on some words that do further enhance our capacity to protect workers’ entitlements.

Senator COONEY (Victoria) (6.13 p.m.)—The concept behind this is a good one—that is, people should be entitled to apply to a court for a compensation order in respect of the damage they have suffered or injuries they have experienced without relying on the goodwill of other people. I understand what Senator Murray has said, and whenever Senator Murray says something I always tend to lose confidence in my own thoughts because he is very forceful and very experienced and bright in this area.

Senator Murray—through you, Mr Temporary Chairman—I will put this proposition up. If you look at the sweep of history, starting off in the Middle Ages when the church was a very powerful organisation, all sorts of institutions, and people within them, grew up at that time who wanted, as it were, to modify its power. And then, when the monarchy was very powerful, all sorts of institutions grew up—parliament itself grew up at that time—in an attempt to modify the power of the dominating institution. Of course, parliament itself became very dominant in the 18th century in England, and there had to be all sorts of reforms brought in then. I think the dominating force in modern days is the corporation itself. If you think about the vast wealth that corporations possess—like the church and the monarchy once did—

Senator Ian Campbell—And the shareholders.

Senator COONEY—And the shareholders, as Senator Campbell says, and that is true, but the vast wealth is not controlled by the shareholders; it is controlled by the board and the chief executive officer. It is just like the kings: they were not the only people in the various countries—England is the one that we are most familiar with—but, nevertheless, the monarchy was in control. Senator Campbell is quite right: companies do not consist simply of the board, the chief executive officers and the managers; they consist of shareholders. But the shareholders are powerless. They have their annual general meeting, but there is not much they can do there, as experience would show. They can do some things, but they do not have the power that the board and the chief executive officer have of some of these companies, which are quite vast and upon which our modern world depends. The creation of wealth comes largely through companies. People’s lives are very much affected by decisions of boards—this is a point that has been made again and again—whether they are overseas or here. Look at the situation in South Australia with Mitsubishi: if they went, that could cause great trouble for South Australia. Look at the issue of the Rover corporation in England now: if they go, and if they are not held up by some foreign company, that could have all sorts of results for workers.

There is, I think, an argument to say that people who are affected by these corporations ought to have an ability to move against them in their own interests, just as a citizen is entitled to move against a state to preserve his or her rights. If a person is wrongly taxed, they can go to the AAT—the Administrative Appeals Tribunal—or somewhere else. If the state refuses to pay sufficient social security, a person can sue the Commonwealth in respect of that. If a person has an accident on the road—at least in some states—they can sue the government. Hasn’t the time arrived in the development of corporations when people can move against corporations in the same way as citizens used to move against the state? It is in that context that this particular amendment is moved.

Amendment not agreed to.

Senator MURRAY (Western Australia) (6.19 p.m.)—I accept that reading, Mr Temporary Chairman, that the vote was no. I just want to indicate that I will be moving a third
reading amendment and I will be speaking to that later.

Bill, as amended, agreed to.

Bill reported with an amendment.

Adoption of Report

Motion (by Senator Ian Campbell) proposed:

That the report from the committee be adopted.

Senator MURRAY (Western Australia) (6.20 p.m.)—I refer to my amendment No. 1782, which has been circulated in the chamber, and I wish to speak briefly to that amendment. In my minority report to the Joint Committee on Corporations and Securities on this bill, I indicated a number of concerns and inadequacies with the bill. Unfortunately, the sheer complexities associated with the those concerns have not allowed the Democrats to fully address them. I therefore move amendment No. 1782 to the motion presently before the Senate:

At the end of the motion add:

“but the Senate calls on the government to strengthen the legal protection of employee entitlements by:

(a) developing further amendments to the law to provide that entities under the law should have a specific duty of care to protect the accrued entitlements of employees, including unpaid wages, leave entitlements, injury compensation, superannuation and other statutory contributions;

(b) in developing the amendments, examining such options as:

(i) the provision of full disclosure to employees of their accrued entitlements and of the financial standing of the company, and whether employee entitlements are effectively being used to fund cash flow, to enable employees to judge any risk to their entitlements;

(ii) accrued entitlements being safeguarded through the use of mechanisms such as arm’s-length trust funds as a safe repository; and

(iii) accrued entitlements being secured against the assets of the company; and

(c) taking any other measures necessary to protect employee entitlements”.

The proposition I put is that one of the concerns outlined in my minority report was the requirement to prove intention when seeking to show that a person has entered into a transaction with a view to depriving employees of their entitlements. Proving intention is notoriously difficult. It requires the plaintiff to have proof of what is in the head of the director or officer of the company.

The Bills Digest on this bill is well written, and I commend its author, Mr Mark Tapley, for his comments on page 6:

The burden of proving subjectively that a person intended to avoid recovery of employee entitlements may mean that successful actions for compensation under section 596AC will be rare. If this occurs the deterrent effect of these amendments on the behaviour of directors will be greatly reduced.

I and my adviser, Lee Jones, who assists me very professionally with these matters, have given substantial consideration to the terms of section 596AB, and we have also given substantial consideration to a variety of alternative wordings which would have eliminated the onerous burden of having to prove intention. Unfortunately, finding a more appropriate level at which to set the test is just plain difficult. It would require extensive consultations with interested groups, and the Democrats do not feel it is appropriate for us to simply sit down and draft and then move an amendment which could have far-reaching consequences for directors, officers and employees in this matter.

I do not think that I am speaking out of turn to remark that I understand that the Labor Party have made similar efforts and have experienced the same problems. I sincerely hope that the Senate will have an opportunity to revisit the issue.

I understand that the government is still reviewing the scheme which will compensate employees for lost entitlements, and that is an issue which is very closely related to this one. I like to think of the matters before us today as relating to prevention, and of the issue of the employee entitlements support scheme as the remedy or cure if the preventative measures fail. When the government
finalises the arrangements in relation to the compensatory scheme, I hope that that review will result in additional measures on the preventative side of the equation rather than only focusing on the compensation issue. That is the essence of this amendment to the motion. Issues such as fuller disclosure of entitlements and of the financial standing of companies to employees, establishing trust funds into which entitlements would be deposited as they accrue and securing entitlements against company assets do need to be considered.

My concern about these issues does relate to their complexity. I am informed that legislation to implement ideas like these would be relatively complex, and it is for that reason that I would like the government, with its extensive resources, to at least provide some in-depth appraisal of these concepts. Parliamentary Secretary, you were not present at the corporations and securities committee, obviously, as a member of the outer government, but there was some warm consideration from some employer groups on these issues, and therefore it is not just our particular interest which is generating this. There is much wider interest in these concepts than just political party interest. Therefore, I commend my motion to the Senate.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (6.24 p.m.)—Briefly, I indicated during the debate in the committee stage consideration of the bill that the government is proud of its effort in bringing forward amendments to the Corporations Law but also in establishing Employee Entitlements Support Scheme. We believe that both Minister Hockey and Minister Reith—and I know that the Prime Minister and the Treasurer both take a personal interest in this area—have dedicated a lot of effort on behalf of the government. I am sure I have missed some other ministers there, but it is an issue that we regard seriously.

We will not be supporting the amendment, for a number of reasons. I might just say that, on my own behalf, I am not sure that when Senator Murray talks about developing further amendments to the law he is talking about the Corporations Law. If you look at the definitions in the Corporations Law itself, wherever it refers to ‘the law’ I think it actually means the Corporations Law. But I suspect that Senator Murray means all of the law of the Commonwealth, because I do not think he would want to restrict us to the Corporations Law. I also think there are a number of things, a whole range of policies, that you can keep under review on these issues. I know that it is an important issue.

The great thing, as Senator Murray has alluded to, is that soundly based, successful organisations and corporations in this era—if it has been ever been any different—know that to be successful they need motivated, loyal, dedicated employees: they are the true capital, particularly in the modern information economy, of a corporation. The sort of employers that you are talking to are usually the successful employers, and the government believes very strongly in that sort of ethos. That is why, if you compare the record of this government to that of previous governments, we have actually put more runs on the board in a shorter time in relation to this area. So we regard this as an unnecessary amendment.

I give Senator Murray and the Senate the undertaking that this area will be kept under review. We have an open mind on these things. As Senator Murray has invoked the Joint Committee on Corporations and Securities—that very important committee—I give him the undertaking that I will keep an open mind on this, as will the government. We do have the CASAC report coming forward on corporate groups, and of course the government will receive that and it will be a public document. We will look at what they recommend.

I take the opportunity—and Senator Murray would think less of me if I did not—to encourage him to keep an equally open mind and to look at all of the issues and all of the submissions in relation to the very important area of reform of the law to empower shareholders and corporations—that is, takeovers reform and the follow-on rule—and
have an equally open mind and give thorough consideration to the significant merits of that significant piece of reform, which he has given us an undertaking that he will look at closely. I look forward very much to that joint parliamentary committee report, and particularly to Senator Murray’s own comments on the proposition that they have before them.

Senator CONROY (Victoria) (6.28 p.m.)—I seek an indication from the government as to whether it intends to divide. We are probably going to be supporting this.

Senator Ian Campbell—We will not be dividing.

Senator CONROY—In that case, I indicate that the Labor Party welcomes Senator Murray’s amendment and I also look forward to the committee, of which, as you know, I am an active member—as is Senator Murray. We just hope that you let Senator Chapman and the other members of the committee know that they have to vote for it when the reference comes up, Senator Murray. I indicate that we will be supporting the amendment.

Amendment agreed to.

Original question, as amended, resolved in the affirmative.

Third Reading

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

A NEW TAX SYSTEM (TRADE PRACTICES AMENDMENT) BILL 2000

Second Reading

Debate resumed from 10 April, on motion by Senator Newman:

That this bill be now read a second time.

(Quorum formed)

Senator MURPHY (Tasmania) (6.32 p.m.)—We are discussing the A New Tax System (Trade Practices Amendment) Bill 2000, the main purpose of which is to insert a new provision in part VB of the Trade Practices Act 1974 that would prohibit conduct in connection with the supply of goods or services that falsely represents or misleads or deceives the person about the effect of the new tax system, specifically the GST changes. The first body that ought to be prosecuted under this particular piece of legislation is the government. If anyone is guilty of deceiving or misrepresenting or misleading the Australian public with respect to the GST it is the government, and they have spent substantial amounts of money doing so. We know that they have spent at least $360 million-odd, identified after some very good questioning through the estimates process. I think it grew from somewhere around $25 million in the morning to $361 million in the afternoon.

This particular amendment to the Trade Practices Act in some ways goes across section 52 of the same act, because that particular section prohibits conduct in trade or commerce which misleads or deceives or is likely to mislead or deceive. According to Professor Warren Pengilley, who is a professor at the University of Newcastle, section 52 is worded in general terms and incurs no criminal penalties. The section is enforced by the sanctions of damages, injunction or wide-ranging ‘other orders’, including corrective advertising, which can be made under the Trade Practices Act. Last year a new part VB, sections 75AT to 75AZ, was inserted in the TPA, which prohibited price exploitation by corporations during the new tax system changes and also empowered the ACCC to monitor prices from 1 July 1999 to 1 July 2002. I suppose we could call this bill the 10 per cent is 10 per cent is 10 per cent bill, with respect to which, frankly, the Labor Party has been able to uncover one of the great misleading factors of the approach of this government in the introduction of the GST. We know that the government has not issued a directive to the ACCC to prosecute particular traders should their price exceed 10 per cent as a result of the effect of the GST; that is clearly the case.

The legislation also introduced the price exploitation code but, because the Commonwealth’s power is limited in this respect, all jurisdictions, with the exception of Queensland, have agreed to implement this new code so the ACCC can have the same functions as above with respect to persons rather than corporations. The explanatory memo-
random states that the intent of the legislation is to:
... prevent the possibility of consumer exploitation and excessive profit taking in the transition to the New Tax System.
Part of section 75AYA asks the ACCC to police the clause:
A person must not, in trade or commerce ... engage in conduct ... that falsely represents the effect, or likely effect, of all or any of the New Tax System changes.
When we look at that, we have got to look at what the ACCC has said, and we also have to look at what the government said. Back in January of this year the Minister for Financial Services and Regulation, Mr Joe Hockey, made an announcement about this. He said: No prices will increase by more than 10% as a result of the GST—that is our policy and that is the law. Any rounding that increases prices beyond the GST of 10% is unacceptable. And companies that try to profit from the introduction of the GST will face fines of up to $10 million.
He further said in the statement:
Mr Hockey reaffirmed that if prices increase, as a result of the GST, it must be by 10% or less and many prices will come down as wholesale sales tax and other taxes are abolished on 1 July.
You would have thought that with such a statement the Minister for Financial Services and Regulation would have written off to the ACCC, which is going to be the watchdog body responsible for ensuring that his statements, the government’s policy, is implemented, is followed. But no, he did not do that. We look also at what has happened in respect of the ACCC. The ACCC has said that 10 per cent is 10 per cent. With the greatest of respect to Professor Fels, he did make the comment that 10 per cent is 10 per cent is 10 per cent. They have issued price guidelines that say something slightly different. The price guidelines say:
... no price should rise by more than 10 per cent because of the New Tax System changes ...
In the supplementary additional estimates on 1 May, when the ACCC appeared before the Economics Legislation Committee, Senator Conroy questioned Mr Jepsen of the ACCC about this issue of whether or not the government has actually directed the ACCC in writing—that is, to make it law—that no price will go up by more than 10 per cent. The Hansard read:
Senator CONROY—So you have not received a mandate from the government to determine what those effects are?
Mr Jepsen—I have not, no.
Senator CONROY—There is nothing in the legislation, Professor Fels, that says the ACCC will determine what the effects or likely effects of the changes are?
Prof. Fels—I think I understand the question and, if so, I do not think we have had that from the government—if I understand your question.
Further:
Senator CONROY—Mr Hockey has been quoted—and I think everyone saw it at the time—in January or February—as saying that he has directed you that no price is to increase by more than 10 per cent. Professor Fels, that is not accurate, is it?
Prof. Fels—He made a statement something like that.
The next question was:
Senator CONROY—... that he had directed you to that effect.
Then Professor Fels again said:
Prof. Fels—I think he made a press statement to that effect, yes.
Senator CONROY—That is not correct, is it? He has not directed you that no price is to increase?
Prof. Fels—Not in terms of a direction under the Trade Practices Act, no.
Senator CONROY—He is required put that in writing, isn’t he?
Prof. Fels—Yes.
Senator CONROY—And he has not put that in writing?
Prof. Fels—No.
That again gives a clear indication. Unfortunately, the poor ACCC is under significant pressure from the government to conduct this scare campaign on business, to actually silence business in terms of the criticism and make sure that, if possible, they do keep their prices as a result of the effect of the GST within 10 per cent when in reality we know that in many instances that is not going to be the case. It is simply not going to happen. As a result of that, the government has embarked
upon this campaign of changing the law, putting in huge penalties for the same thing, which is very interesting. The current legislation has penalties that are much lower. I have got to say—just as a side issue—that in respect of deceit and misleading and misrepresenting there are enough corporations out there now doing it. We have not got the ACCC prosecuting too many of those, and that is a matter I am going to take up with the ACCC in respect of some investment schemes about the place at the moment. I am going to ask them why those things are not being prosecuted under section 52 of the Trade Practices Act.

I come back to ‘10 per cent is 10 per cent is 10 per cent’. As I said, the ACCC are being put in the very invidious position of having to run the government’s argument for it. We have had Minister Hockey making statements that no price shall rise more than 10 per cent when in fact we know that that is simply not going to be the case. The ACCC have to look at these matters on a case-by-case basis. Professor Fels has said that. They can do nothing other than that. The reality—despite the ACCC having been put in a corner of having to say that they cannot envisage a circumstance where the price will increase as a result of the net effect of the cost of the introduction of the GST—is that the ACCC will not say they will prosecute a business if there is a case where that business can legitimately demonstrate that the costs of the introduction of the new tax system to them have caused them to put up their price by more than 10 per cent. Because they will not. They simply cannot under the law. And that is where this government is clearly misleading the people. That is the reality. Minister Joe Hockey’s statement back in January was just a load of rubbish.

Senator Quirke—Rear end of the horse.

Senator MURPHY—Yes, if anyone should be prosecuted, the first cab off the rank should be the government or at least Minister Hockey for making misleading statements. There is another aspect about the guidelines that the ACCC have come out with. Of course the ACCC have a big job. It will be very interesting to see how they manage given the number of complaints that they get. We were given various figures, but they receive around 1,000 calls a week. They indicated during the estimates process that they were able to cope with that—that they could swing more staff into action—but there are concerns when you look at the national complexity of retail prices and the number of potential outlets that could put prices up, as has already occurred. The ACCC have therefore already had cause to take action in certain areas on this. But when this becomes a full-blown issue after 1 July, one just cannot imagine how the ACCC are going to have the capacity—and I have the greatest respect for them—to deal with all of these issues.

I think it is abundantly clear that the ACCC are not going to have the resources to deal with this and there are going to be a lot of dissatisfied people out there. This is as a result of this government not being able to get this thing right in the first place. As I said, this government are embarking upon this campaign whereby they are just trying to scare business. There is no legitimacy whatsoever to this or, if there is—and note that the government are going to make it a $10 million fine for a corporation and $500,000 fine for an individual—I suppose you could say that the government know that people are going to try to rip other people off. That is what those fines have to indicate. You are talking about making the fines so high for this sort of practice that you must have some view that there is going to be profit-taking on this.

To go back to the number of complaints that the ACCC receives, it is quoted in an article in the Financial Review of 24 March that since last July the ACCC has received more than 7,500 complaints and inquiries, and the number is growing. A Dr Cousins is quoted in that article as saying that ‘last week the ACCC received about 1,000 calls’. I think that is an indication of the concern—and this is before the ball has even bounced on this thing. When we get to 1 July and thereafter, as I said, taking the number of the retail outlets around this country and the calls—

Senator Quirke—I hope that they have a new switchboard. They might want to use Telstra.
Senator MURPHY—We want Telstra right on the job here. We want to make sure that everything is working, including mobile phones.

Senator Quirke—They might need Optus and Vodafone as well.

Senator MURPHY—Yes, there would not be a problem. I think all of the telecommunications service providers can expect an increase in business after 1 July, especially on the complaints line. They could well find that they could do a bit of profit-taking themselves. As I said, the 10 per cent is 10 per cent is simply not stacking up. It is wrong for the government to try to force the ACCC into a position of having to defend a policy that is not true. That is the case, because it is simply not true that prices will not go up by more than 10 per cent. Trying to restrict the costs of some businesses—that is, as to what they can include in their costs—is a deliberate attempt to do that because many of these businesses will have to get new equipment that they would not have needed without this tax system change. Yet the indication from the ACCC and the government as to what can and cannot be included in such costs is clearly inadequate. As has been pointed out, it will be difficult for a lot of businesses. (Time expired)

Debate interrupted.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order! It being 6.51 p.m., I propose the question:

That the Senate do now adjourn.

Brownhill, Senator David

Senator SANDY MACDONALD (New South Wales) (6.51 p.m.)—I want to take the opportunity in the adjournment debate tonight to acknowledge the service of former Senator David Brownhill, who resigned from the Senate on 14 April after nearly 16 years of service representing the National Party, New South Wales and Australia. His service is longer than that of any other National Party or Country Party senator from New South Wales. The next longest service was that of the late Colin McKellar, who served 12 years. David served longer than his immediate predecessor, Doug Scott, who retired in 1984 after 11 years. After former Senators Cooper, Drake Brockman, Webster and our current leader, Ron Boswell, David is the fifth longest serving National Party or Country Party senator in our 80th year as a federal party.

David Gordon Cadell Brownhill—and I mention all his names because he is justifiably proud of his heritage—came into the Senate as a well-regarded and innovative farmer. He brought the skills honed in his previous profession to this place. He was extremely hardworking, almost tireless in his areas of responsibility, and he showed a level of application necessary for all successful people. He came to and left this place with a close, interesting and successful family. The Arnotts, the family of his wife, Julia, also have a tradition of community service. David's late father-in-law, K.M.H. Arnott, won a DSO in New Guinea. As a junior officer, this was an award that did not merely come up with the rations. David came here having been chair of the New South Wales National Party, and he had wide political experience and understanding of the problems facing regional Australia. He served on a whole range of committees while the coalition was in opposition, including the rural and regional affairs committee, in which he played a leading role in inquiries dear to his heart like the one into animal welfare. He is justifiably regarded as a great committee man, having served on more than 90 parliamentary inquiries.

He has always said that the highlight of his career was his appointment as Parliamentary Secretary to the Minister for Trade and Parliamentary Secretary to the Minister for Primary Industries and Energy in the first Howard-Fischer government. He had a particular sympathy with and regard for the primary industry portfolio, where he was responsible for horticulture, wine and some aspects of quarantine, among other things. Funding for research and development in horticulture increased significantly during his term. He is somebody who makes plans for the future, and he always believed that research and development must remain a high priority if producers in this country are to remain competitive. The wine industry continued its
strong export growth during his time, and he remains very interested in the product, probably both on a personal consumption level of some good quality reds and also in its continuing export growth. David was the principal parliamentary organiser of the National Rural Summit and then went on to chair the activating committee that prepared a report from the 140-odd recommendations. That report played a key role in the development of the $500 million Agriculture Advancing Australia package that received a $300 million boost in last night’s budget.

This package provided many things for agriculture, but first among equals must be the change to risk management provided by the farm management deposits, encouraging farmers to plan for economic and seasonal downturn by a tax-deductible and market driven alternative. David was a member of the organising committee for the Regional Australia Summit held last year. Last night’s budget showed the delivery of some of the summit’s work for regional Australia. This includes the health package, which expands medical training facilities to increase the opportunities for medical students to train in rural service delivery. It adds 85 new regional health services, provides support for small community hospitals and aged care facilities, and improves access to specialists for country people. It encourages medical graduates to commit to rural practice, and it also increases assistance to isolated children, relaxes the assets test and reduces country fuel prices. Along with the massive tax cuts from 1 July, there is a very genuine attempt by the government flowing from the Regional Australia Summit to maintain the infrastructure and opportunities of country areas. David played an important part in that. He always acknowledged that there were no easy answers and that there is no cavalry about to ride over the hill but that there is a bright future for regional Australia if there is the right leadership, particularly local leadership, in cooperation with the government.

I am sure all senators on both sides of the chamber would agree that David Brownhill was honest and straightforward in his dealings with people and issues. He laboured hard with his conscience, particularly over the euthanasia and republic debates. He was true to himself in both of these. He served Australia well overseas. He led a number of parliamentary and trade delegations, and he presented a good and decent face for Australia. I think the distinguishing aspect of David’s parliamentary career is that he was a team player, not the sort to let his side down. Right through from the debilitating Joh for Canberra campaign until he was a parliamentary secretary for trade and primary industries, he was given responsibility for government initiatives and applied himself accordingly.

To conclude, I wish him and his wife, Julia, well, and I am sure that his skills can be further used. I would like to thank him for retiring now, allowing me to return to the Senate after a break of 10 months. Few people have a chance to be in the parliament. I have been given a second chance. I particularly thank my party and my colleagues, both National and Liberal. I feel privileged to have a second opportunity to make a contribution to constructive debate in this country, and I will not waste any time in doing so. David Brownhill did that wisely for 16 years.

Honourable senators—Hear, hear!

Pakistan: Honour Killings

Senator BOURNE (New South Wales) (6.58 p.m.)—While I agree with Senator Sandy Macdonald about the value of Senator Brownhill’s contribution to this place, I want to speak about something utterly different tonight. I would like to talk about the issue of so-called honour killings in Pakistan. I am most concerned about reports that Pakistani women have been murdered for things such as divorcing, reporting a rape or marrying against the wishes of their parents. I have received many letters from concerned Australians who are asking the Australian government to take action on this. Amnesty International is running a campaign highlighting the silent plight of all these women. I thank Amnesty for bringing this to my attention, and I would like to talk tonight about its campaign. If anybody wants more details, they can of course find them on the Amnesty web site.
Many Pakistani women are subjected to extreme control by their male relatives, who claim ownership, sometimes with amazing brutality. Although generally these women put up with this treatment, slowly there is a growing awareness of women’s rights. Although it helps the women to realise that they do not have to put up with the treatment, when they do stand up to it the retaliation can be swift and brutal. In fact, the curve of honour killings has risen parallel to the rise in awareness of rights.

It is amazing to me, living as I do in the relative freedom of Australian society, that every year hundreds of women are known to die as a result of so-called honour killings in Pakistan. Many more cases go unreported, and almost all go unpunished. Even when these women are brave enough to do something about it, they find they live in a nation state which is indifferent to—and even complicit in—their plight. Police almost invariably take the man’s side in these domestic murders and rarely prosecute the murderers. Even when the men are convicted, the judiciary usually ensures that they receive a light sentence, reinforcing the view that men can kill their female relatives with virtual impunity. Specific laws hamper redress as they discriminate against women.

There are also few women’s shelters, and travelling alone for women is dangerous as they are a target for abuse by police, by strangers or by male relatives hunting for them. Sadly, some feel that the only way out is suicide. Amnesty makes the point that abuses such as honour killings are crimes under Pakistan’s criminal laws. However, systematic failure by the state to prevent them or to investigate them and punish the perpetrators leads to international irresponsibility by that state. The government of Pakistan has taken no measures to end honour killings or to hold perpetrators to account. It has failed to train police and judges to be gender neutral and to amend discriminatory laws. It has ignored article 5 of the Convention on the Elimination of All Forms of Discrimination Against Women, which it ratified in 1996, which obliges states to ‘modify the social and cultural patterns of conduct of men and women’ to eliminate prejudice and discriminatory traditions—I love that word, ‘traditions’. Even where the claim is made, almost unbelievably, that it is a genuine traditional custom to murder a female relative, the 1993 World Conference on Human Rights in the Vienna Declaration and Program of Action stated:

All human rights are universal, indivisible and interdependent and interrelated.

It also asserted that the duty of states is:

... to promote and protect all human rights and fundamental freedoms.

The United Nations General Assembly in 1993 adopted the Declaration on the Elimination of Violence against Women, which urges states not to ‘invoke custom, tradition or religious consideration to avoid their obligation’ to eliminate discriminatory treatment of women. Often these murders are carried out on the flimsiest of grounds, such as by a man who said that he had dreamt his wife had betrayed him and, therefore, he had to kill her. State institutions deal with these crimes against women with extraordinary leniency, and the law provides many loopholes for murderers, in the name of ‘honour’, to kill without punishment. As a result, this so-called tradition remains unbroken.

The methods of killing are also most brutal. In Sindh they may be hacked to pieces by axes or hatchets, often with the complicity of the community. In Punjab the killings, usually by shooting, are more often based on individual decisions and carried out in private. In most cases husbands, fathers or brothers of the women concerned commit the killings. In some cases tribal councils, or jirgas, decide that the women should be killed, and they send men to carry it out. Nobody is exempt from being killed, and age does not bring safety. The victims range from prepubescent girls to grandmothers. It is also amazing to hear that the killings occur outside Pakistan as well. The Nottingham Crown Court in the UK in May 1999 sentenced a Pakistani woman and her grown-up son to life imprisonment for murdering the woman’s daughter, Rukhsana Naz, a pregnant mother of two children. Rukhsana was perceived to have brought shame on the family by having a sexual relationship outside mar-
riage. Her brother reportedly strangled Rukhsana while her mother held her down.

Two main factors contribute to violence against women here: women’s commodification and concepts of honour. The concept of women as commodities, not as human beings endowed with dignity and rights equal to those of men, is deeply rooted in tribal culture. Ownership rights are at stake when women are to be married—almost always in Pakistan by their parents. A major consideration is the property or assets that the young woman has the right to inherit one day. A woman is handed over to her spouse against payment of a bride price to her father. Sometimes that bride price includes another woman given to her father as a new wife. Some men accept a low bride price on the condition that the as yet unborn daughter of the couple will be returned to them to be married off for another bride price. The commodification of women is also the basis of the tradition of khoon baha, or blood money, when a woman is handed over to an adversary to settle a conflict. Women are seen to embody the honour of the men to whom they ‘belong’. As such, they must guard their virginity and their chastity. By being perceived to enter an ‘illicit’ sexual relationship, a woman defiles the honour of her guardian and his family. In most communities there is no punishment for the transgressor besides death. A man’s ability to protect his honour is judged by his family and his neighbours. He must publicly demonstrate his power to safeguard his honour by killing those who damaged it and thereby restore it. Honour killings—murders, really—are consequently often performed quite openly.

The perception of what defiles honour has become very loose. Male control extends not just to a woman’s body and her sexual behaviour but to all of her behaviour, including her movements and her language. In any of these areas, defiance by women translates into undermining male honour. Severe punishments are reported for bringing food late, for answering back or for undertaking forbidden family visits. A man’s honour, defiled by a woman’s alleged or real sexual misde-meanour or other defiance, is only partly restored by murdering her. He also has to kill the man allegedly involved. Since a woman is murdered first, the man often hears about it and flees. The frequency of killings and the unexpectedness with which women are targeted not surprisingly contributes to an atmosphere of fear among young women. The poet Attiya Dawood quoted a pubescent girl in a small Sindhi village:

My brother’s eyes forever follow me. My father’s gaze guards me all the time, stern, angry ... We stand accused and condemned to be declared kari and murdered.

Women can be killed for many reasons: it may be for expressing a desire to choose a spouse or it may be for marrying a partner of one’s choice. Frequently, fathers bring charges of zina, or unlawful sexual relations, against daughters who have married men of their choice, alleging that they are not validly married. But, even when such complaints are before the courts, some men still resort to private justice. Often women choosing a spouse are abducted and are never heard of again. Women who have sought divorce through the courts have been attacked, injured or killed. Seeking divorce is seen as an act of public defiance which calls for punitive action to restore male honour. Even more horrific is that they may be killed if they are raped. The victims of a violent crime are seen to be the perpetrators and the ones who have to be murdered. Amnesty outlines some horrific stories. I will not go into them. They are just too horrible to go into.

Amazingly, there are even fake honour killings. Where the woman is killed and the man escapes, as is often the case, the man has to compensate the affected man—the husband or the other male relative—for the damage to honour he inflicted, for the worth of the woman who was killed and to have his own life spared. This scheme provides many opportunities to make money, to obtain a woman in compensation or to conceal other crimes, in the near certainty that honour killings—if they come to court—will be dealt with leniently. There is an honour killing industry involving tribespeople, police and tribal mediators. Time does not permit me to go into any more detail on this practice, but the concern that I share with Amnesty is the
Pakistan state’s abrogation of their responsibilities. I urge everybody to have a look at the Amnesty web site and I urge the government to make much more public their abhorrence of this dreadful practice.

**Zimbabwe**

Senator MURRAY (Western Australia) (7.07 p.m.)—Zimbabwe is in political and economic crisis and the situation is deteriorating. That matters to Australia because of the ties that many Australians have with friends and relatives in Zimbabwe, and because Australia’s commercial interests in Zimbabwe are threatened. It also matters because if Zimbabwe is added to the world’s ‘basket cases’, it is just one more burden on the international community of which Australia is a strong part.

It is widely reported that Zimbabwe has up to one-quarter of its adult population afflicted with AIDS, inflation at 60 per cent, unemployment of 50 per cent, a contracting economy and a budget deficit estimated at 15 per cent of GDP and is desperately short of foreign exchange. Zimbabwe is conducting a foreign adventure in the Congo at a reputed cost of $30 million per month. The United States, the United Kingdom, the European Community and the Commonwealth condemn its government’s reckless descent into tyranny. Zimbabwe’s neighbours are deeply concerned, and that great statesman Nelson Mandela has made strong statements condemning the violence and intimidation. The rule of law, which was badly undermined in Ian Smith’s time with detention without trial, has much deteriorated under President Mugabe. He personally, and his government, refused to enforce the High Court’s rulings requiring the eviction of squatters on commercial farms, and the police refuse to protect those farmers, farm workers and Zimbabweans in danger as well as those who are opposed to the government. There is little respect for the freedoms of association or of expression. The police and military are not impartial and are reputedly led by members of ZANU-PF, the ruling party. Organised murder, rape, mass beatings and thuggery are increasingly common in this country. Only some of the judiciary, a number of organisations and the very brave opposition, which is not in parliament, stand in defiance.

A badly designed constitution, bequeathed by the inept British, means there are few constraints on power and little accountability. According to Transparency International, Zimbabwe has a Corruption Perceptions Index ranking of 4.1, when 10 is perfect, as in Denmark. It was Robert Mugabe’s defeat at the constitutional referendum earlier this year that brought on the latest crisis. The consequent assault on farmers and farm workers is targeted primarily at opponents of the government who are known supporters of MDC, the Movement for Democratic Change. The ZANU-PF fear the loss of power. They have disguised their political objective of crushing opposition by using a genuine and long-standing issue of land redistribution as a populist issue. However, Mr Mugabe’s objectives are concerned with politics and power, not land and justice. Everyone understands that, his own party included.

Land redistribution has been an issue for decades, but it has already occurred on a large scale. Since independence in 1980 there has been a redistribution program affecting nearly four million hectares and hundreds of commercial farms. That land redistribution has largely been from a few hundred white Zimbabweans to a few hundred black Zimbabweans, but there has also been some wider reallocation of land to about 90,000 subsistence farmers. Zimbabwe at the turn of the last century had a population of about 400,000 people; it now has over 12 million people. There is no social security system and dryland subsistence agriculture is essential for much of the population. There has been a need for a redistribution of land but, of the hundreds of farms already taken over—mostly on a compensation basis—most have so far gone to ruling members of ZANU-PF. For instance, a former general of the liberation army is reported to own 16 farms—I doubt any of those have a squatter problem.

At present Zimbabwe’s commercial farms allow it to feed itself and to generate very large sums of vital foreign exchange through significant exports. Based on experience to date, many of those farms that go into the
hands of ZANU-PF leaders, who are not experienced commercial farmers by and large, end up being very much less productive. If they go into the hands of subsistence peasant farmers commercial production falls drastically. If existing commercial farmers leave the land Zimbabwe will lose the ability to feed itself and to earn much of its foreign exchange.

Certainly population pressures mean that such land—which is underutilised on large land holdings—should be made available for redistribution. International law and plain morality mean that this should be done in an orderly and just fashion, and compensation should be paid. Commercial farms which are productive and which already support hundreds of thousands of farm workers and their families should remain in productive hands. Those farms support a large health, education and commercial infrastructure of their own and are reported to have two million people dependent on them. At present, those productive hands happen to be white Zimbabwean commercial farmers—most of them citizens—but, frankly, it is maintaining the productive capacity which is vital.

The squatters and political thugs that Mr Mugabe supports as veterans will condemn Zimbabwe to decades of poverty and economic troubles if their actions and murders result in commercial farmers being driven off the land. That so many of them are too young to be veterans has been obvious. Even the spokesperson of the veterans is reputed not to have war service; instead he has been an overseas representative for ZANU-PF.

Zimbabwean land rights issues are complex. There is the profoundly unfair, historical and race based colonial context. Zimbabwean blacks were precluded from individual ownership of productive farming land. Secondly, although dryland farming does require large acreages, many farms had underutilised land on them. Thirdly, land redistribution since independence in 1980 has not satisfied land hunger at all, since it has largely benefited elite members of the ZANU-PF party rather than black Zimbabweans living in crowded communal lands in the country.

In a country with a very large population of poor and unemployed people, naturally a covetous eye will always be cast on those who are better off, whether black or white. That is not a justification for organised murder, beatings, rape and theft. Communally owned land is not as productive or as efficient as commercially managed land. Simply put, Zimbabwe has to retain the expertise and ability to produce food and exports. That ability resides in about 4,500 commercial farmers, most of whom are presently white Zimbabwean citizens, and their mostly black employees and families. Land redistribution is still possible on a number of farms but should be subject to just compensation and a fair process. For the rest, both black and white Zimbabwean citizens and residents deserve full protection under the rule of law, which they do not get at present.

The Australian public has reacted to greater media coverage of the crisis. An unfortunate consequence from some has been racist reactions. There are Australians who use these sad and horrifying events as an excuse to vent their contempt for blacks, and then there are those who take the view that the whites are getting what they deserve. There are those who can only empathise with whites who are caught up in this crisis. Despots are despots, whether white or black. When Robert Mugabe is described using the term ‘black despot’, it is a sure sign of outrage coloured by racism. Why not just call him a despot? When a call is made for white farmers only to be considered for refugee or favourable immigrant status, that too is racially discriminatory. Such views ignore the many brave and principled black opponents of despotism, and such views oppose Australia’s non-discriminatory immigrant and refugee policies.

Then you get the anti-white racists, those for whom a white skin is enough to sanction rape, murder or beatings. There are those who tut-tut but say that, as colonialists, these white farming families could expect nothing else, ignoring the fact that Zimbabwe has not been a colony since 1965 according to Ian Smith supporters, but certainly for at least 20 years under Robert Mugabe; ignoring the fact that the perpetrators are cynical, political
thugs using people too young to have fought in the civil war, often intimidating white Zimbabweans, themselves too young to remember those days or who bought their farms after 1980; ignoring too that there were farmers who opposed the Rhodesian Front of Ian Smith and supported the universal franchise; or ignoring the fact that land reform to date has largely benefited the elite of the ruling ZANU-PF.

The tragedy for Robert Mugabe is that he is in danger of ending a long, political career being seen as morally bankrupt, in contrast to the respect accorded to a Julius Nyerere or a Nelson Mandela. As the situation deteriorates, the world is rightly concerned that the brightness of hope for a strong and democratic Zimbabwe that there was in 1980 will be replaced by a gloomy example of moral, political, social, environmental and economic degradation.

Transport: Heavy Vehicles

Senator HARRIS (Queensland) (7.17 p.m.)—I rise tonight to raise an issue in relation to a document that was prepared by Roaduser International Pty Ltd for the Deputy Prime Minister, Mr John Anderson. The document is entitled Investigations into the Specification of Heavy Trucks and Consequential Effects on Truck Dynamics and Drivers.

My concern with the investigation into the specification of the heavy trucks is that the report does not contain much, or in some cases any, information that would explain the following: (1) mechanically strung suspensions have a complaint rate of approximately 20 per cent of those vehicles that have air suspensions; (2) international trucks with sprung suspension have a complaint rate of about 10 per cent of the rate for long wheelbase, high powered, air suspended, prime movers; (3) Kenworth has twice the complaint rate compared with other makes; (4) long wheelbase prime movers only appear to have the problem; (5) the risks appears to increase with horsepower; (6) European designed vehicles do not seem to have the problems that are associated with the American designed vehicles; (7) vehicle makes other than Ford with the WD460 suspension stated as a problem have not shown up as complaints; (8) the air pressure in the airbag on one side of the vehicle can be so vastly different to the other side consistently throughout a test and the subsequent impact of this situation in regard to the ride and handling of the vehicle—this is potentially a lethal situation and appears to signify the malfunction of the system and was not mentioned in the report; (9) vehicles carrying high centre of gravity loads on rigid trailers are more likely to have these complaints which, combined with the airbag problems, contribute to higher risk; and (10) vehicles with bent chassis rails—that is, the process of forming the chassis rail by bending the steel—or those with unusual tie rod set-ups on the drive suspension are more likely to have these problems.

Of major concern was the inadequacy of the instrumentation applied to the vehicles to indicate the chassis problems and hence there was little reference to the chassis performance in the final report, including no analysis of the torsion chassis problems. The instrumentation of the vehicles was inadequate to show vibration problems, with more severe side to side vibration problems not being measured. This possibly arises from Roaduser International’s lack of comprehensive experience in the field.

The report did not detail the serious outcome and its inherent potential with a vehicle named F6. I refer now to page 71 of the report. Under the heading ‘Driver comments’, it states:

The level of steering effort required for vehicle F1 was high on narrow, rough roads; an occasional large steering correction was required on road undulations involving change in road camber and this required a high level of concentration; on the Seymour-Tooborac Road, the vehicle dropped off the camber and moved approximately 500 mm several times.

The stability and predictability of response for vehicle F6 was poor and this was considered the worst vehicle for handling; on the Seymour-Tooborac Road, the vehicle tracked into a road undulation and required a strenuous steering correction and a rapid further correction; the vehicle moved rapidly to the right and an oncoming vehicle was required to move out of the way;
several other incidents of this type of movement occurred.

Further on in the report in relation to F1 and again F6, under the subheading ‘Vehicle F1’, the report states:

An incident (Incident 1) was observed where the vehicle was travelling at a speed of 100 km/h on the Tooborac-Seymour road ..., where the prime mover yawed and accelerated in an unexpected manner; the measured data is not able to indicate the extent of this incident in terms of lateral displacement on the roadway.

In other words, the instrumentation on the vehicle could in no way convey the way in which the vehicle was darting across the road.

The problem appears to lie in the torsional flexibility of the chassis, the key factors being the additional flexibility of the chassis of the long wheelbase vehicles together with the additional stress of carrying large capacities of fuel and the increasing contributing weight factor from high heavy cabins and the tendency to roll from side to side. This could result from the tendency of the vehicle cabins to have a natural roll frequency within the same range as that of the airbag suspension. This may be a reason why the mechanical suspensions are not as inherently unstable in relation to the other factors when compared with air suspensions being used.

There appear to be some unusual design features. They are: firstly, Kenworth’s cross-member design appears to be particularly poor from a deflection point of view; and, secondly, Mack’s front engine mount is unusual and is not self-centring. While my aim is not to necessarily denigrate the departments and Roaduser International directly, I must raise questions with regard to Roaduser International’s suitability to carry out this very important investigation. Roaduser International had no reputation or significant experience in vibration investigations and analysis prior to the FORS Heavy Vehicle Investigation project. Roaduser International’s professional association membership appears to be primarily trade based, with a lack of professional associations. The Academy of Technological Sciences and Engineering is essentially a body with little strength and has neither a strict code of professional practice nor a code of ethics.

There is not sufficient time this evening to raise all of the issues in relation to this report. Therefore, I will at a later date continue my comments with regard to this report.

Senate adjourned at 7.28 p.m.

DOCUMENTS

Tabling

The following government documents were tabled:


Department of Communications, Information Technology and the Arts—Digital television reviews—Report—Volume 1—Reports on the reviews.

Volume 2—Discussion papers.

Volume 3—Convergence review.

Tabling

The following documents were tabled by the Clerk:

Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—Instruments Nos CASA 110/00 and CASA 176/00-CASA 183/00.

Remuneration Tribunal Act—Determination 2000/02: Parliamentary allowances for expenses of office.
The following answers to questions were circulated:

Australian Defence Force: Same Sex Next of Kin
(Question No. 1678)

Senator Bartlett asked the Minister representing the Minister for Defence, upon notice, on 12 October 1999:

(1) Does the Australian Defence Force (ADF) recognise a same-sex person designated as ‘next of kin’ for service personnel; if not, why not.

(2) What are the entitlements of opposite-sex couples, either married or de facto, whose partners are serving in East Timor.

(3) What are the entitlements of same-sex couples and their partners who are serving in East Timor.

(4) What are the administrative requirements to register a relationship, either married or de facto, in the ADF.

(5) In the event of injury and/or death of ADF personnel: (a) which people are notified of the injury or death; and (b) on what basis.

(6) Has the Minister received any advice between the consistency of the present arrangements concerning same-sex couples and section 10 of the Sex Discrimination Act 1984: if not, will the Minister undertake to commission advice from the Attorney-General’s Department on the application of the Act as it applies to same-sex couple entitlements in the ADF.

(7) Has the ADF drafted a policy allowing for recognition of same-sex relationships; if so, can a copy of that draft be provided.

(8) Has anyone who is transgendered been dismissed from the ADF; if so, on what basis.

(9) Has any advice been given to the Chief of Personnel recommending that the department continue the non-recognition of same-sex partnerships; if so, can a copy of that advice be provided.

(10) (a) What advice, draft and actual, concerning the recognition of same-sex couples has been given by the department; and (b) can copies of all advice concerning this matter be provided.

(11) Does the ADF give the same benefits, conditions of service, rights and entitlements to same-sex couples/homosexuals as it does to married couples/heterosexuals; if not: (a) in what areas does it not; (b) what is the criteria for determining the difference in recognition status; (c) what are the rights and entitlements between the same-sex couples/homosexuals and the married couples/heterosexuals; and (d) does the Minister intend to rectify the situation in order to conform with federal legislation.

(12) Does the ADF provide support to: (a) spouses of married ADF officers serving in East Timor; (b) partners of non-married ADF officers serving in East Timor; and (c) partners of ADF officers in same-sex relationships, serving in East Timor.

(13) Will the Minister announce recognition of same-sex couples in the ADF as having the same benefits, conditions of service, rights and entitlements as married couples.

Senator Newman—The Minister Assisting the Minister for Defence has provided the following answer to the honourable senator’s question:

(1) A serving Australian Defence Force (ADF) member may nominate a same-sex partner as their next of kin for casualty notification purposes only. The same-sex partner would be notified in the event of the ADF member being the subject of a casualty report. The procedures in respect of casualty notification are promulgated in Defence Instruction (General) Personnel 11-2. A copy has been forwarded separately to your office.

(2) ADF personnel who have recognised or legally married opposite sex partners are categorised as members with dependants. The full conditions of service entitlements for both members with dependants, and members without dependants deployed to East Timor have been promulgated in a series of Australian Defence Headquarters released messages, copies of which have been forwarded separately to your office.

(3) Same-sex partners of ADF members are not recognised by the ADF, and unless a member has other dependants who are recognised by the ADF, the member is categorised as member without de-
pendants. The conditions of service entitlements for a member without dependants who is serving in East Timor are as stated in the response to part (2).

(4) The eligibility for service entitlements depends on the categorisation of a member as member with dependants or member without dependants. Hence, a member is required to register their categorisation on entry into the ADF and then whenever circumstances cause change to that categorisation.

(5) (a) The person/s nominated by the ADF member as being their next of kin or person/s to be notified, are notified in the event of the ADF member becoming a casualty.

(b) The person/s nominated are advised of any casualty within the limitations detailed in Defence Instruction (General) Personnel 11-2.

(6) No, No.

(7) No policy has been drafted or is being developed regarding the possible recognition of ADF same-sex relationships.

(8) No.

(9) The Head of the Defence Personnel Executive (HDPE) has been advised of the possible implications of recognising or not recognising same-sex partnerships. He has advised that the ADF is to continue to not recognise same-sex partnerships. A copy of the brief to HDPE on this subject has been forwarded separately to your office.

(10) HDPE has provided advice to the Minister for Defence to me that the ADF intends to retain its current policy to not recognise same-sex partnerships. A copy of that advice has been forwarded separately to your office.

(11) (a) to (d) The ADF does not give the same benefits, conditions of service, rights and entitlements to same-sex couples as it does to married and recognised defacto couples. This is because married members, members in recognised defacto relationships and members with dependants do receive additional entitlements over members without dependants. These entitlements can include subsidised housing, additional travel to the family home if separated for service reasons and separation allowance. The answer to this question, therefore, hinges on whether the ADF member is categorised as being a member with dependants or a member without dependants. An ADF member who is in a same-sex relationship and does not have ADF recognised dependants is classified as being a member without dependants and is entitled to the conditions of service appropriate to that classification. If both persons in the same-sex relationship were ADF members without recognised dependants, each would be classified as being a member without dependants.

(12) (a) Yes, as per the promulgated messages referred to in the response to part (2).

(b) Apart from that support detailed in the response to part (1), partners of non-married ADF members are not provided with any special support unless their relationship is formally recognised as a defacto relationship.

(c) Apart from the support detailed in the response to part (1), there is no further support provided to same-sex partners of ADF members.

(13) The ADF would not recommend such an action.

**East Timor: Peacekeeping Allowances to Military Personnel**

(Question No. 1752)

 Senator O’Brien asked the Minister representing the Minister Assisting the Minister for Defence, upon notice, on 3 November 1999:

(1) What allowances are paid to military personnel currently engaged in peacekeeping activities in East Timor.

(2) Do the above payments vary with rank; if so, what is the range of these allowances.

Senator Newman—The Minister for Assisting the Minister for Defence has provided the following amended answer to the honourable senator’s question:

(1) The allowances and benefits paid to military personnel currently serving in East Timor are outlined below.
(a) The Deployment Allowance payable for service in East Timor is $57.83 per day. Other allowances such as Field, Seagoing and Hard Lying Allowance may also be payable depending on the nature of the members’ service.

(b) To preserve the integrity of these allowances, the East Timor Peace Enforcement Allowance (ETPEA) is structured so that it embraces the amounts payable for Deployment, Field, Seagoing and Hard Lying Allowances yet it provides a ‘top up’ to a total of all allowances to $125 per day. That is the quantum of the ETPEA varies according to the total of other allowances payable but caps the maximum to $125 per day. ETPEA is payable for each day or part of a day a member is within the Area of Operations.

(c) All salary and allowances paid to Australian Defence Force (ADF) personnel for service in East Timor are exempt from income tax.

(d) The Minister for Veterans’ Affairs for and on behalf of the Minister for Defence has declared service in East Timor as ‘warlike’ for the purposes of subsection 5C(1) of the Veterans’ Entitlement Act 1986. The following lists those provisions for which personnel in East Timor on warlike service will be eligible.

**Benefits**

ADF personnel in East Timor have dual eligibility with coverage under the Safety, Rehabilitation and Compensation Act 1988 and the Veterans’ Entitlements Act 1986. Benefits include access to severe injury adjustment, superannuation and compensation for loss of capacity to remain in the ADF.

Under the Veterans’ Entitlements Act 1986 they are entitled to disability pensions for injury or disease caused by that service and lifetime medical treatment for any such disability. The determination of the casual connection is on the more generous standard of proof applicable to operational service. The Statements of Principles of the Repatriation Medical Authority apply to all claims.

There is a general and universal rule that compensation under both schemes are matched against each other to achieve the best outcome but avoiding a doubling of benefits.

**Dependants’ Benefits**

Should any of our personnel lose their lives a widow/er would be eligible for the full benefits of a widow/er’s pension, including health cover, and financial support and full health cover for dependant children through the Veterans’ Children Education Scheme (VCES). There are also VCES benefits, but not health cover, for those dependants whose veteran parent may become entitled to Special Rate of EDA.

**Service Pension**

Members of the ADF International Force in East Timor (INTERFET) will have eligibility for a service pension in case of invalidity or later at age 60 subject to normal means testing provisions.

**Health issues – Access to treatment for difficult to diagnose illnesses**

On 5 July 1999, I issued a media release concerning ADF personnel involved in deployments overseas. The members of INTERFET are potentially exposed to a range of operational, environmental, and occupational threats different to those involved in peacetime service in Australia. The effects of some of these threats may not be readily apparent on their return to Australia.

The Government is adopting a strategy, to be delivered by the Departments of Defence and Veterans’ Affairs, to enable the Department of Veterans’ Affairs to provide early treatment of veterans suffering from acute symptoms but difficult to diagnose conditions. This will allow any veterans to obtain acute care for the symptoms of medical and psychiatric conditions that might not be able to be diagnosed within a reasonable time by the medical community.

**Vietnam Veterans Counselling Service**

The Department will also provide free access to treatment for a number of conditions, including post traumatic stress disorder. Members of INTERFET and their dependants will also have access to the services provided by the Vietnam Veterans Counselling Service.

**Commemoration**

Any death on active service will be recorded on the Roll of Honour at the Australian War Memorial. Commemoration of the sacrifice made would also be available from the Office of Australian War Graves.
(e) Personnel serving in East Timor will also attract an entitlement under the Defence Home Owner Scheme.

(f) All members will accrue War Service Leave of 1.5 days for each completed month of service in East Timor.

(2) Apart from salary, the above allowances do not vary with rank.

**Department of Defence: SES Officers**

**(Question No. 1836)**

Senator Faulkner asked the Minister representing the Minister Assisting the Minister for Defence, upon notice, on 20 December 1999:

(1) How many senior executive service (SES) officers did the department, and all agencies within the portfolio, employ as at 15 December 1999.

(2) (a) What are the names of the officers; (b) what are their employment classifications within the SES band structure; and (c) what are the officers’ total emoluments, including but not limited to: (i) salary (including any salary packaging undertaken), (ii) any travel entitlements, (iii) fringe benefits tax paid on the officers’ behalf, (iv) use of motor vehicles, (v) mobile or home telephones, (vi) superannuation, (vii) performance payments, and (viii) other non-cash benefits (please specify).

(3) (a) How does the department and/or agency determine the basis for performance payments; and (b) in particular, what is the relationship between the performance payments policy and the department’s and/or agency’s actual performance.

Senator Newman—The Minister Assisting the Minister for Defence has provided the following answer to the honourable senator’s question:

(1) As at 15 December 1999, the department employed 80 SES officers.

(2) (a) For privacy reasons, the names of SES officers are not specified, however, the number of officers at each classification level is provided against part (2)(b).

(b) SES officers in the department are employed under a three band structure as follows:

<table>
<thead>
<tr>
<th>CLASSIFICATION</th>
<th>NO. OF OFFICERS</th>
</tr>
</thead>
<tbody>
<tr>
<td>SES Band 1</td>
<td>58</td>
</tr>
<tr>
<td>SES Band 2</td>
<td>17</td>
</tr>
<tr>
<td>SES Band 3</td>
<td>4</td>
</tr>
<tr>
<td>Under Secretary</td>
<td>1</td>
</tr>
</tbody>
</table>

(c) In relation to the identification and assessment of each officer’s individual financial arrangements and details, the release of individual remuneration outcomes could raise privacy concerns. However, details of the minimum remuneration package as at 23 December 1999 for Defence SES officers at each Band and their annual base salary ranges as at 22 December 1999 (and with pay adjustments from 23 December 1999 to 9 May 2002) is provided below:

**SES BAND 1**

<table>
<thead>
<tr>
<th>REMUNERATION ITEM</th>
<th>CSS MEMBER</th>
<th>PSS MEMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Total Remuneration</td>
<td>$117,140</td>
<td>$110,024</td>
</tr>
<tr>
<td>B. Superannuation (CSS 21.9%, PSS 13.1%)</td>
<td>$17,709</td>
<td>$10,593</td>
</tr>
<tr>
<td>C. Executive Vehicle/Cash in Lieu</td>
<td>$17,000</td>
<td>$17,000</td>
</tr>
<tr>
<td>D. Parking</td>
<td>$1,569</td>
<td>$1,569</td>
</tr>
<tr>
<td>E. Pre-Tax (Base) Salary (A – (B+C+D))</td>
<td>$80,862</td>
<td>$80,862</td>
</tr>
</tbody>
</table>
In addition, this department provided details of remuneration for its SES officers as part of the SES Remuneration Survey undertaken in December 1998 by the Australian Bureau of Statistics on behalf of the Department of Employment, Workplace Relations and Small Business (DEWRSB). The aggregate figures for SES salary packages were published by DEWRSB in the September 1999 Key Pay Indicators (online) Update No. 1999/03. The Update document is located on the DEWRSB site under the Government Employment entry point. Work will commence shortly in the department to provide updated information in this respect to the second SES Remuneration Survey being overseen by DEWRSB.

(3) (a) The department has introduced a Civilian Performance Management Scheme which applies to all civilian employees including SES officers. The Scheme provides for SES officers to progress through their salary band on an annual basis, subject to performance assessments. Those officers who are at, or reach, the top of the salary band do not receive any further form of performance related advancement.

<table>
<thead>
<tr>
<th>SES BAND 2</th>
<th>REMUNERATION ITEM</th>
<th>CSS MEMBER</th>
<th>PSS MEMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Total Remuneration</td>
<td>$142,418</td>
<td>$133,478</td>
<td></td>
</tr>
<tr>
<td>B. Superannuation (CSS 21.9%, PSS 13.1%)</td>
<td>$22,250</td>
<td>$13,310</td>
<td></td>
</tr>
<tr>
<td>C. Executive Vehicle/Cash in Lieu</td>
<td>$17,000</td>
<td>$17,000</td>
<td></td>
</tr>
<tr>
<td>D. Parking</td>
<td>$1,569</td>
<td>$1,569</td>
<td></td>
</tr>
<tr>
<td>E. Pre-Tax (Base) Salary (A – (B+C+D))</td>
<td>$101,599</td>
<td>$101,599</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>SES BAND 3</th>
<th>REMUNERATION ITEM</th>
<th>CSS MEMBER</th>
<th>PSS MEMBER</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Total Remuneration</td>
<td>$168,913</td>
<td>$158,060</td>
<td></td>
</tr>
<tr>
<td>B. Superannuation (CSS 21.9%, PSS 13.1%)</td>
<td>$27,010</td>
<td>$16,157</td>
<td></td>
</tr>
<tr>
<td>C. Executive Vehicle/Cash in Lieu</td>
<td>$17,000</td>
<td>$17,000</td>
<td></td>
</tr>
<tr>
<td>D. Parking</td>
<td>$1,569</td>
<td>$1,569</td>
<td></td>
</tr>
<tr>
<td>E. Pre-Tax (Base) Salary (A – (B+C+D))</td>
<td>$123,334</td>
<td>$123,334</td>
<td></td>
</tr>
</tbody>
</table>

DEFENCE SENIOR EXECUTIVE SERVICE OFFICERS ANNUAL BASE SALARY RANGES 1999-2002

<table>
<thead>
<tr>
<th>CLASSN</th>
<th>Salary Range</th>
<th>22-Dec-99</th>
<th>23-Dec-99</th>
<th>6-Jul-00</th>
<th>1-Mar-01</th>
<th>8-Nov-01</th>
<th>9-May-02</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>3.0%</td>
<td>2.0%</td>
<td>2.0%</td>
<td>2.0%</td>
<td>1.5%</td>
<td></td>
</tr>
<tr>
<td>SES BAND 1</td>
<td>Min</td>
<td>$72913</td>
<td>$80862</td>
<td>$82479</td>
<td>$84129</td>
<td>$85812</td>
<td>$87099</td>
</tr>
<tr>
<td></td>
<td>Max</td>
<td>$89199</td>
<td>$96820</td>
<td>$98756</td>
<td>$100731</td>
<td>$102746</td>
<td>$104287</td>
</tr>
<tr>
<td>SES BAND 2</td>
<td>Min</td>
<td>$87373</td>
<td>$101599</td>
<td>$103631</td>
<td>$105704</td>
<td>$107818</td>
<td>$109435</td>
</tr>
<tr>
<td></td>
<td>Max</td>
<td>$109463</td>
<td>$118450</td>
<td>$120819</td>
<td>$123235</td>
<td>$125700</td>
<td>$127586</td>
</tr>
<tr>
<td>SES BAND 3</td>
<td>Min</td>
<td>$101844</td>
<td>$123334</td>
<td>$125801</td>
<td>$128317</td>
<td>$130883</td>
<td>$132846</td>
</tr>
<tr>
<td></td>
<td>Max</td>
<td>$131660</td>
<td>$144200</td>
<td>$147084</td>
<td>$150026</td>
<td>$153027</td>
<td>$155322</td>
</tr>
</tbody>
</table>
(b) The assessment of individual officers’ performance is intrinsically linked to the department’s actual performance. Each officer’s contribution and performance is a critical factor in the success of the overall operation of the department and the performance based advancement scheme recognises this.

Department of Transport and Regional Services: Provision of Income and Expenditure Statements
(Question No. 1948)

Senator Faulkner asked the Minister representing the Minister for Transport and Regional Services, 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 statements.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

Yes. Financial information required under section 311A of the Commonwealth Electoral Act 1918 can be found in the Annual Reports for the Department of Transport and Regional Services and its agencies which have all been tabled in Parliament.

<table>
<thead>
<tr>
<th>Department/Agency</th>
<th>Page reference</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Transport and Regional Services</td>
<td>157-159</td>
<td>1998 - 1999</td>
</tr>
<tr>
<td></td>
<td>197-200</td>
<td>1997 - 1998</td>
</tr>
<tr>
<td>Civil Aviation Safety Authority</td>
<td>93</td>
<td>1998 – 1999</td>
</tr>
<tr>
<td>National Capital Authority</td>
<td>81-82</td>
<td>1998 - 1999</td>
</tr>
</tbody>
</table>

The Australian Maritime Safety Authority (AMSA) advises that it has not provided an annual return pursuant to section 311A of the Commonwealth Electoral Act 1918 for the 1998-99 financial years because it is not a Commonwealth Department, or an agency within the meaning of the Public Service Act 1999, as required by that section. AMSA was an agency of the Workplace Relations and Small Business portfolio in 1997-98.

Airservices Australia also advises that it has not provided an annual return pursuant to section 311A of the Commonwealth Electoral Act 1918 for the 1997-98 and 1998-99 financial years because it is not a Commonwealth Department, or an agency within the meaning of the Public Service Act 1999, as required by that section.

Department of Defence: Provision of Income and Expenditure Statements
(Question No. 1956)

Senator Faulkner asked the Minister for Defence, 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 statements.

Senator Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

Yes. The Department of Defence 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 6 (p.325) of the 1997-98 annual report and Appendix 6 (pp. 354-358) of the 1998-99 annual report. The information has been tabled in Parliament and is also available on the department’s website www.defence.gov.au.
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 statements.

Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following supplementary answer to the honourable senator’s question. The answer is supplementary to the answer (Hansard, 13 April 2000, page 13584) previously supplied to the honourable senator:

In respect of the agencies within my portfolio, the information in respect of the Refugee Review Tribunal, the Migration Review Tribunal and the former Immigration Review Tribunal is set out below.

Yes. The Refugee Review Tribunal has provided this information in its annual report, as required by section 311A of the Commonwealth Electoral Act 1918. This information can be found at Appendix B: Advertising Expenditure (page 23) of the 1997-98 Annual Report and Appendix B: Advertising Expenditure (page 14) of the 1998-99 Annual Report. The information has been tabled in Parliament and the 1998-99 Annual Report is available on the RRT website (www.rrtgov.au).

The Migration Review Tribunal was created in June 99 and prescribed under the FMA Act from 1 July 99. Its first formal Annual Report will cover this information in FY 99/00. Available records for the former Immigration Review Tribunal indicate that it did not receive income or incur expenditure of this type.

Goods and Services Tax: Department of Defence Research
(Question No. 1984)

Senator Faulkner asked the Minister representing the Minister for Defence, 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 the 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 the 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 of 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 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 Newman—The Minister for Defence has provided the following answer to the honourable senator’s question:

(1) No.
(2) — (12) Not applicable

Department of Transport and Regional Services: Contracts with Pricewaterhouse-Coopers

(Question No. 2016)

Senator Robert Ray asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 7 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 Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) and (2) (a),(b) and (c)

In responding to the question, the word ‘contracts’ has been interpreted to mean written consultancy agreements or agreements for the provision of services and the word ‘provided’ has been interpreted to mean a contract awarded by the department or a portfolio agency. Further, the information provided in this response includes contracts commissioned in the 1998-99 financial year only.

From the information available, the department provided three contracts to the firm, PricewaterhouseCoopers during the 1998-99 financial year and they are listed at Attachment 1.

Of the Transport & Regional Services portfolio’s agencies, the National Capital Authority, the Australian Maritime Safety Authority, the Civil Aviation Safety Authority and Airservices Australia provided contracts to PricewaterhouseCoopers during the 1998-99 financial year. They are also listed at Attachment 1.

<table>
<thead>
<tr>
<th>File No.</th>
<th>Title of Contract</th>
<th>Name of Contractor</th>
<th>Purpose of Contract</th>
<th>Date Commissioned</th>
<th>Division/Branch</th>
<th>Project Officer</th>
<th>Commissioned Cost</th>
<th>Cost to Agency</th>
<th>Selection Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>T1998/1398</td>
<td>Consultancy for PricewaterhouseCoopers Services: Post-implementation Review of the New FMIS</td>
<td>PricewaterhouseCoopers</td>
<td>Undertake a Post-implementation Review of the Department’s new financial management system. The Department has outsourced most of the detailed work associated with its internal audit function.</td>
<td>Post 25-Jan-99</td>
<td>Corporate (Internal Audit)</td>
<td>John Niven</td>
<td>$21,000</td>
<td>$16,800</td>
<td>Sourced from competitive quotes from a Departmental panel which was originally established using a restricted tender (ie. short-list) process.</td>
</tr>
<tr>
<td>File No.</td>
<td>Title of Contract</td>
<td>Name of Contractor</td>
<td>Purpose of Contract</td>
<td>Date Commissioned</td>
<td>Division/Branch</td>
<td>Project Officer</td>
<td>Commissioned Cost</td>
<td>Cost to Agency</td>
<td>Selection Process</td>
</tr>
<tr>
<td>---------------</td>
<td>------------------------------------------------------------</td>
<td>-----------------------------</td>
<td>-------------------------------------------------------------------------------------</td>
<td>-------------------</td>
<td>----------------</td>
<td>-----------------</td>
<td>-------------------</td>
<td>----------------</td>
<td>------------------</td>
</tr>
<tr>
<td>T1999/0034</td>
<td>Consultancy to Conduct a Private Sector Funding Study in relation to Commonwealth, State and Private Sector Infrastructure Arrangements</td>
<td>PricewaterhouseCoopers</td>
<td>To investigate the potential for Commonwealth/State/Private sector partnership arrangements to provide for financing, constructing and operating land transport infrastructure.</td>
<td>16-Mar-99</td>
<td>Land</td>
<td>Andy Hirst</td>
<td>$49,625</td>
<td>$50,000</td>
<td>Restricted Tender (ie. short-list)</td>
</tr>
<tr>
<td>T1999/0196</td>
<td>Consultancy for Internal Audit Services: Review of Local Government Development Program</td>
<td>PricewaterhouseCoopers</td>
<td>Conduct an internal audit of the administration of the Local Government Development Program within the Department. The Department has outsourced most of the detailed work associated with its internal audit function.</td>
<td>26-Mar-99</td>
<td>Corporate (Internal Audit)</td>
<td>John Niven</td>
<td>$10,500</td>
<td>$10,500</td>
<td>Sourced from competitive quotes from a Departmental panel which was originally established using a restricted tender (ie. short-list) process.</td>
</tr>
</tbody>
</table>

**National Capital Authority (NCA)**

| N/A | N/A | PricewaterhouseCoopers | Provide assistance in developing the effects of the National Capital Authority’s Asset Management Strategy. | N/A | N/A | Payment effected $14,200 | Payment for $14,200 | Sole sourced based on previous experience/expertise in that area. |

**Australian Maritime Safety Authority (AMSA)**

| N/A | N/A | PricewaterhouseCoopers | Risk Assessment of Corporate Services | 08-Sep-98 | N/A | N/A | $19,000 | $19,960 (incl Disb) | Sole sourced |
| N/A | N/A | PricewaterhouseCoopers | Corporate Level Risk Assessment | 12-Feb-99 | N/A | N/A | $24,000 | $25,012 (incl Disb) | Sole sourced |
| N/A | N/A | PricewaterhouseCoopers | Business Impact Assessment | 12-Feb-99 | N/A | N/A | $23,000 | $24,363 (incl Disb) | Sole sourced |

**Civil Aviation Safety Authority (CASA)**

<p>| N/A | N/A | PricewaterhouseCoopers | Board Strategic During and Post 1998/99 | N/A | N/A | N/A | $2,775 | 2775 Three verbal quotes called. | Sole sourced |</p>
<table>
<thead>
<tr>
<th>File No.</th>
<th>Title of Contract</th>
<th>Name of Contractor</th>
<th>Purpose of Contract</th>
<th>Date Commissioned</th>
<th>Division/Branch Project Officer</th>
<th>Commissioned Cost</th>
<th>Cost to Agency</th>
<th>Selection Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>PricewaterhouseCoopers</td>
<td>Consultancy for During Human Resources 1998/100 Software Upgrade</td>
<td>N/A</td>
<td>N/A</td>
<td>$59,291</td>
<td>59291</td>
<td>Three quotes called from preferred Peoplesoft partners</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>PricewaterhouseCoopers</td>
<td>Y2k Survey and During 1998/101 follow up</td>
<td>N/A</td>
<td>N/A</td>
<td>$27,000</td>
<td>27000</td>
<td>Expressions of Interest followed by Restricted Tender</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>PricewaterhouseCoopers</td>
<td>Workflow presentation for Senior 1998/102 Managers</td>
<td>N/A</td>
<td>N/A</td>
<td>$1,000</td>
<td>1000</td>
<td>Sole sourced</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>PricewaterhouseCoopers</td>
<td>Review of the 29-Apr-99 Financial Staff Requirements for Operations Support Group Business Centres</td>
<td>N/A</td>
<td>N/A</td>
<td>$9,850</td>
<td>9,850</td>
<td>Restricted Quotation (ie. short-list)</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>PricewaterhouseCoopers</td>
<td>Interview assistance 26-Oct-98 for Information Technology, Business Centre Manager position.</td>
<td>N/A</td>
<td>N/A</td>
<td>$2,500</td>
<td>2,500</td>
<td>Restricted Quotation (ie. short-list)</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>PricewaterhouseCoopers</td>
<td>Risk Assessment 01-Oct-98 workshop covering transformation to the new business structure</td>
<td>N/A</td>
<td>N/A</td>
<td>$19,970</td>
<td>19,970</td>
<td>Restricted Tender (ie. short-list)</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>PricewaterhouseCoopers</td>
<td>To ensure correct 01-Jul-98 accounting arrangement for Noise Levy. Part of year end audit.</td>
<td>N/A</td>
<td>N/A</td>
<td>$3,000</td>
<td>3,000</td>
<td>Restricted Quotation (ie. short-list)</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>PricewaterhouseCoopers</td>
<td>Business Transformation Project 2 - Provide strategic advice on the restructuring of Airservices</td>
<td>30-Jul-98</td>
<td>N/A</td>
<td>$126,000</td>
<td>70,540</td>
<td>Restricted Tender (ie. short-list)</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>PricewaterhouseCoopers</td>
<td>Business Transformation Project 3 - Diagnostic of existing processes and identification of potential benefits of</td>
<td>10-Sep-98</td>
<td>N/A</td>
<td>$262,800</td>
<td>263,820</td>
<td>Restricted Tender (ie. short-list)</td>
</tr>
</tbody>
</table>
### Department of Transport and Regional Services: Contracts with KPMG (Question No. 2035)

**Senator Robert Ray** asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 7 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 Ian Macdonald**—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

1. and (2)(a),(b) and (c) In responding to the question, the word ‘contracts’ has been interpreted to mean written consultancy agreements or agreements for the provision of services and the word ‘provided’ has been interpreted to mean a contract awarded by the department or a portfolio agency. Further, the information provided in this response includes contracts commissioned in the 1998-99 financial year only.

From the information available, the department provided eight contracts to the firm, KPMG during the 1998-99 financial year and they are listed at Attachment 1.

<table>
<thead>
<tr>
<th>File No.</th>
<th>Title of Contract</th>
<th>Name of Contractor</th>
<th>Purpose of Contract</th>
<th>Date Commissioned</th>
<th>Division/Branch</th>
<th>Project Officer</th>
<th>Commissioned Cost</th>
<th>Cost to Agency</th>
<th>Selection Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>Pricewaterhouse Coopers</td>
<td>Business Transformation Projects 4 &amp; 7 - Develop and implement a methodology for measuring customer expectations and satisfaction.</td>
<td>27-Aug-98</td>
<td>N/A</td>
<td>N/A</td>
<td>$187,000</td>
<td>$106,298</td>
<td>Restricted Tender (ie. short-list)</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>Pricewaterhouse Coopers</td>
<td>Business Transformation Project 9 - Development of an Information Management Strategy</td>
<td>16-Feb-99</td>
<td>N/A</td>
<td>N/A</td>
<td>$427,064</td>
<td>$30,263</td>
<td>Restricted Tender (ie. short-list)</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>Pricewaterhouse Coopers</td>
<td>Business Transformation Project - BPR4 - Assist with the reengineering of Human Resources management processes.</td>
<td>08-Apr-99</td>
<td>N/A</td>
<td>N/A</td>
<td>$240,300</td>
<td>$97,050</td>
<td>Restricted Tender (ie. short-list)</td>
</tr>
<tr>
<td>N/A</td>
<td>N/A</td>
<td>Pricewaterhouse Coopers</td>
<td>Compare efficiency of major Sydney, Brisbane and Melbourne operational areas and benchmark ATC numbers</td>
<td>01-Jul-98</td>
<td>N/A</td>
<td>N/A</td>
<td>$126,765</td>
<td>$126,765</td>
<td>Restricted Tender (ie. short-list)</td>
</tr>
</tbody>
</table>
Of the Transport & Regional Services portfolio’s agencies, the National Capital Authority and Airservices Australia provided contracts to KPMG during the 1998-99 financial year. They are also listed at Attachment 1.

<table>
<thead>
<tr>
<th>Purpose of Contract</th>
<th>Date Commissioned</th>
<th>Commissioned Cost</th>
<th>Cost to Agency</th>
<th>Selection Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>Department of Transport and Regional Services (DoTRS)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Conduct a review to determine whether the Sydney Airport Noise Amelioration Program Risk Assessment and Risk Management Plan is appropriate to the level and nature of risks to which the program is exposed.</td>
<td>12-Oct-98</td>
<td>$6,650</td>
<td>$6,650</td>
<td>Sourced from competitive quotes from a departmental panel which was originally established using a restricted tender (ie. short-list) process.</td>
</tr>
<tr>
<td>Undertake an internal audit Review of Facilities Management. Staff with the relevant expertise were not available within the department.</td>
<td>02-Dec-98</td>
<td>$20,318</td>
<td>$20,318</td>
<td>Sourced from competitive quotes from a departmental panel which was originally established using a restricted tender (ie. short-list) process.</td>
</tr>
<tr>
<td>Undertake a review of corrective action undertaken at several locations within the Regional Services, Territories and Local Government Division of the department as a result of several audit reports.</td>
<td>07-Jan-99</td>
<td>$14,655</td>
<td>$15,077</td>
<td>Sourced from competitive quotes from a departmental panel which was originally established using a restricted tender (ie. short-list) process.</td>
</tr>
<tr>
<td>Conduct an internal audit of official hospitality expenditure within the department. The department has outsourced most of the detailed work associated with its internal audit function.</td>
<td>26-Mar-99</td>
<td>$9,887</td>
<td>$9,887</td>
<td>Sourced from competitive quotes from a departmental panel which was originally established using a restricted tender (ie. short-list) process.</td>
</tr>
<tr>
<td>Purpose of Contract</td>
<td>Date Commissioned</td>
<td>Commissioned Cost</td>
<td>Cost to Agency</td>
<td>Selection Process</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------</td>
<td>-------------------</td>
<td>-------------------</td>
<td>----------------</td>
<td>------------------------------------------------------------</td>
</tr>
<tr>
<td>Conduct an internal audit of the International Services Airline Activity system within the department.</td>
<td>26-Mar-99</td>
<td>$10,397</td>
<td>$Nil</td>
<td>Sourced from competitive quotes from a departmental panel which was originally established using a restricted tender (ie. short-list) process.</td>
</tr>
<tr>
<td>Undertake a follow up internal audit review of the Facilities Management including the preparation of a department wide Business Resumption Plan.</td>
<td>14-Apr-99</td>
<td>$23,355</td>
<td>$12,000</td>
<td>Sourced from a departmental panel which was originally established using a restricted tender (ie. short-listing) process.</td>
</tr>
<tr>
<td>Conduct an audit of Remote Air Service Subsidy (RASS) Scheme operators' financial records. The Department of Transport and Regional Services undertook a comprehensive review of the Remote Air Service Subsidy (RASS) scheme. A key aspect of the review was an examination of the financial records of airlines operating under the RASS scheme, including an on site cost/revenue examination. It was necessary to engage an independent consultant to conduct this task.</td>
<td>29-Apr-99</td>
<td>$22,000</td>
<td>$Nil</td>
<td>Restricted Tender (ie. short-list)</td>
</tr>
<tr>
<td>Purpose of Contract</td>
<td>Date Commissioned</td>
<td>Commissioned Cost</td>
<td>Cost to Agency</td>
<td>Selection Process</td>
</tr>
<tr>
<td>------------------------------------------------------------------------------------</td>
<td>-------------------</td>
<td>-------------------</td>
<td>---------------</td>
<td>-----------------------------------------------------------------------------------</td>
</tr>
<tr>
<td>Provide a range of professional advice and other assistance, as required to aid the department in: (1) identifying the outputs, including the relevant performance information the department will deliver to the Minister in 1999-2000; (2) costing of the department’s outputs to the Minister and preparation of the department’s budgeted financial statements for 1999-2000 and forward years; (3) preparing the department’s Portfolio Budget Statements, including the above mentioned items; and carry out other ongoing activities as necessary to assist the department in diverting its own resources to preparation of the above items. The consultant was required to train and transfer the necessary skills in relation to the above to departmental staff.</td>
<td>25-May-99</td>
<td>$100,000</td>
<td>$39,565</td>
<td>Restricted Quotation (ie. short-list). Proposals sought from three consultants known to have substantial expertise in implementing output-focused accrual budgeting. Based on the experience &amp; judgement of the project officers, KPMG was selected.</td>
</tr>
<tr>
<td>National Capital Authority (NCA) Perform probity audit of the National Capital Authority’s Asset Management System request for proposal process.</td>
<td>Payment effected 17 May 1999</td>
<td>Payment effected for $8,675</td>
<td>Payment effected for $8,675</td>
<td>Sole sourced.</td>
</tr>
<tr>
<td>Airservices Australia Financial Planning for Senior Manager (Redundancy)</td>
<td>10-Aug-98</td>
<td>$450</td>
<td>$450</td>
<td>Sole sourced (continuation of previous agreements)</td>
</tr>
<tr>
<td>Review Treasury Risk Management and Policy Manual</td>
<td>01-Jul-98</td>
<td>$20,000</td>
<td>$13,182</td>
<td>Restricted Tender (ie. short-list)</td>
</tr>
</tbody>
</table>

Sexually Explicit Material  
(Question No. 2106)

Senator Greig asked the Minister representing the Attorney-General, upon notice, on 13 March 2000:

(1) Was a viewing of sexually explicit material conducted within the confines of Parliament House during the week beginning 5 March 2000.

(2) What were the names of the titles which were exhibited.

(3) What are the names of persons who viewed this material.

(4) Have the titles that were viewed been classified; if so, what is their classification.

(5) If the titles were not classified, or were refused classification, is it an offence to publicly exhibit such titles.

(6) Has the Attorney-General been approached by a member or members of Parliament to view restricted material; if so: (a) who was that member, or who were those members, of Parliament; (b) what was the request; (c) when was that request made; (d) what was the response of the Attorney-General;
and (e) can a copy be provided of any written documentation that pertains to that request or the Attorney-General’s response.

(7) (a) Is the Attorney-General conducting an inquiry into the public viewing of material within Parliament House subject to copyright laws; and (b) will this inquiry investigate whether it is an offence (criminal or civil) to breach copyright in Parliament House; if not, why not.

(8) Is the Attorney-General conducting an inquiry into whether the public viewing of material by members of Parliament, or the custody of prohibited substances and/or material that are not classified or have been refused classification, is an offence; if not, why not.

(9) Is the Attorney-General conducting an inquiry into whether members of Parliament are exempt from the provisions of the Australian Capital Territory’s Classification (Publications, Films and Computer Games) (Enforcement) Act 1995: (i) within the precincts of Parliament House, and (ii) outside the precincts of Parliament House; if not, why not.

(10) Is the Attorney-General conducting an inquiry into whether the Act applies within the precincts of Parliament House; if not, why not.

Senator Vanstone—The Attorney-General has provided the following answer to the honourable senator’s question:

(1) I am informed that this was the case.

(2) The only names of the titles of which I am aware were those reported in the media.

(3) I do not have a list of the persons who viewed the material.

(4) In the absence of detailed information on the titles that were actually viewed, I am unable to answer this question.

(5) It is an offence under State and Territory law to exhibit, in a public place, an unclassified film or a film that has been refused classification.

(6) My office received a request on 6 March 2000 from a Member of Parliament to make restricted material available to enable a proper consideration of the implications of the Classification (Publications, Films and Computer Games) Amendment Bill (No. 2) 1999 which was scheduled for debate in the House of Representatives. It would not be appropriate for me to disclose the name of that Member. The Member was informed that material of the kind sought was not kept in my Office and that, if such material was to be made available, it would have to come from the Office of Film and Literature Classification in Sydney. The latter option proved not to be feasible in view of, amongst other matters, the time-frame involved. There is no written documentation relating to this request.

(7), (8), (9) and (10) Any investigation into an alleged breach of Federal and ACT laws would be a matter for the relevant law enforcement agency.

Coastwatch
(Question No. 2113)

Senator Schacht asked the Minister for Justice and Customs, upon notice, on 17 March 2000:

Was it a condition of the original tender for the Coastwatch contract that the successful bidder be an Australian-owned company.

Senator Vanstone—The answer to the honourable senator’s question is as follows:

The Request for Proposals documentation issued by Purchasing Australia on 23 November 1993 on behalf of the Australian Customs Service required information on principal and agency agreements (Section 2.9), particulars of the Proposer’s company ownership (Section 2.10), and noted a preference for Australian and New Zealand supplies (Section 5.2). The relevant extracts are as follows:

2.9.2 Australian companies will not be precluded from being commissioned by overseas companies to work on their behalf in provision of services under the Contract.

2.9.3 Proposers shall be required to furnish details of any agency arrangements with any organisation in Australia or overseas which have been entered into, or which Proposers contemplate entering into, and which would be relevant to this Request for Proposal. Details provided should include the basis of the arrangements, the amount and duration of payments for such agency services and the extent to
which provision has been made for any such payments to be recorded, however indirectly, in the price contained in the Proposal.

2.10.1 Where the Proposer is a body corporate, the Proposer shall lodge, by way of an attachment to its Proposal, the following:

(i) full particulars of any foreign nationals or foreign bodies or organisations, whether incorporated or not, who/which are in a position to exercise any form of ownership or control of the Proposer, whether directly or indirectly, including the

following particulars:

(i) full name and residential / business address;
(ii) date and place of incorporation (if applicable);
(iii) nationality (if applicable);
(iv) details of such influence and control; and
(v) details of any ownership of shares of the Proposer.

5.2.1 The Government has directed all Commonwealth agencies:

(a) to give the fullest consideration in purchasing to Australian and New Zealand goods and services representing value for money;
(b) not to draw up purchasing requirements that exclude Australian and New Zealand goods and services that are suitable, or reasonably adaptable, to Commonwealth needs; and
(c) not to evaluate offers in a manner that is biased against Australian and New Zealand supplies.

Romania: Cyanide Spill

Question No. 2115

Senator Brown asked the Minister representing the Minister for Foreign Affairs, upon notice, on 16 March 2000:

What has the Australian Government done in response to the cyanide spill at the Esmeralda Mine in February 2000

Senator Hill—The Minister for Foreign Affairs has provided the following answer to the honourable senator’s question:

(1) Senator Hill met the Ambassador to the Republic of Hungary on 18 February to convey concern for the accident and discuss the cyanide spill at the Auxul gold mine at Baia Mare, Romania. At the meeting, Senator Hill offered Australian technical assistance as part of the international rehabilitation effort

(2) The Australian Ambassador in Budapest, Mark Higgie, met the Hungarian Environment Minister, Pal Pepo, on 9 March to discuss the spill. At the meeting possible options for Australian assistance were discussed. Minister Pepo expressed appreciation for the Australian Government’s offer of assistance and said he would write to Senator Hill regarding possible options.

(3) Following the meeting with Minister Pepo, Ambassador Higgie visited the Tisza River area on 14 March for discussions with regional representatives. The visit underlined the degree of concern and sympathy in Australia, both at Governmental and public levels. His visit was welcomed by the Hungarian authorities.

(4) Environment Australia has sought advice from United Nations Environment Program as to the type of Australian assistance which would be appropriate.

(5) Officials from the Department of Foreign Affairs and Trade and Environment Australia have been in regular contact with the Romanian Ambassador regarding the cyanide spill.