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The President (Senator the Hon. Margaret Reid) took the chair at 12.30 p.m. and read prayers.

Representation of Queensland

The President—I have received, through the Governor-General, from the Governor of Queensland, the certificate of the choice by the Legislative Assembly of Queensland of George Henry Brandis to fill the vacancy caused by the resignation of Senator Warwick Parer. I table the document.

Senators: Swearing in

Senator George Henry Brandis made and subscribed the oath of allegiance.

Centenary of Federation: Joint Sitting

The President—I inform honourable senators that this matter, listed at item 3 on the Order of Business, will be dealt with at a later hour this day.

A New Tax System (Trade Practices Amendment) Bill 2000

In Committee

Consideration resumed from 11 May.

Senator Conroy (Victoria) (12.35 p.m.)—I note before the debate gets under way on this amendment that Senator Cook referred to a potential amendment that Joel Fitzgibbon was suggesting we may move. However, it has been announced by the government—good sense prevails on their side of the chamber—that they have decided to take up Mr Fitzgibbon’s ideas, which is welcomed by the opposition. We would like to see more of the government recognising the error of their ways and adopting Mr Fitzgibbon’s suggestions. So we welcome that. But we have had this debate before—

Senator Murray—are they the amendments circulated?

Senator Conroy—we are just dealing with the first one. We are dealing at this stage with the disclosure of the GST on receipts, which I understand has been amended.

The Temporary Chairman (Senator Ferguson)—Order! Senator Conroy, it is a bit hard to speak to an amendment if you have not already moved one.

Senator Conroy—I would be happy to move that amendment.

The Temporary Chairman—is it No. 1?

Senator Conroy—No. 1, the disclosure of GST on receipts, which has been circulated, I understand. With the other ones I am like Senator Murray; I am not sure if they have been circulated yet. People are shaking their heads, so I am assuming that we are just on this one for the moment. It is disappointing that this government continues to refuse to allow Australian consumers to see the GST clearly on docket. Some stores have, it is true, now decided to ignore the government’s requests and directives. They intend to disclose the GST in certain ways on the docket. But it is no thanks to this government.

It is not because this government wants true and frank disclosure on the impact of the GST. We have seen this government defeat this amendment at least three times and attempt to use the ACCC to force companies not to show the true impact of the GST. This government is running scared. It is running scared and hiding behind a $420 million—that is just the meter to date—and increasing propaganda exercise to try to convince ordinary Australians that this tax is good for the country and that this tax is good for them.

The Temporary Chairman—Senator Conroy, I am sorry to interrupt but are you moving amendment No. 1 dealing with taxable supply in relation to the GST act?

Senator Conroy—that is not my first amendment.

The Temporary Chairman—that is amendment No. 1 on the running sheet we have—1804.

Senator Conroy—I apologise. I am moving No. 1(b), which is ‘to assist in minimising price exploitation when a corporation supplies a consumer with a receipt or dock- et’. I thought that was No. 1(a) and the only one that had been circulated.
The TEMPORARY CHAIRMAN—To make life easier, perhaps you could move Nos 1 to 4 and speak to them generally and circulate the other amendments at a later date. Is leave granted? Leave is granted.

Senator CONROY—Thank you, Mr Temporary Chairman, I will take your advice. I move:

(1) Schedule 1, page 3 (after line 7), after item 1, insert:

1A Section 75AT
Insert:

taxable supply has the same meaning as in the GST Act.

(2) Schedule 1, page 3 (after line 7), after item 1A, insert:

1B At the end of section 75AU
Add:

(3) To assist in minimising price exploitation, when a corporation provides a consumer with a receipt or docket issued in respect of a taxable supply, the receipt or docket must separately include:

(a) the price of the goods or services excluding the GST;
(b) the amount of the GST; and
(c) the total price of the goods or services including the GST.

This government is running scared that the true impact of the GST would be revealed if ordinary Australians were able to stand there and look at their dockets and say, ‘This is not what the government told us. They told us prices were only going to go up by 1.9 per cent.’ Last week we saw the ACCC expose the government when it produced its price calculator which it had circulated to all Australian households. I will come back to that because there is some very important information that Australians should be aware of in the ACCC’s calculations—but let them stand for the moment as testimony to the government exposed.

We have asked consistently the ACCC, we have asked consistently Mr Howard, we have asked consistently Mr Costello: ‘What would be the real price impacts?’ They said that they could not imagine anything reaching the price of a 10 per cent increase. And what did the ACCC find in their—might I say ‘flawed’—study? They found that 45 items of the 200 items they produced went up by between eight per cent and 10 per cent—and such obscure items as electricity, gas, clothing and books! These are the sorts of items that this government sought to hound small businesses about. You will all remember the famous case of Gleebooks—a small bookshop on Glebe Point Road in Glebe. Apparently Senator Alston bought a book from Gleebooks, and upon receiving the docket he saw that it stated that the book prices would go up by 10 per cent. What did he do? He wrote to Mr Hockey. And what did Mr Hockey do? Mr Hockey referred this matter across to the ACCC, and the ACCC fired off its standard intimidation and fear letter to try to force small businesses not to reveal the true costs—and a political debate ensued.

This government and the ACCC insisted that book prices would not go up by anywhere near as much as the book companies and the bookshops were claiming. But what did the ACCC calculator come up with last week: 8.5 per cent. That is, as I said, on a very flawed analysis which I will come to in subsequent contributions.
Senator Ian Campbell interjecting—

Senator CONROY—I will take that interjection from Senator Campbell, because when this government, which is running scared at the moment, finally calls an election, the choice that this country will have is either an opposition committed to rolling back the unfair parts of the GST or a government that is committed to rolling forward the GST on to food and upping the rate. That is what this government is about. John Howard, Senator Campbell and the Treasurer have said one thing that everyone should keep in mind: they want a GST on food. So if they are voted for again in the next election, they might even promise you that they would never, ever do it on food, but do not forget that they said that they would never, ever do a GST. This is a government that is committed to rolling the GST forward; it is committed to seeing more GST put on more ordinary products, and then as always—as we all know, prices are already going up—the GST rate will not stay where it is. The GST rate will go up. We all know that. It has happened in every single country in the world that has introduced a GST: the rate has been put up.

So there should be no pretence by this government that the rate will not go up and, worse, they want to roll this GST forward on to food. It is their stated position. It is the Treasurer’s preference; it is the Prime Minister’s preference; and it is Senator Campbell’s preference. If you want to put it into a simple debate: we will roll it back; we will take some of the unfairness out of it. You can never fix this GST, but we will take some of the unfairness out and we will make it simpler—not the nightmare that this government are currently foisting on small business, not the fear and intimidation that the government are using with their lap-dog, the ACCC, to run around and terrorise ordinary Australian businesses and ordinary Australian companies. That is what this government are engaged in. This amendment is part of it.

Why won’t the Democrats support displaying the tax on the docket? I look forward to Senator Murray’s contribution on this. I know that Senator Murray has spoken on this before. Like him, I am keeping a record of the reasons they vote against it each time—and each time the reasons get thinner and thinner because they know that Australians want this information. They know that Australians would like to see the GST costs on the dock- ets. The consumer groups in this country want to see it, and ordinary Australians you talk to in the streets would like to know. Why does the ACCC use its powers to force companies not to have ‘before and after’ price tags? From last week, we have permission from the ACCC.

Last Friday before Senate estimates, I asked the ACCC on what basis they believed they had the legal, enforceable power to ban a company displaying a docket of any type it wanted. They said, ‘It could be false and misleading.’ I said, ‘If a company has calculated the true cost of the increases and wants to continue to have a dual price tag after 30 June, why shouldn’t it be able to? Why shouldn’t an ordinary consumer be able to see what the price of the good was before the GST and after the GST?’ What could possibly be wrong with that, Senator Campbell?

But no, the government has made sure that the ACCC are enforcing a guideline that is not the law, as we have shown after the ACCC have tried for six months to pretend that their guidelines were law. The Minister for Financial Services and Regulation, my opposite in the other place, issued a press statement saying that the guidelines are the law. We all know it is not the law.

Finally, Professor Fels admitted last week that the guidelines were simply a guide the courts could look at—that is all: just a guide. But that has not stopped them threatening and intimidating. It has not stopped them trying to stop shops putting the GST before and after prices. This government is consistently refusing to disclose the true impact. It dodged up some modelling and misled the Australian public before the last election. Remember the 1.9 per cent? There was no 1.9 per cent in the ACCC’s figures last week. The government continues to try to pretend black is white, and it continues as it did before the last election with what now seems a trivial amount of money—only $19 million—that it spent in three weeks before the last federal election was called, promoting the so-called benefits of the GST. Now it is
hiding behind the most obscene advertising campaign in terms of content and expenditure this country has ever seen.

What was the Democrats’ view? ‘It is all the Labor Party’s fault that they need to spend this money, because they have caused so much confusion.’ Senator Murray, you have the opportunity to stand up here and give us your view on whether you believe $420 million in education and advertising is necessary, and we will look forward to your contribution. I will be keeping the *Hansard* for posterity on this one, Senator Murray, because I am looking forward to you justifying, like your leader did, the government’s outrageous misuse of taxpayer funds. You are in on the deal; you are in on the fix. You will not be supporting this, as you have not in the past. You will be happy to vote for an amendment to give $10 million to the Packer family, that struggling, small, Victorian business at the casino. A high-roller amendment at $10 million? No problem. Tell consumers what the impact of the GST is? Not a chance. That is where the Democrats have got to in this debate. They have become so in thrall to the government that they are prepared to support, any way possible, the government’s attempts to cover up the true impact of the GST.

The Democrats have a long and proud history of transparency, Senator Murray. The government continue to claim that they are abolishing the hidden wholesale sales tax. So why are they trying to hide the GST? At least you don’t have to get caught up in that piece of hypocrisy, Senator Murray. You can say you are against the hidden WST and also the hidden GST. You have the chance to stand up and be counted and not get into the web of deceit that this government are involved in. You do not have to say, ‘Oh, no, we think that the old WST system was hidden and there were all these flaws in it, but we are prepared to support the government in it, hiding behind an advertising campaign to disguise the true impact of the GST.’

We urge the government and the Democrats to support these amendments and put some honesty back in the GST debate, so that we do not have to try to calculate the GST when we are walking around the supermarket. The government says, ‘It is simple.’ Allan Fels says, ‘Consumers will be able to tell us whether or not there is price exploitation.’ He keeps saying, ‘I have got 18 million consumers out there, and they are all looking at the GST.’ Senator Campbell and Senator Murray: what is one-eleventh of $47.30? It should be simple. You are standing there at the shelf, and the price of something is $47.30. How do you calculate the GST? Take your calculator to the shop because you are going to need it. That is the only way Allan Fels will be able to rely on you giving him accurate information. What is one-eleventh of the price? I do not know; I do not carry a calculator and I am not a mathematician. But apparently Allan Fels is prepared to run with the rubbish that consumers will be able to tell how much the GST is affecting their goods and they will be able to work out what one-eleventh of every single item they buy is. It is the only way to work out the GST. That is how stores do it. They have computers and cash registers, but ordinary punters—unless they are carrying their laptop around with them—have no way of knowing, unless this government and the Democrats are prepared to support these amendments.

**Senator MURRAY** (Western Australia)  (12.51 p.m.)—As usual, there was a lot in there, and I think there are some points worth responding to. Before I do that, I would like assistance to circulate these documents, and I will seek leave later on to have them tabled.

The first thing I need to say, and it is a matter of honesty, is that Senator Conroy would know that you are judged equally by what you do as by what you say. Senator Conroy, with respect to putting the GST on food, I remind you that, three times at divisions called by me, you and the rest of the Labor Party voted for a GST on food. It is on the record, it is in the *Hansard* and it has never been repudiated by your party. Your party have never said, ‘Gee, we are sorry we voted three times in divisions for the GST to be on food,’ and I am expecting that, unless you do repudiate it as part of your policy platform, you will be going to the next election advocating that you will roll back the GST on one or two items but you will roll it forward on basic food. The Labor Party will
put a GST on food, as they have voted three times to do so in the GST debates.

Let us move to the question of whether taxes should be on price tickets and on final receipts and dockets. This issue has been covered extensively before. The fact is that the law does not prevent that happening. Mr Temporary Chairman, I seek the permission of both the Labor Party and the coalition to have this tabled so that we can discuss it during my address.

The TEMPORARY CHAIRMAN (Senator Ferguson)—Do you want it tabled or incorporated?

Senator MURRAY—Whichever is the easiest.

The TEMPORARY CHAIRMAN—Is leave granted for the document to be incorporated in Hansard?

Leave granted.

The document read as follows—

Woolworths Limited
Sample docket to be issued to customers under the New Tax System

Proudly Australian
Woolworths
ABN 8800 014 675
The Fresh Food People
Parramatta Parliament House 9891 6737
Managers Name is: M. Scott
Served by: 70 Paul

* B/steak Pies 4package 3.99
* Bulla Ice cream 3.99
* F/R eggs 700G 4.05
* Tim Tams 235G 2.27
Olives Jumbo 2.93
* Anti Perspirant 3.75
Brown onions 1.59
Light Philly 250g 2.17
* Coke 1250 ml 1.56
* Toothbrush 3.79
Carrots 2.145 KG @ $1.69kg 3.63
11 TOTAL $33.72
Cash $50.00
Change 16.30
Rounding 0.02

* Taxable items
TOTAL includes GST $1.76
TAX INVOICE
1106014 1943 070 2:45 2007 00

Senator MURRAY—I want to use this as a sample, because it has been sent to all parliamentarians. This is a sample docket which, under the new tax system, will be issued by Woolworths Ltd to customers. I am not sure of their market share, but I suspect it is close to 20 per cent of the entire Australian market in the categories they deal with, so this is a very good example of a business which has very substantial Australia-wide coverage.

This docket has listed beef-steak pies, which are asterisked as a GSTable item; Bulla Ice Cream, also taxable; free range eggs, not taxable; Tim Tams, taxable, Jumbo olives, not taxable, antipersprants, taxable; brown onions, not taxable; light Philly cheese, not taxable; Coca Cola, taxable; toothbrush, taxable; and carrots, not taxable. In this sample docket, it totals the price of those items at $33.72, and it indicates at the bottom that the total GST to be charged on that docket is $1.76. This means that every customer who goes into Woolworths will know exactly how much GST they are paying in total on that docket. I remind the Senate again: there is nothing in the law which prevents any retailer from showing GST; secondly, the law requires retailers, or any business which sells to another business, to advise those businesses what the GST component is. For instance, if you were a law firm buying these goods from Woolworths, and you wished to claim them as an input to be deducted, you would need to know that figure. So the first point to make is that consumers will be able to readily identify from retailers how much GST is on dockets. The second point is that the existing taxes—most of which have been put into law under Labor governments, both state and federal—are not shown on dockets. The wholesale sales tax, for instance, has never been shown on dockets. No Labor government anywhere in the country has ever agreed to, wanted to or advocated putting wholesale sales tax on dockets.

Payroll tax is something that is supported by all Labor governments. The payroll tax component of costs are not put on dockets, neither is excise and neither are all the other taxes which are hidden within every price that every Australian pays. What I am doing...
here is exposing the essential hypocrisy of a policy which seeks for the very first time to do something which the Labor Party has never agreed to do with any form of taxation in any receipt or invoice. Secondly, through this example of the Woolworths Ltd docket, I am showing how retailers will be telling every consumer in the country exactly what GST they have paid on the items they have bought. To me, it makes these amendments both duplicitous, deceptive and unnecessary.

The main area of remarks made by Senator Conroy relate to the advertising campaign that the government has conducted. None of us, the Labor Party included, ever deny that governments need to provide information and to advertise their policies and their programs. With regard to this particular section of advertising, the question is: is it a rort, is it political, is it a problem? The precedent was originally set by the Labor Party in its term of office, it has been carried on by the coalition in its term of office, and it has been exposed to a vast extent in this latest round of advertising. I think the Labor Party’s case would be served far better if it did not exaggerate, because I think it does have a case, but in exaggerating its case, it has diminished the impact of what it has done.

I have the pleasure—and it is a pleasure—of sitting in the Senate Finance and Public Administration Legislation Committee estimates process. Senators Ray and Faulkner, quite frankly, are an example to all senators as to how to conduct that process. I might remind some senators here: very seldom do they stray into impolite or abusive behaviour, strong as their points might be.

Senator Conroy interjecting—

Senator MURRAY—I agree with Senator Conroy that I can learn a great deal from those two, because they really do it very well. But the fact is that, in the exposure of this matter, they have under questioning exposed the fact that—and I do not have the exact figures—a couple of hundred million dollars of this $420 million you refer to has been specifically given to organisations that have to implement the new tax system—in other words, to conduct training, seminars and information campaigns of their own. As the Labor Party know, those organisations include such luminaries as the ACTU—supporters of the Labor Party—and many other organisations of that ilk. So there is $200 million worth of practical implementation programs which, frankly, are much needed. I think the government’s choice of community, business and union organisations to put the implementation of this new tax system out to their members and to apply it practically is an extremely intelligent choice. Otherwise, the implementation would never have been able to progress as it has. The second component in that $420 million of advertising, as I understand, is that it is a four-year figure. The third point to make is that the remaining amount of money includes amounts necessary to advertise and promote the changes being made to business taxes, not just to the GST, which has attracted such attention.

So when we come down to a core figure of perhaps somewhere between $40 million and $50 million, the question we have to face is whether the government has gone too far—is there a political and propaganda component in it? I think the Labor Party have done an excellent job in highlighting that there has been that element to it. One might well use Senator Ray’s examples of large poster campaigns or relatively uninformative TV campaigns as just going too far on the propaganda side; however, the leaflet campaigns and the newspaper print campaigns, for instance, are highly informative and, in my opinion, quite objective. So there is a balance somewhere in between.

The Labor Party are very good at raising heat and showing that there is a problem but not in suggesting a solution, because when they get into power—which surely they will one day, as the cycles go—they want to do exactly the same thing as the government is presently doing, and that is always the case. The Labor Party will complain vigorously about the standards of the Prime Minister’s code of conduct, but they will do nothing to change the system to provide a solution. They will complain vigorously about whether appointments to boards, authorities or committees are independent, and we will put up proposals and they will reject them, they will throw them out, because they want to do the same when they are in government. The es-
sentential weakness of the Labor Party position is that they show—and rightly show—that there are problems with what a government is doing, but they will not do anything to resolve those problems. In answer to Senator Conroy’s challenge to me, I will develop a solution to this and I will put it to you. I will be very surprised if you vote for it because when you are in office you will want to be doing exactly what the government is doing. I will be very interested to see whether or not that is the case.

The last point I want to make is that the government’s very extensive expenditure on the implementation of the new tax system has to be put into perspective. Multibillion dollar changes are being implemented and, therefore, you need to do take some sort of ratio approach to it. Secondly, there has been from some in the media and from all of the ALP a scare-a-day campaign which the government has had to counter. The Labor Party have probably done a good job in trying to put the finger on wherever any problems exist, but in the process they have so confused and so perturbed so many sectors of the Australian population that the government has had to counter it with an unusually large—in fact, historically extraordinary—information and advertising campaign. But, having done so, I have no doubt that once we have passed 1 July we will join the three-quarters of the countries of the world that have a GST or a VAT. We will join the billions of people in the world who have a GST or a VAT. We will join the tens of millions of business in the world that have a GST or a VAT. And the Labor Party, where they are in power in the states, and if they ever get back into power in the Commonwealth, will be absolutely delighted that there will be a broad based tax base which will produce more revenue for all the states and for the Commonwealth to use much more effectively for the services that all Australians need. The Labor Party are going to have to face up to that when they face up to the next election.

Senator COONEY (Victoria) (1.05 p.m.)—I would like to say something in relation to what Senator Murray said about the advertising campaign. He said, ‘The Labor Party has conducted a big campaign about the GST and has put its case,’ and that is right. He then said, ‘To counter that, the government has to go through a campaign,’ and I think that is a fair proposition. But the difference is that the Labor Party has paid for its campaign, whereas the coalition has the taxpayers’ money to pay for its campaign.

So, if you take what is being said to its logical conclusion, it is this: at the time of the next election, the Labor party will conduct a campaign and it will go out and put its propositions forcibly so that it goes against the government. Now, on the logic that has been put here today, since Labor will have done that, the government should be entitled to use taxpayers’ funds to run its next election. That is the proposition that has been put: if there is a campaign against the GST, to counter that there has to be a campaign for it and therefore the government is justified in using taxpayers’ money. On the present logic, it will be quite all right for the government to spend taxpayers’ money to run its next election campaign. That just cannot be right.

The next proposition I want to put is about the GST, where it has got to and what is being said as to why the Labor Party does not, in effect, abolish the GST after the next election if it is so concerned about it. This is ignoring what I call the My Fair Lady syndrome. Perhaps I can explain what happens. You will remember that Professor Higgins takes Eliza Doolittle off the street outside Covent Garden, where she had been selling flowers. She is a particular sort of person. Professor Higgins takes her away and makes her somebody entirely different: she becomes a lady and she develops in society in a particular way. Having thus changed her, Professor Higgins says, ‘Well, you’re leaving the house.’ She says, ‘What can I do?’ and he
says, ‘You can go back to being a flower girl.’ In theory that is right but the situation is so changed—she is so changed, the society she has gone with has so changed—that is not a reality. It is the same sort of thing with this GST: once it is introduced, once it becomes enmeshed in society and once things have changed, it is going to be very difficult to go back.

The next thing I want to talk about is the sample docket that Senator Murray has put into the debate. It seems to me to be perfect evidence that this can be done. This is what the amendment is asking for:

(3) To assist in minimising price exploitation, when a corporation provides a consumer with a receipt or docket issued in respect of a taxable supply, the receipt or docket must separately include:

(a) the price of the goods or services excluding the GST—which is what the Woolworths sample docket does—

(b) the amount of the GST—which is what the sample docket does—

(c) the total price of the goods or services including the GST—and which is also what the sample docket does. This docket provides evidence that what the opposition, the Labor Party, is contending is absolutely feasible. If this were to become law, then, as this docket shows, that law could be carried out quite succinctly. What may need to happen is that people may need to be provided with machines to do it, and it might be fair to provide those machines. That has been argued again and again. So I would suggest to Senator Murray that his introduction of this docket confirms that what is proposed to be done in the amendment is feasible and certainly fair. Why shouldn’t people be obliged to show what they are charging—what they are paying by way of tax and what they are charging by way of goods?

One other thing, a tangent to this, arises from discussions we had at the weekend. Another GST is going to be imposed on fees charged by legal firms. I will get Senator Campbell to get confirmation of this later on if he would. I am led to believe that now lawyers cannot do pro bono work or cannot reduce prices to relations and that what they will have to do is charge the full fee, whatever that may be, and put the GST onto that. If they do pro bono work or do work for relatives or friends at a reduced rate, they have to pay the GST themselves on the basis that the full fee has been charged. If I could get that checked by the parliamentary secretary, that would be good.

Senator MURPHY (Tasmania) (1.13 p.m.)—With regard to the process that we are going through—and I suppose that we will continue to go through for some time because of the very interesting comments that have been made by Senator Murray with regard to advertising—I have to say to you, Senator Murray, that I listened with great interest to what you said. With regard to the document you circulated, it is a very interesting concept that you are arguing that gives some justification to the Democrats’ position. I did note—through you, Mr Temporary Chairman Ferguson—that Senator Murray argued that we somehow supported the GST on food. The only reason we ever voted for a GST on food was that we wanted the Democrats to vote against the GST full-stop. That is what that was for; that is exactly why we did that.

Of course, we now know that this is going so badly that the government has had to spend about $500 million on an advertising campaign that contains little or no information. It is really outrageous. If you were really on about informing the public, then you at least ought to give them some information about it. Even when ads do contain a little information, it is very limited.

These bills relate to the powers of the Trade Practices Act, and 10 per cent is 10 per cent is 10 per cent—or, as I think Senator Conroy said, you have to take your calculator along to work it out, especially if it is one-eleventh of the price. It is all very interesting, because 10 per cent is not 10 per cent is 10 per cent. The ACCC really will not have the power to prosecute, and that has become apparent during the estimates process and in the previous questioning with regard to these bills. There have been proposals for significant penalties—I think it is $500,000 in the
case of an individual and $10 million in the case of a corporate body—which are way above those which have current application. It is a matter of interest that, as we change the tax system, we have to have much higher penalties for exploitation or misleading activities on the part of business.

An area that has come to light with regard to the effect of the GST is rent and the possibility for rent increases under the GST. We know that some increases in household rent are expected as a result of the changes under the GST. What landlords are supposedly not allowed to do is, say, to increase the rent by 10 per cent or more and then blame it on the GST. That somehow would be considered to be misleading conduct. But we have discovered in this issue alone that, in the case of rents—if the landlord does not have an ABN, and perhaps even if he does—the ACCC has no power under price exploitation law and it only has some power with regard to misleading conduct. My point is this: a landlord can put the rent up by 15 or 20 per cent if the landlord so wishes, and the ACCC can do nothing about it. If the landlord says that the 20 per cent is due to the GST, then the ACCC—again, I am not quite sure whether being registered with an ABN or not is relevant—may be able to do something about that. Statements back on 14 February would indicate that maybe it can do something in respect of misleading conduct.

Of course, that provides us with a very interesting analysis of how this thing is going to operate with regard to price exploitation. The ACCC has been conducting surveys of the prices of about 600,000 items over a period of time. It has also recruited the services of about 350 contractors to survey prices in 176 cities around the country, and it probably has another 400-odd people surveying petrol prices. What I find interesting about that is: consumer groups around the country, who are also doing surveys of prices, are saying that prices are already going up—before the GST. Going back to Senator Murray’s reference to Woolworths, I understand that the ACCC is embarking on an action against Woolworths for encouraging their suppliers to put up prices pre-GST so that they can maintain a net dollar value. That is a very interesting set of circumstances. So I do not base too much faith on a receipt that contains at the end of it just a single amount for GST. And if it is the case that prices are going up, it would be interesting to hear from the government what they intend to do about that. What are they directing the ACCC to do? I recall a statement issued on 15 January from Mr Hockey, Minister for Financial Services and Regulation, titled ‘Hockey directs ACCC on GST’, which said:

The Minister for Financial Services Joe Hockey today directed the ACCC not to approve any business initiatives on the GST that may increase prices by more than 10%.

Where are you now, Mr Hockey? Where is the minister now? We know that there have been significant price movements in very recent times. We know that there have been charges of profit taking and price fixing. So I would be very interested to hear from Minister Hockey now. Of course, the ACCC must have some knowledge of this. If it has been doing its surveys of 600,000 items, it must have some knowledge that the prices have been going up. This is all relevant to the process of this government implementing a new tax system. We have provided the ACCC with about $94.8 million for the GST program.

It is a very interesting situation if you want to make a complaint to the ACCC. During the course of estimates, I asked the ACCC about their complaints processes when people have concerns about exploitation. They provided us with a very nice folder that contained information about the processes and how they will operate. I think it was a single sheet called ‘GST Talk 4’ that went to the question that I was talking about earlier relating to rent increases. It said that you could ring the 1300 number—I cannot off the top of my head remember the specific number—and you could ring a range of state and territory offices relevant to rental controls. I did ask the ACCC whether or not they had in place a range of agreements with the state bodies, and they said, ‘Yes, we have. We have spoken with them and we have an arrangement in place.’

I recall saying to the ACCC, ‘Look, I would like to test the veracity of that,’ which
I did. I took the opportunity to make a phone call to the ACT consumer affairs office. I have not got the documents with me but I made some handwritten notes about this. Before I rang the ACT consumer affairs body I rang the ACCC 1300 number, which I found a very interesting process to be involved in. As I informed the ACCC later, it took me some 8½ minutes to actually get to speak to someone. I got a recording at the outset that informed me that I had actually rung the ACCC prices hotline number. It then made a reference to a couple of numbers, that if I had a particular complaint to ring this number or that number, but otherwise to wait. I waited. Then I had to press a number and it put me through to another recording which said things like, ‘Thank you for calling. Your call is important. If you require this information or that information,’ and on it goes.

Senator Ian Campbell—This is just a joke.

Senator MURPHY—Senator Campbell, I take that interjection, that this is a joke. What is important is that the consumers of this country have been given information about ringing up particular phone numbers for information and lodging complaints if they believe there is a case of price exploitation. So what is important to the consumer is that they can do that and know that they will have a process that they can get through on. That is what is important here. I say that this would be well worth Senator Campbell taking on board, as the ACCC did, because they may need some more money to actually provide a bit better service than they have currently got going, because it does take a long time.

I raised questions about rental increases with the person I eventually got to speak to. I said, ‘I am paying, as an example, $100 a week rent. The landlord has said to me that the rent is going up to $110 a week and it is because of the GST.’ I was told, ‘The landlord really can’t do that. They can’t say that.’ I said, ‘Can you give me an indicative increase that you think I should actually pay?’ The ACCC have made a claim that the maximum rental increase that people should expect to pay is around 2.2 per cent. That figure was the maximum, so I could expect between zero and 2.2 per cent. On $100 I could probably expect about a $2 or $2.50 increase per week. The person on the ACCC inquiry desk could not specify it to me. Indeed, the person said that it should be something less than 10 per cent. I do not know what less than 10 per cent amounts to. How is a consumer going to make any judgment about what savings a landlord has made? On what basis do they proceed to do that? How do they actually know?

I then rang the ACT organisation. I got another recording that said, ‘Thank you for ringing the consumer affairs office,’ and so on. I went through the process of listening to the music. Indeed, I was told that my wait could be an extensive one due to the large number of calls and that I would experience periods of silence, which I did, and they were very lengthy periods of silence. But I stuck with it and I actually got to speak to someone in the end. I said, ‘Are you the person who can give me some explanation with regard to rental increases and the GST?’ The response was, ‘No is the short answer. I suggest you ring the GST hotline.’ I said, ‘Do you know anything about rent increases and the GST?’ ‘No, not really. I have read that they should not go up very much. But can I suggest that you ring the specific rental organisation that deals with public sector rents.’ They gave me the two numbers to ring and said, ‘You can ring those between nine and 12.’ I found that to be a very unhelpful exercise.

This information I have conveyed to the ACCC. It is important for consumers. If you are bringing in a major change that is going to have some effect on prices and the process through which you are going to do that, you have to have something in place. How is the ACCC ever going to prosecute anybody if you cannot get through to talk to somebody who actually understands exactly what the problem is? That is a major difficulty here. The minister said he directed the ACCC before. I would like to hear from him what we are doing about it now. Prices are going up even prior to the implementation of the GST, and we have got to move on and do something about it. (Time expired)

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the
Minister for Communications, Information Technology and the Arts) (1.28 p.m.)—I might just record from the outset that we have now been going for nearly an hour. We have heard a series of contributions, each lasting their full time, except for Senator Cooney, who probably spoke a little bit under his time. This is in the wake of a commitment from the opposition when we were last sitting that the bill would be passed during this session before question time today. I am certainly hoping that the opposition spokesman will keep to that commitment he has made, and that he will not further delay this important piece of legislation.

There have been amongst those opposition speakers an array of appalling misrepresentations about the new tax system, and their appalling misrepresentation of the new tax system is a very important reason, as Senator Murray has made clear, that we have a high quality, high impact, cut-through campaign to ensure that the people of Australia know what is happening with the significant changes to the tax system.

Nearly an hour ago, Senator Conroy tried to make the point about a future government bringing in a GST on food. I will not delay the Senate very long, but it is very appropriate that Senator Conroy, Senator Murphy and others, most importantly the general public, know the history of the Australian Labor Party when it comes to taxes. Here they are saying that some future government might bring in a tax on food. What is the Kim Beazley tax policy? Senator Murray would know very well the hidden Labor taxes on some of the items on the Woolworths list that he incorporated. If they were fair dinkum about showing indirect taxes on receipts, they had 13 years to do it. I say to them, ‘Do not come in here and move an amendment saying that you should have GST on receipts. Start filling in the blank policy paper, the Beazley policy paper, the blank sheet of paper.’ You could make one commitment here today. You could start at the top of a page—‘Our tax policy’, ‘Kim’s tax policy’—and say, ‘The first time parliament sits after the election, we will bring in an amendment to ensure that the GST has to be shown on dockets.’

The TEMPORARY CHAIRMAN (Senator Crowley)—Order! Senator, in the future, please refer to Mr Beazley by his proper title.

Senator IAN CAMPBELL—I am not referring to a person; I am referring to a new document.

The TEMPORARY CHAIRMAN—You did refer to ‘Kim’s document’.

Senator IAN CAMPBELL—‘Kim’s tax policy.’

The TEMPORARY CHAIRMAN—Please refer to Mr Beazley by his proper title.

Senator IAN CAMPBELL—He does not have a tax policy, so I will call it ‘Mr Beazley’s tax policy’—if he ever has one. I suspect, Senator Murray, it will not be Mr Beazley’s tax policy; it will actually be Mr Crean’s tax policy, and it should have on the top of it, ‘We will bring in a law which says that the GST has to be shown on dockets.’ But they will not do that because they will not want to do what this amendment does; that is, ensure that hundreds of thousands of businesses across Australia, who are at this very moment complying with the law—

Senator Murphy—You’re the government. What a joke!

Senator Conroy—No complaints, if you’re going to filibuster like this.

The TEMPORARY CHAIRMAN—Order, senators on my left!

Senator IAN CAMPBELL—The opposition just demonstrate the rank hypocrisy that applies to their side of the Senate. You get a whole hour of the Australian Labor Party’s misrepresentations, lying and deceit about a tax policy, and then when I get up to make one short point, all I get is—

Senator Conroy—We could have had this vote by now.

Senator IAN CAMPBELL—I sat here quietly for one hour and interjected only once in an hour. I have now been constantly interjected upon by senators opposite, by Senator Conroy and his comrade Senator Murphy, with no interruption from the chair at all. I am seeking to make one point and I will make it.
Senator Conroy—There will be no complaints if you keep wasting time.

The TEMPORARY CHAIRMAN—Order, senators! With respect, I have already rebuked the senators on the left and I think it is important that we stay with the facts. Senators on the left, can we allow Senator Campbell a clear hearing? He has been speaking legitimately, only within his time.

Senator IAN CAMPBELL—Thank you, Madam Temporary Chairman. When it comes to tax policy, the Australian Labor Party could do one thing; that is, actually make a commitment. They could fill in the top line of a blank sheet of paper and say, ‘We’ll make sure you have to put GST on docket.’ But they should not do it for the same reason that this amendment should be defeated; that is, that small businesses are complying with the law. They are now implementing the tax system. They have a choice under this tax system. As Senator Murray has shown very clearly, they can have the choice of bringing in a tax invoice which shows the GST or they may not. Many of them will not want to. Many of them certainly will not want some interfering Labor Party politicians in Canberra forcing them to do it when they do not want to be forced. They will figure out how to do it themselves. The other thing that needs to be put to rest is Labor’s history of taxing food. If you go through the Woolworths docket which Senator Murray had incorporated, you will see ice-cream on the list, which was taxed under Kim Beazley.

Senator Conroy—It is confectionary.

Senator IAN CAMPBELL—Ice-cream is not food! You go and tell Senator Murray’s kids and grandkids that ice-cream is not food. What are Tim Tams? Are they not food either? When my staff are having their chocolate attack this afternoon, I will tell them, ‘It’s okay, you can go off your diet; it’s not food. Eat a Tim Tam.’ There we have it, Senator Murray. When the Labor Party rolls it back, they are going to put Kim Beazley’s hidden tax on Tim Tams.

Dog food is not food, unless, of course, you are a dog—I will resist my temptations in relation to that, Senator Murray. Cordial is not food. What are muesli bars and health foods? They are not food either. Of course they are not food! But Labor likes to tax them at 22 per cent. Potato chips are not food. Popcorn is not food. Pretzels are not food. Cheese and bacon balls, I guess, are not food either. But Labor likes to put taxes of between 12 and 22 per cent on all of those foods.

They talk about books and the Gleebooks shop. They want to pretend that they really care about this clever country, about the information economy, building a globalised information economy, but what do they do to achieve that? Senator Conroy said, ‘You’ll need to take a laptop into the supermarket to work out the costs.’ What is Labor’s great policy on the information economy? I ask Senator Murray through you, Madam Temporary Chairman: how will they encourage people to get connected to the Internet? They say to you, ‘We want to put a 22 per cent tax on your laptop, a 22 per cent tax on your CDs, on your CD-ROM drives, on your modems and even on the paper that you need to print out’—printing paper, 22 per cent. As the ACCC’s document that was posted to households shows, the price of all those items will come down and the Internet Industry Association and the Computer Society will all tell you that the cost of the hardware you need to get connected will come down between eight and 12 per cent.

This bunch of people opposite say to school kids, ‘We want to roll back the GST.’ They will not tell you where they will roll it back; they say, ‘We are going to have a roll-back.’ I contemplate Kim Beazley and Simon Crean sitting in an old 1972 Charger or an old Monaro trying to roll it back and put it in reverse to get it started. The roll-back policy makes me think of these 1950s and 1960s retro-politicians who are going to roll back a policy. They are not going to tell you how until after the election, I heard on the weekend. We might not know what their tax policy will be until after the election. They will go to the people of Australia saying, ‘We are going to roll it back. We will not tell you where or how, but we are going to roll it back.’ They will jump into the old Monaro, stick it in reverse, roll it down the hill and
hope it bloody—Excuse me, Madam Temporary Chair, I withdraw that word. They will hope that it splutters into life. You are going to have to try harder.

I want to talk briefly about the hypocrisy of Labor in relation to tax on books and tax on educational requirements. When kids go to buy all of their requirements for school—when they buy sketch books or project books—they pay a 22 per cent tax on them. When they buy exercise books, paper, erasers, marking pens, compasses, protractors and rulers, Mr Beazley—the clever guy, the information guy, the education man—says, ‘We are going to tax you on those.’ When it comes to computers or anything you need for education, Labor already has these taxes in place. They have taxes all through the supermarket shelves. Senator Murray, your Woolworths invoice, now incorporated in the Hansard forevermore, shows that Labor’s taxes on coca-cola and toothpaste are 22 per cent. They want to charge a 22 per cent tax on toothpaste, orange juice, Tim Tams and antiperspirants. The tax on all of those items is coming off.

It is the total at the bottom of the tape that matters, they used to remind us in the good old days. On the TV ads, back in Kim Beazley’s and Simon Crean’s days, they reminded us that it was the total at the bottom of the tape that mattered to the mums and dads who were shopping. The cost of that basket of groceries is going to be less. Labor do not want you to know that—

Senator Conroy—There should be no more complaints about time wasting.

Senator IAN CAMPBELL—I finish where I began. It is quite okay for Senator Conroy opposite to spend a whole hour spewing out irrelevant and misleading facts about tax policy, but when I get up for a few minutes to rebuff some of it, he says he cannot take it. You are going to have a debate about tax policy, and we will debate you everywhere.

Senator Conroy—I am happy to have a debate; you were complaining about the time wasting.

Senator IAN CAMPBELL—What Labor have to do, if they want to be part of that debate, is actually have an alternative. You will get by, every now and again, with a scare a day. You will get by by attacking advertisements. You will get by by carping, whingeing, whining and being negative. You will get by by bringing down new ideas and by attacking people with the ticker to bring in a new policy. But sooner or later you will have to have your own policy. I will be very surprised if you even produce it before the next election.

When you repudiate your policy to keep your tax on four-wheel drives and to bring in your retrospective capital gains tax, that will be a start. But you have to get the blank bit of paper which is Kim Beazley’s policy at the moment and you have to fill in the first line. You need one line. It takes just a little bit of ink on the paper—there is a 22 per cent tax on the paper and a 22 per cent tax on the pen—to write the first word. You need ‘Kim Beazley’s tax policy’ at the top—four words—and then you can start writing. Until you do that, you are not even in the game.

Senator MURRAY (Western Australia) (1.41 p.m.)—I have a question to the mover of the amendment. If I look at item 2 on 1804, it says:

To assist in minimising price exploitation, when a corporation provides a consumer with a receipt or docket ... Does that mean that businesses or organisations or entities making a taxable supply who are not corporations will not have to do this? Do you know how many there are?

Senator CONROY (Victoria) (1.42 p.m.)—I am advised that, no, other businesses are caught in item 4.

Senator MURRAY (Western Australia) (1.42 p.m.)—My second question, through the chair to Senator Conroy, is as follows. It refers to ‘when a person’ in item 4 and ‘when a corporation’ in item 2 ‘provides a consumer with a receipt or docket’. Is that the final point of sale receipt or docket? Does it exclude price tickets on items within the business?

Senator CONROY (Victoria) (1.42 p.m.)—Yes, it refers to the final point of sale only.
Senator MURRAY (Western Australia) (1.42 p.m.)—Does the sample docket of Woolworths before you, Senator Conroy, comply with item 2(3)(a) and item 4(3)(a)?

Senator CONROY (Victoria) (1.43 p.m.)—I am just taking advice, but my early suspicion is that, because the individual amounts of GST are not displayed, it probably does not. But we welcome where Woolies are going. It is a step in the right direction. We just wish that they would disclose it for each individual item so that we could judge what the GST was, not a total down the bottom. But it is a step in the right direction and we welcome it.

Senator MURRAY (Western Australia) (1.44 p.m.)—I am a bit confused because earlier Senator Cooney said that it did comply with (3)(a). I am given to understand that you are saying it does not comply with (3)(a).

Senator CONROY (Victoria) (1.44 p.m.)—We do not think so. I am happy for Senator Cooney to speak for himself. You have only posed the question now and I have to confess, with no disrespect to Senator Cooney, that I did not hear all of his contribution. I do not believe it would probably meet this requirement, but I am happy to let Senator Cooney speak for himself.

Senator COONEY (Victoria) (1.44 p.m.)—It does show the amount of the GST where it says ‘1.76’. But I understand Senator Conroy says that that ought to be broken up to show how much the GST is on each individual item such as the Coke, the toothbrush, the antiperspirants, the beef steak pies and the Bulla ice-creams. That is a reasonable proposition. The percentage of GST it shows on the goods is just a little over nine per cent. It would be useful to know how much is on each item. It would also of course be useful for a tax department to know how much Woolworths or anybody else had collected, to see how much should be paid over at the relevant time. The docket you have there shows the amount of the GST, but Senator Conroy’s proposition is that it ought to show the amount of GST on each item as distinct from the total amount.

Senator CONROY (Victoria) (1.46 p.m.)—One of the areas of concern which I have expressed and which I discussed with the ACCC last week—I think, Senator Murray, you had already had to leave—was the fact that the ACCC seemed to believe that they have a new way of interpreting the law: that is, allowing averaging. Whereas the tax law and most of the law that we deal with is on individual items, the ACCC seem to believe that they have the power to give permission for companies to break the law in their guidelines. In my view, the fact of their guidelines allowing averaging of GST across items is the very reason we need to have the individual items itemised. My apologies to Senator Cooney. We are being more specific than the Woolies document at the moment where just a total of GST is incorporated at the bottom. That does not allow you to make the decisions you need to.

More importantly, if companies have averaged out costs in their calculations that will not be revealed. You could actually not be able to work out how much GST increase has happened because the ACCC are advising companies that they have the ACCC’s permission to average out their costs across different items—in my view, in breach of the law. They are not prepared to specify what the items are. They are not prepared to identify how it can happen or whether there is an upper or lower limit. They are not prepared to do a whole lot of things on this issue other than spuriously refer to the fact that there is a section that says ‘any other relevant matters’. This was a debate which I had with the ACCC at some length on Friday.

In our amendment, we seek that each individual item have the price and have the GST amount and then totals as well. That is the intent of where we are going. We move it in the form we have for the very reason that the ACCC are, in my view, encouraging companies to break the law.

Senator MURRAY (Western Australia) (1.48 p.m.)—Senator Conroy, I am a bit unclear as to what the phrase ‘the amount of the GST’ in paragraphs (3)(b) of items (2) and (4) means. Does it refer to each individual item or to a total?

Senator CONROY (Victoria) (1.48 p.m.)—That would require that it indicates an individual item, as per standard. We are refer-
ring to the amount of the GST per ‘taxable supply’, which is an individual item. This is why, as I say, I think the ACCC are actually outside of the law and are recommending to companies that they breach the law—not their guidelines but the law.

Amendments not agreed to.

Senator CONROY (Victoria) (1.49 p.m.)—by leave—I move:

(1) Schedule 1, item 2, page 3 (line 12), after “commerce”, insert “, for the purpose of price exploitation”.

(2) Schedule 1, item 9, page 6 (line 10), after “commerce”, insert “, for the purpose of price exploitation”.

I am sure that the government did not intend this, but it is possible with this legislation as it is currently worded that free speech and debate could actually be caught up. For example, Gerry Harvey is consistently making his views known on the impact of the GST and he is just making general comments. We are seeing a lot of robust debate in the public domain by retailers. Dick Warburton has two hats in this debate: he has his hat as chair of David Jones and he has a hat as chair of the Business Coalition for Tax Reform. With this amendment we are seeking to ensure that legitimate debate by Mr Warburton or Mr Harvey or anybody else is not caught up in the ‘false and misleading’ provisions of this amendment. By saying ‘engaged in trade and commerce’, both Mr Warburton and Mr Harvey could be swept up in an all-encompassing way for some of their statements. It may be that they believe some of their statements. I think Mr Harvey is in today’s papers saying people should have bought computers and other things—funnily enough, Senator Campbell—and other electrical items prior to 1 July because he believes, on his information, that the prices will probably go up. He may be right; he may be wrong. It is a legitimate argument for the ACCC, for Senator Kemp, Senator Campbell and myself, to engage in that debate outside this chamber. But it is not legitimate for him to possibly be caught up because of the trade and commerce provisions of this amendment and be attacked by the ACCC and beaten into silence because he has engaged in legitimate public debate about the impact of the GST.

This is an amendment that is designed to try and protect freedom of speech and try and protect legitimate debate on this issue. I am sure the government do not intend for Mr Harvey’s or Mr Warburton’s comments to be captured by the legislation. But on our understanding, our reading and our advice we are concerned that individuals, because of their having more than one hat, could actually be caught up. I am interested in any government advice or interpretation on this. I am interested in Senator Murray’s views. Hopefully, we can get this resolved so that there is no confusion.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (1.52 p.m.)—The provision is quite clearly restricted to conduct in connection with the supply of goods or services. It is not aimed at political comment. I think it is quite specific under its existing wording and requires no amendment.

Senator MURRAY (Western Australia) (1.52 p.m.)—Senator Conroy, I appreciate that you and the Labor Party have been exceptionally busy over the last two weeks but it would have been helpful if we had received these amendments prior to this occasion. To make a decision on them quickly is difficult. Essentially, if I understand you correctly, you are saying—and unfortunately I do not have the Trade Practices Act with me—that this is a free speech amendment and you do not want to unnecessarily restrain organisations, whether business, community or any other, from making statements about the new tax system. Frankly, I would need some advice on what this means. I would need a fuller response from the parliamentary secretary, who has his advisers nearby, on the true effect of this and whether there is any downside. I would need a fuller response from my own adviser. Frankly, I would like to hear a little more of an exposition from you, Senator.

Senator CONROY (Victoria) (1.54 p.m.)—I will take up Senator Murray’s invitation. We are concerned that Mr Fels has been for some time now accusing various groups, be they business or other community groups, of being engaged in a propaganda...
campaign of their own about the compliance cost issue, for instance; about how much the embedded cost savings can be passed on. I am concerned. Last week I asked Mr Grant from the ACCC, ‘What compliance costs did you include as a percentage of costs in your calculations?’ He said, ‘It is about 0.1, maybe 0.2. We are being flexible.’ I asked, ‘What happens if it’s more?’ And he said, ‘They could not be—we have seen no estimates.’

Many business groups, from Mr Ray Regan to the Business Coalition for Tax Reform, have pointed out that both the estimates of the ACCC and the government of the true compliance costs of introducing the GST are far beyond the government’s or the ACCC’s current calculations. I would hate to see a situation where companies are afraid of speaking out, as is the case now. A number of companies have contacted me in recent times. They would like to debate the ACCC on their level of compliance costs but they are terrified that, if they stand up and say, ‘Our compliance costs are much greater,’ they will have the wrath of the ACCC brought down on them and the threat of $10 million fines. Therefore, unfortunately, we are seeing a situation in Australia today where legitimate debate is being stifled because people are afraid to stand up to the ACCC and argue with the ACCC about the level of compliance costs.

The question of embedded costs comes into it, as well. Many companies are coming to us, Senator Murray, and possibly even to you seeking Democrat assistance in these issues. I am sure you are open-minded on these sorts of issues. They are saying that the sorts of estimates that are being tossed around by both the government and the ACCC are an absolute nonsense. They are not going to make these cost savings in six months or 12 months. Some of these costs may take years to come through, but they are being told that they have to anticipate the costs. They want to engage in public debate but they are afraid of the ACCC and the sweeping nature of these powers.

What this amendment is seeking to do is not too complicated. It is just simply saying, ‘If you are making comment that is not involved in the trade and commercial aspect of your business—in other words, it is not a brochure being published in the Sunday Telegraph or advertising on the television; it is just engaging in public comment—then the law differentiates between public comment in the newspapers and being actively engaged in promoting your goods through trade and commerce.’ We are simply seeking to a degree to curtail Allan Fels’s capacity to intimidate business—which is what many businesses are saying is happening at the moment in terms of the impact. So we are keen to ensure that legitimate public policy debate is not unduly influenced by the threat of Allan Fels and $10 million fines. We are certainly receiving comments along those lines about how they are being threatened by Allan Fels and by other officers of the ACCC. We do not believe that there is any place for that in a democracy. We should be able to have businessmen, charities or any other organisation having public policy arguments with the government. We do not want to see them constrained by the legislation.

This is a very small and simple amendment. We do not believe it is highly controversial. I know the government has got up and said, ‘No, there is no need for this. They couldn’t possibly be captured.’ Brave people like Harvey Norman and Mr Harvey are standing up and saying, ‘This is the case; the government line is wrong.’ Michael Delaney from the Motor Trades Association is saying that the government and the ACCC’s line is wrong, but if the ACCC choose to interpret the powers as they stand, they risk prosecution. We are seeking to differentiate between trade and commerce and public comment and public policy debate.

Progress reported.

MINISTERIAL ARRANGEMENTS

Senator HILL (South Australia—Leader of the Government in the Senate) (2.00 p.m.)—by leave—I inform the Senate that Senator Newman, the Minister for Family and Community Services, the Minister Assisting the Prime Minister for the Status of Women, the Minister representing the Minister for Veterans’ Affairs and the Minister representing the Minister for Defence will be absent from the Senate this week. She will be attending a special session of the United Na-
tions General Assembly, Beijing Plus Five, in New York. During Senator Newman’s absence Senator Herron will be the Minister representing the Acting Minister for Family and Community Services, I shall be the Minister representing the Minister for Veterans’ Affairs and the Minister for Defence and I shall answer questions on women’s policy.

**QUESTIONS WITHOUT NOTICE**

**Economy: Foreign Debt**

**Senator COOK** (2.01 p.m.)—My question is to Senator Hill, representing the Prime Minister in the Senate. Does the minister recall the Prime Minister proclaiming in 1995: I can promise you that we will follow policies which will ... bring down the foreign debt. Given this very clear commitment, how does the minister explain that since his government took office in 1996 foreign debt has grown from $194 billion to a staggering $256 billion, the highest ever on record?

**Senator Herron**—What about as a percentage of GDP, Peter?

**Senator COOK**—About 43 per cent. How is it that the government has allowed the debt burden on each Australian to increase from $10,000 per person, which Peter Costello railed against in 1995—

**The PRESIDENT**—Mr Costello.

**Senator COOK**—which Mr Costello railed against in 1995—thank you, Madam President, and here is the punchline—to $13,433 today?

**Senator HILL**—Madam President—

**Senator Ian Campbell**—It is a pretty good punchline when you have to say when it is coming.

**Senator HILL**—That is what I was going to say. It is a pretty good punchline if you have to announce it as the punchline. It does remind us, however, of Labor’s appalling economic record in government. All Australians will understand that, when this government came to office, it inherited a domestic deficit of over $10 billion.

**Senator Cook**—Answer the question.

**The PRESIDENT**—Order! Senator Cook, you have asked a question, a few seconds have passed and you are shouting out, ‘Answer the question.’ Either you do not want to hear what Senator Hill has to say or you are just not giving him an opportunity to answer.

**Senator HILL**—I was just putting this in context in terms of Labor’s deplorable record which we inherited—$10 billion of deficit, $80 billion of debt run up in the last five budgets of the Labor government. That is what the Howard government inherited. But the Howard government has taken the difficult economic decisions, which have resulted in strong economic growth since then—

**Senator Carr interjecting**—

**The PRESIDENT**—Senator Carr, to say you are shouting would be an understatement. You are disorderly.

**Senator HILL**—Those decisions have resulted in strong economic growth, strong jobs growth, low interest rates, low inflation—an economic success story which has been the envy of the world. That is what Senator Cook is trying to talk down today: an economic success story that is the envy of the world. This government got through the Asian economic crisis without a hiccup because it had taken the hard economic decisions, reined in Labor’s excesses in expenditure and got the accounts in order. For Senator Cook, who takes something of an interest in these matters, let me start with the current account deficit and I will finish with the foreign debt, to put it in context, which I think he would like.

Australia’s current account deficit has been falling in trend terms and is expected to be lower in 2000 and 2001. Exports are growing strongly, and this is forecast to continue. The outlook for export prices is also positive. That is all good news on the current account deficit. I will move across to the issue of foreign debt, the most important measure of which—and I can remember Labor talking to us about it—is the foreign debt servicing ratio. The foreign debt servicing ratio, which is net debt interest repayments as a proportion of exports, was 10.2 per cent in the March quarter 2000, around half of the peak level of 20 per cent reached under Labor in the September quarter of 1990. If ever the Senate wants a demonstration of how the
The economy has improved under the coalition government, that is a great figure—it has been halved since this government has been in office. It has averaged 10.4 per cent since March 1996 compared with 13.9 per cent under Labor in the previous 13 years.

Under Labor, net foreign debt as a proportion of GDP increased from 14 per cent in June 1983 to 38 per cent in March 1996 and was 41 per cent in the December quarter of 1992. What a deplorable background to which Senator Cook asks his question. Under the coalition, net foreign debt as a proportion of GDP has risen much less significantly, from 38 per cent in the March quarter to 41 per cent. Since the government came to office in 1996, I remind the Senate, it has repaid around $50 billion in general government net debt. So the story of this government, which put the accounts in order by reining in excesses, is that it has been able to repay some $15 billion of the debt that it inherited from Labor.

(Time expired)

Senator COOK—I ask a supplementary question. I note that the minister did not actually answer the first part of my question.

Senator Ellison—Yes, he did.

Senator COOK—No, he did not. The question is: does the government’s promise to bring the foreign debt down still stand? Are you going to stand by that promise, or has it been shelved? If it still stands, can the minister nominate a time by which the foreign debt will actually start coming down rather than continuing to increase?

Senator HILL—It was Labor in office that continually set targets and was embarrassed by targets. A target that you do not intend to keep in government is not worth a thing. What is important is to put in place sound economic policies which result in record economic growth, strong jobs growth, low interest rates and benefits to all Australians. Yes, the foreign debt has risen slightly because the dollar has weakened slightly, as Senator Cook knows. But, as I said, the debt servicing ratio, which is the important guideline in this regard, has not. The record of this government in relation to the fundamental economics of this country is excellent and, compared with the Labor mess that was inherited by this government, has been absolutely outstanding.

Economy: Tax Reform

Senator BRANDIS (2.08 p.m.)—My question without notice is directed to the Assistant Treasurer, Senator Kemp. Will the minister outline why tax reform is crucial to the continuing prosperity of the Australian economy? Is the minister aware of any alternative policies to the government’s landmark reform of the Australian taxation system?

Senator KEMP—I thank Senator Brandis for that extremely important question. I think I speak on behalf of all of the Senate—certainly the Senate on this side—in welcoming you to the chamber. You are a man of great talent, and we look forward to the contribution that you are going to make to this chamber. In view of the background of Senator Brandis, it is not surprising that he goes straight to the key issues. He comes into the chamber, he has been here an hour, and he is straight onto the key issues.

Senator Brandis would know that tax reform is an essential element in ensuring the ongoing prosperity of the Australian economy. It will reward Australian workers, who have endured very high rates of personal income tax; it will encourage Australian exporters to take on the world without the burden of the wholesale sales tax; and it will provide more choice for families. It is indeed, Senator Brandis, a great package. On one side of the political divide, you have a government which is delivering real reform to the Australian people. I have to say that, on the other side of the chamber, you have probably one of the most confused oppositions in Australian history. They cannot even work out when they are going to announce their own tax policy. Last year, in a debate in this very chamber, Senator Sherry said:

The Labor Party’s tax policy will be presented to a national conference which is now scheduled for July-August this year ... That is when our tax policy will be presented ...

That is what Senator Sherry said. We were not sure about this, so we looked at the shadow Treasurer’s position. The shadow Treasurer had announced that they were going to try to hold back the details of their tax policy until closer to the election.
It is well known in this chamber that I always pay particular attention to what Senator Cook says. This is what Senator Cook said—and, Senator Brandis, you will be interested in this—in Senate estimates:

How we then deal with reforming the tax system... is best described by rolling it back, and we will only know... when we are in government...

The Senator Sherry position is that the tax policy is going to be announced at the next conference, due in a couple of months. The shadow Treasurer’s position is that it will be announced closer to the election. Senator Cook’s position is that we will have to wait until after the next election. Assuming that the Labor Party by some gross mischance may sneak into office, only then, according to Senator Cook, will they announce their tax policy.

There is confusion in the Labor Party’s position and it was further confused, I might say, on the weekend. All of us know how dominated the Labor Party are by the trade unions. Mr Doug Cameron on the weekend announced Labor Party policy, I suspect, when he said that the roll-back would go a long way. On the other hand, Lindsay Tanner, the financial spokesman for the Labor Party, thinks that the roll-back will be only minimal and has been quoted in the press as saying that. We have total confusion in the Labor Party ranks on what their policy is on tax, which is not surprising. But, Senator Brandis, what we do know is that the ALP will not repeal the GST. That is what we know. (Time expired)

**Senator ELLISON**—The government has a lucrative way of dealing with government advertising, and that is by placing government advertising through one agent. We get the best possible price for taxpayers’ money. We, as a government, approach television stations, radio stations and print media and get the best possible rate by dealing with government advertising as a whole. That makes perfect sense and it is commercially sound. What Channel 9 does or does not do is its own business. I would suggest Senator Faulkner make his inquiries with Channel 9. But I can say that we, as a government, are intent on informing the people of Australia about the new tax system and about tax reform, and peak TV time makes sense. In modern Australia, you use modern methods to communicate with the Australian people, and that includes television, print media and radio. In case Senator Faulkner had not noticed, a lot of people watch television at certain time slots—Sunday night or Saturday night perhaps—and they are what we are looking at to get maximum communication with the Australian people.

**Senator FAULKNER**—Madam President, I ask a supplementary question. The minister invites me to ask Channel 9 this question. It is this minister who is accountable for government advertising, and I ask him again, as the chair of the ministerial council on government advertising: is it true that the government paid for exclusive rights to peak viewing time on Sunday, 28 May for its GST chains advertising? I ask further: is the minister aware that an advertising time-slot during a peak viewing time on a Sunday night costs in the order of $120,000? Is he aware that a television network usually charges an extra premium of 50 per cent to 100 per cent on top of this for an exclusive agreement? Does this mean that the government used up to $240,000 of taxpayers’ money not only to inflict its chains ads on Sunday night viewers but also to shut out the message about the Prime Minister’s broken promise on beer prices? If he does not know, will the minister take it on notice?

**Senator ELLISON**—Senator Faulkner is really struggling. He is trying to say that the government should not use prime time televi-
sion to communicate information on tax reform. What Channel 9 was going to do with its timeslot is its own affair. We engage consultants to purchase prime time spots for the government, and so we should. If we did not, we would not be getting the best deal possible. What better time to communicate with the Australian people than prime time television.

Industrial Relations: Australian Workplace Agreements

Senator GIBSON (2.16 p.m.)—My question is to the Minister representing the Minister for Employment, Workplace Relations and Small Business, Senator Alston. Will the minister inform the Senate of the success of the government’s Australian workplace agreements? How have these agreements and other initiatives improved living standards and job security for Australian workers? Is the minister aware of any alternative policy proposals, and what would be the impact of these if they were implemented?

Senator ALSTON interjecting—

Senator ALSTON—I notice the Labor Party are excruciatingly sensitive on this issue, as Senator Mackay has just confirmed. The last thing they want is for you to be pointing out how beholden they are to the trade union movement. The fact is that there are over 100,000 AWAs, they are growing at the rate of about 3,000 a month, and they cater for the 80 per cent or more of the private sector who do not want to belong to trade unions. In fact, nearly 90 per cent of small businesses do not belong to trade unions. So why is it that the Labor Party take this cap-in-hand approach? I think it is probably a bit of a misrepresentation to say they do not believe in AWAs completely; they certainly believe in them when it comes to preselections. If you are an up-and-coming bright young thing, about the only reason you join the trade union movement these days is in order to get preselection in the Labor Party. The AWAs provide the basis for the annual report to shareholders when you have to go along and explain what you have done to achieve the union outcomes. This is the complete antithesis of what good policy making should be about; it should be about improving real wages.

Since we introduced our reforms to the industrial relations system, real wages have gone up by about 3.4 per cent over the last four years. What happened under Labor? Of course, real wages went down. There were falls in real wages during the 1980s to the point where Mr Keating was boasting about the fact, because that was his way of containing inflation. We know Senator Collins is a wholly owned subsidiary, but I was interested to note in the paper on the weekend that Senator Conroy is now being sponsored by a corporate giant. We are not told by whom, so one has to presume that this is the TWU in action. They are replacing the AWAs with MSAs: master-servant agreements, where the trade union movement decides whom it appoints, tells them what their riding instructions are, and they go out and deliver them.

What has been the response to this abject capitulation? The Sydney Morning Herald, which is not noted for slavishly endorsing our policy approaches, said that Mr Beazley was confronted by two challenges last Wednesday night, failed both of them and resorted to pre-emptive capitulation to avoid humiliation on the conference floor. That pretty much says it in spades, and all of the other newspapers have made it abundantly clear that that is their view as well. The Australian said:

... the Opposition Leader has thrown up his hands and proposed a return to the structure that ensured union dominance of the debate prior to 1996 ... The Labor leader will be tagged as a union lackey from now until the next election.

It goes on to say how the workplace has been transformed as a result of our changes and how there is much less confrontation because union power has been reduced.

Senator Jacinta Collins—That is not true!

Senator ALSTON—Not true? All right, you write your letter to the Australian and explain why they are wrong in saying:

... Australia’s industrial relations picture is less confrontational, less involved with bullying and less aggressive than for decades. And that is because the present Government has wound back the influence of the unions.

You can get up at branch meetings and tell yourselves until you are blue in the face that
you are not doing what the unions tell you. It is just that no-one out there believes you. They all know that the only way to increase productivity is through sensible industrial relations reforms—not the sort of cap-in-hand stuff that you lot believe in. It is no coincidence that something like 55 per cent of the Labor caucus are trade union officials. How do you justify this? You are the party that talk about being inclusive and representing all Australians, yet 70 per cent of your frontbench are trade union officials.

**Goods and Services Tax: Australian Business Number Records**

Senator LUNDY (2.21 p.m.)—My question is to Senator Alston, representing the Minister for Employment, Workplace Relations and Small Business. Is it true the Department of Employment, Workplace Relations and Small Business intends to distribute millions of ABN records containing detailed taxpayer information in electronic format to private companies, upon request, for an administrative fee? Can the minister confirm that businesses were not informed that this information would be distributed as part of a consolidated electronic database to anyone who asked for it?

Senator ALSTON—The Department of Employment, Workplace Relations and Small Business is not intending to sell information to anybody. The government has decided that access to the freely publicly available data in the ABR would be made available via the business entry point or on the ABR OnLine web site. The government has also provided access to 10,000 records from ABR OnLine to Dun and Bradstreet and other information brokers to enable them to design systems which can integrate with ABR information. Some of the information provided by business when they apply for an ABN will appear on the Australian Business Register. The government is not profiting from selling the information, because most of it is now freely available on the OnLine web site.

The government will be offering brokers the opportunity to purchase bulk access to the information that is freely available. The fee for this bulk access will be set purely to cover administrative costs. The bulk access will not involve access to addresses, phone numbers, tax file numbers or financial details relating to any taxpayer or business. Complete records from the ABR, which will contain business address details, will be available from 1 July.

A single copy of a business’s own record will be free. These records will not be available for purchase in bulk. Charging a fee for information from public databases is common. In addition to their free services, the Australian Bureau of Statistics and the Australian Securities and Investment Commission have for many years charged for detailed data based on compulsorily acquired information. The ABR has been developed in response to the request from business for a simple and reliable means of identifying all Australian businesses and to reduce red tape in dealing with government. It will assist trading both nationally and internationally.

Senator LUNDY—Madam President, I ask a supplementary question. Thank you for confirming that, Minister. Can you tell the Senate, and I repeat, whether applicants for ABN numbers were informed, as part of the collection of that information, that a consolidated electronic database would be distributed as a result of that? Were they informed? Was their permission sought? Hasn’t the government grossly abused this power to collect information by not informing applicants of the intended uses of that information?

Senator ALSTON—No, the government has not grossly abused anyone. The basis on which the information was collected is something on which I can obtain precise details for you. In terms of ensuring that our approach on this issue is the same as it is for the handling of government information generally, and particularly matter that is already on the public record, it is perfectly consistent with precedent and certainly consistent with our concern to ensure that people’s sensitive information is not disclosed publicly without their consent.

**Environment: Greenhouse Gases**

Senator LEES (2.25 p.m.)—My question is to the Minister for Industry, Science and Resources, Senator Minchin. At an international environment awards ceremony yesterday, the Prime Minister acknowledged that
the environment is an issue that commands the urgent attention of all people and all nations. Today, World Environment Day, I ask the minister: can he advise the many Australians extremely concerned about the growing level of Australia’s greenhouse gas emissions whether or not the government will have in place a greenhouse trigger before the Environment Protection and Biodiversity Conservation Act comes into effect in July?

Senator MINCHIN—I would have thought that the question was more appropriately asked of the Minister for the Environment and Heritage, who is responsible for the Environment Protection and Biodiversity Conservation Act. The government’s position on this is well known, and there is common cause among us. Senator Robert Hill, as the minister, has been charged with the responsibility, on behalf of the government, of consulting with all relevant stakeholders and state governments on the issue of a trigger on greenhouse as part of the federal government’s responsibilities under the new Environment Protection and Biodiversity Conservation Act. Senator Hill will conduct those consultations with great vigour and quite properly on behalf of the government. He will report back to the government as a result of his consultations.

Senator LEES—Madam President, I ask a supplementary question. I understood that, as the minister for industry, this minister was particularly interested in this issue, so I ask him about the timetable. When will cabinet consider this issue for decision? Will he, as a member of cabinet, be actively supporting this issue?

Senator MINCHIN—It is no secret that there are parts of Australian industry that wish to partake fully in the consultation process with regard to the trigger and that understand what a potential trigger might mean for future resource development projects in this country. I have been liaising with industry on that matter and discussing those concerns with Senator Hill as part of his consultations.

Goods and Services Tax: Australian Business Number Records

Senator LUNDY (2.27 p.m.)—My question is to Senator Kemp, the Assistant Treasurer. Given the response from Senator Alston, can the minister confirm that the Taxation Office authorised the Department of Employment, Workplace Relations and Small Business to distribute 10,000 individual company records, collected for the purposes of mandatory ABN registration, to a private consortium of Dun and Bradstreet and the Commonwealth Bank? Can he inform the Senate precisely which fields of information collected on the ABN application form were: firstly, given to the Department of Employment, Workplace Relations and Small Business; and, secondly, forwarded to Dun and Bradstreet?

Senator KEMP—Senator Lundy, as usual, gets her facts, or at least the implications which one can draw from them, quite wrong. Let me make the point that there were a number of reports in the newspapers suggesting that the privacy laws had been breached by the tax office. They are completely false. The tax commissioner said this recently in relation to this matter: Protected taxpayer information has not and will never be sold by the tax office. We strive to vigilantly protect the privacy of taxpayer information. This is the cornerstone of community confidence in the Australian tax system.

There was a report that the Privacy Commissioner was investigating the matter, in response to which the tax commissioner said:

Contrary to media reports today: the Office of the Privacy Commissioner has today confirmed that no investigation has commenced.

He continued:

As I have announced previously and informed all businesses in writing, through the ABN registration guide we mailed to them in November last year, a limited range of publicly accessible information would be available through the ABR.

Senator Conroy—What page was that on?

Senator KEMP—Madam President, Senator Lundy asks a question and you give her the answer and—
Senator Crowley—You never answer the question.

Senator Abetz—That was unkind.

Senator Kemp—Yes, I thought that was very unkind of Senator Crowley—very unkind indeed. It has also been reported that the government has profited from selling 10,000 records from the ABR OnLine web site to information brokers. This is misleading. A sample consisting of 10,000 ABR OnLine records is being provided to information brokers to enable them to prepare and test their systems for the introduction of the tax reform. However, the information brokers were not charged for this material, and they have undertaken to destroy it on completion of the testing.

Senator Lundy—Madam President, I ask a supplementary question. I asked the minister a very specific question, and I will repeat it: can the minister inform the Senate precisely which fields of information were collected on the ABN application form? We want to know, firstly, which ones were given to the Department of Employment, Workplace Relations and Small Business and, secondly, which ones were forwarded to Dun and Bradstreet. Finally, Minister, can you confirm that these details were provided to Dun and Bradstreet before any of them were made publicly available?

Senator Kemp—I indicate to the senator that I did answer her question. She gets up and gets very excited. The ABR OnLine web site contains the following information for each business: ABN, status of ABN, legal name, trading name—this is absolutely fascinating, I must say—entity type, state/territory, postcode, effective date of GST registration, deductible gift recipient status, ACN or ARBN. I think that answers the question.

Irian Jaya: Freeport Mine

Senator Harradine (2.32 p.m.)—My question is to the Minister for the Environment and Heritage and Leader of the Government in the Senate, Senator Hill. Could the minister advise what national and international steps can be taken to require the Freeport gold and copper mine to clean up its act, which has drastically damaged the environment and culture of the people of that part of the West Papuan province of Irian Jaya? Would the minister please detail the steps that are being required by Indonesia’s new Minister for the Environment, Mr Sonny Keraf, and how Australia can give practical support to these measures to overcome the concerns of not only the people of the area but also the Indonesian government?

Senator Hill—The mine, of course, regulated under Indonesian law. The regulatory environment is administered by the Indonesian authorities. They, therefore, have the immediate and direct responsibility for this task. I am aware of significant criticisms, which have been around for some time, in relation to the Freeport operation. Those criticisms from an environmental perspective have related principally to the tailings regime that is in place for that mine. In more recent times, there have been criticisms in relation to the way in which the rock overburden is dealt with. In fact, there was a recent fatal accident that resulted from a landslide associated with the rock overburden. I am also aware of human rights concerns that have been expressed from time to time.

It does seem that the new Indonesian minister and the Indonesian cabinet have at least commenced a process of requiring better from Freeport. There have been additional, what are referred to as, environmental assessments—but I think they might be better described as environmental audits—in recent times on the requirements of the Indonesian government. They have required of the mine a comprehensive new plan before any new approval would be given for proposed additional dump sites for waste rock, and they have been making comment in relation to the necessary huge clean-up that will have to occur in relation to tailings.

It is good to see the new Indonesian government and the minister acting in this way. I have been having some dealings with the Indonesian minister in recent times and have talked with him about ways in which Australia can assist Indonesia in its very major environmental challenges. He has not specifically raised with me the issue of Freeport and asked me for any Australian assistance in that regard. As Senator Harradine knows, this
government has a policy to support its neighbouring states in relation to better environmental practices. We have produced manuals of best mining practice, which we have translated into other regional languages. We have had programs to assist regional governments in improving their mining regulatory environments. Through our very well-known and respected practice and experience in relation to mining operations, we seek to support other governments of the region as they seek in turn to require the adoption of better standards. This would apply in relation to Indonesia and Freeport if that were the wish of the Indonesian government.

In relation to the human rights concerns, I know that the Australian embassy visited Irian Jaya in April to assess the situation there. It continues to work with the Indonesian government in strengthening its own capabilities in dealing with human rights abuses, including through an assistance program for the Indonesian Human Rights Commission.

Senator HARRADINE—Madam President, I ask a brief supplementary question. Because Rio Tinto has a 12 per cent stake in Freeport, because Australian assets represent 54 per cent of the profit of Rio Tinto and also because of the long-term damage to Australia’s reputation, could the minister or the relevant minister speak directly to Rio Tinto about the matter?

Senator HILL—I could speak to Rio Tinto but I think it is better to work through the Indonesian authorities. As Senator Harradine himself said, Rio Tinto has only a 12 per cent interest in this company. It is predominantly owned, as I understand it, in the United States. The connection between Australia and Rio Tinto being that Rio Tinto also owns assets in Australia is a rather strange one to draw a responsibility upon Australia from. I think our responsibility is as a good neighbour and supporter of Indonesia, particularly as it has been going through difficult political and economic times, to help it in the future in building and strengthening its environmental infrastructure for assessment and enforcement of good mining practice. My preference would be to continue to deal with the Indonesian minister and his government in that way and I think that in that way we can best help in relation to issues such as Freeport and other mines in Indonesia.

Goods and Services Tax: Australian Business Number Records

Senator MURPHY (2.39 p.m.)—My question is directed to the Assistant Treasurer, Senator Kemp. Is it true that, while the Taxation Office privacy regulations are clear in the protection of information supplied by taxpayers, the business entry point is not covered by these regulations and is subject to the broader jurisdiction of the Privacy Act 1988? Is it further true that, as a result of this, detailed information provided by the tax office to the Department of Employment, Workplace Relations and Small Business has less protection than that held by the tax office itself? Can the minister inform the Senate whether the tax office is able under law to on-sell or distribute freely information it collects from taxpayers without their specific approval?

Senator KEMP—The material freely available on the business entry point web site is quite restricted and does not contain details which would directly result in someone’s privacy being invaded. The focus of the freely available information is on the name of the entity and its ABN and GST registration status. There is no address, just state and postcode. There is no telephone number and there is no email address. The information available for free on the BEP web site contains the sort of information that businesses entering into transactions with other businesses need to know, such as the ABN and GST registration status. There is no address, just state and postcode. The information available for free on the BEP web site contains the sort of information that businesses entering into transactions with other businesses need to know, such as the ABN and GST registration status of the entity they want to deal with. The restricted information that is freely available on the BEP web site is the same information that was supplied to an information broker and bank who have a combined access site. It was provided for the purpose of allowing them to design and test systems to allow them to interface with the BEP web site. That was the matter which we discussed with Senator Lundy earlier today. As part of the agreement, the data cannot be on-sold to anyone, no charge was made for this material and the entities have undertaken to destroy the data provided on the completion of testing. Full details in relation to an
entity’s entry in the Australian Business Register are to be made—and I stress this—according to law. In conclusion, any full extracts of information about an entity’s entry in the Australian Business Register will only be available on application and payment of a fee, which is prescribed by law, and on an entry by entry basis. Such information, I am advised, will not be available in bulk. I think that deals with the matters that Senator Murphy raised.

Senator MURPHY—Not quite, Minister, because I asked you about people giving their specific approval. Madam President, I ask a supplementary question. Minister, given that you did not answer that, would you now acknowledge that the government has abused the trust business had in the tax office to keep information supplied to it secure, private and for the use of the tax office only?

Senator KEMP—I do not think you were listening to the response that I gave to Senator Lundy. I do not blame you, to be quite frank—

Senator Murphy—For what? For not listening to you?

Senator KEMP—I do not think you were tuning in to what Senator Lundy asked.

Senator Murphy—Was that it?

Senator KEMP—No, mainly because I think that when Senator Lundy gets up and asks a question there is a bit of a switch-off amongst people and I think that certainly those on your side all seem to put their heads down and do something else.

The PRESIDENT—Senator Kemp, I would draw your attention to the question.

Senator KEMP—Anyway, enough of that, Madam President. In response to Senator Lundy, I was quoting from a press release put out by the tax commissioner. I will just quote again what I said:

As I have announced previously and informed all businesses in writing, through the ABN registration guide we mailed to them in November last year, a limited range of publicly accessible information would be available through the ABR.

(Time expired)

Environment: Natural Resources

Senator EGGLESTON (2.43 p.m.)—My question is for the Minister for the Environment and Heritage, Senator Hill. Given that today marks World Environment Day, will the minister inform the Senate of the significant steps the Howard government is taking to protect and enhance the natural environment?

Senator HILL—Australia has been honoured in being chosen by the United Nations Environment Program as the host of this year’s international celebration for World Environment Day and yesterday, in the host city of Adelaide, we had the announcement of the winners of the inaugural Prime Minister’s Environment Awards. UNEP also gave international recognition to 14 environmental achievers from around the globe by including them on the Global 500 Roll of Honour. We should be proud that three Australians were named among the 14 new laureates. They are the Australian Trust for Conservation Volunteers, Fuji Xerox Australia and the Nepabunna community from the mid-north of South Australia. These award winners represent Australian environmental excellence to the world and reflect our community’s enthusiasm for on-ground environmental action.

The Howard government has sought to build on this enthusiasm through the Natural Heritage Trust and through unprecedented effort in involving communities in protecting and restoring our natural environment. We have already invested some $870 million in almost 9,000 projects across Australia. These projects have involved an estimated 300,000 Australians in a whole range of environmental efforts, including the restoration of degraded soils and waterways, protecting endangered species, cleaning up our coasts and beaches and replanting native vegetation cover. Today I have been able to announce a further $2.1 million for projects to improve water quality in South Australia’s Gulf St Vincent. While we are acting to improve the environment, Labor is reduced to leaking Senate reports to gain cheap political headlines on the issues affecting this important region.
Australia also enjoys international recognition as a leading recycler, as a promoter of marine creatures such as whales and dugong and for its efforts to destroy ozone depleting gases. We are seen as a constructive player in global efforts to protect world heritage areas, to conserve migratory species and to reduce the impact of global warming.

The environmental credentials of the Howard government have even been recognised by the Australian Labor Party on World Environment Day. Queensland Premier, Peter Beattie, has announced that his government has finally agreed to cooperate on our request to expand the Great Barrier Reef Marine Park, even though he has only agreed to 12 of the 27 areas that we propose for inclusion. This expansion was first proposed by the coalition in our 1998 election policy and was repeated in the national oceans policy later in the same year. We wrote to Mr Beattie at the beginning of 1999 seeking his cooperation and, having given up on him replying, were moving to unilaterally include the 12 areas. Mr Beattie, after dragging his feet for almost 18 months, has now said that this expansion is his government’s most significant environmental achievement. He is quoted as saying that the Great Barrier Reef Marine Park will now be even greater—a line he pinched from our press release of January 1999. So, while we welcome his late conversion to this proposal, we remind him that he has only gone halfway and that there are another 14 areas that he should now move to have included within the park. Nevertheless, it is a welcome endorsement by the Labor Party of the Howard government’s continued good work on the environment.

**Goods and Services Tax: Australian Business Number Records**

Senator CONROY (2.48 p.m.)—My question is to Senator Kemp, the Minister representing the Minister for Financial Services and Regulation. I refer the minister to the ‘world-class code of conduct for Australian businesses operating over the Internet’, which Mr Hockey unveiled on 18 May. Is the minister aware that a key recommendation of this code is to establish ‘a qualified opt-in arrangement for commercial email whereby businesses can only forward email to existing customers and those who have requested it’? Can the minister explain how the government’s decision to authorise the onselling of taxpayers’ details contained in 2.5 million ABN applications, including the email address of businesses, is consistent with the spirit and the letter of this code of conduct?

Senator KEMP—I had the pleasure—I do not know whether that is an appropriate use of the word—of being with Senator Conroy for four days last week during Senate estimates. We traversed a vast range of issues and questions, and some days we sat there for close to 14 hours. The truth of the matter is that any person who has to do that and has to face Senator Conroy and Senator Cook across the table deserves a medal! Senator Conroy, I have answered the questions on what is available through the business entry point. In relation to the code of conduct, I will check with the responsible minister.

**Cox Peninsula Transmitter: Sale**

Senator BOURNE (2.51 p.m.)—My question is directed to the Minister representing the Minister for Foreign Affairs, Senator Hill. Is the minister aware that 78 people were killed and hundreds injured last
week in religious violence between Christians and Muslims in Indonesia’s Maluku province? In this light, what assessment was made of the appropriateness of leasing the Cox Peninsula transmission facility to the evangelical broadcaster, Christian Voice? What assessment was made of the probable impact on the region of their intended transmissions, and what influence did the Department of Foreign Affairs and Trade have on the sale of this internationally significant facility?

Senator HILL—We have had this debate a number of times in the Senate, and we are obviously all aware of Senator Bourne’s strong views on the subject.

Senator Crowley—Not just hers.

Senator HILL—She seems to have shown a lot more interest in it than the Australian Labor Party. I have to say. As per usual, they seem to have come late to the debate, one might say. I do acknowledge that Senator Bourne has been genuinely interested in the subject for a long time. Senator Schacht used to be interested, but he got demolished by Senator Bolkus and he has been rather quiet since then. The view of the government has been that other resources have been adequate to transmit Radio Australia’s voice to the region. The decision to close the facility was taken a long time ago, and nothing has substantially changed since then.

Senator BOURNE—I have a supplementary question, Madam President. I would like to re-ask the question I asked. What assessments have been made of the probable impact on the region of the intended transmissions, what assessments have been made of the appropriateness of this broadcaster to broadcast from this facility and what influence did the Department of Foreign Affairs and Trade have on the sale of this facility?

Senator HILL—I will see if I can get further information from the Minister for Foreign Affairs, but it seems to be a legitimate usage of the facility. I am sorry if I misinterpreted Senator Bourne’s question, of which the emphasis now is whether the future use is an appropriate use in terms of broadcasting a Christian message. I do not particularly see anything inappropriate in that, I have to say, but I will see if the foreign minister has got a view.

Goods and Services Tax: Information

Senator WEST (2.54 p.m.)—My question is to Senator Herron representing the Minister for Family and Community Services. I ask: for financial years 1999-2000, 2000-01, 2001-02 and 2002-03 what funds has the Department of Family and Community Services budgeted to spend on GST related promotion, education and/or advertising?

Senator HERRON—I will have to get back to the senator with the detail of that, but I think it is appropriate that we should boast about what has been achieved since we came into government in relation to health, which the question was directed at. Minister Wooldridge can take a great deal of pleasure in the fact that immunisation rates have improved so much in this country—

Senator Faulkner—Madam President, I raise a point of order.

Senator HERRON—Oh, Lurch gets to his feet once again when it hurts.

Senator Faulkner—The question that Senator West asked went to the question of the Department of Family and Community Services’ budget on GST related promotion, education and/or advertising. The minister has admitted that he does not know the answer and he has indicated that he will find an answer. That is fine. But in that circumstance, given that the minister is unable to answer, surely he ought to resume his seat and we can get on with the next question. He is now attempting to answer a question he was not asked.

Senator Kemp—On the point of order, Madam President: the answer continued for about 35 seconds, and Senator Herron has 3½ minutes available, so I think that Senator Faulkner has been exceedingly premature.

The PRESIDENT—I think the minister needs to apply himself to the question that was asked. If there is anything further on that that he needs to add, he certainly may do so.

Senator HERRON—Madam President, I said I would take the question on notice, but by the same token I think it is appropriate that I should say what we have achieved in
the time we have been in office. I had not finished even one sentence. The point of what I was saying is that I think it is appropriate that we do explain what we have achieved—

Senator West—Madam President, I raise a point of order, which goes to relevance. I am sure I said the Department of Family and Community Services, and the minister is now talking about health. These are two different portfolios, and I am confused.

The President—I am listening to what the minister has to say. It is extremely difficult to hear with the amount of noise in the chamber. There is no ambiguity about the question that was asked, and the minister may speak to the question and the department that was referred to, and I will call him if he has anything to add to that particular issue.

Senator Herron—I was leading in by starting in relation to health care, because it is a very major plus. I have got three minutes, I understand—

The President—Senator Herron, you do not have three minutes to just chatter on; you have three minutes to answer the question that was asked.

Senator Herron—Madam President, with respect, we have got a great story to tell, and I think it is important that we should do so. If it disturbs the other side, so be it. They just do not want to hear what we have achieved in family and community services as well.

Senator Cook—I raise a point of order, Madam President. If the minister wants to make a statement to the parliament about what he believes the government has achieved in community services, he should make one and let us debate it. This is question time and he is here to answer questions. It is not an occasion for him to go off on a frolic about whatever it is that he wants to talk about in community services. If the government has got any courage, it will make a statement about that and we will have a proper parliamentary debate. But meanwhile he should be drawn to order and made to answer the question. If he cannot, he should be sat down.

The President—I did draw Senator Herron’s attention to the question.

Senator Herron—I think it is relevant, for example, to quote Peter Botsman, former head of the Evatt Foundation and now head of the Brisbane Institute. He said in relation to family and community services and social spending that John Howard has presided over higher levels of social spending as a proportion of total government spending than did the former Keating government during its entire term of office.

Senator Faulkner—I raise a point of order. With respect, Madam President, it is not relevant for the minister to rave on about these matters in answer to a question that was directed to the government’s spending on GST promotion and advertising. It is not relevant, and I respectfully suggest that you should sit him down and shut him up.

The President—I do not think I would behave in that fashion, Senator, but, Senator Herron—

Senator Herron—Madam President, I would remind Senator Faulkner that Senator Eggleston is on my side of the parliament, and it only takes two doctors to certify somebody.

The President—Senator Herron—

Senator Herron—The manner in which he is behaving, he had better be careful in rising to spurious points of order.

The President—Order!

Senator Herron—As I said, we will take the question on notice.

The President—Senator Herron, are you speaking to the point of order? You rose to speak to the point of order that Senator Faulkner raised.

Senator Herron—I was speaking to the point of order. I think I have made my point. Now, in relation to the question, I will get back to the member about GST spending.

The President—I have not ruled on the point of order.

Senator Herron—Madam President, I think it is 3 o’clock.

The President—Senator Herron, I advise you that you are called to answer the
question that has been asked of you. You indicated that you had nothing to say on that and that you would seek further information about it. That is perfectly appropriate. There may be other matters that are relevant to that question. I am not persuaded at the present time that what you are saying relates to that. I shall give you another opportunity to return to the question that was asked by Senator West.

Senator HERRON—I have completed my answer.

Rural and Regional Australia: Communications

Senator CALVERT (3.00 p.m.)—My question is to the Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald. Will the minister inform the Senate of any recent grants made to regional communities under the federal government’s $464 million Networking the Nation fund? In particular, will the minister outline how the latest instalment of funding will assist local government to undertake regional telecommunication projects?

Senator IAN MACDONALD—I thank Senator Calvert for that question. As a rural Liberal from Tasmania, Senator Calvert is very interested in rural policy and the things that the Howard government are doing for rural and regional Australia. As a result of the announcements from the Networking the Nation fund last week, hundreds of rural communities will benefit from that funding of some $65 million which the Prime Minister announced. This funding will fund over 100 projects from the Networking the Nation program and will provide real communications for rural and regional Australia. I often say that you can expect rural and regional Australia to go ahead only if it has a quality, world-class telecommunications system. The government are bent on doing that and we are doing it with direct opposition from the Labor Party. The Labor Party have opposed this program right from the very start. They opposed the Telstra sale, fought it tooth and nail through this parliament and opposed all of the initiatives which will provide good telecommunications.

Opposition members interjecting—

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

Senator IAN MACDONALD—The Labor Party continues to oppose this government’s initiatives to provide real benefits to rural and regional Australia through telecommunications. Announced last week was $20 million to provide for local call Internet access throughout Australia. That is something that is very much needed by rural and regional Australians. Everywhere I go in rural and regional Australia people ask for that. This government is providing it. Individual local authorities, councils and local government associations have been very big winners from the announcements last week. Over $8.3 million of the $65 million announced goes to councils right across Australia, councils which help in small communities. This money will help to provide local government services online, will provide greater access to the Internet and will provide for job growth. What this government is doing in rural and regional Australia is in line with its policy to provide, as far as possible, equitable access to service. It is in direct contrast to the Labor Party.

Senator Mackay—What do they call Peter Costello in the bush? ‘Bush tucker man’!

Senator IAN MACDONALD—I hear Senator Mackay screaming out at me as I speak. She takes me back to estimates a couple of weeks ago, when we learnt what the Labor Party were going to do with their policies for rural and regional Australia. Senator Mackay admitted quite clearly and openly that their policies for rural and regional Australia would be made known after they were in government, and that is on the record. I invite Senator Mackay to enter into the debate. She has not asked a question on rural and regional Australia since 19 October last century. I plead with her: throw forward some ideas. But the Labor Party’s response is, ‘If you want our ideas on rural and regional Australia, you will not get them before the next election. We’ll reveal those policies only if we are in government.’ That is appalling. By contrast, this government has the policies for rural and regional Australia and it is putting them into effect with the announcement just last week of this huge boost
in funding for telecommunications in rural and remote Australia.

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

CENTENARY OF FEDERATION: JOINT SITTING

The President (3.05 p.m.)—I previously informed the Senate that the Victorian parliament had met in joint sitting to invite the houses of this parliament to meet in Melbourne in May 2001. I now present to the Senate the letter dated 11 May 2000 from the presiding officers of the houses of the Victorian parliament, conveying the invitation of those houses to the houses of the Commonwealth parliament to meet in Melbourne on 9 and 10 May 2001 to commemorate the first sittings of the Commonwealth parliament on the occasion of the centenary of those sittings.

ANSWERS TO QUESTIONS ON NOTICE

Goods and Services Tax: Australian Business Number Records

Senator Lundy (Australian Capital Territory) (3.06 p.m.)—I move:

That the Senate take note of the answers given by the Minister for Communications, Information Technology and the Arts (Senator Alston) and the Assistant Treasurer (Senator Kemp) to questions without notice asked by Senators Lundy, Murphy and Senator Conroy today, relating to the privacy of information contained in applications for Australian Business Numbers.

Today, we find ourselves viewing a very serious situation relating to public trust by the businesses of this country who find themselves mandatorily required to provide details about their businesses. That information being collected by the Australian Taxation Office has managed to find its way into the hands of private companies. It is a tale of two departments: the Australian Taxation Office and the Department of Employment, Workplace Relations and Small Business.

The issue is this: there is information publicly available online now that relates to the details of those small businesses. There is also information publicly available for purchase that is not available on the web site: it is able to be sold to people for $20 per record. There is additional information that is supposed to be kept confidential by the Taxation Office. Deciphering the misinformation and the mess through three different estimates hearings and here today in the chamber should not take too long, despite the government’s best efforts to confuse and cloud the issue and to protect themselves from what is very obviously one of the most serious breaches of public trust. In business in this country there has been a dramatic loss of the faith and trust they had in the Taxation Office to keep information confidential.

What we have heard to date through the Senate estimates process is that Dun and Bradstreet and the Commonwealth Bank were provided two weeks ago with up to 10,000 records of companies. The database they used to compile this data was launched by Minister Reith some two weeks ago and is called ABNsearch. It was a joint venture between the Commonwealth Bank and Dun and Bradstreet. That data was released by the Department of Employment, Workplace Relations and Small Business two weeks ago, prior to any of that information being available on the Internet. In fact, the government only launched the Internet site, this Australian Business Register, last Thursday, 1 June. When the department stand up, when the tax office stand up and when small business stand up and say, ‘We did not release anything that was not publicly available,’ they are not telling the truth. That is because at that time that information was not available on the Internet. It only became available on the Internet on the first of this month, according to estimates evidence.

If that is the case, what was made available to Dun and Bradstreet and the Commonwealth Bank? We know now that the information available on the web site is quite limited. It allegedly does not include street address, email address or ANZIC code, which is the industry classification. We know that because we have been to the web site now and had a look. Our question to the government is: what was provided to Dun and Bradstreet and the Commonwealth Bank? We are of the view—and they are yet to inform the Senate of the truth of the matter—that
additional information was supplied, including that which is available for sale but which is not on the web site. By that we are talking about the email address, the contact address and that ANZIC code.

We also know, by virtue of very specific complaints received from a constituent here in the ACT and anecdotal complaints that we are receiving from around the country, that people have been contacted via their personal, private and confidential phone numbers by Dun and Bradstreet. We very clearly allege—and the government are yet to disprove it—that this information was distributed initially by the tax office to the Department of Employment, Workplace Relations and Small Business and to Dun and Bradstreet. There is a long and convoluted pathway to follow. We want to know whether the email code of conduct has been breached, because we believe it has.

The government have been desperate to retain some sort of e-credibility with regard to email and laws relating to the information economy. This is the key issue. This information is more than just available through a search mechanism on the web site; the government have said they will distribute it, for an administrative fee, in the form of a consolidated database on a CD-ROM or via download. We heard that in the estimates committee from the department of small business. They have not made that knowledge available to small business and they have breached public trust. (Time expired)

Senator CHAPMAN (South Australia) (3.11 p.m.)—Senator Lundy, in her eagerness again to attempt some futile attack on the government, shows how completely misinformed she is on this issue. She need only have listened to the information provided by the Australian Taxation Office to know that she is completely misinformed and is yet again, as the opposition have been over weeks and weeks now, attempting to scaremonger in relation to the introduction of the most beneficial tax changes that have ever been initiated in this country’s history. All the Labor Party can ever do about it is scaremonger, scaremonger, scaremonger and create false information.

The tax office itself has given the lie to the allegations that the Labor Party made in question time today and that Senator Lundy has just repeated in her remarks. No less an authority than the tax commissioner, Mr Michael Carmody, has said that reports suggesting that privacy laws have been breached are completely false. Of course, what was being misunderstood initially in the Labor Party’s attack on this issue was the difference between the Australian Business Number, the Australian Business Register and the business entry point. What needs to be understood is that the Australian Business Register is a register of all businesses and other entities which have an ABN. It also identifies whether a business is registered for the goods and services tax, is an income exempt tax charity or is a deductible gift recipient. It has always been made clear, and indeed it is provided in the legislation, that some public information on the Australian Business Register would be available to the public to allow people to find out who they are dealing with in terms of registered entities, whether those entities are registered for the GST or whether those people are making gifts to legitimate charities. If people are going to comply with the new tax system, business to business, they need to have this information available to them.

As I said, the 1999 A New Tax System (Australian Business Number) Act has always provided for the public availability of this information. This is explained in writing in the guide on pages 8 and 9 to those seeking Australian Business Number registration. It is also explained in the business entry point web site as to where businesses are able to register electronically for an Australian Business Number. It is important to understand that on the web site the only business information available to the public is the Australian Business Number, its status, its legal name, the trading names if any, the state or territory in which the business is registered, its postcode, whether the entity is registered for the goods and services tax or has gift deductible recipient endorsement and, in the case of companies, the ACN or ARBN. It is important to note that this information does not include phone numbers. So, quite clearly, there is no breach of privacy with regard to
the information that has been provided to people with regard to the ABR and ABNs.

The reason that the Labor Party raises yet another furphy is because it is completely confused with regard to issues of taxation and issues of tax reform. Only yesterday, we had another representative of the Labor movement, the well-known Doug Cameron of the AMWU—

Senator Ferguson—he's not well known.

Senator Chapman—he is too well known, unfortunately, this militant unionist Doug Cameron. He told Meet the Press that the GST should be rolled back a long way. They now want the GST to be rolled back a long way. In particular, he favours a complete exemption for clothing and a range of GST rates, not a single rate GST. Rolling back the GST to exempt clothing would cost $2 billion. Do the Labor Party tell us where the money is going to come from? Remember that they have guaranteed that the states will not lose any revenue out of their roll-back. Of course they have not. We know very well that that money is going to come from their roll-back. Of course they have not. We know very well that that money is going to come from an increase in other taxes and, importantly, an increase in income taxation. It is no wonder that opposition finance spokesman Lindsay Tanner has warned the Labor Party about committing themselves in government to further roll-backs of the GST because it would leave them short of funds for their proposed social programs. As I said, this particular roll-back proposed by this union heavy would cost some $2 billion in revenue. It is also important to note that the Queensland Labor government state Treasurer, David Hamill, delivered an embarrassing blow to federal Labor when he pleaded with the present government not to widen the GST-free net. (Time expired)

Senator Conroy (Victoria) (3.16 p.m.)—The great lie in this debate is that the government have broken no laws. They have had the taxation commissioner putting out statements telling everybody that no protected taxpayer information would ever be sold by the tax office. That is not what this debate is about. I found it astonishing in Senator Kemp's answer today that three days after this very issue was raised he had no briefing. It was because he did not want to get a briefing.

I have here a copy of a paper released just last month, in May, by Minister Joe Hockey called Building consumer sovereignty in electronic commerce: A best practice model for business. In it there is a litany of commitments that business should practise in e-commerce. They include:

... enhances Consumer Sovereignty by giving consumers information on what businesses should do when dealing with consumers over the Internet. The Best Practice Model aims to set out best practice for business.

... ... ...

It involves four key elements: protection, information, choice and redress. The Best Practice Model aims to increase consumer confidence in business to consumer electronic commerce. Adoption of the Model will help to ensure that consumers are adequately protected and have confidence in making online transactions.

... ... ...

The adoption of the Best Practice Model will contribute to ensuring that consumers have effective protection and confidence in making online transactions. It goes on and on and on. The specific clauses that deal with the debacle this government has got itself into in its mindless pursuit to spend billions of dollars of ordinary taxpayers' money to sell the GST, to break the Commonwealth electoral laws by taking illegally the Commonwealth Electoral Act in the tax office, and finally to breach its own privacy guidelines and its own e-commerce guidelines to sell this GST at any cost are stated quite clearly here for commercial email in section 23, 'Advertising and marketing':

23.1 Businesses should not send commercial e-mail except:

23.1.1 to people with whom they have an existing relationship; or

23.1.2 to people who have already said they want to receive commercial e-mail;

How could any consumer who supplied the tax office with their email address in the last six months have possibly consented to any of these? It gets worse for the tax office. Section 23.2 goes on to say:
23.2 Businesses should have simple procedures so that consumers can let them know they do not want to receive commercial e-mail. That is colloquially referred to as ‘spamming’. It is quite clear; they are simple procedures.

All we have heard from the other side and Senator Kemp is waffle, because they know that you had to dig through eight pages of the booklet that accompanied the ABN form. It is not on the ABN form. There are no simple procedures. Eight pages through they tell you that some information may be on-sold. They do not tell you what it is. They do not give you the option the government is telling businesses to give—to tick in the box saying, ‘Yes, I am prepared to have my information on-sold.’ What happened yesterday to Peter Reith on the tele? He got pinged good and proper. What did he say? He said, ‘We’ve got the Privacy Commissioner having a look at it.’ What did Senator Kemp and Senator Alston say today? They said, ‘No, he’s not.’ Any lie, just to get out of being caught on national tele misleading the Australian public. He went on to say, ‘I’ll certainly be having a close look at it.’ What have we heard today? Nothing.

Senator Sherry—Are you sure that wasn’t Joe Hockey?

Senator CONROY—No. Even Mark Paterson, the government muppet on the GST, said, ‘Most individuals would not have understood they were an entity. I would not have thought an individual receiving this would have believed their home address was going to be publicly available.’ This is the government’s main muppet on the GST. It is the one person they push out every day of the week to support the GST.

The tax office assistant commissioner in charge of the ABN, Greg Dark, said on Friday, ‘We’ve been observing the law. The law says the email addresses will be available on the register for a $20 fee.’ Well, where is the choice? Where are the government making the tax office stick to the same rules they want business to stick to? They are hypocrites on this issue. They know they are at fault. Senator Kemp took the question on notice. He has had three days to find a copy of the government’s own best practice guide-lines issued just last month. He could not do it because he knows they are in breach of their basic requirements. These are the absolutely basic requirements of e-commerce best practice. (Time expired)

Senator MASON (Queensland) (3.21 p.m.)—The other day I was looking at a book written by the member for Werriwa, Mr Latham, Civilising Global Capital. In the foreword, Mr Whitlam says that the Labor Party has always been a party of reform, that it has always renovated ideas of public policy throughout the history of this nation.

Senator Ferguson—It used to.

Senator MASON—It used to, indeed. That is quite right. It no longer does. It is simply the party of reaction. I was sitting here scribbling some notes down and I thought I would give a general outline of Labor Party policy before I get to the issue of privacy. I was thinking to myself: Ben Chifley used to talk about socialism, Whitlam used to talk about social democracy then Keynesianism, Mr Hawke used to talk about corporatism and consensus, then Mr Beazley used to talk about pragmatism. Now what is left? The ALP only talks about opportunism and not much else.

This is another scab lift. The ALP is again trying to extract as much political gain as possible from necessary reform. I accept that the privacy issue is a vital one in the country. In fact, I am delighted because it is great that the Australian Labor Party is again adopting liberal democratic ideas. It is a good thing. We on this side have always said that the state should serve the individual rather than the individual serve the state. For that reason we have always been great protectors of privacy. It is concurrent with our ideology: the individual is always above the state.

Senator Chapman spoke directly about issues relating to privacy in the Australian Taxation Office. He put it very well and very lucidly. Perhaps the most important thing he mentioned was that the legislation—that is, the A New Tax System (Australian Business Number) Act 1999—has always provided for the public availability of this information. This was explained in writing in the ABN registration guide and is also on the business
entry point web site where businesses register for the ABN.

Senator Kemp and then Senator Chapman mentioned the full extent of the publicly available information which will be held in the ABR and will be available from 1 July only to those paying $20 per record for an extract and 10 cents for any additional pages. That is really the point. There is nothing new about this. It is just another scab lift. That is the depressing part about this. These are the things available: ABN, date of effect of the registration, legal name, entity type, trading or business name, postal address for service of notices and correspondence, main business address, email address for service of notices and correspondence, Australian company number or Australian registered body number, name of the public officer or the trustee of a trust, GST registration status and date of effect, deductible gift recipient status and date of effect, date of effect of reinstatement to the Australian Business Register and industry code.

The Australian Labor Party are Australia’s oldest political party. They were a great party of reform. But since my time in the Senate—11 months now—all they have had to offer to the Australian people are rejections of things they know this country has to have. The greatest threat to Australian democracy is not, in fact, a Labor victory; it is an Australian Labor Party victory by default, because they have nothing left to add. The Australian Labor Party know there has to be indirect tax; they know there has to be a reform of the taxation system, and deep in their hearts, if they are returned to government, they know that they will sell Telstra—we know that and they know that.

Senator Carr—You know that is not true.

Senator MASON—That is the sad thing about it. I would not mind if we had an honest policy debate here. Senator Carr and I disagree on a lot of things but I will say this: at least he stands up for something. The ALP stand for absolutely nothing in this place except objections to policy that in their heart of hearts they actually believe in. The greatest threat to democracy in this country is a Labor Party victory by default and that is a very great shame.

Senator SHERRY (Tasmania) (3.25 p.m.)—I think we are discussing, in response to the so-called answers from Senator Kemp to my colleague Senator Lundy, the revelation of the making available of a range of new data to anyone in this country, or overseas for that matter, that was not available prior to the introduction of the goods and services tax in the format—and I think that is very important to understand—that is available through the tax office. Up until this point in time, I was not aware that we had in this country a database involving 2½ million individuals involved in business, most of whom were not on a business database up until this time. Through that access a range of information is available including, most importantly, email addresses. The contributors to this debate, including Senator Kemp in his attempt to answer the questions, fairly glibly read out the list of information that was available. Some of it is innocuous but the provision of email addresses is quite critical, I think, for fairly obvious reasons. The use of email is a massive new marketing tool in this country. Why else would the companies that have purchased this material want it other than to access the email database?

With the GST and the registration for ABN numbers we have got well over two million individuals and businesses, for which this information is available, being registered for the first time. The old wholesale sales tax that is often derided by the government was simple, at least in terms of the number of collection points. But we have now well over two million new tax collectors. I think that is one of the important issues in this debate about the availability of information. This will be a very powerful marketing tool for the commercial organisations that choose to access the information.

But there is a second and very important related issue to this. It is taking the data that is being made available by the tax office and then cross-marrying that information with other publicly available records, particularly telephone numbers. So we have 2½ million ABN numbers, presumably close to that number of email addresses available for the first time in this form, together with the mar-
rying of other information. This will form a massive new marketing and promotional tool.

It would not be so bad if the businesses that were registering for an ABN number knew about it, but they did not. I have the form here, an eight-page form, an application for registration for the new tax system. Without filling in this form and completing it, you do not have an ABN number. Of course you can refuse to do it, but then you will be hit with a 48.5 per cent tax. So effectively you have to complete this form otherwise there is a severe tax penalty.

We can put aside the issue of 2½ million mainly small businesses and individuals having to fill out this form. It is eight pages long. It says on the back of the form that it should take you 40 minutes to complete. But nowhere on the form that these people have to fill in does it make it clear—it just does not tell them—that their email addresses will be made available or sold to promotional companies. Nowhere does it even refer to the public access to this information. That is a critical point. You should not have to go to the guide to registration or go to another document. We all know the reality for most small businesses—they are struggling to keep up with the GST paperwork, let alone having to cross-reference, to more documentation, more paperwork.

Question resolved in the affirmative.

Cox Peninsula Transmitter: Sale

Senator BOURNE (New South Wales) (3.31 p.m.)—I move:

That the Senate take note of the answer given by the Minister for the Environment and Heritage (Senator Hill), to a question without notice asked by Senator Bourne today, relating to Radio Australia and the Cox Peninsula.

In answer to my question on Radio Australia and the sale of the Cox Peninsula facility by this government, Senator Hill did not answer my question but he did give me a statement. The statement was that it was the government’s view—I hope I am not misquoting him, but I wrote it down as he said it—that ‘Radio Australia is doing quite well in the region without using the Cox Peninsula facility.’ I think we can knock that one off in five seconds flat if we just look at two things.

First, let us look at the *Australian* of 2 May, and an article by Michelle Gilchrist. The headline is: ‘BBC pips Australia for ear of Indonesia’. We find that in Indonesia alone, which is the area that is being surveyed here, Radio Australia had a listening audience on short wave of four per cent while Cox Peninsula was turned on. In 1997 it went down to 1.1 per cent and it has gone up to 1.8 per cent. That is still pretty pathetic. It is nowhere near the four per cent it had while Radio Australia was turned on in short wave to that region.

Secondly, two diagrammatic maps put out by Radio Australia show the range of the short-wave facility from Cox Peninsula and the range of the other short-wave facilities available, one from Shepparton and the one which is currently being leased at huge cost outside Australia by Radio Australia. If you look at those two diagrams you will see that in no uncertain terms Radio Australia is doing nowhere near as well—as it possibly could have with the facility from Cox Peninsula. I will seek leave a bit later, in about three minutes, to table those two diagrams.

The importance of Radio Australia cannot be overestimated. I cannot overestimate to the Senate how important the signal is from Radio Australia to Australia’s image and influence in the region. Sir Robert Menzies in 1950 established Radio Australia in its current form as part of the ABC in order to ensure the broadcasting of a reliable source of news and current affairs to our neighbours in this region. It is still doing that but it is whispering to the world at the moment. It will continue to whisper until they have another facility, or until they have available to them some of the Cox Peninsula facility to the same extent as Cox Peninsula. Parliamentary committee after committee has called for that facility to be turned back on. Letters from heads of state around the region have called for that facility to be turned back on. Letters from heads of state around the region have called for that facility to be turned back on. Letters from heads of state around the region have called for that facility to be turned back on. Letters from heads of state around the region have called for that facility to be turned back on. There are crises in the region. We have had problems in Cambodia, we have had problems in Bougainville, we have had problems in East Timor. We have an ongoing problem with our reputation—Australia’s reputation—in Indonesia. I cannot tell you the importance of
having a short-wave facility for Australia’s voice into Indonesia at the moment, to let ordinary Indonesians know—that four per cent who listened all the time and who are now down to 1.8 per cent—what Australia thinks and what the facts are about what is going on around them.

The facility was worth, it was estimated a couple of years ago, $40 million. It cost $1.4 million a year to run that facility for Radio Australia and it would have cost $4.5 million to reinstate that facility. There is absolutely no question that Radio Australia must have the capacity to broadcast into our region that it had with the facility of Cox Peninsula open—

**Senator Schacht**—Under a Labor government.

**Senator BOURNE**—Under a Labor government, although we do remember that the north of Western Australia, Carnarvon, was cut back by the Labor government. But that is another question. The point is that this was closed down and it has to be reopened to Radio Australia. I intend to make sure that an amendment goes up to the Senate which would reopen at least one of those channels into Asia out of Cox Peninsula open—

**The DEPUTY PRESIDENT**—Senator Bourne, did you wish to table some documents?

**Senator Bourne**—Yes. They are pretty innocuous, as senators can see. I seek leave to table these two diagrammatic maps from Radio Australia showing the extent of short wave with and without Cox Peninsula.

Leave granted.

Question resolved in the affirmative.

**PETITIONS**

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

**Goods and Services Tax: Repeal**

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

The petition of residents of the nation of Australia draws to the attention of the Senate that:

1. A majority of electors in the 1998 federal election were not in favour of the GST
2. Alternative taxation regimes were not properly considered.

Your petitioners humbly ask the Senate to repeal the GST legislation and to instigate an inquiry to thoroughly investigate alternative taxation regimes.

by **Senator Reid** (from 22 citizens).

**Goods and Services Tax: Receipts and Dockets**

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

This petition of the undersigned draws to the attention of the Senate that under current legislation the GST will not be included on dockets and that consumers will not know how much GST they are being charged, or whether they are being charged correctly.

Your petitioners therefore request the Senate that when a business provides a consumer with a receipt or docket issued in respect of a taxable supply the receipt or docket must separately include:

(a) the price of the goods or services excluding the GST;
(b) the amount of the GST; and
(c) the total price including the GST.

by **Senator Reid** (from 60 citizens).

**Medicare**

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

The Petition of the undersigned shows:

We strongly support Medicare, our universal public health system. Medicare is an efficient, effective and fair system. Under Medicare, access to care is based on health needs rather than ability to pay.

Access to quality health care for all Australians is a basic human right.

Your petitioners request that the Senate should:

Do all within its power to ensure the continued viability and strengthening of Medicare by supporting a substantial funding increase for the public health system. Further to this, we strongly urge you to continue to support adequate funding for public health and oppose all government policy initiatives that would undermine the integrity and ongoing viability of Medicare.

by **Senator Reid** (from 1,023 citizens).
Radio Australia: Cox Peninsula
To the Honourable the President and Members of the Senate in Parliament assembled:
Your Petitioners ask that the Senate call on the Australian Government to:
(1) Immediately re-open the Cox Peninsula broadcasting transmitters
(2) Immediately commence broadcasts in Bahasian English news and current affairs
(3) Allocate sufficient resources to Radio Australia to allow Radio Australia to dramatically increase the hours of news and current affairs broadcast to the Indonesian Archipelago in Bahasian Indonesian and English languages.
by Senator Crossin (from 8 citizens).

Goods and Services Tax: Government Promises
To the Honourable the President and Members of the Senate in Parliament assembled:
The petition of the undersigned protests the unfairness of the GST legislation because:
(1) the Government has broken its promise that health, schooling and charities will not be hurt by the GST;
(2) the GST will not be included on dockets and consumers will not know how much GST they are being charged, or whether they are being charged correctly;
(3) feminine hygiene products (such as tampons and sanitary pads) will be hit by the GST while sunscreen, condoms and personal lubricants will attract no GST; and
(4) the Government has broken its promise that beer will not rise in price by more than 1.9% and that it will rise by 7% with the GST.
Your petitioners request that the Senate support a fairer tax system for Australia and that the Senate hold the Government to its GST promises.
by Senator Faulkner (from 1088 citizens).

Mobile Phone Towers
To the Honourable the President and Members of the Senate in Parliament assembled.
The Petition of the undersigned electors and residents of Huntfield Heights (in the division of Kingston) and surrounding districts draws to the attention of the Senate their concern regarding the One Tel Mobile Phone Tower being built at Lakeside Leisure Park, Huntfield Heights, South Australia.
Your petitioners therefore ask the Senate to stop the erection of this tower and any other future Mobile Phone Towers at Lakeside Leisure Park.
And your petitioners, as in duty bound, will ever pray.
by Senator Hill (from 593 citizens).

NOTICES
Presentation
Senator Bolkus to move, on the next day of sitting:
That the time for the presentation of the report of the Parliamentary Joint Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund on the consistency of the Native Title Amendment Act 1998 with Australia’s international obligations under the Convention on the Elimination of All Forms of Racial Discrimination be extended to 28 June 2000.

Senator Murray to move, on the next day of sitting:
(1) That a select committee, to be known as the Select Committee on Child Migration, be appointed to inquire into and report, by 14 May 2001, on the following matters:
(a) child migration to Australia during the twentieth century, with particular reference to the role and responsibilities of the Australian Commonwealth and state governments;
(b) in relation to government and non-government institutions responsible for the care of child migrants:
(i) whether any unsafe, improper, or unlawful care or treatment of children occurred in such institutions, and
(ii) whether any breach of any relevant statutory obligation existing under state or federal law occurred during the course of the care of former child migrants;
(c) the full range of appropriate measures required to assist former child migrants to reunite with their families and obtain independent advice and counselling services;
(d) the efforts made during the operation of the child migration schemes or since by the Australian state and federal governments, the United
Kingdom Government, and any other non-government bodies which were then responsible for child migration to:

(i) inform the children of the existence and whereabouts of their parents and or siblings,

(ii) reunite or assist in the reunification of the child migrants with any of their relatives, and

(iii) provide counselling or any other services that were designed to reduce or limit trauma caused by the removal of these children from their country of birth and deportation to Australia;

e) the need for a formal acknowledgment and apology by Australian governments for the human suffering arising from the child migration schemes;

f) measures of reparation including, but not limited to, compensation and rehabilitation;

g) the convening of an international conference of Commonwealth countries involved in child migration schemes;

h) statutory or administrative limitations or barriers adversely affecting those former child migrants who wish to pursue claims against individual perpetrators of abuse previously involved in their care; and

i) any other matters considered relevant by the committee.

(2) That the committee consist of 6 senators, 2 nominated by the Leader of the Government in the Senate, 2 nominated by the Leader of the Opposition in the Senate, and 2 nominated by minority groups and independent senators.

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

(4) That the chair of the committee be elected by and from the members of the committee.

(5) That the deputy chair of the committee be elected by and from the members of the committee immediately after the election of the chair.

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

(7) That, in the event of the votes on any question before the committee being equally divided, the chair, or deputy chair when acting as chair, have a casting vote.

(8) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.

(9) That the committee have power to appoint subcommittees consisting of 3 or more of its members and to refer to any such subcommittee any of the matters which the committee is empowered to consider.

(10) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

(11) That the committee be empowered to print from day to day such documents and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Senator Ferguson to move, on the next day of sitting:
That the Senate—

(a) expresses:

(i) great sadness and sincere regret at the tragic loss of Whyalla Airlines flight 904 on 31 May 2000 in Spencer Gulf in South Australia, and

(ii) its deepest sympathy to the families of the pilot and passengers, and to the communities of the northern Spencer Gulf and Eyre Peninsula that have been so profoundly affected by the tragedy; and

(b) notes the outstanding effort of emergency services and volunteers in their search and rescue operations in difficult conditions.
Senator Schacht to move, on the next day of sitting:

That the Senate—

(a) strongly condemns the Coalition Government for closing down Radio Australia’s Cox Peninsula radio transmitter and now secretly leasing it to a private operator; and

(b) notes that Australia’s national interest:

(i) has been affected by the closure of Radio Australia’s Cox Peninsula transmitter, and

(ii) may be adversely affected by the transmitter now being used by a private organisation which may have foreign interests involved.

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

That the Senate—

Acknowledges that the congress of 3000 West Papuans held in Jayapura has declared unanimously that, ‘West Papua is independent’.

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

That the Senate—

(a) condemns the Federal Government’s decision to sell Australia’s most powerful short-wave transmitter at Cox Peninsula in the Northern Territory to the British-based Christian Voice International;

(b) notes that this decision betrays Australia’s national interests in Asia; and

(c) calls on the Government to ensure that a reliable and easily accessible source of Australian news and information is available to people in the region by securing air time for Radio Australia to broadcast to Indonesia and South East Asia.

Senator O’Brien to move, on Wednesday, 7 June:

That there be laid on the table by the Minister representing the Minister for Transport and Regional Services (Senator Ian Macdonald), no later than 5 pm on Thursday, 8 June 2000, the following documents: All files, reports and all other materials, including Civil Aviation Safety Authority Board and Board Committee agenda papers and minutes held by the Civil Aviation Safety Authority, that relate to the operation of the Albury-based airline ARCAS, which trades as Air Facilities.

LEAVE OF ABSENCE

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

That leave of absence be granted to:

(a) Senator Newman for the period 5 to 8 June 2000, on account of ministerial business overseas (attending a Special Session of the UN General Assembly Beijing Plus 5 in New York); and

(b) Senator Crane for the period 5 to 8 June 2000, on account of ill health.

NOTICES

Postponement

Items of business were postponed as follows:

General business notice of motion no. 535 standing in the name of Senator Stott Despoja for today, relating to the summit meetings of the International Monetary Fund and the World Bank, postponed till 19 June 2000.

General business notice of motion no. 537 standing in the name of Senator Stott Despoja for today, relating to the Federal Government’s Trade Outcomes and Objectives Statement for 2000, postponed till 19 June 2000.

General business notice of motion no. 552 standing in the name of Senator Stott Despoja for today, relating to Kosovar refugees, postponed till 19 June 2000.

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 6 June 2000.

General business notice of motion no. 562 standing in the name of Senator Allison for today, relating to the Albury-Wodonga bypass, postponed till 7 June 2000.

Business of the Senate notice of motion no. 1 standing in the name of the Leader of the Opposition in the Senate (Senator Faulkner) for 6 June 2000, relating to the reference of matters to the Finance and Public Administration References Committee, postponed till 27 June 2000.

TRANSPORT: HEAVY TRUCK SPECIFICATIONS

Motion (by Senator Harris)—as amended, by leave—agreed to:
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 7 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:

(a) in respect of each recommendation in the report; and
(b) generally, to 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.

**NOTICES**
**Presentation**
Senator Cook to move, on the next day of sitting:
That the Senate—

(a) expresses its strongest condemnation in the report; and
(b) generally, to 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.

**WITHDRAWAL**

General business notice of motion No. 569 standing in the name of Senator Tierney, relating to Aboriginal employment was withdrawn pursuant to standing order 77.

**OLYMPIC GAMES: TORCH BEARERS**

Motion (by Senator Schacht) agreed to:
That the Senate expresses its very deep regret that Yianna Souleles was not able to be the first Australian to carry the Olympic Torch from Olympia.

**LEAVE OF ABSENCE**

Senator HARRIS (Queensland) (3.44 p.m.)—I would seek leave of absence from the Senate for the remainder of this week and possibly the next week of sitting. Do I need to do that formally in writing?

The DEPUTY PRESIDENT—Once you have the specific terms of the motion, you would then be required to seek leave to move it. I suggest you contact the Assistant Clerk to get the appropriate terms for the motion. It is a matter of the formalities.

Senator HARRIS—Thank you, Madam Deputy President.

**DOCUMENTS**
**Tabling**

The DEPUTY PRESIDENT—Pursuant to standing orders Nos 38 and 166, I present the following documents which were presented to the Deputy President and to the President on 16, 22 and 31 May 2000. In accordance with the terms of the standing orders, publication of the documents was authorised:

The list read as follows—


Auditor-General—Audit reports for 1999-2000—

No. 44—Performance audit—Management of Job Network contracts: Department of Employment, Workplace Relations and Small Business. [Received 16 May 2000]
No. 45—Performance audit—Commonwealth foreign exchange risk management practices. [Received on 31 May 2000]

Magnetic resonance imaging—Letter to the President of the Senate from the Minister for Health and Aged Care (Mr Wooldridge) relating to statutory declaration tabled in the House of Representatives on 27 September 1999, dated 19 May 2000 and attachments [2].


Auditor-General’s Reports
Report No. 45 of 1999-2000

Senator O’BRIEN (Tasmania) (3.46 p.m.)—by leave—I move:
That the Senate take note of the document.
I seek leave to continue my remarks later.
Leave granted; debate adjourned.

REPRES SATION OF NEW SOUTH WALES
The DEPUTY PRESIDENT—I table the original certificate of the choice of the houses of parliament of New South Wales of Mr Sandy Macdonald as a senator to fill the vacancy caused by the resignation of Senator Brownhill.

BUDGET 2000-01
Portfolio Budget Statements
Senator IAN CAMPBELL (Western Australia—Manager of Government Business in the Senate) (3.46 p.m.)—I table corrigenda to the portfolio budget statements 2000-01 for the Employment, Workplace Relations and Small Business portfolio and for the Immigration and Multicultural Affairs portfolio. Copies are available from the Senate Table Office.

BUDGET 1999-2000
Consideration by Legislation Committees
Additional Information
Senator CALVERT (Tasmania) (3.46 p.m.)—On behalf of Senator Knowles I present additional information and transcript of evidence received by the Community Affairs Legislation Committee relating to hearings and supplementary hearings on the additional estimates for 1999-2000.

On behalf of Senator Payne I also present additional information received by the Legal and Constitutional Legislation Committee relating to the supplementary hearings on the budget estimates 1999-2000.

COMMITTEES
Public Works Committee
Report
Senator CALVERT (Tasmania) (3.47 p.m.)—On behalf of the Parliamentary Standing Committee on Public Works, I present the fourth report of 2000, relating to the proposed housing development at Parap Grove, Darwin. I seek leave to move a motion in relation to the report.
Leave granted.
Senator CALVERT—I move:
That the Senate take note of the report.
Senator CALVERT—I seek leave to incorporate my tabling statement in Hansard.
Leave granted.
The statement read as follows—
Madam President, the report I have just tabled is the result of a lengthy and sometimes frustrating inquiry.
The reference to the Committee concerned the proposed spot purchase of 50 house-and-land packages by the Defence Housing Authority, the DHA, in a housing development called Parap Grove in Darwin.
These houses were to provide Australian Defence Force personnel and their families a secure suburban environment with good access to community facilities.
The reference estimated the cost of these house-and-land packages at $17.5 million at July 1999 prices.
This reference to the Committee took place only after the DHA approached the Committee to consider having the project exempted from the Committee’s consideration. This was in the context of an urgent need to provide housing for Defence personnel in Darwin.
The Committee was unable to agree to this request. The Public Works Committee Act provides for grounds for exemption and these were not met.
After the Committee was referred the proposal, the Committee held a public hearing in Darwin in
In early March, the DHA advised the Committee that the DHA did not want to pursue the Parap Grove development. The DHA's reasons for not continuing with the proposal were given as:

- the appointment of a voluntary administrator to the project home developer, Bayview Homes;
- additional responsibilities given to DHA by the Department of Defence; and
- the urgency that drove the need for this development was no longer a critical factor.

The Committee explored these reasons further. This included asking the then Head of Defence Personnel Executive, Major General Peter Dunn, to appear before the Committee. This occurred on 16 March this year.

At this hearing, Major General Dunn informed the Committee that the DHA Board had not approved the Parap Grove project.

In the Committee's opinion this reference has been poorly managed and it has therefore recommended that the Australian National Audit Office examine the matter.

In conclusion, Madame President, it would appear that this proposal was developed in the context of perceived urgency.

Whether or not there is a perceived urgency for works, the Committee's response is always the same—every reference from Parliament will be thoroughly investigated.

I seek leave to continue my remarks later.

Leave granted; debate adjourned.
The committee continues to remind the Senate that it does not judge the truth or otherwise of statements made by honourable senators or persons who seek redress. It emphasises that its sole duty is to recommend that a relevant response be incorporated in Hansard, and neither judges the merits nor endorses the content of any such response. I commend the report to the Senate.

Question resolved in the affirmative.

The response read as follows—

APPENDIX ONE

RESPONSE BY DR MALCOLM COLSTON
PURSUANT TO RESOLUTION 5(7)(B) OF THE SENATE OF 25 FEBRUARY 1988


In Senator Ray’s speech mentioned above, in part he stated that I “went over to Norfolk Island, stayed with the Administrator and claimed travel allowance”. At no time did I stay with the Administrator. I appreciated the Administrator’s hospitality when, accompanied by Mrs Kerr, he took my wife and me to a local restaurant. I recall I also attended a group function at his residence and, with other members of a joint parliamentary committee attended a dinner, also hosted at his residence. I stress, however, that at no time did I stay at the Administrator’s residence. On my visits to Norfolk Island, I resided in either a guest house or in self-contained accommodation and paid normal commercial rates.

Senator Ray also mentioned that Senator Faulkner rejected my “supplications” about the position of Administrator of Norfolk Island on the basis that Senator Faulkner regarded me “as a time-serving place seeker”. It is not my intention to reveal details of private conversations unless I feel I am compelled to do so, but that was not the impression I gained from Senator Faulkner. Suffice to say that Senator Faulkner’s predecessors in the Territories portfolio, Mrs Kelly and Senator Richardson, gave their full support and my first visit to Norfolk Island resulted from Mrs Kelly’s suggestion that I should do so.

Senator Ray stated that “the citizens of Norfolk Island certainly made their views known by signing a petition — 800-odd, I think — pleading with us not to appoint the then Senator Colston”. I do know there was a petition circulated on Norfolk Island to extend the term of the then Administrator, but I have no knowledge of a petition as described by Senator Ray. In fact, I doubt that such a petition exists other than in the imagination of Senator Ray or those who advise him.

During the course of his speech, Senator Ray claimed that I “did a grand tour of all the territories to see which one he [Colston] would like the most”. The latter part of this assertion is incorrect. I would remind honourable senators that a joint committee of which I was a member had a reference in relation to three external territories, namely Christmas Island, Cocos (Keeling) Islands and Norfolk Island. The committee was obliged to visit each of these territories and I do so in company with other members of the committee and support staff.

Dr Malcolm Colston
14 April 2000

Rural and Regional Affairs and Transport Legislation Committee

Report

Senator FORSHAW (New South Wales) (3.51 p.m.)—On behalf of the Rural and Regional Affairs and Transport Legislation Committee, I present a report entitled An appropriate level of protection? The importation of salmon products: a case study of the administration of Australian quarantine and the impact of international trade arrangements, together with the Hansard record of the committee’s proceedings, submissions, attachments and additional information presented to the committee.

Ordered that the report be printed.

Senator FORSHAW—by leave—I move:

That the Senate take note of the report.

On 19 July 1999, AQIS announced amended measures for the importation of salmon products, non-marine finfish and ornamental finfish. The amended measures were required following the outcome of a challenge to Australia’s quarantine ban on salmon imports in the World Trade Organisation by Canada. The decision to allow imports of salmon, notwithstanding the strict import protocols required, was met with severe criticism within Australia, given the potentially significant detriment to our own fish species and aquaculture industries should any previously unknown diseases become established.

In response to the concerns raised, the Senate referred to the Rural and Regional Affairs and Transport Legislation Committee
terms of reference for an inquiry into the effectiveness of the legal and regulator regimes governing the Australian Quarantine and Inspection Service, and administrative procedures and decision making processes involved in the recent AQIS decision to allow the importation of salmon products into Australia. However, while concern about the decision was expressed in some sectors—and expressed vehemently both in the public arena and also very strongly to the committee during its inquiries—there was support for the AQIS process from other sectors. In particular, importers of ornamental finfish and those reliant on the import of baitfish expressed their support for the process. The latter group, those importing baitfish, included the tuna and crayfishing industries, predominantly found in South Australia and Western Australia.

Throughout this inquiry, the tension between Australia’s international trade interests and the maintenance of Australia’s high quarantine standards was evident to the committee and became a focus for the inquiry. Other issues raised during the course of the inquiry included the conduct of the import risk analysis—the procedures, the methodology, science and conclusions; Australia’s appropriate level of protection, commonly referred to as the ALOP; and, further, the issue of the actual conduct of the dispute within the WTO, including the litigation strategy undertaken by Australia, the interpretations put by the Australian Quarantine and Inspection Service and the Department of Foreign Affairs and Trade on the requirements of the relevant international agreements and the extent to which Australia’s conduct met those requirements.

The dispute leading to fewer import restrictive quarantine measures has a long history—since a ban on the importation of untreated salmon products was imposed in 1975. The amended measures announced on 19 July 1999 were the result of Canada’s challenge to that ban in the World Trade Organisation. The Canadian case was initiated in 1995, and AQIS produced its first import risk analysis in 1996. It produced a further report in 1999. The outcome of the dispute between Australia and Canada was finally settled in May of this year—just last month. Australia’s membership of the WTO carries with it rights and obligations which affect the legal and regulatory regime established by this country for the importation of goods. In particular, the agreement on sanitary and phytosanitary measures, the SPS agreement, which is the principal agreement governing the use of quarantine controls, allows for import controls to be imposed only when there is a scientifically proven basis. Accordingly, a country can no longer use import quarantine controls to restrict trade.

The requirements for the SPS agreement potentially have a substantial impact on Australia’s quarantine regime, principally by requiring all import measures to be scientifically based. Where there is scientific uncertainty and/or gaps in scientific knowledge, a problem may arise. Where a country cannot show definitively whether or not there is a risk from imports, that country must then undertake an import risk analysis. The techniques for undertaking import risk analyses are new and evolving. Given the significance to Australia of its high quarantine protection regime and the fundamental significance of import risk analysis to quarantine measures, the committee is firmly of the view that Australia should be at the forefront of developments in this area and should take a leading role in import risk analysis methodology. One mechanism for achieving this is the establishment of a key centre for risk analysis along the lines recommended in 1996 by Professor Malcolm Nairn in a review of Australian quarantine. The committee has accordingly recommended that such a centre be established. While the WTO, in its report released in February 2000, ultimately endorsed AQIS’s 1999 import risk analysis, the committee considers that there were significant deficiencies identified during the import risk analysis process—especially, inadequate consultation with stakeholders in Australia and the premature public release of draft documentation. I will address firstly the issue of consultation.

AQIS’s consultation processes were heavily criticised by stakeholders. They argued that, while AQIS provided a great deal of information, the stakeholders were not able to
participate in the process. Their contributions were not actively sought, nor could they identify whether their input was properly considered and incorporated into the import risk analysis. Consultation should be a participative process whereby stakeholders views are sought, considered and incorporated into any analysis. AQIS has been criticised for its consultation processes over a number of years, and the committee remains concerned about AQIS’s performance in this area. The committee considers that a risk assessment committee with stakeholder representation should be established for each import risk analysis. Such a committee must be established at an early stage of the risk analysis process to provide one mechanism to ensure due consideration and incorporation of Australian stakeholder comment.

The committee was also extremely concerned with respect to the release of the draft documentation and the procedures by which AQIS undertook the IRA process for salmon imports. AQIS publishes draft documentation extensively, including on its web site. The publication of the draft 1995 import risk analysis ultimately was, in the committee’s view, damaging to Australia’s case in the WTO. The committee notes that WTO guidelines require only the notification of final measures to other WTO members. There is absolutely no requirement to publish draft documentation or preliminary findings. The committee considers that a far greater level of caution should have been exercised by AQIS and that no draft documentation or preliminary findings should be given broad circulation as currently happens and as is provided for in the AQIS handbook on its import risk analysis process. Indeed, such documentation should be distributed only to domestic parties who are deemed to have a relevant interest in the process and to technical experts. Such distribution should be on a strictly confidential basis. The committee has recommended that the IRA procedures and handbook be amended to reflect a more cautious approach prior to the determination of any measures.

There are some other significant matters that are canvassed within the committee’s report. Such issues include the appropriate level of protection and also the involvement of international law and the need for specialist expertise in that area in terms of Australia preparing and presenting its case before the WTO. As my time is shortly to run out, I seek leave of the Senate to incorporate the remainder of the tabling speech in Hansard.

Leave granted.

The speech read as follows—

The Appropriate Level of Protection

Under the terms of the SPS Agreement, each member state has the right to determine their Appropriate Level Of Protection or ALOP. However, the right is largely restricted by the requirement that quarantine measures must be scientifically based. Hence, the actuality of the ALOP is determined by the extent to which a country's measures can be scientifically justified - it cannot go beyond that or a country will find itself vulnerable to challenge in the WTO.

The Committee is strongly of the opinion that the ALOP, as currently utilised by AQIS, is too vague a concept - it is poorly articulated, with no real guidance as to what it is in reality, how it is determined and by which agencies it is determined. The confusion surrounding the ALOP guaranteed disaffection by some stakeholders with the outcome of the 1999 IRA.

Many people argued to the Committee that, in the face of scientific uncertainty, Australia should be able to adopt the precautionary principle approach, and not allow product in until a more informed judgement can be made about the level of risk. The Committee considers more consideration of this principle should be permitted in the determination of the ALOP and the concept should be made more explicit.

International law

Some of the Committee’s major concerns related to the conduct of matters raised by Australia’s observation of important aspects of international law in this country. The Committee took particular note of:

. The significance attached by successive governments over the last two decades to international law and litigation in international bodies such as the WTO;

. The conduct of the salmon case in the WTO; and

. The availability and utilisation of legal expertise within the Australian Government.

The legal structure of world trade is one of increasing economic and political importance. However, the Committee is concerned about an
apparent failure to appreciate the expanding significance of international law. The Committee is particularly concerned that there is no single specialist office of international law with overriding responsibility for dealing with international legal matters. The Committee is apprehensive about the quantum and quality of resources currently devoted to international law and for the conduct of litigation in international tribunals.

The international law function is broader than merely the conduct of litigation and any responsible agency must be involved at an earlier point in time than the point of initiation of a dispute. The Committee considers that it is in Australia’s interests to ensure that sound legal input is a fundamental part of any negotiation or policy development process and that the specialist skills and experience to litigate any case before the WTO is available.

The Committee considers it is imperative that the Government establish a statutory office of international legal adviser, within the Attorney-General’s portfolio, to provide a mechanism for more effective international legal outcomes for Australia.

Concluding remarks
There is a substantial national interest in having a quarantine regime which protects Australian agriculture and biodiversity. However, there is an equal, if not overriding, general perception that currently trade issues take priority over quarantine. Such concerns highlight the very real possibility that one outcome of challenges over quarantine standards could be the emergence of ‘lowest common denominator’ standards of quarantine protection.

The Committee’s principal concern is that any lowering of the standard of quarantine protection may have irreversible detrimental effects on human, animal or plant life and health or on the environment. The Committee remains extremely concerned that any disease incursion could damage the ‘clean and green’ image which is such a significant factor in our agricultural exports and which allows Australian producers to set premium prices for their products, especially salmon. Australia must be appropriately prepared to ensure that the international agreements to which it is a signatory do not have the effect of exposing our very special environmental, animal and plant health status to unnecessary risks through the lowering of quarantine standards.

Senator FORSHAW—I conclude by expressing the committee’s thanks to the officers of the secretariat, particularly Robina Jaffray and her staff, for their excellent work on what is a most important inquiry. I also express our thanks to the staff of the printing office who, I understand, worked tirelessly over the weekend in order to have the report—which was finalised only late last week—ready for tabling today. I commend the report to honourable senators and indeed to the parliament, on what is a most important issue.

Senator CALVERT (Tasmania) (4.02 p.m.)—As a member of the Rural and Regional Affairs Legislation Committee I wish to make a few comments on this report. I do not make a habit of commenting on committee reports, but in this particular case I do have a special reason and interest in it. Back in 1987 when I first came to this place I mentioned in my first speech the very new salmon industry in Tasmania and how it was progressing. I predicted that by the year 2000 salmon exports from Tasmania could be worth up to $100 million. I am pleased to say that I was completely wrong: by the year 2000, exports from Tasmania were approaching $200 million rather than the $100 million I predicted. Nevertheless, it makes the point that this industry, which employs around 1,500 people directly and indirectly, is a very important industry for not only Tasmania but Australia. It has developed into a very high tech world-class industry, protecting the environment. It is judged by Japan—I suppose one of the fussiest importers in the world—to be the best, and they pay a premium price for the fish they import from Tasmania because of its disease-free and chemical-free status.

With that background, I will turn to the report. I took a particular interest in the committee’s very long inquiry period. That this is a majority report is quite an achievement, with senators from right across Australia and my fellow senators Kerry O’Brien and Shayne Murphy from Tasmania. In the front of the report I note that I am listed as a Liberal Party senator from Victoria, but I have not been taken over. Like Senator Forshaw, I would like to compliment Robina Jaffray and the staff for putting this very important report together. Salmon industry representatives Peter Bender and Tony Smithies have slavishly come to this place over quite a long
period of time trying to convince the parliament of the importance of this industry, and I think they have done that in a very positive way. That is what this report is. Rather than being a negative criticising report—we could have quite easily spent our whole report criticising AQIS and others—some very positive recommendations have come out of this that the government could and should look at with regard to where we are going with the protection of our fish and fish products.

A lot of us were quite pleased to hear that, on 17 May, Canada had decided not to continue with punitive action against Australia over this matter. As a consequence of that, an agreement was reached between AQIS and Canada over one particular part of the import protocols. Despite all that, industry and angling groups, along with the Tasmanian government and me in particular, still believe that there is a certain risk—it would have dire consequences for the industry if diseased fish were to find their way into our waterways. As Senator Forshaw said, in the course of our inquiries we boiled it down to three major areas. They were the conduct of the actual risk analysis process, Australia’s appropriate level of protection and the conduct of the dispute within the WTO. Out of that we came up with a recommendation regarding the use of legal advice in any actions in the WTO.

I must say that one of the areas that I have been really concerned about over a long period of time is just how good our expertise is when we are on the world stage competing against top-class international lawyers from other countries. I think that in the salmon case, while not wanting to be critical of the people who represented Australia’s and Tasmania’s interests in the WTO, we may well have used more international legal advice and lawyers, considering the fact that ours were up against three, four or five top international lawyers from Canada—with advice from the US, I believe. So that is one area where I believe our recommendations are very positive—that we set up an international legal adviser’s office not just for disputes similar to this but for all international disputes where Australia needs the best advice and representation it can have.

The other major concerns we had concerned the appropriate level of protection. The WTO pointed out that Australia’s ALOP was vague, to say the least. I think that certainly needs defining. We were able to find out during the process that the adequate level of protection could have been higher and that we were allowed to raise it under the WTO rules. If we had done so, perhaps we would not have ended up with the situation we have. One of the things that puzzle me—I made this point as it appears in the report and I will continue to make this point—is that we seem to have one or two different sets of rules when it comes to importing products into Australia. For instance, for untreated meat and grains we require that imports be sourced from disease free areas, whereas in the case of fish there is no such requirement. Some could argue, as a result of our inquiries into what is happening under the WTO, that perhaps we should relax those requirements on meat, grains, sugar cane and others but, in fact, I and the committee believe that it should be the other way around—that the benchmark for salmon should be raised. That was the background to a lot of the concerns expressed by the industry. I believe that there is a possibility that what has happened here may create a precedent that would allow those other agreements to be lowered. It just seems ridiculous that we can put a ban on meat products coming from areas that have foot-and-mouth disease yet we are required to import raw fish that comes from a farm that has any one of five diseases which, if they got into our waterways, would not only clean up our salmon industry but also create real problems for the environment and the salmonids in a wild state right around Australia.

There was a lot of evidence taken and a lot of suggestions made. I hope the government looks at this report in a positive way. It is a very important issue not only for Tasmania, as I said, but also for all our waterways. If there were a foot-and-mouth disease outbreak in Australia, at least we would have a fighting chance of defeating it. In the case of furunculosis, ISA or any of those other very serious fish diseases, if one of those were to manifest itself in our waterways, the chances of ridding them of it would be nil. That is
why I believe that, instead of relaxing our standards, we should have been making them stricter. That is one of the major concerns that the committee shared. All in all, it is a very good report. I just hope that it has a benefit not just for the industry but for all the stakeholders involved.

Senator BARTLETT (Queensland) (4.11 p.m.)—I will try to keep my remarks brief to allow a bit of time for other senators to speak on this important report of the Senate Rural and Regional Affairs and Transport Legislation Committee on salmon products. I concur with the remark that Senator Calvert finished with about his hope that people do take the report seriously and consider seriously the issues it raises. The content proper of the report is about 200 pages and a lot of it is fairly technical but I hope that technicality and complexity do not prevent people, whether they be in government, the media or the community, from considering the fundamental issues that are underlying the concern that the committee has explored. While it is not a rarity to have a unanimous report, it is certainly not uncommon to have disagreement across parties, so it always worth highlighting that when we do get a unanimous report from Liberal, Labor and Democrat senators.

I spent a fair bit of time as a participating member trying to follow this inquiry—along with my Queensland colleague Senator Woodley, who covers primary industries, and also Senator Stott Despoja, our trade spokesperson—because the issues it raises cut across not just primary industries and environmental issues but indeed the whole operation of the WTO and the future direction of international trade policy, and it is worth highlighting some of the serious concerns that are contained in this report. It is a positive report in lots of ways. It tries not just to bag particular people or groups but to put forward positive recommendations. Nonetheless, it would be misleading if we were to suggest that it is all nice and rose coloured. Certainly there are quite serious concerns expressed throughout the report by the committee as a whole and I really urge the government to take those on board. The report is a warning that it is not just an isolated issue and it is not just about salmon—although obviously the focus is on the salmon decision, salmon quarantine assessments and the salmon industry particularly in Tasmania, which, as it has been pointed out, is very significant—but that it is a broader issue than that, in terms of the future direction of international trade and the way Australia operates within the WTO, that goes far beyond the salmon industry.

As someone who does not eat fish, I can be reasonably independent in focusing on its importance. I have no particular interest in salmon. I did get to go to the salmon processing plant; fortunately or unfortunately I did not sample the product. Not eating it, I was unable to assess the quality of it, although all the other senators that went there seemed to think it was of particularly high quality. But certainly the fact that Tasmanian salmon from that region produces such an enormous premium on the Japanese market—a huge premium over salmon from other parts of the world—highlights not just the good quality of the salmon but how crucial it is for us to be able to maintain our clean, green, disease free reputation. And that is why, not unreasonably, there has been such great concern about the potential impact. There still is concern, and this report should not be seen to be the end of the matter nor should people think that the risk is not still there. Clearly, the Tasmanian government believes that there is still a risk there and wants to press ahead with maintaining its quarantine regime around Tasmania. The Democrats in Tasmania certainly support the state Labor government’s approach in that regard. The concerns are still there, and I think that is important to emphasise.

But the broader concern, which the committee highlighted, goes wider than that. It is this perception that currently trade issues take priority over things like quarantine, environmental protection, human rights and labour standards. A strong perception came through the course of the inquiry—certainly from my point of view—that, because of the Australian government’s fixation on expanding the free trade agenda and pushing the free trade agenda at all costs, there was a great reluctance for us as a government and as a nation to be seen to be arguing in the WTO forums.
in support of a measure that other countries were portraying as a non-tariff trade barrier. In many ways, Australia at an international level did not want to be seen to be associating with a non-tariff trade barrier at the same time as, on a broader level, it was pushing free trade at all costs. In my view, that has partly affected—whether consciously or sub-consciously—the attitude at government level towards trying to ensure that we protect the environment and the environmental health not just of our salmon industry but of the waterways more broadly.

The Democrats sign on to this unanimous report. We could have gone outside it and gone on at great length about some of our broader concerns, but, to try to give it maximum impact as a unanimous report, we are happy to fully endorse it. We certainly indicate our intention to pursue strongly the broader and very important issue of reform of the WTO and the need for the WTO to take on board not just pure economic issues of free trade, tariff barriers and so-called economic efficiency but a much wider range of issues such as the environment, workers’ rights, social rights and human rights. Those sorts of things really need to be factored in to the operation of international trade, and I hope this report and the concerns expressed within it by all senators are noted by government and taken on board as a warning to take these concerns seriously, because the issue certainly is not confined to salmon and it is certainly not going to end here if nothing is done about it.

Senator MURPHY (Tasmania) (4.18 p.m.)—I also wish to make a few comments on this report, which, as has been pointed out on a number of occasions, is a unanimous report. I would also like to reiterate the comments of my colleagues Senator Forshaw and Senator Calvert with regard to the staff, who did a lot of work in getting this ready following a fairly lengthy inquiry. This unanimous report has uncovered some very serious weaknesses in the way in which we deal with quarantine and import risk analysis processes per se.

As a member of the WTO, we are obligated to follow WTO rules and, in this case, the sanitary and phytosanitary agreement which sets down the rules for getting measures to carry out your supposed appropriate level of protection. The appropriate level of protection, as has been said, is a pretty vague thing. But, no matter what it is, at the end of the day you have to be able to justify scientifically the level of protection that you are endeavouring to put in place. You have to have scientific evidence and information to underpin the quarantine measures that you seek to put in place. With regard to the way in which the salmon risk analysis and the importation question from Canada were dealt with, we found a number of weaknesses. One weakness that occurred was the way in which the draft import risk analysis was made a public document. In 1995, there was a different set of draft recommendations from those we ended up with in 1996 and subsequently in 1999. We also had a situation where there was no real legal involvement. No international law officer was really involved in the process at all, either at an early stage or throughout the stages of the WTO processes that this went through.

In the very short period of time that I have, there are a few points I need to make. One of these is the differences in quarantine measures. It is not acceptable on the part of the WTO to call for consistency within a particular range of products like meat. If you take the idea of ‘meat is meat is meat’, whether it is from fish or animals, the consistency question should also apply. You cannot argue on one hand that you cannot bring in imports of animals such as beef, sheep and fowl unless they come from a disease free area and then say on the other hand, ‘Look, it’s acceptable in respect of fish.’ A disease is a disease. If it has an infectious root, if it is of a serious nature, then consistency ought to apply across the board. Those are just a couple of the important things that were raised in this document. I urge the government to take note of this report because it has uncovered very serious weaknesses in the way in which quarantine and import proc-
efforts are dealt with in this country. We must
ensure that they are changed. Agriculture is a
very important industry for this country, both
from an export point of view and from an
import point of view. If we are to stay ahead
of the game, we must have things like a key
centre that will work consistently and solidly
on how quarantine processes ought to be
dealt with in the future. As my time is about
to expire, I seek leave to continue my re-
marks later.

Leave granted; debate adjourned.

Joint Standing Committee on Treaties
Report

Senator COONEY (Victoria) (4.22
p.m.)—I present report No. 33 of the Joint
Standing Committee on Treaties entitled So-
cial security agreement with Italy and New
Zealand committee exchange,
together with the Hansard record of the committee’s pro-
cedings and submissions.

Ordered that the report be printed.

Senator COONEY—by leave—I move:

That the Senate take note of the report.

This report contains the committee’s consider-
ation on two separate issues. The first is a
review by the treaties committee of the social
security agreement between Australia and
Italy, and the second is the report on the
committee’s visit to New Zealand in March
this year as part of the parliamentary com-
mittee exchange program.

I would like to comment first on the social
security agreement with Italy. Agreements
such as this highlight the importance of treaty
making. The agreement demonstrates that
treaties are not about handing over sover-
ignty; they are about cooperating with other
nations to ensure that the interests of our re-
spective communities are protected and ad-
vanced. Australia is party to nine bilateral
social security agreements, all of which are
designed to provide welfare protection to
people who move between countries. The
social security agreement with Italy benefits
some 41,000 former Italian residents living in
Australia and about 15,000 former Australian
residents now living in Italy. It is expected to
facilitate the payment of $A166 million in
pension payments from Italy into Australia
and $A48 million from Australia into Italy.

During our review, we heard from Italian
welfare organisations, known as Patronati,
who spoke out strongly in support of the new
social security agreement with Italy. Other
community groups who had been kept in-
formed about the progress of the agreement
were supportive of ratification of the treaty.
The agreement is an update of the current
1986 agreement and largely reflects changes
in policies and legislation in each country,
and the committee recommends that binding
action be taken.

The Italian community is one of the major
communities in this country and has made a
great contribution to it. Indeed, a person I
work with in my office, Lidia Argondizzo,
was born in Italy, and people who have met
her here and elsewhere will endorse my re-
mark when I say she is a quite an outstanding
example of how people originally from over-
seas do much for this country.

I turn to the matter of the treaties commit-
tee visit to New Zealand. As you know, Mr
Acting Deputy President Lightfoot, different
committees go to New Zealand from time to
time and New Zealanders come here. We had
a number of valuable discussions while we
were there—for example, with the New Zea-
land Foreign Affairs, Defence and Trade Se-
lect Committee, which deals with treaties.
We also had some quite outstanding discus-
sions with the President of the Law Commis-
sion, Justice David Baragwanath, and a Jus-
tice of the New Zealand Court of Appeal, Sir
Kenneth Keith. These are very impressive
people and we learned much from them.
They were most learned men and had a lot to
tell us, and I would like to express our
thanks for the time they took to talk to the
committee. All the discussions we had con-
vinced our view that parliamentary consid-
eration of proposed treaty actions is an es-
sential part of a modern democracy. The
scope and impact of international law is
growing at a pace that is likely to accelerate.
It is vital that national governments partici-
pate in the development of this law. It is
equally vital that parliamentarians represent
the interests of their communities in this pro-
cess. The challenge for governments, parlia-
ments and communities around the world is
to ensure that international law develops in a
way that gives due and proper weight to local interests.

We as a committee are grateful to have had the opportunity to learn more about the responses made to modern international challenges by our fellow parliamentarians in New Zealand. We are also grateful that we had an opportunity to debate and reflect upon emerging issues in treaty making. There are some people I would like to thank. I am sure the committee would join me in saying that we owe much to His Excellency Mr Robert Cotton, the Australian High Commissioner to New Zealand. He looked after the committee and arranged meetings for us, and he deserves great thanks. We also met the Speaker of the House, the Rt Hon. Jonathan Hunt, whom you may well have met, Mr Acting Deputy President. He has been a parliamentarian for many years and certainly helped us on this occasion. So we thank our fellow committee in New Zealand, and I commend this report to the Senate.

Question resolved in the affirmative.

AUSTRALIAN ELECTORAL COMMISSION

Senator ELLISON (Western Australia—Special Minister of State) (4.30 p.m.)—I table a report by the Australian Electoral Commission entitled Funding and Disclosure Report: Election 1998.

ADMINISTRATIVE DECISIONS (EFFECT OF INTERNATIONAL INSTRUMENTS) BILL 1999

PRIMARY INDUSTRIES (EXCISE) LEVIES AMENDMENT BILL 2000

PETROLEUM EXCISE AMENDMENT (MEASURES TO ADDRESS EVASION) BILL 2000

LOCAL GOVERNMENT (FINANCIAL ASSISTANCE) AMENDMENT BILL 2000

WORKPLACE RELATIONS AMENDMENT BILL 2000

Bills received from House of Representatives.

First Reading

Senator ELLISON (Western Australia—Special Minister of State) (4.31 p.m.)—I indicate to the Senate that those bills which have just been announced are being introduced together. After debate on the motion for the second reading has been adjourned, I shall be moving to have the bills listed separately on the Notice Paper. I move:

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

Question resolved in the affirmative.

Bills read a first time.

Second Reading

Senator ELLISON (Western Australia—Special Minister of State) (4.32 p.m.)—I move:

That these bills be now read a second time

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

Leave granted.

The speeches read as follows—

ADMINISTRATIVE DECISIONS (EFFECT OF INTERNATIONAL INSTRUMENTS) BILL 2000

This Bill responds to the High Court’s decision in Minister for Immigration and Ethnic Affairs v Teoh (1995) 183 CLR 273, which was handed down on 7 April 1995.

In that decision, the Court found that by entering into a treaty the Australian Government creates a ‘legitimate expectation’ in administrative law that the Executive Government and its agencies will act in accordance with the terms of the treaty, even where those terms have not been incorporated into Australian law.

The Court also said that where a decision maker intends to act inconsistently with a treaty, procedural fairness required that the person affected by the decision be given notice and an adequate opportunity to put arguments on the point. If not, the decision could be set aside on the grounds of unfairness.

The High Court made it clear that such an expectation cannot arise where there is either a statutory or executive indication to the contrary.

The High Court’s decision gave treaties an effect in Australian law which they did not previously have.

The Government is firmly of the view that this development is not consistent with the proper role of Parliament in implementing treaties in Australian law.

It is a long standing principle that the provisions of a treaty to which Australia is a party do not
form part of Australian law unless those provisions have been validly incorporated.

Under the Australian Constitution, the Executive Government has the power to make Australia a party to a treaty.

It is for Australian Parliaments, however, to change Australian law to implement treaty obligations.

For these reasons, on 25 February 1997, the Minister for Foreign Affairs and the Attorney-General made a joint statement which set aside legitimate expectations arising out of entry into treaties.

This was a clear expression by the Executive Government of the Commonwealth of a contrary intention referred to by the majority of the High Court in the Teoh case.

The joint statement of 25 February 1997 replaced a joint statement which was made by the previous Government on 10 May 1995.

However, the 10 May 1995 joint statement continues to apply to decisions made between the date of that statement and 25 February 1997.

At that time, we also announced that legislation would be introduced into the Parliament to displace the legitimate expectation in administrative law which would otherwise arise out of the entry into treaties.

The Administrative Decisions (Effect of International Instruments) Bill 1997 fulfilled that undertaking and passed the House of Representatives on 26 June 1997.

It was introduced into the Senate on 27 June 1997. The 1997 Bill was not debated by the Senate prior to the proroguing of Parliament before the 1998 election and it lapsed with the calling of the election.

The text of the present Bill is identical to the 1997 Bill.

It is a clear statutory indication to the contrary as discussed by the High Court in the Teoh case.

It gives this Parliament a role in restoring the effect of treaties in Australian law that which they had prior to the High Court’s decision in the Teoh case.

In passing this legislation, the Parliament will also be reasserting its proper role in changing Australian law to implement treaties.

Indeed, the Bill complements the treaty reforms this Government initiated on coming into office.

One of the principal aims of those reforms was to enhance the role of Parliament in scrutinising treaty action by the Executive Government.

Those reforms included: the tabling of treaties in Parliament prior to the Government taking action to fully become a party to a treaty; the preparation and tabling of National Interest Analyses for each treaty to which it is proposed Australia become a party; and the establishment of the Joint Standing Committee on Treaties to examine treaties.

These measures, giving the Parliament a proper role in the treaty-making process, could have been introduced by the previous Government.

However, it was too intent on keeping Parliament in the dark about treaties.

This veil of secrecy now has been lifted.

I turn now to the terms of the Bill itself.

The Bill will restore the situation which existed before the Teoh case.

That is, if there are to be changes to procedural or substantive rights in Australian law resulting from adherence to a treaty, they will result from Parliamentary and not Executive action.

Indeed, this proper role of Commonwealth, State and Territory legislatures is emphasised in the fifth paragraph of the Preamble to the Bill.

Clause 5 of the Bill gives effect to the statement by the majority of the High Court that a legitimate expectation arising out of entry into a treaty by Australia can be displaced by executive or legislative action.

Clause 5 provides that no legitimate expectation providing a basis at law for challenging an administrative decision can arise out of the fact that Australia is bound by an international instrument or the fact that an enactment reproduces or refers to such an instrument.

The term ‘international instrument’ is defined in clause 4 and covers, amongst other types of instruments, treaties and conventions.

To fall within the definition, the instrument must be binding at international law.

The definition also covers parts of such instruments.

The terms ‘administrative decision’ and ‘enactment’ are also defined in clause 4.

The Act will apply to administrative decisions made after it enters into force.

However, the term ‘administrative decision’ extends to an administrative decision reviewing, or determining an appeal in respect of, a decision made before the commencement of the legislation.

The 25 February 1997 Joint Statement will continue to apply to decisions made between 25 February 1997 and the date of entry into force of this Bill.
It is unclear from the decision of the High Court in Teoh's case whether State and Territory administrative decisions may be the subject of legitimate expectations arising out of treaties. This uncertainty could not be allowed to remain. Therefore, the Bill is expressed to extend to State and Territory decisions.

Since ratification of a treaty is a Commonwealth executive action, it is entirely appropriate for the Commonwealth to legislate to control the effect of that action in Australian domestic law generally. The States and Territories support Commonwealth legislation on this issue. However, they differ in their views on whether the Commonwealth legislation should be applied to State and Territory decisions. Therefore, clause 6 of the Bill contains a 'roll-back' provision. This excludes the operation of the Bill in relation to State or Territory administrative decisions where the relevant State or Territory legislature passes, or has passed, legislation having the same or similar effect as this Bill.

This means that it will be open to a State or Territory to have its own legislation of similar effect. South Australia enacted such legislation in 1995. Therefore, the Bill will have no application to State administrative decisions in South Australia. Nor does the Bill prevent any State which wishes to do so from passing a law or taking its own executive actions in relation to treaties accepted by Australia which might themselves create a legitimate expectation.

In that case, the legitimate expectation would flow from State law, and not the Commonwealth executive act of ratification. Clause 7 puts it beyond doubt that Parliament is not affecting the way in which treaties may otherwise have relevance in Australian law.

Let me mention a number of existing uses covered by clause 7.

The Bill will not affect the operation of treaty provisions which have been incorporated into Australian law. For example, the Bill does not affect the operation of procedures available under the Human Rights and Equal Opportunity Commission Act 1986.

Thirdly, the Bill does not affect the operation of legislation which provides that compliance with an international instrument is a relevant consideration in making an administrative decision. For example, under the Air Navigation Regulations, compliance with Australia's bilateral air services agreements is a relevant consideration in making various decisions.

Fourthly, the Bill does not make compliance with an international instrument an irrelevant consideration in making an administrative decision where that would otherwise be consistent with the scope and object of the particular statutory provision.

Fifthly, the Bill will not affect the use by courts of international law in the form of treaties in the interpretation of statutes.

Finally, it will not affect their use of international law as a source of guidance for the development of the common law.

This use of treaties as one source for the development of the common law is to be distinguished from the High Court's finding that treaties gave rise to legitimate expectations in administrative law. It is the legitimate expectation aspect of the Teoh decision with which this Government and the previous Government disagreed.

That is the aspect addressed by this Bill. I note that the Senate Legal and Constitutional Legislation Committee reported on the 1997 Bill. While the majority recommended that the Bill be passed as introduced, the reports of the minority, including Opposition Senators, opposed the Bill.

This change of position on the part of the Opposition is monumental.

When the 1997 Bill came before the House of Representatives it was supported by the Opposition. Furthermore, the strength of feeling which the Opposition, when in Government, demonstrated on this issue was no more evident than in the speech given by the then Minister for Foreign Affairs and Trade and former Member for Holt to the Mason and Beyond Conference in September 1995.

He stated: 'My lack of enthusiasm for Teoh is not especially a function of my lack of appreciation of how it has narrowed the gap between international and domestic law: rather it is a function of my belief that
Teoh creates a decision-making environment that is unworkable in practice, and that it goes further than the court was compelled to go by any legal principle, or should have gone, in upsetting the balance between Executive, Legislature and Judiciary.

The pre-Teoh balance was a delicate one, to be sure, but nonetheless one perfectly attractive in theory and workable in practice'.

There can be no doubt those words are his own. They encapsulate the reasons why this legislation is necessary in order to restore the proper role of this Parliament in the implementation of treaties.

I commend the Bill to the Senate.

PRIMARY INDUSTRIES (EXCISE) LEVIES AMENDMENT BILL 2000

The purpose of this Bill is to remove a sunset clause (that is, clause 7) from Schedule 18 to the Primary Industries (Excise) Levies Act 1999.

The sunset clause of Schedule 18 to the Act provides that Schedule 18 to the Act ceases to be in force at the end of 30 June 2000.

Schedule 18 to the Act provides for the imposition of levy on transactions involving sheep, lambs and goats. The levy raises around $16 million per annum. Those funds are paid into consolidated revenue and then disbursed to a number of purposes for the benefit of the sheep, lamb and goat industries. Those purposes are marketing, research and development, and animal health.

Without an amendment to or a repeal of the sunset clause, there will be no statutory basis, after the end of 30 June 2000, by which levies can be raised for the above purposes.

Shortly after the levy became effective on 1 July 1998, the then Minister for Primary Industries and Energy, the Hon John Anderson MP, wrote to the Sheepmeat Council of Australia advising that he required the Council to initiate a review of the transaction levy mechanism and provide an agreed industry recommendation on the most appropriate mechanism to apply from 1 July 2000.

The Sheepmeat Council after extensive consultation has provided Government with a report, recommending that no change be made to the current levy regime and that these arrangements continue beyond the end of 30 June 2000. Accordingly, to give effect to industry’s recommendation, there is a need to repeal the sunset clause.

The inclusion of the sunset clause came about as a consequence of a Report dated 25 November 1997 by the Senate Rural and Regional Affairs and Transport Legislation Committee on the Livestock Transaction Levy Bill 1997. That Committee, in its Report, found amongst other things that there was considerable division of opinion on the scheme of the transaction levies proposed by the Live-stock Transaction Levy Bill 1997, particularly between producers in the sheepmeat industries and those in the wool-producing industries.

The Livestock Transactions Levy Bill 1997 was amended to introduce the sunset clause in order to prompt a review.

(The Livestock Transaction Levy Act 1997 was repealed by the Primary Industries Levies and Charges (Consequential Amendments) Act 1999 but replaced, in effect, by Schedule 18 to the Primary Industries (Excise) Levies Act 1999 as part of a wider portfolio levies and charges legislation rationalisation exercise.)

Whilst the divisions referred to in the above Senate Report may still be in existence, it appears that the issues have been comprehensively addressed in the Sheepmeat Council’s Report. A proposal for a levy rebate for lambs used for wool production was considered and found to be impractical under Agriculture, Fisheries and Forestry-Australia’s Levies Management Unit’s levies collection legislation. It would weaken compli-
cance, complicate the audit process and significantly increase administration costs.

In any event, there was no evidence of opposition from the peak wool growing organisation, the Wool Council of Australia, who chose not to make submission to the Sheepmeat Council Review of the levy arrangements.

Further, wool producers receive the benefit of the levy relief arrangements that are in place from 1 September 1999 until 31 August 2001. The levy relief arrangement reducing the levy from 2% to 1% on lamb sales was introduced by the Government in response to the tariff rate quota regime imposed by the United States government commencing on 22 July 1999.

The repeal of the sunset clause will allow the continuation of the levy mechanisms in accordance with the wishes of industry.

PETROLEUM EXCISE AMENDMENT (MEASURES TO ADDRESS EVASION) BILL 2000

The amendments proposed in this Bill improve the government’s ability to address excise evasion occurring through fuel substitution. This Bill facilitates prosecutions for fuel substitution offences by removing some technical difficulties with the legislation and allowing use of evidentiary certificates in prosecutions.

This Bill also ensures that a broader range of imported products that can be used in fuel substitution activities, such as imported chemical grade...
toluene, are covered by this legislation. The record keeping provisions of the fuel substitution legislation are also extended to cover these products.

Special provisions in the Excise Act 1901 allow changes to the excise tariff to be made by gazetting a proposal or tabling a proposal in parliament.

Over time specific tariff items have been included in a variety of legislation. These references restrict the government’s ability to quickly amend the tariff by gazettal or proposal.

As some forms of excise evasion through fuel substitution occur when parties systematically exploit weaknesses in the excise tariff structure any restriction in the government’s ability to quickly amend the tariff is a restriction on the government’s ability to quickly address fuel substitution.

This Bill removes those specific tariff items and replaces them with generic descriptions.

These changes do not affect the way excise is levied or impose an additional excise liability - they simply give back to the government the power to quickly amend the tariff to protect the revenue.

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

I commend the Bill.

LOCAL GOVERNMENT (FINANCIAL ASSISTANCE) AMENDMENT BILL 2000

The Local Government (Financial Assistance) Act 1995 is the basis upon which Commonwealth financial assistance is provided to local government through the States and Territories. This financial assistance has two components: general purpose funding (section 9 payments); and local roads funding (section 12 payments).

Under this Act local government is estimated to be entitled to around $1.32 billion in financial assistance grants for 2000–01. Each year, the Treasurer determines the escalation of local government assistance by having regard to movements in the level of the financial assistance grants and special revenue assistance paid to the States.

Under the Government’s revised tax reform package, the Commonwealth retains responsibility for providing financial assistance grants to local government. It is necessary to amend the Local Government (Financial Assistance) Act 1995 to remove the nexus with States’ financial assistance grants, as these will be abolished from 1 July 2000 as a result of the Intergovernmental Agreement on the Reform of Commonwealth-State Financial Relations (the Agreement). A key feature of the Agreement is the payment of all GST revenue to the States.

The amendment allows local government financial assistance grants to be maintained on a real per capita basis.

The matters to which the Treasurer must currently have regard in making an adjustment to the escalation factor will be nullified by the reforms to Commonwealth-State financial relations and are therefore deleted. This will leave a general discretion as in the present Act. However, under the amendments, the discretion can be used only if the Treasurer considers there are special circumstances to make the adjustment. In making a decision to adjust the factor, the matters the Treasurer is to have regard to are the objects of the Act, set out in section 3, and any other matters he thinks relevant.

Under clause 17 of the Agreement, the States and Territories agreed, inter alia, that local government would operate as if it were subject to the GST legislation.

As undertaken in clause 18 of the Agreement, the Commonwealth is legislating to require the States and the Northern Territory to withhold from the financial assistance grants, for any local government authority in breach of clause 17 of the Agreement, a sum representing the amount of any unpaid voluntary or notional GST payments. Amounts withheld by the States and the Northern Territory are to be paid to the Commonwealth.

The amendment Bill will also clarify the roles of the Minister and Statistician relating to calculation of projected population figures used in estimating State entitlements. The Statistician will prepare the estimates on the basis of assumptions specified by the Minister, after consulting the Statistician. The Statistician requested this amendment.

WORKPLACE RELATIONS AMENDMENT BILL 2000

An enduring characteristic of the Howard Coalition government has been our commitment to policy-making in the national interest.

Our workplace relations policies are designed to benefit both the national interest and our workplaces as a whole, not narrow sectional interests.

We are transforming what was for decades a centrally controlled industrial relations system into one where outcomes are put above process, where cooperation substitutes for backroom deals, and where agreements between employers and employees at the workplace level have primacy over the intervention of third parties.

Two broad goals underpin these reforms.
The first is to ensure that Australia has a workplace relations system that sustains and enhances our living standards, our jobs, our productivity and our international competitiveness.

The second is to promote a more inclusive and cooperative workplace system, one that accepts the realities of a diverse, mobile and skilled labour force – where most employers and employees are capable of making agreements on wages, conditions, and work and family responsibilities subject to a safety net of minimum standards.

Achieving these goals has required structural reform to the system.

As the recent Budget papers noted, international authorities have recently concluded that “structural reforms have raised Australia’s sustainable productivity growth, thereby enhancing the growth potential of the economy”.

The result has been lower unemployment and jobs growth, with 699,600 new jobs created in workplaces since March 1996 and an unemployment rate today of 6.8% – and the flow-on benefits to families from those new jobs.

One of the structural reforms that has underpinned these outcomes is the system of genuine workplace or enterprise bargaining.

The overwhelming majority of Australian employees in the workplace relations system are now employed under enterprise or workplace agreements – whether collective or individual, whether under federal or state laws.

This system of enterprise bargaining has produced mutual benefits for workers, employers and the national interest, on almost every criterion – better wages, relevant conditions, higher productivity, more jobs, increased competitiveness, greater workplace participation and lower dispute levels. It has been consistent with the economic and social goals already mentioned.

Significantly, its outcomes have been far superior to those of the centrally controlled system that preceded it.

Evidence that enterprise bargaining is central to the national interest lies in the fact that it has, since the early 1990’s, and until recently, been a policy attracting bipartisan political and industrial support at federal and state levels in every Australian jurisdiction.

In fact it was the Keating Labor government and the ACTU that both adopted it as policy in their Accord Mark VI in 1990, and pursued it vigorously in industrial tribunals, legislatively and publicly.

For all of the deficiencies of the Keating Labor government, for all of the inadequacies of the bargaining model implemented at that time, Labor knew what we all know – that the enterprise bargaining system was a structural reform in the national interest.

Its importance is underscored in the Budget papers which state the position clearly. “The strongest productivity growth in the private sector has also been in those industries dominated by enterprise bargaining – mining, finance and insurance and manufacturing” (Budget Strategy and Outlook 2000-1 Budget Paper No. 1).

Yet the enterprise bargaining system is today under serious threat, politically and industrially. The ACTU leadership and certain unions have opportunistically turned their face against it by supporting a return to industry wide pattern bargaining.

Enterprise bargaining is the system where wages and conditions are determined by genuine negotiation at each enterprise through workplace participation by management, the workforce and their representatives, with outcomes based on local circumstances and mutual interests.

Pattern bargaining on the other hand is the practice whereby unions demand common outcomes in respect of terms and conditions of employment across a swathe of employers or an industry in lieu of genuine enterprise bargaining, and then use the statutory protected action provisions to legitimise industrial action in pursuit of such claims.

Pattern bargaining is designed to undermine Australia’s successful enterprise bargaining system and return workplace relations outcomes to a centrally controlled one-size-fits-all approach.

This is currently the case in one of Australia’s major industry sectors - the manufacturing industry – an industry where business welfare and an employee’s job security is closely allied to international competitiveness and productivity growth.

Pattern bargaining is a manipulation of the legislative right to enterprise bargaining provided for by the Workplace Relations Act 1996 (the Act) and by the previous Labor government’s industrial legislation. Under pattern bargaining, union officials making backroom deals assume control over multiple outcomes, not by participative workplace negotiation involving local circumstances and those who have most at stake – employers and employees.

This Bill is essential to maintain the integrity of the enterprise bargaining system in Australia, and its mutually beneficial outcomes.

The Coalition indicated in our 1998 workplace relations policy that we would improve the legislative framework to distinguish between protected
action in pursuit of genuine bargaining, and illegitimate bargaining and related industrial action.

We are now acting on that undertaking.

Employers and employees have clearly embraced enterprise bargaining in the past decade. More than 17,000 collective agreements have been formalised under the federal system alone, with thousands more under State bargaining systems, as well as individual workplace agreements under federal and some State laws. More than 80% of all federal award employees are covered by enterprise bargaining agreements. Agreements made directly between employers and their employees, with limited third party involvement, are becoming increasingly used as a vehicle for better wages and flexible and innovative employment conditions and work practices.

Threats to enterprise agreements are not confined to the manufacturing industry. Manipulation of the legislative bargaining regime, if not contained, is capable of flowing onto other industry sectors where like minded union officials seek to dictate wage and condition outcomes. The manufacturing industry campaign, which is already underway and escalating in Victoria from 1st July presents a serious threat to the workplace relations system. Such an outcome would compromise many of the gains made in that and other sectors since the introduction of enterprise bargaining nearly a decade ago. It would not be in the national interest.

This is a matter that calls for immediate remedial legislation.

The provisions contained in this Bill will:
Qualify access to the right to take protected industrial action so that where, on application by a negotiating party, the Australian Industrial Relations Commission finds that a party is engaging in pattern bargaining (as defined) it must terminate the bargaining period, rendering industrial action unprotected at law;

enhance the effectiveness of the Australian Industrial Relations Commission’s power to issue orders that unlawful industrial action cease or not occur;
give the Australian Industrial Relations Commission a power to order cooling-off periods in respect of protected industrial action where this will assist the resolution of matters in dispute;

protect existing rights to pursue common law remedies in response to unlawful industrial action in Supreme Courts without additional litigation in the form of anti-suit injunctions being sought from or issued by the Federal Court; and

make other minor or technical amendments necessary for the effective operation of the industrial action and compliance provisions of the Act.

It is important to note that these substantive amendments in the Bill relating to pattern bargaining, cooling off periods and unprotected industrial action provide an important determinative role for the Australian Industrial Relations Commission, as the independent arbiter on disputed matters. In this way, the Bill recognises a proper and enhanced jurisdiction for the Commission, in addition to its existing functions.

Orders relating to unprotected industrial action

The present section 127 of the Act was introduced to provide a timely remedy for parties affected by unprotected industrial action. This section empowers the Commission to issue orders to stop or prevent industrial action. Whilst section 127 has generally proved to be an effective mechanism, delays in the making or enforcement of section 127 orders have in some cases had the negative consequence of extending the period during which businesses are exposed to unprotected industrial action.

The proposed amendments are designed to overcome these problems by amending the processes by which such orders are made. The new provisions will require the Commission to deal with section 127 applications within 48 hours of their lodgement, including the determination of whether the industrial action is or is not protected action.

If the application is unable to be determined within the 48 hours, the Commission is required to issue an interim order to stop or prevent the industrial action, unless to do so would be contrary to the public interest.

Industrial action and pattern bargaining

The definition of pattern bargaining in the Bill means that pattern bargaining is a course of conduct, bargaining or the making of claims in a campaign or part of a campaign that involves seeking common outcomes in respect of wages or other employment conditions. The Commission must be satisfied that two elements exist:
the conduct, bargaining or making of claims is part of a campaign that extends beyond a single business; and

the conduct, bargaining or making of claims is contrary to the objective of encouraging genuine enterprise or workplace agreement making.

A course of conduct or bargaining by an association of employees that extends beyond a single business is taken to be contrary to the objective of
genuine enterprise bargaining unless the Commission is satisfied that all of the common elements sought are of such a nature that they are not capable of being pursued at the single business level. An organisation of employees would not be considered to be engaged in pattern bargaining merely because it is seeking terms and conditions of employment which would give effect to a Full Bench decision establishing national standards. This approach will ensure that bargaining, and in particular protected industrial action taken in support of bargaining, is focussed on mutually beneficial outcomes at the enterprise level.

Limiting protected industrial action to persons directly involved

Aising from the operation of the existing Act, the Government’s attention has been drawn to circumstances where unions have sought to involve all their members who are employed by an employer negotiating an agreement in taking protected action irrespective of whether the employee would be subject to the proposed agreement. This is not the intention of the 1996 Act.

The Bill proposes amendments that would ensure that protected action during negotiations for a certified agreement are only available to those to whom the proposed agreement will apply. In practice, the effect of these proposed changes will be that industrial action will not have immunity if it is taken in concert with any person or organisation of employees that is not protected in respect of industrial action being taken.

Court to determine if action is protected action

The proposed provisions would expressly confer jurisdiction on the Federal Court to determine whether industrial action is protected, and, if so, whether the industrial action is covered by the immunity provided by the Act.

Although the Federal Court already has such jurisdiction, questions have arisen in the operation of the Act as to whether its jurisdiction is exclusive of the jurisdiction of State or Territory Courts. The proposed amendments will clarify that the Federal Court’s jurisdiction in respect of these matters is not exclusive.

In addition, proposed provisions will protect existing rights to pursue common law remedies in response to unlawful industrial action in Supreme Courts without additional litigation in the form of anti-suit injunctions being sought from or issued by the Federal Court.

Power to order cooling-off periods

Under the existing statutory scheme, the Commission has used existing provisions to order a form of cooling-off period to provide a circuit breaker during particularly difficult bargaining disputes. Such decisions have been made in the best interests of the parties and should be given specific statutory recognition.

The Bill does that. Under the proposed amendments the Commission would suspend a bargaining period for a specified period, on request of one of the negotiating parties, if it were satisfied that the suspension would assist parties to resolve their differences, provided that the suspension would not be contrary to the public interest. Industrial action taken in relation to a proposed agreement while the bargaining period is suspended would not be protected action.

This Bill is necessary to ensure that the legislative framework relating to enterprise bargaining and industrial action is properly meeting its intended objectives. Without this remedial legislation, the checks and balances in the system which regulate the rights and responsibilities of employers, employees, unions and employer associations will be undermined by illegitimate bargaining and immunity for illegitimate industrial action.

That cannot and should not be allowed to occur. The national interest, as well as the mutually beneficial outcomes that the enterprise bargaining system is providing Australian workplaces must remain paramount.

In introducing this Bill it is appropriate to note the persuasive evidence and submissions made by the Australian Industry Group and its members to the Senate Employment, Workplace Relations, Small Business and Education Legislation Committee last September. In conjunction with other business organisations, the Ai Group has clearly identified the need for this remedial legislative action in order to maintain the proper conduct of workplace relations in the manufacturing sector. I am therefore hopeful that this legislation will be in place by 1st July 2000.

Before concluding, I should also acknowledge the constructive discussions the government has had with the Australian Democrats on this issue. In their minority Senate report last November, the Democrats indicated that government proposals at that time were deficient, but that the matter justified further consideration. This Bill reflects a range of revised government proposals. Those revisions, whilst still addressing the problem of pattern bargaining and associated industrial action, take into account more fully both evidence given to the 1999 Senate committee, as well as the policy thrust of the Australian Democrats – particularly their concern for a proper role for the Commission in these matters.
Debate (on motion by Senator Quirke) adjourned.

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

NEW BUSINESS TAX SYSTEM (ALIENATION OF PERSONAL SERVICES INCOME) BILL 2000

NEW BUSINESS TAX SYSTEM (ALIENATED PERSONAL SERVICES INCOME) TAX IMPOSITION BILL (No. 1) 2000

NEW BUSINESS TAX SYSTEM (ALIENATED PERSONAL SERVICES INCOME) TAX IMPOSITION BILL (No. 2) 2000

First Reading

Bills received from the House of Representatives.

Motion (by Senator Ellison) agreed to:

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

Bills read a first time.

Second Reading

Senator ELLISON (Western Australia—Special Minister of State) (4.34 p.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

NEW BUSINESS TAX SYSTEM (ALIENATION OF PERSONAL SERVICES INCOME) BILL 2000

The New Business Tax System (Alienation of Personal Services Income) Bill 2000 will improve the integrity and fairness of Australia’s taxation system. The Government announced on 11 November 1999 that it would proceed to legislate in relation to the alienation of personal services income, following a recommendation from the Review of Business Taxation which was chaired by Mr John Ralph AO.

This bill will prevent individuals reducing their tax by diverting the income generated by their personal services to a company, partnership or trust and limit work–related deductions available in those cases (and to an individual contractor in similar circumstances).

The Ralph Review of Business Taxation noted that the practice of the alienation of personal services income posed a growing threat to the income tax base. In addition, the Review noted that it was clearly inequitable that some taxpayers should be reducing their tax liability by using interposed entities or claiming excessive deductions, while other taxpayers also deriving personal services income, including ordinary wage and salary earners, pay the correct amount of tax.

The measures contained in this bill implement the Ralph Review’s recommendations to address the alienation of personal services income. Rules are introduced dealing with the income tax treatment of the personal services income of interposed entities and individuals.

Those rules will not apply where the individual or the entity is conducting a personal services business.

Individuals and interposed entities who receive at least 80 per cent of their personal services income from one source will come within the provisions of the bill, unless the Commissioner makes a determination that the income is from conducting a personal services business.

The Commissioner’s determination that a business is a personal services business may be given on one of four grounds:

- having two or more unrelated clients;
- having one or more employees; or
- having a separate business premises; or
- that the individual or entity is producing a result, supplies their tools of trade and is liable for the cost of rectifying defective work.

Legitimate contractors, for example those operating in the building industry, who are contracted to produce a result, supply their own tools or equipment and are liable for the cost of rectifying any defective work, will be covered by this last test.

The object of these rules is to treat earnings from work in the same way under the income tax law, regardless of the legal structure used by the income earner.

This bill only deals with issues of taxation.

Specifically, the bill addresses the income tax treatment of personal services income and related deductions of an individual or entity earning personal services income.

This bill does not affect the legal status of an interposed entity or deem an individual to be an employee for the purposes of any other legislation or industrial award.

There is nothing in this bill which requires, or would require, an individual or entity earning
personal services income to alter their current legal relationship between themselves and the source of their income.

Personal services income may continue to be earned through an interposed entity, with no further tax consequences, if the income is not alienated and there is compliance with the other general provisions of the tax laws. This is the situation under the current tax laws and will continue to apply under the provisions of this bill.

The new rules in this bill will:
- treat income obtained by an interposed entity from the rendering of an individual’s personal services as the income of the individual, unless the entity pays that income promptly to the individual as salary; and
- limit deductions that the interposed entity is entitled to offset against the amount that is treated as the individual’s income; and
- limit the deductions that an individual can offset against their personal services income.

Individuals who are entitled to claim business related deductions under current tax arrangements including insurance, workers compensation and the costs of obtaining work, will still be entitled to claim these deductions, irrespective of whether they are a personal services business.

The measure includes collection arrangements as part of the Pay As You Go withholding system to ensure that tax is paid in a timely way where income obtained by an interposed entity is attributed to the individual worker.

The measures only affect the tax obligations of the individual or entity earning personal services income and in some circumstances, their associates. The measure does not impose any additional obligations - including withholding obligations - on the acquirer of personal services.

The personal services income measure will apply to assessments for the 2000-01 income year and later income years. The accompanying collection arrangements will apply to payments received by interposed entities from 1 July 2000.

The Government has also included in the bill a specific transitional provision to minimise the compliance burden associated with moving to the new tax system.

Under this transitional provision, the Commissioner of Taxation will be able to make a declaration that has the effect that the regime will not apply to a class of contractors under the Prescribed Payment System who have payee declarations with the Commission as of today. The declaration will apply for a period of two years, ending in July 2002.

In designing this transitional provision, the Government has had regard to the fact that taxpayers under the Prescribed Payment System are currently subject to withholding arrangements and are specifically recognised as independent contractors under the tax laws. The Government has also had regard to the logistics of the Commissioner being able to process a potentially large number of requests for an individual determination prior to 1 July 2000.

The transitional arrangement will remove any additional compliance burden from the new rules that independent contractors currently in the Prescribed Payment System face in transferring to the new tax system.

The legislation to implement the personal services income regime includes two tax imposition bills to safeguard the legislation against constitutional challenge.


I commend the Bill.

NEW BUSINESS TAX SYSTEM (ALIENATED PERSONAL SERVICES INCOME) TAX IMPOSITION BILL (NO. 1) 2000

This Bill is part of a package of 3 Bills that provides legislation to give effect to the Government’s announcement of 11 November 1999 that it would implement the recommendations of the Ralph Review of Business Taxation regarding the alienation of personal services income.

The Government has decided that it is prudent to have 2 Tax Imposition Bills to safeguard the legislation against possible constitutional challenge.

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

I commend the Bill.

NEW BUSINESS TAX SYSTEM (ALIENATED PERSONAL SERVICES INCOME) TAX IMPOSITION BILL (NO. 2) 2000

This is the last of the Bills that the Government is introducing to implement a measure to address the alienation of personal services income and in doing so improve the integrity and fairness of the Australian taxation system.

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

I commend the Bill.

Debate (on motion by Senator Quirke) adjourned.
First Reading

Bills received from the House of Representatives.

Motion (by Senator Ellison) agreed to:

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

Second Reading

Senator ELLISON (Western Australia—Special Minister of State) (4.35 p.m.)—I move:

That these bills be now read a second time.

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

Leave granted.

The speeches read as follows—

SALES TAX (CUSTOMS) (INDUSTRIAL SAFETY EQUIPMENT) BILL 2000

The package of Bills introduced today provides legislation to give effect to the Government’s announcement of 5 October 1999 in relation to sales tax exemption for industrial safety equipment. Certain goods such as masks, respirators, shields, goggles, visors, helmets and machine guards are exempt from sales tax as items of industrial safety equipment. The kind of equipment intended to be exempt as industrial safety equipment has always been narrow. However, two decisions of the Federal Court have held that the scope of the exemption was broadened when the sales tax law was streamlined from 1993.

As a result of these decisions, it is possible that a wide range of goods could now qualify for sales tax exemption as industrial safety equipment. Most of this equipment is only used to a minor extent by persons engaged in industrial operations. The equipment is mainly used outside industrial operations and does not have a primary purpose of protecting persons engaged in industrial operations.

The Government announced on 5 October 1999 that the sales tax law would be amended so that to qualify for sales tax exemption, goods would need to be of a kind that were mainly used to protect persons engaged in industrial operations. Refund claims lodged on or after 5 October 1999 which do not meet this criteria would be denied. The Government was concerned that refunds should not result in windfall gains for retailers who have passed the cost of the sales tax on to their customers. Accordingly, refund claims lodged before 5 October 1999 that meet the requirements of the existing exemption would only be paid where it can be shown that the benefit of the credit has passed to the end consumer.

The package of Bills introduced today will achieve the Government’s decision by modifying the sales tax law from commencement of the streamlined sales tax law in 1993 to ensure that the law reflects the intention of Parliament at that time, and thus will prevent significant risk to the sales tax revenue. Liability and appeal rights of taxpayers will be adjusted to achieve the date of effect of 5 October 1999.

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

I commend the Bill.

SALES TAX (EXCISE) (INDUSTRIAL SAFETY EQUIPMENT) BILL 2000

This Bill is part of a package of 4 Bills that provide legislation to give effect to the Government’s announcement of 5 October 1999 in relation to the sales tax exemption for industrial safety equipment. Three modification Bills are necessary because of the Constitutional requirement that a law imposing taxation shall deal only with one subject of taxation and that laws imposing excise or customs duties deal only with those duties.

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

I commend the bill.

SALES TAX (GENERAL) (INDUSTRIAL SAFETY EQUIPMENT) BILL 2000

This Bill is part of a package of 4 Bills that provide legislation to give effect to the Government’s announcement of 5 October 1999 in relation to the sales tax exemption for industrial safety equipment. Three modification Bills are necessary because of the Constitutional requirement that a law imposing taxation shall deal only with one subject of taxation and that laws imposing excise or customs duties deal only with those duties.

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

I commend the Bill.

SALES TAX (INDUSTRIAL SAFETY EQUIPMENT) (TRANSITIONAL PROVISIONS) BILL 2000

This Bill is part of a package of 4 Bills that provide legislation to give effect to the Government’s announcement of 5 October 1999 in relation to the sales tax exemption for industrial safety equipment. Three modification Bills are necessary because of the Constitutional requirement that a law imposing taxation shall deal only with one subject of taxation and that laws imposing excise or customs duties deal only with those duties.

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

I commend the Bill.
SALES TAX (INDUSTRIAL SAFETY EQUIPMENT) (TRANSITIONAL PROVISIONS) BILL 2000

This Bill is part of a package of 4 Bills that provide legislation to give effect to the Government’s announcement of 5 October 1999 in relation to the sales tax exemption for industrial safety equipment.

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

I commend the Bill.

Debate (on motion by Senator Quirke) adjourned.

ASSENT TO LAWS

Messages from His Excellency the Governor-General were reported informing the Senate that he had assented to the following laws:

A New Tax System (Fringe Benefits) Bill 2000
A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Amendment Bill 2000
Medicare Levy Amendment (CPI Indexation) Bill 1999
Customs Tariff Amendment Bill (No. 3) 1999
Therapeutic Goods Amendment Bill (No. 2) 2000
Jurisdiction of Courts Legislation Amendment Bill 2000
Taxation Laws Amendment Bill (No. 2) 2000

NEW BUSINESS TAX SYSTEM (ALIENATION OF PERSONAL SERVICES INCOME) BILL 2000

NEW BUSINESS TAX SYSTEM (ALIENATED PERSONAL SERVICES INCOME) TAX IMPOSITION BILL (No. 1) 2000

NEW BUSINESS TAX SYSTEM (ALIENATED PERSONAL SERVICES INCOME) TAX IMPOSITION BILL (No. 2) 2000

Report of Economics Legislation Committee

Senator COONAN (New South Wales) (4.36 p.m.)—On behalf of Senator Gibson, I present the report of the Senate Economics Legislation Committee on the provisions of the New Business Tax System (Alienation of Personal Services Income) Bill 2000 and two related bills, together with the Hansard record of the committee’s proceedings, submissions and additional information received by the committee.

Ordered that the report be printed.

COMMITTEES

Environment, Communications, Information Technology and the Arts References Committee

Report

Senator ALLISON (Victoria) (4.37 p.m.)—I present the report of the Environment, Communications, Information Technology and the Arts References Committee on the state of the environment of Gulf St Vincent, together with the Hansard record of the committee’s proceedings, submissions and additional information received by the committee.

Ordered that the report be printed.

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

Leave granted.

Senator ALLISON—I move:

That the Senate take note of the report.

The Senate referred this inquiry into Gulf St Vincent to the Environment, Communications, Information Technology and the Arts References Committee on 26 August last year. The reference reflected concerns over the environment of Gulf St Vincent and the quality of the gulf’s waters. Gulf St Vincent is the smaller of the two gulfs in South Australia and one which, I might say, was not at all familiar to me prior to embarking on this inquiry. However, having done so, I can say that many of the issues raised were similar to those that might be raised anywhere else in Australia where we have cities close to the coast—and that is most of our cities. It is a valuable asset to the state. In recent years there has been greater awareness of environmental issues facing Gulf St Vincent, but the inquiry found that more needs to be done to protect the gulf from further environmental degradation. In this respect, one of the main recommendations of the report calls for an increase in the level of resources currently available for raising awareness of the environmental threats to the gulf from all levels of government. Further, governments need to increase resources for community education
The committee acknowledges that the role of the South Australian Environment Protection Agency is paramount to the protection and enhancement of the gulf environment. The committee therefore urges the South Australian government to give enhanced statutory powers and greater flexibility and independence to the EPA to enable the latter to take appropriate action to protect Gulf St Vincent more effectively. In the view of the committee, the Environment Protection Agency could achieve more positive results if it were given enhanced powers to act independently of government in environmental matters. The committee was persuaded by the argument put forward by South Australian environmental groups that South Australia should update its coastal management legislation. The committee notes that other states have already updated their equivalent legislation and recommends that the South Australian government consider this option.

A number of the report's recommendations call for increased Commonwealth funding, especially in the areas of strategic planning, monitoring and evaluation of programs related to the gulf. In particular, the committee recommends that the Commonwealth provide funding through the Coastal and Marine Planning Program for the Environment Protection Agency of South Australia to develop a planning strategy for Gulf St Vincent. Increased Commonwealth funding is also sought for the Adelaide Coastal Waters Study. In addition, the committee recommends that the Commonwealth and South Australian governments increase funding for the monitoring and evaluation of programs aimed at cleaning up the waters and environment of the gulf. The South Australian government and local government agencies are of course ideally placed to enhance protection measures in relation to the gulf environment, especially through increased cooperation. To this end, the committee recommends improved mechanisms for liaison between state and local government agencies in relation to the management of gulf waters and the coastal environment of the gulf. The committee also believes that improved communication between representatives of the catchment water management boards, local councils and relevant state government agencies through regular meetings would lead to a more effective, integrated approach to programs aimed at improving water quality and the general environment of the gulf.

The committee also makes some specific recommendations in relation to a number of current environmental concerns affecting the gulf environment. These include an embargo on pumping from wells or bores on coastal dunes and adjacent regions until an investigation into the ground water reservoirs has been undertaken, making the licence to be issued to the Pelican Point power station conditional on measures being taken to prevent thermal pollution, carrying out an independent assessment of the effects and future potential of prawn fishing in the Gulf St Vincent area, and prohibiting the use of tributyl tin on small craft.

In conclusion, water quality problems in the gulf are well documented. Many of the problems are impacting on the gulf and even the solutions are already well known. The Commonwealth has approved $1.9 million in funding for rehabilitation programs and projects in the gulf region over the past three years. Ultimately, however, it is fundamental for the state government to be driving the process of the gulf’s environmental protection and enhancement, and committing to specific tangible outcomes, such as coordinated public education, statutory planning, agency agreements, capital works and enforcement programs. For its part, the Commonwealth should continue, and indeed enhance, its support to the efforts of the state and local governments to protect the environment of Gulf St Vincent.

I would like to thank members of the committee for delivering to the Senate a unanimous report—the second for the day, I understand—and also the committee secretariat: Roxane Le Guen, Stephanie Holden and Angela Mututu. I thank Senator Bolkus for his excellent photograph, which appears on the cover of the report. I also thank those who made submissions. We received some 326 submissions to this inquiry, so there is

programs about possible solutions to some of the pollution and degradation problems.
enormous interest in this matter in the Adelaide region.

Senator BOLKUS (South Australia) (4.43 p.m.)—I also rise to speak on this report. I make it clear from the start that when Senator Allison refers to my photo it is not a photo of me, it is a photo of something much more attractive: a number of dolphins in the gulf. Once again, I think the committee agrees with that assessment. I would like to start by thanking the Senate staff and other senators for the attitude and approach they have taken in respect of this issue and the time they have taken to go through the evidence, to hear the witnesses and to come up with, once again, a unanimous report of this committee.

It is opportune that we are tabling this report into the state of the environment of Gulf St Vincent today, because today is World Environment Day. The subject of this inquiry and report is an example of an unsustainable use of a resource. This morning in Adelaide, which lies on the shores of the gulf, the Deputy Director of the United Nations environment program, Mr Kakakhel, addressed the South Australian Employers Chamber of Commerce and Industry at a World Environment Day breakfast. In a pretty strong speech, calling for leadership from Australia, the Deputy Director told his audience that ‘Australia can reverse the adverse trends’ and warned us that the ‘world is watching Australia’. Speaking to both industry and government, he went on to say:

... if Australia cannot manage to change, how can the rest of the world be expected to change?

That is quite a strong message and one that is quite appropriate here, because this is an example of where governments need to lift their game and deliver on the environment. In the area discussed in the report, the environment department has reduced spending on coasts and marine environments from some $53.3 million last year to some $46.5 million this year. It is expected to fall to only some $3.5 million once the Natural Heritage Trust runs out. This is no way to ensure responsible, long-term environmental protection of our coastline. Although the inquiry was specific to the gulf, there are lessons that we can take from this inquiry to apply to all coastal environments and indeed all environments under pressure. Governments and communities must start to work more closely together. The federal government can and must take a leadership role to reverse adverse trends.

In August last year, I moved that the Senate refer the state of the environment of Gulf St Vincent for inquiry by this committee. I did so for a number of reasons. One, the state of the environment in the gulf is deteriorating rapidly. Two, the community was concerned and continues to be concerned that the environment is not being protected. Three, industry is concerned about decreasing fish stocks. The gulf is essentially Adelaide’s back yard. Like most other South Australians, I am appalled that the decline has been allowed to continue unchecked for so long. The evidence we heard about the current environmental damage and impending decline in Gulf St Vincent was compelling. The current management regime is clearly failing the gulf’s ecosystems and the communities which live and work around the gulf. The gulf is a valuable asset to South Australia and one that we cannot afford to neglect. It supports an abundant aquatic system, provides an important sea link to other cities, produces fish and seafood, and provides the basis for a wide range of recreational activities including attractive beaches and coastal scenery. But it has been the dump for sewage effluent and sludge, industrial effluent, urban run-off, dredging material and other unwanted material.

One problem is that there is no information available on the cost of this pollution to the marine environment from loss of fisheries production, effects on biodiversity, nuisance and loss of amenity and access. There are increasing pressures for its resources between various users. The most significant marine areas under threat in South Australia are in Gulf St Vincent and in particular the Adelaide metropolitan coastal water zone. With Kangaroo Island at its mouth, the gulf takes up to 100 days to flush through and it takes longer for pollutants to disperse. Twice a month, the gulf can experience dodge tides, where tidal movements almost cease. Its highly saline water often acts as an inverse estuary. All of these impacts combine to make the gulf less able to cope with the pres-
sures of stormwater run-off and other discharges. Yet despite these pressures Gulf St Vincent has a range of habitats and regions globally significant for temperate biodiversity. It has a high level of uniqueness of species and contains some of the most extensive areas of temperate mangrove forests and seagrass meadows in Australia. These habitats are of considerable ecological and economic importance. The gulf is used for fishing, shipping, boating, dredging, aquaculture, salt production, tourism, and recreation and heritage. Evidence presented to us during the inquiry illustrated quite clearly that the wide-ranging and serious nature of the impacts currently affecting the gulf cannot be allowed to continue unabated. It is quite clear that ‘business as usual’ is completely inadequate.

We received quite a number of submissions from a diverse range of organisations in South Australia. The Conservation Council of South Australia identified four major ongoing impacts on the ecological sustainability of the gulf. These are pollution, direct habitat damage and destruction, overharvesting of living marine organisations, and introduced marine pests. The Senate committee report that we are tabling today has taken into account much of the evidence, if not all of it. I think it is fair to say that we recommend that there needs to be urgent action taken with an increased funding commitment and a brand new approach to the management of the gulf. As I say, it is clear that ‘business as usual’ is completely inadequate in dealing with the environmental protection of this gulf.

Senator Allison has gone through the various recommendations of the committee extensively. It is worth repeating one of two of them to give them emphasis. The importance of the Commonwealth providing funding for the development of a planning strategy for the gulf cannot be understated. The South Australia government needs to consider an overhaul of the current coastal protection legislation with the introduction of a new coastal and marine planning management act. It is important to ensure that there is an adequate monitoring of activities, and in that respect we have recommended that the South Australian government give enhanced statutory powers, greater flexibility and independence to the South Australian Environment Protection Agency to allow it to take action to protect the environment more effectively. There is a need for increased Commonwealth and state funding to provide for monitoring and program evaluation.

Other recommendations go into the role of AQIS in terms of marine pests from visiting vessels, and the need for additional funding for the Adelaide coastal waters study. It is important, as Senator Allison also indicated, that there be an embargo on pumping from wells or bores on coastal dunes. In the context of the Pelican Point power station, evidence was given to the committee to the effect that if Adelaide was to take care of its dolphin population then it could be as great a tourist attraction to it as the dolphins are to Monkey Mia in Western Australia. That sort of evidence was taken into account and we have made a recommendation that the licence to be issued to Pelican Point power station be made conditional on measures being taken to prevent thermal pollution. Another issue which continues to plague the gulf is the proposed Barcoo outlet. That outlet is something which I am sure the state government in South Australia needs to reconsider. It is almost offensive to go ahead with an outlet which will have already proven negative impacts on Adelaide’s coastal marine environment.

Gulf St Vincent, like the River Murray, I believe, is an example of the failure of both state and Commonwealth governments to recognise and address environmental decline. In this case, the three tiers of government must work together to address issues of stormwater run-off, effluent discharge, marine pests, algal bloom, fish stock decline and the loss of sea grass and mangroves. That loss of sea grass and mangroves is affecting the state of the beaches close to Adelaide.

We believe, and it is the view of the committee, that the Commonwealth can take a lead role in the restoration of the gulf and the setting up of appropriate mechanisms to ensure ongoing protection of the gulf environment. In fact, the state and Commonwealth governments must come together to fully develop a management plan and start implementing solutions. As I say, we cannot con-
continue down the road that we have been going. ‘Business, as usual’ is completely inadequate to handle the gulf’s problems.

Senator BROWN (Tasmania) (4.53 p.m.)—While I am a participating member, I was not able to sit in on the hearings of the Environment, Communications, Information Technology and the Arts Committee. However I have frequently been in Adelaide and on the shores of Gulf St Vincent in recent years and am very aware of the environmental degradation that has taken place there, with the continual erosion of the environmental amenity of that important part of Australia’s ecosystems. I commend the committee on the recommendations, insofar as they have gone. But I want to pick up on two which did not go far enough.

The first is the one that Senator Bolkus just finished with, and that is the business of the Barcoo outlet. Yesterday I sat in on the World Environment Day ceremony in Adelaide. Senator Bolkus was there, but it was essentially a government function and Premier Olsen gave a speech at the start of that. Two things were notable there: firstly, that Coffs Harbour council won the award for excellence. Just five or 10 years ago I was at Coffs Harbour with protestors, including some of the now council members, fighting against a sewage outfall at Look-at-Me-Now headland into the beautiful waters just north of Coffs Harbour. That sewage outfall has been stopped and options have been taken up. That is one of the reasons Coffs Harbour council was getting an award for excellence.

But here we have, in Adelaide, a $17 million proposal to simply pipe stormwater and treated sewage from further up the catchment out of the Patawalonga river system straight through the sand dunes into the sea and swimming environment 200 metres offshore at West Beach. Nothing could be more an affront to the environmental sensitivities of Adelaideans, and indeed Australians, as we go into the 21st century. To simply put in a pipe and allow stormwater to flow out onto the beach untreated whenever there is an overflow is early 19th century technology. That is simply not good enough. The recommendation should have been totally against that Barcoo outflow. Premier Olsen ought to take a leaf out of the book of the Coffs Harbour City Council and implement treatment of stormwater flow, as well as sewage coming down from the Heathfield plant, totally on land in the Adelaide environs. We have the technology. They did not have it 50 years ago but we do have it now. That treatment should be total. The nutrients from the sewage and stormwater ought to be recycled for use on land and the water ought to be returned to the system of the Patawalonga and its outflow, then as clean water to the beach.

The second thing is the AQIS recommendation. The committee recommends that the Australian Quarantine and Inspection Service take an active role in monitoring the possible introduction of marine pests from visiting vessels in the Gulf St Vincent area and appropriate action to minimise the problem. Those are waffle words. It is not just AQIS; it is the minister and the government in control who should be providing the amenity to protect not just Gulf St Vincent but the whole of the Australian littoral from the impact of imported pests which are going to cost this nation billions of dollars. There is reference in this report to the Mediterranean fan worm spreading in Port Phillip and suffocating the marine environment there and spreading to equally suffocate marine environments in South Australia. That happened because a ship brought it in as ballast, but ships sometimes bring in limpet species to Australian waters and it happens because we do not invest, as a nation, in ensuring that ballast water never gets here and that the hulls of ships coming here are clean of imported species. It is not just a matter of billions of dollars being saved in the nation’s future by a more appropriate investment now, but of stopping our marine systems from being marauded and a whole host of species going to extinction.

We are still in an age when, as this report says, we want monitoring and appropriate action to minimise the problem. We want the problem stopped. It can be stopped. If that means that people involved in trade have to pay a very marginal cost to ensure these pests are not brought into the country then commonsense dictates that is what we should be doing. This inquiry has enhanced the fears of South Australians that Gulf St Vincent’s
ecological systems are in a spiral down. It provides some of the answers as to how to stop that but it no doubt will take action at all levels from the community—and it seems local government in South Australia is way ahead of state government and of federal government—to ensure that this degradation and this spiral down are not only stopped but also reversed so that Gulf State Vincent gets the opportunity to have its natural ecosystems restored. That means an economic and job creation plus for the whole region and, as well, a lift in lifestyle values which is going to keep people in the region and, indeed, attract people to the region in the future.

Question resolved in the affirmative.

Employment, Workplace Relations, Small Business and Education Legislation Committee

Senator TIERNEY (New South Wales) (5.01 p.m.)—I present the report of the Employment, Workplace Relations, Small Business and Education Legislation Committee on the provisions of the Workplace Relations Amendment Bill 2000, together with the Hansard record of the committee’s proceedings and submissions received by the committee.

Ordered that the report be printed.

Senator TIERNEY—by leave—I move:

That the Senate take note of the report.

Tonight we are considering the Senate committee report on the Workplace Relations Amendment Bill, involving pattern bargaining. Since 1996 the Howard government has introduced workplace relations policies that are designed to benefit the national interest and workplaces as a whole. The ALP’s workplace relations policies, particularly as seen in the last few months, are designed for sectional interests such as the trade union movement. The government policies are in the national interest. They are transforming a centrally controlled industrial relations system into a system where outcomes are put above process, cooperation is substituted for backroom deals and agreements between employers and employees have primacy over the intervention of third parties.

The two broad goals that underpin these reforms are to ensure that Australia has a workplace relations system that sustains and enhances living standards, our jobs, our productivity and our international competitiveness and to promote a more inclusive and cooperative workplace system that accepts the realities of a diverse, mobile and skilled labour force where most employers and employees are capable of making agreements on wages and conditions, and work and family responsibilities are subject to safety net minimum standards. These goals require structural reforms. This government is again prepared to take the hard yards on industrial relations reform. International authorities, for example the International Monetary Fund, have stated that structural reforms have raised Australia’s sustainable productivity growth, thereby enhancing the growth potential of the Australian economy.

The results we have seen are quite spectacular. Since 1996, 690,000 new jobs have been created. We have had an unemployment rate which in April was 6.8 per cent and we have a flow-on benefit to families and to those who are seeking new jobs. The May 2000 budget papers have indicated that the continuation of the current expansion could be expected to offer a unique opportunity some years hence and again achieve and sustain an unemployment rate not seen in Australia for at least a quarter of a century. This opportunity can only be met with further labour market reform. Enterprise bargaining is the linchpin to that crucial structural reform.

Under enterprise bargaining, wages and conditions are determined by genuine negotiation at each enterprise. They are determined by management, their work force and their representatives. The outcomes are based on local circumstances and mutual interest. An increasing number of Australian employees in the workplace relations system are now employed under enterprise or workplace agreements. More than 17,000 collective agreements have been finalised under the federal system and thousands more under state bargaining arrangements. More than 80 per cent of all federal award employees are covered by enterprise bargaining agreements.

Since the early 1990s until recently, enterprise bargaining has attracted bipartisan sup-
port at the political and at the industrial level, at the state and at the federal level. The Keating Labor government and the ACTU both adopted enterprise bargaining policies in the early 1990s. Labor knew back then, as indeed we all know now, that the enterprise bargaining system is a structural reform that is in the national interest. This position was stated clearly in this May’s budget papers:

The strongest productivity growth in the private sector has also been in those industries dominated by enterprise bargaining—for example, mining, finance, insurance and manufacturing.

There are many benefits to workers and employers under enterprise bargaining. The results since we have introduced the system include better wages, relevant conditions, higher productivity, more jobs, increased competitiveness, greater workplace participation and a lower level of disputes. It is a far superior system to the centrally controlled system that preceded it.

But enterprise bargaining is under threat. The ACTU has turned against it and has supported a return to industry wide pattern bargaining. Pattern bargaining is a practice where unions demand common outcomes in respect of terms and conditions of employment across a swathe of employers at an industry level in lieu of genuine enterprise bargaining. They then use statutory protected action provisions to legitimise industrial action in pursuit of such claims. Pattern bargaining is designed to undermine Australia’s successful enterprise bargaining system and return workplace relations to a one-size-fits-all approach. It is all about union control. Unions are desperate to retain control in an era of their increasing irrelevance. Across the nation only 20 per cent of the work force are union members.

This bill deals with a very real problem. Pattern bargaining is occurring in one of Australia’s major industry sectors—that is, the manufacturing industry. It is an industry where employees’ job security is closely allied to international competitiveness and productivity growth. This bill deals with a problem in an industry where a union campaign is putting at risk real jobs and living standards of families. Pattern bargaining is a manipulation of the legislative right to enterprise bargaining provided for by the Workplace Relations Act 1996 and by the previous Labor government’s industrial legislation. Under pattern bargaining, union officials make backroom deals to assume control over multiple outcomes but not through negotiations involving the local circumstances—so much for industrial democracy at the workplace level. Pattern bargaining could flow into other sectors where like-minded union officials seek to dictate wage and condition outcomes. For example, in 1997 the Transport Workers Union tried to impose on the industry as a whole a wages deal agreed to with the big transport companies through a pattern bargaining demand and industrial action against small businesses. It was only through actions by the AIRC and the ACCC that that campaign was defeated. Manufacturing industry campaigns are already under way in Victoria. On 1 July this will pose a major threat to the industrial relations system. It could compromise many of the gains made in that industry and in many other sectors that have introduced enterprise bargaining in recent times. It is not in the national interest.

This bill is essential to maintain the integrity of the enterprise bargaining system in Australia. The government’s bill will do five things. Firstly, it will qualify access to the right to take protected industrial action so that where, on application by a negotiating party, the Australian Industrial Relations Commission finds parties are engaging in pattern bargaining, it must terminate the bargaining period, rendering industrial action unprotected at law. Secondly, it enhances the effectiveness of the AIRC power to issue offers that unlawful industrial action cease or not occur. Thirdly, it gives the AIRC a power to order cooling-off periods in respect of protected industrial action where this will assist the resolution of the matters under dispute. Fourthly, it protects existing rights to pursue common law remedies in response to unlawful industrial action in Supreme Courts, without additional litigation in the form of anti-suit injunctions being sought from or issued by the Federal Court. Fifthly, it makes other minor or technical amendments necessary for the effective operation of the industrial action compliance provisions of the act.
The Labor Party and Mr Beazley have a very clear choice: support the enterprise bargaining policy, which they knew in government was right for the country, or cave in to the current union pattern bargaining campaigns. Mr Beazley, I would remind the Senate, was the employment minister at the time Labor adopted a policy to support enterprise bargaining. He cannot walk both sides of the street. The ALP is incapable of standing up to the unions. Mr Beazley has already rolled over to the unions and reversed his 1998 policy. Will the ALP roll over again? For the sake of jobs and better pay for ordinary Australians, I certainly hope not.

Senator JACINTA COLLINS (Victoria) (5.11 p.m.)—I too would like to take note of this report, or perhaps I should clarify what in essence is three reports: the majority report, or I should say the government senators’ report; and two minority reports—one on behalf of Labor senators and the other on behalf of the Democrats. Firstly, with respect to the government’s report, and now the statements made by Senator Tierney in tabling the report, there are a number of issues that I would like to address. Senator Tierney said just now that the Labor Party ‘cannot walk both sides of the street’. That is the pure essence of what Minister Reith is seeking to do with this bill. Minister Reith has sought to open the labour market up to the free hands of the labour markets, and yet with this measure he seeks to go down the path of very partisan measures to skew the bargaining process in favour of employers. It is Minister Reith who is guilty of both hypocrisy in how bargaining should occur in a bargaining system and duplicity in terms of the real intent of this bill.

This real intent goes to the one issue that I can thank government senators for in this highly cynical process that has occurred within the Senate over the last three weeks. I would like to take the Senate to point 1.28 of the government senators’ report. This point quite clearly highlights the real agenda here. The final sentence states: The Committee majority— in fact, as I highlighted before, the majority is government senators, with Senator Tierney’s casting vote used twice in this process—believes that the logic of enterprise bargaining requires the removal of jurisdictional restrictions in areas of law affecting the workplace; that common law and the application of commercial legal principals (sic) are as relevant to the operation of the WR Act as the body of industrial law.

That is the agenda here. The Labor Party’s report deals with what this real agenda is. Chapter 3 of our report highlights myriad issues that go to how this bill is a further attempt to dismantle the industrial legal structures of which fairness has been the basis in Australian society since 1904. That is the real intent here.

But do not take just the Labor Party’s word for this. Let us look at a body such as the National Competition Council—regarded across the board as being reasonably economically conservative—and compare what it said when this government sought to remove the exemption in relation to labour market issues from the Trade Practices Act. It highlighted a number of issues put before this committee as important in relation to labour relations in Australia. It said that it was important:

... to maintain the primacy of the industrial relations framework in labour market relations.

This is not Reith’s agenda. Also stated as being important was:

... compliance with Australia’s ILO treaty obligations.

This is not Reith’s agenda. Departmental officials before the Senate estimates made the point that we are in dispute with the ILO. And that is the real agenda that exists here.

Before I go into a few other areas of detail in the government senators’ report, I would like to make some comments about the Democrats role in this process. The start of our report goes to the issue of how this legislation came before the Senate. We indicate at point 1.1 that the government’s expectation was to have the bill pass both houses before the winter recess. A short time before the introduction of the bill into the House, Senator Andrew Murray moved, by leave, to have the bill referred to this committee, contingent upon the bill’s introduction in the House. I am now able to say, with some great relief, that the Democrats seem to have taken a step back.
They have realised that this bill, which we had not seen at the time it was referred to the Senate committee, has greater flaws than they first thought. I am glad that the hearing process was able to demonstrate that—contained as it was with an attempt by the chair, using his casting vote, to restrict us to just one day of hearings and a program probably designed by the minister. When truth came to light and we were able, in a very limited fashion, to deal with a much broader range of evidence, the Australian Democrats saw what not just the Labor Party but a myriad of other committees to this inquiry have said are serious problems with this bill. They relate to both its intent—which is not clearly characterised by the minister or government senators in their report—and the likely effect of the provisions of this bill. I can say at this stage, and I look forward to seeing the Australian Democrats report, that I am relieved that the Democrats have taken a step back. I hope it is a very large step.

In the government senators’ report, comment is made with respect to the second wave inquiry. At point 1.11 of their report, they say, ‘The committee’s inquiry into the 1999 bill did not deal in great depth with the subject of pattern bargaining.’ This is simply not true. The government senators’ report may not have dealt with this issue in great depth, but the Labor senators’ report did. Labor senators learnt through this process something which I hope the Democrats now ascribe to too, which is: you should not be hasty in trying to adopt a position which has been difficult to deal with internationally. This is why there is no precedent of pattern bargaining being defined anywhere else in the world, and this is why it is difficult to deal with a definition of pattern bargaining which will not have a much broader impact than what the minister might claim is his intention with respect to campaigns such as Campaign 2000.

The government highlights the Australian Industry Group’s position and thanks them specially, in the second reading speech by Minister Reith, for their contribution. The Australian Industry Group raised concerns, in the second wave inquiry, about a blanket prescription on pattern bargaining. They had concerns with issues such as site agreements and said they should continue to be allowed. When they appeared before this inquiry and were questioned in some detail about their understanding of what this bill meant, they were sorely lacking. They were not able to tell us why they supported this bill when there were various differences in terms of the suggested definition that they provided to the Senate inquiry in relation to the 1999 legislation. They were not able to tell us how the provisions in the bill made special arrangements for site agreements. The reference in the bill provides exactly the same test as it does for blanket pattern bargaining. They were not able to tell us why they now support a prescription relating to common claims—not common outcomes, which was their concern—nor were they able to consider the impact of a definition based on common claims and in relation to matters that were capable of being dealt with at an enterprise level.

There was some level of misunderstanding amongst the committee as to precisely how that test should work. I would like to highlight, as we do in our report, that the department came forward at 4.30 p.m. on Friday with an answer to the question of precisely how they saw that capable test being applied. The answer was that you will fall foul of the test on pattern bargaining in relation to a common claim if any of those claims is capable of being pursued at an enterprise level. This highlights the vast problems that this bill presents for the union movement across the board. It is not that the Labor Party ignores the fact that problems exist in relation to some industrial action and campaigns in the public interest; it is that this bill is a very different thing. This bill seeks to undermine bipartisan processes that have been accepted in Australia for many years, and it re-estABLishes a test in favour of employers. This bill represents, as our report indicates, what even reasonable employers accept is a free kick for employers.

Senator MURRAY (Western Australia) (5.21 p.m.)—Firstly, I would like to do the usual and thank the chair, the deputy chair and the secretariat for their assistance with this inquiry. As everyone knows, industrial relations is an extremely contentious area of
legislation, and it is probably the one area in which the adversarial nature of our political system is most in evidence.

Once again, I have found this process for the Democrats immensely edifying and immensely helpful in arriving at a decision. The committee system and the review system which it embodies assist the parliament enormously in evaluating evidence and in understanding complex issues and the consequences of legislation. I must say that I have always found in these forums that, whilst intensity and passion have a good place in any debate, it is the quieter voice and the reasoned argument which have the most impression upon those of us who are trying to evaluate the issues on their merits.

I want to thank in particular those witnesses who went to considerable effort to produce very substantial submissions. All told, there were some 60, and we were able to have many of those witnesses appear before us. There was some mischief making in that there was a beat-up about the process, but if we compare the time given to the short 10-page bill and the usual times that are given to bills that are reviewed by the Senate, it compared very favourably, particularly since these issues in principle were discussed last November. However, as is apparent from my own report, the provisions in this bill require particular attention. I have advised my party room, and I advise the Senate through my minority report, that on balance the bill is flawed. The consequences, particularly of the pattern bargaining provisions, are too wide, and the result is that many forms of normal bargaining will be unnecessarily impeded. It is important in our industrial relations system to maintain flexibility. I am pleased to hear my Labor Senate colleagues arguing for flexibility on this side of the debate; I am displeased when I see them arguing against flexibility with regard to individual agreements. I think you need to take the principles that you espouse across the entire spectrum of agreement making, both formal and informal. By all means reform, amend, modify, change institutions and restructure, but we should always try to give as much flexibility as possible.

It was the Labor Party, and they should be congratulated for it, which in 1993 added much needed flexibility to our industrial relations system by introducing enterprise bargaining with the right to protected action. Protected action is an absolutely vital component of enterprise level bargaining. The result of that Labor initiative, supported at the time by both the coalition and the Australian Democrats and reinforced again in the 1996 act, has been to see an increase in real wages and improvement in conditions across the Australian work force as a whole. It has not resulted in every improvement one would wish for—it has not resulted in the elimination of inequities; there are many problems which are still extant in our system of work and the relationships that are attached to it—but it was a great reform, and it is one we should all protect.

Behind that reform was the notion with protected action that the ability of a third party, or indeed an affected party, to sue—to take legal action, particularly against workers who struck or took industrial action—was severely constrained. Protected action meant just that—you were protected from liability, you were protected from action and you were protected against common law damages because you were permitted to take industrial action at the expiry of an enterprise agreement which initiated a bargaining period. You were entitled to do that even if you went so far as striking. Frankly, you have to have the opportunity for a blue to be expressed to its fullest extent. In the hands of the employers, that means lockouts, which is their equivalent of strikes; in the hands of the employees, that means strikes.

When you look to industry-wide action, the issue is: what forms of strike action are permitted? From 1904, right up until today really, the industry level action was unprotected. If you took strike action—if you took industrial action—across an industry as a whole, you could be faced with the consequences of damages and liability. But the commission also had the power to stop that industrial action occurring. The result was that, in most cases, industrial action was commenced—it tested the bargaining environment, and the commission moved in if it
was necessary. Protected action by and large takes the commission out of the equation. What we are facing here, which this bill inappropriately and poorly addresses on the basis of the evidence before us, is that the common expiry date of hundreds of enterprise agreements in a number of industries over a number of years could be manipulated to enable industrial action to be taken, which the commission may not deal with except in very specific circumstances. I think that problem still exists, but the union witnesses and other witnesses are dead right: the legislation goes too far and outlaws forms of bargaining which, in their very flexibility and commonality, actually improve our industrial environment.

I would be gratified if people who are going to participate in the debate address the issue. In my report I have dealt with the right to strike. Some unions, and a number of workers within unions, argue that the right to strike should be almost absolute. Frankly, the law in Australia has never recognised that to be the case, be it under a federal or a state government, be it Labor or Coalition. I do not object at all to unions or their members taking that up as a political slogan, but as a legal fact—or as a human rights fact—simply put: the law constrains the right to strike in this country; it always has and always will.

I would remind you that the international law in terms of the United Nations International Covenant on Economic, Social and Cultural Rights provides for the right to strike provided it is exercised in conformity with the laws of the particular country. Australia has always argued that, because it has the commission, because it has the constitutional provision, because it has the award system and because it has a very wide legislative framework, the right to strike was legitimately constrained in this country. That has been a view of past Labor governments. All I would say to those who are to enter this debate is that, if we do not have the right solution in these bills, we must still recognise that there is a problem. In my view, that problem has to be addressed. I seek leave to continue my remarks later.

Leave granted; debate adjourned.

NOTICES
Withdrawal

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (5.31 p.m.)—by leave—Pursuant to standing order 78(1), I give notice that, at the giving of notices on the next day of sitting, I will withdraw business of the Senate notice of motion No. 3 standing in my name for the next day of sitting for the disallowance of the Public Service Commissioner’s directions and business of the Senate notices of motion Nos 1 and 2 standing in my name for four sitting days after today for the disallowance of the Public Service Regulations and Parliamentary Service Determination 1999/2 respectively. I seek leave to make a very short statement in relation to the withdrawal of these disallowance motions.

Leave granted.

Senator FAULKNER—In giving notice of my intention to withdraw these disallowance motions, I wish to inform the Senate that the opposition has a continuing concern about chapter 5 of the Public Service Commissioner’s directions. This chapter sets out the basic requirements for procedures to determine breaches of the Public Service code of conduct. The opposition regards the lack of detail in relation to these basic procedures as a breach of the spirit of the amendment made to the act following our negotiations with the government. The purpose of the amendment to the act on this matter was to ensure that there was maximum consistency across the APS in these procedures. There is already an unnecessary and growing divergence across the APS on how the procedures are applied.

I have raised this matter with the government, along with a number of other matters of lesser concern to us. The government has indicated that it is not prepared to have the direction amended at this time. In the absence of a more detailed set of fair procedures, the opposition believes these matters will ultimately be argued out in the Federal Court through an appropriate case. This is not in the interests of the Commonwealth or APS employees. We are disappointed that the government has not agreed to tighten the direc-
tions in this regard, but have decided not to proceed with our disallowance motions in the interests of facilitating the already complex task of bedding down the new act in the Public Service. Instead we have asked the government to commit to a review of the new procedures within the next 12 months. We have also asked that interested parties be given an opportunity to contribute to this review. We are pleased that the government has agreed to ask the Public Service Commissioner to undertake such a review, and we look forward to the results with interest. Let me also assure the Senate that a future Labor government will give priority to addressing this deficiency in the government’s current disciplinary framework in the Australian Public Service.

Senator ALLISON (Victoria) (5.34 p.m.)—I withdraw notice of motion No. 2 standing in my name for tomorrow.

A NEW TAX SYSTEM (TRADE PRACTICES AMENDMENT) BILL 2000

In Committee

Consideration resumed.

The CHAIRMAN—The committee is considering A New Tax System (Trade Practices Amendment) Bill 2000 and the two amendments moved by Senator Conroy on sheet 1800. The question is that those amendments be agreed to.

Senator Conroy—We are short a Democrat at the moment. I would be loath to proceed without Senator Murray.

The CHAIRMAN—The question is that your amendments be agreed to. Are you going to speak to those amendments?

Senator Conroy—I had actually finished speaking to them. I was ready to put them to the vote, but it seems that Senator Murray has not quite made it to the chamber yet.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (5.35 p.m.)—I would like to make a short statement on Senator Conroy’s amendments to the A New Tax System (Trade Practices Amendment) Bill 2000. I responded to Senator Conroy’s description of why he thought we needed the amendments. Senator Murray then explained that he had not really had enough notice of the amendments and was not really convinced of the need for the amendments but was willing to listen to further debate.

Senator Conroy made the point just before we broke for question time that there was either a threat or a perceived threat from the ACCC if someone was going to make some comment on issues related to the implementation of the new tax system, particularly the GST. I think Senator Conroy said that some people may even be scared to debate the cost of compliance. I think even Senator Conroy would agree that compliance costs will differ from business to business, from industry to industry and probably from location to location. It will depend a lot on, for example, how computerised they are in relation to their accounting systems, pricing systems and so forth, how many outlets different firms have—a whole range of issues.

It is a completely sensible debate to be had. It is quite appropriate that people debate all of these implementation issues. I think the point that Senator Conroy makes by talking about people like Mr Harvey and about people feeling threatened about talking about GST price implementation, price impacts and so forth is that, in fact, that debate has been raging. It has been going on in the community for the best part of a year or so, certainly from about the time the government announced the new tax system before the last election. Clearly, that debate has heated up and become a major part of the debate within the business press and the mainstream press as we move towards the 1 July implementation. The real point that is made by Senator Conroy, even though he may not have sought to make it, is that, if people are feeling as if they have been threatened by the ACCC, it is hard to blame this legislation, because it is not actually in force yet.

That debate has been raging and it is a debate that should be had, but there is nothing in this legislation—and certainly nothing in any existing legislation—that would threaten in any way people commenting on issues as to costs of compliance and cost issues. In fact, there has been a raging debate in the last few days since the ACCC’s price guide came...
out about what the price effects will be. Certainly no-one that I have seen in the business community seems threatened; if anything, the business community is engaging in a very healthy, worthwhile debate. I think most people in Australia are very well and truly aware of prices and the fact that there will be price impacts. Most people are aware that a lot of prices will go up; people are less aware of the prices of many items that will come down. So, as I said in my last intervention in the debate, I think the amendment is unnecessary and I hope that Senator Murray in particular agrees with our proposition.

Senator MURRAY (Western Australia) (5.39 p.m.)—Parliamentary Secretary, I was a little distracted during that discourse of yours. Did you say in your discussion that there were any obvious downsides to this? I did not pick that up. Madam Chair, aren’t we referring to the amendments on sheet 1800, to both (1) and (2)?

The CHAIRMAN—Yes, that is correct.

Senator MURRAY—Parliamentary Secretary, did you say there were any downsides to this? In summary, I thought I understood you to say it is just not necessary.

Senator IAN CAMPBEL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (5.40 p.m.)—Certainly I cannot see the upside that the opposition would have us believe there is. Certainly there is a downside and I was, in fact, waiting till I had your full and undivided attention before I went into some detail there, because I could see you conferring with other people. The proposed amendment does bring an entirely new element of purpose into the bill. The additional element would make it significantly more difficult for the ACCC to prove a breach of the provision and, consequently, would hinder its ability to protect consumers from misleading and deceptive conduct during the transition to the new tax system.

Senator CONROY (Victoria) (5.41 p.m.)—I am hoping, Parliamentary Secretary, that you will actually explain why you think it will be harder to prove someone’s guilt arising from this particular amendment.

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (5.41 p.m.)—At the moment there is no purpose clause in the bill. By putting in the words ‘for the purpose of price exploitation’ you will be basically creating a purpose that would have to be proved; you would have to set about proving that the purpose was for price exploitation.

Senator CONROY (Victoria) (5.42 p.m.)—I do not know about Senator Murray but I thought that was what the bill was there to do: to stop price exploitation. So I am confused as to why I am having to prove that having ‘price exploitation’ is a downside to this amendment.

Senator MURRAY (Western Australia) (5.42 p.m.)—I am a little perplexed, frankly. I appreciate the evidentiary remark that the parliamentary secretary has made and that, if this is to be explored at law, you would have had to have specific intent; I think that is the understanding of what ‘purpose’ would mean. As I understand Senator Conroy’s proposition, this is about freedom of speech issues and, not wishing to close down the ability of businesses and organisations in particular to express an opinion about these matters, I am sympathetic to that approach. I am just not sure where we end with that particular word. If that word is the issue, then perhaps there is another way of dealing with it, but I am still of the opinion that I do not want to see business organisations prevented from expressing opinions about legislation. The real issue, the real purpose, of price exploitation legislation is to attend to the business, the enterprise, not to attend to its representative bodies, be it the Australian Industry Group, ACCI, the small retailers—

Senator Conroy—The ACTU or anyone.

Senator MURRAY—Or indeed the ACTU. I am quite sure they have business activities of their own. So, Parliamentary Secretary, I must say I am inclined to the view that the intent of the legislation should be supported. I would search for assistance if the word is such that it may have legal consequences.

Amendments agreed to.
Senator CONROY (Victoria) (5.45 p.m.)—by leave—I move amendments Nos 1, 2 and 4 on sheet 1791 revised and the amendment on sheet 1811:

(1) Schedule 1, page 3 (after line 5), before item 1, insert:

1AA  Subsection 2A(1)

Omit “and section 44E”, substitute “,” section 44E and section 75A Y A”.

(2) Schedule 1, item 2, page 3 (after line 24), at the end of the section 75A Y A, add:

(2) The Commonwealth, a Minister of the Crown in right of the Commonwealth or an authority of the Commonwealth must not engage in advertising or the distribution of promotional material, at any time during the period starting when this section commences and ending at the end of the New Tax System transition period, that:

(a) falsely represents (whether expressly or impliedly) the effect, or likely effect, of all or any of the New Tax System changes; or

(b) misleads or deceives, or is likely to mislead or deceive, a person about the effect, or likely effect, of all or any of the New Tax System changes.

(3) The protection in subsection 2A(3) does not apply to this section.

(4) Schedule 1, item 5, page 4 (line 26), after paragraph (3)(b), insert:

or (c) if the respondent is the Commonwealth or an authority of the Commonwealth—a Minister of the Crown or an employee of the Commonwealth;

Schedule 1, item 2, page 3 (after line 24) at the end of section 75AYA, as amended, add:

(4) For the purposes of a penalty for an offence against subsection (2), the Commonwealth is to be treated as if it were a body corporate.

This is an attempt to ensure not only that there is some honesty and integrity in the policing of the business community but that we are able to get some honesty and integrity in the government’s advertising, as has been debated at some length already in good faith by Senator Murray. There is a lot of controversy about these ads. The government have maintained for some time that they believe that these ads are a fair and accurate representation of the GST package. If that is the case, they should have nothing to fear and they should accept these amendments, because they do nothing more than bring the government under the same umbrella that they are asking the business community to be under. I look forward to hearing the government’s view and position on this.

During Senate estimates last week, a number of issues to do with the accuracy of the government’s advertising were taken up with the tax office by me and by other Labor senators. Senator Campbell, you may or may not know that we were asking whether or not there was any authorisation on the big billboards that are throughout Melbourne. As my Comcar whizzed by late Friday night, I managed to have a look at one of them on the western ring road. There did not seem to be any government authorisation on the one that I saw. Senator Ray informed me that he managed to avoid an accident on the Tullamarine freeway while looking at one and that there may have been a Commonwealth government logo on it. We are interested in ensuring that the ads represent accurately the government’s position and, most importantly, the facts. We took up a number of issues to do with the advertising last week. What is health when you say that health is GST-free? What are all Australian taxpayers? There was a farcical situation last week—Senator Murray, I am not sure if you were with us—when we took up the issue of whether all taxpayers were getting a tax cut. There are about 80,000 taxpayers who do not pay tax. We suddenly had guffaws of laughter from the other side of the table and from some people sitting behind the table. ‘What an absurd statement! How could there be 80,000 taxpayers who did not pay tax?’ Tragically, the tax act defines anyone receiving an income as a taxpayer. But let us not worry about what the tax act says; we were only talking to the tax office! The tax office were in a position where they did not even seem to understand who a taxpayer was or wasn’t. We know who they let off: we know that struggling, small Melbourne business, the Packer family and Crown Casino. They are a taxpayer occasionally but they are successful in avoiding a reasonable amount of tax, as you will see if you read the papers. Hopefully, the High Court will rule in the tax
office’s favour. The Packer family does not seem to pay much tax; maybe they do not think they are a taxpayer either and are therefore not worth chasing! I am being somewhat flippant there. We questioned the tax officials on the accuracy of their ads to do with health and on whether or not tampons were a health product. We questioned them on whether or not bandaids were a health product—and I am sure Senator Crowley could list many other health products—

Senator Sherry—I’m ready to list a few too!

Senator CONROY—Senator Sherry is offering to take up the challenge and expand further.

Senator Murray—None of those Tasmanian bush remedies.

Senator CONROY—That is right. Senator Murray. There are many different styles of health care that are not exempt from the GST. I know that the Democrats have had concerns in those areas over this package also.

Senator Sherry—Didn’t do much about it.

Senator CONROY—This is the ‘be nice to the Democrats’ five minutes, all right?

The CHAIRMAN—Order, Senator Conroy. Please address the chair.

Senator CONROY—If the government honestly believe that they have nothing to fear, that all of their ads are truthful and not deceptive or misleading, they can vote for this and they do not have to worry. They will be able to sleep at night. There is no problem with voting for this amendment. Not wanting to unduly delay, as we got caught up this morning in some technical arguments and some less technical arguments, I will sit down.

Senator MURRAY (Western Australia) (5.51 p.m.)—by leave—I move the following amendments to Senator Conroy’s opposition amendments:

(1) After subsection 75AYA(2), insert:

(2A) A political party registered under the Commonwealth Electoral Act 1918 must not engage in advertising or the distribution of promotional material, at any time during the period starting when this section commences and ending at the end of the New Tax System transition period, that:

(a) falsely represents (whether expressly or impliedly) the effect, or likely effect, of all or any of the New Tax System changes; or

(b) misleads or deceives, or is likely to mislead or deceive, a person about the effect, or likely effect, of all or any of the New Tax System changes.

(2) Omit subsection 75AYA(3), substitute:

(3) As soon as practicable after each 30 June and 31 December, the Commission must prepare a report detailing any breaches of subsection (2) by the Commonwealth or an authority of the Commonwealth that occur during any part of the preceding period of 6 months that is within the New Tax System transition period.

(4) If, at any time during the New Tax System Transition period, the Minister believes that the Commission may have breached subsection (2), the Minister must ask the Auditor-General to prepare a report on the possible breach.

(5) The Commission or the Auditor-General must give the Minister a written report prepared under subsection (3) or (4).

(6) The Minister must cause a report received under subsection (5) to be tabled in each House of the Parliament within 5 sitting days of that House after he or she receives it.

The Australian Democrats have for two decades now pursued an issue which is best described as truth in political advertising. That particular doctrine has indeed been briefly in Commonwealth law in 1984, but it does reside in South Australian law, and very successfully. What we see here is a desire to improve the way in which advertising is undertaken by the Commonwealth, under any government. Unfortunately, the particular amendment put up by Senator Conroy deals with the new taxation transition period rather than applying as a standard principle throughout. Nevertheless, it has merits in view of both the controversy surrounding these issues and the need for these matters to be above reproach. However, we had to move fairly quickly, and I somewhat gently say to
Senator Conroy that the late arrival of these amendments to the Senate, having been foreshadowed by the opposition more than two weeks ago, is not all that helpful. We in turn have had to react rapidly.

We just do not think your amendment goes far enough. Of course, it is not just the Commonwealth which needs to be attended to, but any political party, frankly, that is registered under the Commonwealth act should also be included in these matters. We ourselves put out promotional and advertising material. I do not think it is appropriate that the government or anybody should be under particular scrutiny in terms of the truth of what they put out, if political parties are not also subject to the same considerations. I have been the recipient of quite a number of Labor Party publications and promotional material on this matter, and I am sure the Labor Party would say that those too should be subject to the same high standards and criteria that they are laying down in their own amendment. That principally is the intent behind my amendment to Labor’s amendment, which is item (1) on sheet 1806.

Item (2) deals more with the reporting conditions. We think that those reporting conditions will considerably improve the way in which these matters can be dealt with, and be dealt with in an objective fashion, by the commission and by the Auditor-General. As an example, there is a clause which states:

If, at any time during the New Tax System transition period, the Minister believes that the Commission may have breached subsection (2), the Minister must ask the Auditor-General to prepare a report on the possible breach.

I have always thought the commission an objective if fierce body, and I am sure their report would be very good. I have the highest personal regard for the office of the Auditor-General and the way in which they report, as does my party. So we think that without these amendments (1) and (2) the amendment proposed by the Labor Party would be too limited, would distort their full intent and would be biased. Frankly, if you are going to go about these matters, you must do so in a way which pins everybody who could be affected by the matter at hand. That is all I have to say in support of my amendments to Senator Conroy’s item (2).

Senator IAN CAMPBELL (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (5.57 p.m.)—We will not be supporting amendments that effectively make the ACCC arbiters of a political debate. There are claims and counter-claims made about the effect of any tax changes. They are genuine issues for debate. They are matters that could be debated in the parliament and debated in the public arena, and the government thinks it is entirely inappropriate for the ACCC to do that. We think it is, firstly, entirely ultra vires the legislative framework we are talking about. The Trade Practices Act is about the promotion of competition and fair trading and the provision of consumer protection; it is not about monitoring political debate. The TPA has always been confined to business activity and binds the Commonwealth and its agencies only insofar as the Commonwealth or agency carries on a business.

I think it is worth pointing out that amendments to the bill will quite clearly only serve to further delay the passage of the bill. It will deprive the ACCC of the desired powers before 1 July and beyond. I think it is fair to say that this amendment is nothing more than a continuation of a political stunt that has been carried on by the opposition in particular. One can only expect a political party that has no policies to come up with stunts from time to time to try and distract political debate and distract attention away from its own paucity of ideas. It is a party that failed to do anything about building a modern tax system. After 1984, when previous Treasurer Keating made a serious attempt at it, with the support of Mr Beazley, virtually nothing else took place. We will not be accepting these amendments. They are nothing but a stunt and a waste of time. Anyone who had any knowledge of the Trade Practices Act and the ACCC would not waste the time of the Senate with such stupid amendments.

Senator MURRAY (Western Australia) (5.59 p.m.)—I choose to regard the remarks of the parliamentary secretary as not addressed to my amendments to the amend-
ments. Senator Conroy dropped a late amendment on sheet 1811 on us which means that my amendment should be adjusted slightly. I seek leave to amend my amendment No. 2.

Leave granted.

Senator MURRAY—I refer those participating in the debate to item (2) on page 1806, where it says, ‘Omit subsection 75AY(3)’. I wish to add the words ‘and (4)’ so that my amended amendment now reads:

(2) Omit subsections 75AY(3) and 75AY(4), substitute:

(3) As soon as practicable after each 30 June and 31 December, the Commission must prepare a report detailing any breaches of subsection (2) by the Commonwealth or an authority of the Commonwealth that occur during any part of the preceding period of 6 months that is within the New Tax System transition period.

(4) If, at any time during the New Tax System Transition period, the Minister believes that the Commission may have breached subsection (2), the Minister must ask the Auditor-General to prepare a report on the possible breach.

(5) The Commission or the Auditor-General must give the Minister a written report prepared under subsection (3) or (4).

(6) The Minister must cause a report received under subsection (5) to be tabled in each House of the Parliament within 5 sitting days of that House after he or she receives it.

Senator CONROY (Victoria) (6.00 p.m.)—I have just been reading the Democrat amendments. Our amendments are to ensure that taxpayers’ money is not spent in a way which could be false and misleading. Political debate is often robust, as this chamber is witness to. To ask the ACCC to judge political debate—I agree with Senator Ian Campbell—between the two political parties would be to put them in an invidious position. To ask them to judge the truthfulness of government advertising is, I believe, a reasonable thing to do. They have a long history of dealing with advertising on a factual basis—whether or not advertisements are true—and they deal with them every day. To put them in a position where they would be judging political ads in the context of an election campaign would place them in an intolerable position.

Senator Sherry interjecting—

Senator CONROY—Allan Fels could probably get himself elected president following an election campaign, but I am not sure even Professor Fels has that ambition.

Senator Quirke—He is already up for a Logie.

Senator CONROY—I will take that, Senator Quirke. He certainly is a proven media performer. I am interested in why you have deleted (3) where we talk about the fine. You seem to have deleted the fine, even if you find someone guilty. I am not sure what the purpose would be of finding someone guilty of something and then nothing happens to them. I would be interested in an explanation.

Senator Quirke—Is this a Democrat amendment?

Senator CONROY—Yes.

Senator Quirke—That figures.

Senator CONROY—You are found guilty, but nothing happens to you. I would be interested in the Democrats’ explanation of why they sought to delete that section.

Senator FAULKNER (New South Wales—Leader of the Opposition in the Senate) (6.03 p.m.)—I have just had a very brief opportunity to look at the amendments you have moved. I think Senator Murray would make the political point that his amendments are very good amendments. That would be a perfectly reasonable political point for Senator Murray to make. Without having the amount of time to look as closely at these amendments as I would like, my instinctive reaction is that there are very real issues here in relation to freedom of political expression.

Senator Ian Campbell—Get Senator Bolkus to have a look.

Senator FAULKNER—I appreciate that interjection because Senator Bolkus is an acknowledged legal expert in this area. I
commend Senator Murray to give some consideration to that matter. And that point holds in relation to amendments (1) and (2) moved by Senator Murray to opposition amendment (2) on sheet 1791. In relation to amendment (3) which stands in Senator Murray’s name—

The CHAIRMAN—That has not been moved yet.

Senator FAULKNER—Let me not make my comments specific to that particular amendment because we now find out it has not been moved by Senator Murray. I make a general point to Senator Murray that even the worst critic of the opposition would acknowledge that the question of government promotion, publicity and advertising of the GST obviously has been the subject of very serious concerns which have been raised by the opposition in the public arena. The opposition is looking seriously at this abuse and misuse of public moneys in the unprecedented $420 million GST promotional campaign currently being waged by the government in support of its unpopular tax changes. As far as the opposition are concerned, we will look seriously at any proposal that comes forward in relation to government advertising.

Senators might be aware that currently the Joint Committee of Public Accounts and Audit is examining the question of appropriate government advertising guidelines. I know Senator Murray, as a member of that committee, has an interest in the work of the sectional committee that is developing the proposed guidelines. The opposition, for its part, is seriously considering the possibility of introducing a private member’s bill to see if the parliament will support the guidelines that the Auditor-General himself recommended to the parliament as a result of the Auditor-General’s inquiry into the CEIP program, which occurred in the couple of weeks leading up to the issuing of the writs for the 1998 election. The report was brought down by the Auditor-General some months later, as a result of a formal complaint that was laid before the Auditor-General by the opposition.

I say to Senator Murray, through you, Madam Chair, that we do treat this issue seriously. We do appreciate a contribution made to positively try to address this serious issue of public policy that I think is foremost in the minds of Australians as they see their current government misusing public funds to an unprecedented degree. I do think it would be inappropriate to deal with or to support the sort of amendment that we have before the chair at this stage. You have an amendment that, for example, permits an advertisement which ‘relates to a community service’, whatever that might be, and if ‘the non-publication of the advertisement would be to the public detriment’, whatever that might be. These sorts of tests are of course very difficult and that is why there is a need for guidelines in this area.

The spirit of the amendment that Senator Murray is likely to move, amendment (3), I certainly understand. The reasons Senator Murray might want to move that amendment I understand. But I do respectfully suggest that this is worth some serious discussion between the Australian Democrats and the opposition. I indicate to the Australian Democrats that if Senator Murray would like to engage in that, then it would be my intention on behalf of the opposition to also seriously engage in such a discussion. These sorts of amendments, I do not care whether they are moved by government senators or opposition senators or Democrat senators, which are so far reaching in their consequences but are not far reaching in the amount of time that senators have to consider them—in other words, they are basically dropped on the table with just a few minutes for serious consideration—are not helpful in terms of the conduct of debate in this place.

While I think Senator Murray needs to seriously think about the impact on the freedom of political expression that the amendment before the chair might have, I do acknowledge that the question of government advertising is a very important one. It is uppermost in the public mind at the moment. We have a government willing to abuse and misuse government funds to the extent that we have never seen before in this country’s history, and it is proper that this parliament give those sorts of matters very close attention. It is with that spirit that the opposition approaches the proposal that is before the committee at this stage. It is for those serious and substantive
reasons that we cannot see our way clear, under any circumstances, to support amendments (1) or (2).

In relation to amendment (3) or other matters relating to this question of GST promotion, publicity or advertising, which of course is occurring under the guise of so-called information campaigns, the opposition stands ready, willing and able to discuss these with you, Senator Murray, or with other members of the Democrats. We acknowledge the need for the parliament to act in this area to try to ensure that this unprecedented abuse of process, this unprecedented waste of public funds and this unprecedented politically partisan, political propaganda campaign that is occurring currently to promote the GST is something that does not become part and parcel of political life in this country.

Senator MURRAY (Western Australia) (6.12 p.m.)—I thank the Leader of the Opposition in the Senate for his contribution. My amendments, to use Senator Faulkner’s phrase, were in reaction to those that were ‘dropped on us’ today by Senator Conroy—1791 revised and 1811. I will come later on to the question of government advertising in my amendment No. 3, but I should say to the Leader of the Opposition in the Senate that he was absent from the chamber when I gave him and Senator Ray well deserved praise for the very thorough way in which they have pursued this issue. I might not agree with all of the mathematics that come at the end, but the fact is that you have put your finger on a very sensitive political point and I think you have done it with considerable skill.

Returning to my amendments (1) and (2)—again to quote Senator Faulkner, although he has not used the word today—in this respect the Democrats have ‘form’. We have form going back over two decades in terms of wishing to pursue the issue of truth in political advertising. We do not think that political participants should mislead or deceive people about political matters. If debate is robust or if there are alternative views, that is an entirely different matter. But ‘to mislead’ or ‘to deceive’ have distinct meaning in the ACCC’s jurisdiction. They have distinct meaning under the Trade Practices Act. They have distinct meaning as established at case law. We do not think political parties should mislead or deceive in the political marketplace.

When I say we have form, the propositions we have put at items (1) and (2) are propositions we have put before and we have resurrected them for the purpose of this debate. Frankly, we are of the opinion that without them item (2) of sheet 1791 revised will be deficient. It will be defective. It will be short of content. It will be biased. That is why we have pursued the route we have.

The second question that I can recall you having put, Senator Conroy, is that you have asked why we have suggested in our amendments that we should omit item (4). Frankly, we find the prospect of the Commonwealth being fined ludicrous. That would end up in taxpayers being fined and having to pay for it. I think you are right to pursue this; you just have not gone far enough. The real issue here is being reported—having the political impact of an adverse report being made against the government or against a political party for having misled or deceived the population. That is far more powerful than any fine. If we put down a fine of a billion dollars, the government could pay it. But if we said that a government misled or deceived the people of Australia, that would be sufficient to cause enormous outrage, particularly if it were the commission or the Auditor-General expressing that view or, indeed, if they said the same of any political party. You are driving here for better standards. We are just taking you through that extra hurdle and trying to make sure that it is even handed. That is as much of a response as I can give to your questions.

Senator CONROY (Victoria) (6.17 p.m.)—I would probably say I have always been a bit of an incrementalist, Senator Murray, and I am always prepared to take whatever I can get along the way.

Senator Murray—That doesn’t sound like a transport workers man.

Senator CONROY—You have to try and win your political battles a bit at a time, Senator Murray.

Senator Ian Campbell—One branch at a time.
Senator CONROY—Whichever way you want to do it, Senator Campbell. I have usually kept my branches to the same political party. I know you have dabbled in a few. But I have always been willing to take what I can when I can get it, Senator Murray, and I would urge that you grab as much of this as you can at the time. Allan Fels grabs as much as he can whenever he can.

Senator Quirke—He’s going to do a guest spot on *Water Rats*, I understand, as well, or is it *Blue Heelers*?

Senator CONROY—Possibly either. Even though, as Senator Faulkner has indicated, we have some reservations about part of your amendments, Senator Murray, I would hope you would still be willing to pursue some of your amendments to our amendments. As I said, I have always been willing to take whatever I can in these situations and I hope that you will take up that challenge.

The CHAIRMAN—Order! The question is that Democrat amendments Nos 1 and 2 on sheet 1806, as amended, to opposition amendment No. 2 on sheet 1791 revised and on sheet 1811 be agreed to. Those of that opinion say aye; to the contrary, no. The ayes have it. The question now is that opposition amendments Nos 1, 2 and 4 on revised sheet 1791 and the amendment on sheet 1811 be agreed to. Question resolved in the negative.

Senator MURRAY (Western Australia) (6.21 p.m.)—I move Democrat amendment No. 3 on sheet 1806:

(3) Schedule 1, item 2, page 3 (after line 24), after section 75AYA, insert:

75AYB Government advertising

(a) under any law of the Commonwealth, the expenditure of public money on advertising; or

(b) the publication of any advertisement about Commonwealth government programs or policies, including matters which affect the rights, benefits and obligations of people;

except in accordance with this section.

Penalty:

(a) if the offender is a natural person—$20,000 or imprisonment for 2 years, or both; or

(b) if the offender is a body corporate—$100,000.
(2) The publication of an advertisement is permitted under this section if the advertisement:

(a) is paid for, or is to be paid for, with public money; and

(b) is not misleading; and

any of the following apply:

(c) the advertisement is otherwise required or permitted by an Act to be published;

(d) the advertisement is necessary to inform the public of changes to statutes or delegated legislation;

(e) the advertisement is necessary for the carrying on of commercial services provided by government agencies;

(f) the advertisement is for the purposes of recruitment of staff or officeholders;

(g) the advertisement calls for tenders;

(h) the advertisement relates to a public inquiry;

(i) the advertisement contains a notice that is required by statute to be published;

(j) the advertisement relates to a community service and the non-publication of the advertisement would be to the public detriment.

(3) In this section:

advertising means the production of material designed to disseminate information through printed, audio, audio-visual or other electronic media and includes the use of consultants or agencies with expertise in:

(a) public relations; or

(b) market research; or

(c) advertising; or

(d) other specialist areas;

in the development of such material.

public money means:

(a) money in the custody or under the control of the Commonwealth; or

(b) money in the custody or under the control of any person acting for or on behalf of the Commonwealth in respect of the custody or control of the money;

including such money that is held on trust for, or otherwise for the benefit or, a person other than the Commonwealth.

This is indeed a resurrection of an amendment which has previously been proposed in the Senate and defeated. The issue is always, of course, whether the provisions have all the coverage that is required. I accept the comments made by the Leader of the Opposition in the Senate that there are aspects to the amendment which would require further legal interpretation and further guidelines. However, it is not uncommon for guidelines to be issued in regulatory matters to expand upon and amplify legislation. In fact, it is very typical with ASIC and the ACCC to do just that.

However, this is a topical and powerful issue. It is an issue to which the opposition in particular has devoted a great deal of time and probably, in a political sense, a successful time, in seeking to indicate that part at least of the government advertising program which is currently under way is political in content and not government information in the normal sense of the word. Those are matters of judgment, but I think there is a case that the government has probably gone too far in some of the poster and television advertising. As I said in my earlier remarks, the print, leaflet and computer media advertising have been very effective.

It is no good raising heat on these matters unless you provide a solution or you try to do something about it. Since this is a problem which is underway right now and will continue, we thought it necessary to act immediately to resurrect a form of amendment which we have previously put. I gather from the remarks of the Leader of the Opposition that this will be opposed. Nevertheless, it is a genuine attempt to deal with this matter and is a response to Labor's intention to bring on—all of a sudden, I might say—certain amendments themselves which attend to these issues.

I think this amendment, regardless of any inadequacies that might be thought to exist within it, takes us along a far better path than we have at present and will deal with many issues that need to be dealt with and is appropriately expressed. If, as I realise, the opposition like the intent but not the content, I will
at some stage take up the offer by the Leader of the Opposition to consider these matters further. However, the Australian Democrats feel strongly that government advertising should be specified in law, that this is the appropriate act to do it in, and that there should be guidelines which support the advertising. If that is done, frankly, it will be to the benefit of the government going into the election and to the benefit of the people of Australia as a whole. If this is to be rejected, I do hope the government will nevertheless move to provide better legislation surrounding the contentious area of government advertising, particularly when it reaches into the very high figures it has recently.

Senator SHERRY (Tasmania) (6.25 p.m.)—It was not my intention to speak on this matter and I will not speak for long. I had hoped we would progress to the legislation in respect to the new business tax system. I did unfortunately miss most of the debate that occurred earlier this morning on the bill that we are considering, A New Tax System (Trade Practices Amendment) Bill 2000. We did have the Trade Practices Commission before us in estimates last week when a number of the issues that we are considering here by way of amendment were considered in terms of the current very substantial, massive, record—as some would term it—advertising campaign being run by the government in respect to the so-called new tax system. Certainly I, along with the rest of the Labor Party and the majority of the Australian community, believe it is an unprecedented, massive propaganda campaign primarily to convince Australians of the need for a goods and services tax.

We thought the campaign that was run prior to the last election was bad enough. I think it came close to $20 million, which—surprise, surprise, and coincidentally—I say that somewhat sarcastically because I do not believe it was a coincidence—was publicly funded and ended shortly before the election was called. The current campaign that is occurring is at least 20 times that in terms of the cost. The government should be aware that a number one premise of any advertising campaign is that you have to have a good product otherwise you run the risk of reinforcing the negatives and suspicions of the product you are trying to sell. I certainly think that is the case with respect to the current GST propaganda campaign. It is rare to get unsolicited comment back about these types of issues in the general community. Certainly, on the north-west coast of Tasmania over the weekend, a number of people remarked about the current size of the propaganda campaign. They made a number of points, including: if the GST is so good, why is it necessary for the government to spend more than $800 million convincing the Australian community it is so good? Secondly, the point that was made to me was that $400 million could be better spent in other areas. Indeed, I had occasion to have a discussion with some veterans about these GST matters and—

Senator Quirke—You are not talking about Joe Cocker?

Senator SHERRY—No, I think they were fans of Joe Cocker, but they certainly were not interested in the music.

Senator Quirke—He sang in tune.

Senator SHERRY—I do not agree with you. I think Joe Cocker has a unique music style. But they made the point to me quite validly that this money could be better spent on our scarce community services, not just for veterans but also in health and education. I will conclude my remarks there.

Sitting suspended from 6.30 p.m. to 7.30 p.m.

The CHAIRMAN—Order! The committee is considering A New Tax System (Trade Practices Amendment) Bill 2000, as amended, and amendment No. 3 on sheet 1806 moved by Senator Murray. The question is that that amendment be agreed to.

Senator COONEY (Victoria) (7.30 p.m.)—The intent of the amendment suggested by Senator Murray is very good, that is, to ensure that money is properly spent in advertising. It is perhaps not as happily framed as it could be. For example, the amendment states:

(1) A person must not authorise:
(a) under any law of the Commonwealth, the expenditure of public money on advertising...
That could be interpreted as parliamentarians doing that, which would be a bit of a worry. In fact, I am not sure why those first six words are in part (a). Why doesn’t it read ‘a person must not authorise the expenditure of public money on advertising’? Another thing is that it tries to bind future legislators as to what they ought to do, and I am not sure that you are able to do that. The more you look at this amendment, the more one thinks that it ought to be put in a budget bill rather than this sort of bill. I have never been keen on the Trades Practices Act being used for anything other than for the purposes it was intended, that is, to make sure that the marketplace is in the consumer’s interest and is open. That is why I have always objected to legislation against unions and picketers being in this act. I say to Senator Murray that the intent is good, but the framing is most unhappy. It might be a good idea to go away and think the expression through a little better.

Senator CONROY (Victoria) (7.32 p.m.)—I briefly indicate that, as Senator Faulkner has already said, we very much support the intent of the amendment, but, given the time constraints for which we are responsible in part, we would seek to oppose this amendment in spirit only. We commit to holding ongoing discussions with the Democrats and Senator Murray’s office so that we can work out a more comprehensive approach to this particular problem. I look forward to seeing how those discussions go.

Senator MURRAY (Western Australia) (7.32 p.m.)—Briefly, I wanted to ensure that the Labor Party understood that we were excited about the prospect of talking to them about this matter. We brought down Senator Woodley to express excitement!

Amendment not agreed to.

Senator CONROY (Victoria) (7.33 p.m.)—by leave—I move opposition amendments (3) and (5) on sheet 1791, revised:

(3) Schedule 1, page 3 (after line 24), after item 2, insert:

2B After subsection 75AZ(4)

Insert:

(4A) The Minister must cause a copy of each report received under subsection (1) to be tabled in each House of the Parliament within 5 sitting days of that House after the day on which the Minister receives the report.

(4B) On presentation of a copy of each report in the House of Representatives under subsection (4A), the report shall stand referred to the House of Representatives Standing Committee on Economics, Finance and Public Administration.

(4C) As soon as practicable after the report has been received by the House of Representatives Standing Committee on Economics, Finance and Public Administration under subsection (4B), the Chairperson, as a representative of the Commission, must appear before the Committee at a public hearing, in accordance with arrangements agreed to by the Committee, to give evidence in connection with the report.

(5) Schedule 1, page 6 (after line 22), add:

11 After subsection 75AZ(4) of Part 2 of the Schedule

Insert:

(4A) The Minister must cause a copy of each report received under subsection (1) to be tabled in each House of the Parliament within 5 sitting days of that House after the day on which the Minister receives the report.

(4B) On presentation of a copy of each report in the House of Representatives under subsection (4A), the report shall stand referred to the House of Representatives Standing Committee on Economics, Finance and Public Administration.

(4C) As soon as practicable after the report has been received by the House of Representatives Standing Committee on Economics, Finance and Public Administration under subsection (4B), the Chairperson, as a representative of the Commission, must appear before the Committee at a public hearing, in accordance with arrangements agreed to by the Committee, to give evidence in connection with the report.

We believe that what is set out in these amendments is an opportunity to make the ACCC far more accountable than it has been. Everywhere I travel at the moment, surprisingly, the business community pat me on the back, Senator McGauran.
Senator McGauran—Do they know about your industrial relations policy?

Senator CONROY—They say ‘Good on you. Someone has got to do something.’

Senator Sherry—No-one knows about the National Party. You are irrelevant now!

Senator CONROY—The National Party have now reached the status of a star in most polling, which is usually too small to actually be accounted for, especially in Benalla. The ACCC is a big issue in Benalla, let me tell you, Senator McGauran. I have said before, and I will say it again, that I think you could have been the candidate to pull Benalla out of the fire for the National Party. You could have come in on your white horse and calmed the fears about the ACCC in Benalla!

Senator Woodley—He would have done it too.

Senator CONROY—Thank you, Senator Woodley. I think you are right. This is an amendment which, I think has been indicated, we will be defeated on. So, notwithstanding Senator McGauran’s provocations, I will hopefully pursue this matter quickly.

Senator Murray (Western Australia) (7.35 p.m.)—The items before us have some flaws. For instance, legislating for the chairman of the ACCC to appear before a House of Representatives standing committee is not necessary. Both houses do have the right to subpoena and both houses, if they wish, can make people appear before them. Professor Fels and other members of the commission appear before the Senate estimates, and I am told they enjoy every moment of it. Broadly speaking, we understand that the reports will in fact be made public. Perhaps the parliamentary secretary can confirm that. If that is so, we think the amendments just state the obvious and are unnecessary.

Senator Ian Campbell (Western Australia—Parliamentary Secretary to the Minister for Communications, Information Technology and the Arts) (7.36 p.m.)—Yes, that is the case. Under the code, the ACCC has to report publicly every three months. Amendments not agreed to.

Bill, as amended, agreed to.

Third Reading

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

NEW BUSINESS TAX SYSTEM (MISCELLANEOUS) BILL 1999
NEW BUSINESS TAX SYSTEM (VENTURE CAPITAL DEFICIT TAX) BILL 1999

Second Reading

Debate resumed from 6 March, on motion by Senator Ian Campbell:

That these bills be now read a second time.

Senator Cook (Western Australia—Deputy Leader of the Opposition in the Senate) (7.37 p.m.)—These bills cover various separate subject areas agreed between the government and the opposition as part of the business tax package. The bills cover various separate subject areas agreed between the government and the opposition as part of the business tax package. The bills cover various separate subject areas agreed between the government and the opposition as part of the business tax package. The bills cover various separate subject areas agreed between the government and the opposition as part of the business tax package. The bills cover various separate subject areas agreed between the government and the opposition as part of the business tax package.

Since 1998, Labor has repeatedly called for bipartisan support on business tax reform. After much urging by the business community, the government finally conceded the importance of such an approach. The Treasurer finally accepted our offer of a common approach, to the benefit of the business community and the nation. Business needs certainty in its tax arrangements that goes beyond one electoral cycle, and that can only be achieved through support by the only two parties that can form a government. Labor has delivered that certainty and has honoured its word concerning support for the government’s legislation, including swift passage through parliament. That is what occurred last year with the first business tax package, and we continue that facilitation tonight.

However, cooperation is a two-way street. Despite the measures in last year’s package and the important measures in these bills,
vital integrity measures remain unlegislated. Three key areas where parliament is awaiting legislation are: dependent contractors, non-commercial losses, and the entity taxation regime. These are essential to meet the tests of revenue neutrality. At least two of these—dependent contractors and non-commercial losses—must be introduced this week, and the entity taxation regime must be introduced for passage by 30 June to meet the time-tableing commitments made by the Treasurer. The Treasurer’s agreement with Labor promised not only that he would deliver the above measures in name but that he would deliver measures that would raise the substantial revenue that he promised. We want the Treasurer to sign off on that legislation so that it produces the same result as was included in the government’s calculations at the time of the release of the package. There is no room to fudge for the Treasurer, no room to wiggle. He has a binding obligation to deliver; yet, of course, we are still waiting.

It is a matter of great regret that, instead of focusing fully on business tax reform—on bedding down the legislation and informing the business community of the new regime—the government has been obsessed, and is now swamped, with trying to explain its nightmare on main street: the Howard-Lees GST. This obsession with the GST is about to impose a massive burden on business, especially on small business. It will be difficult enough for small business to cope with the changes in the business tax package, some of which are potentially very large, but they will also have to cope with the GST, the new pay-as-you-go system, and a host of other issues as well. Labor argued this was not all necessary, and again we have been shown to be correct. Unfortunately, there will be many small business casualties from the government’s debacle known as the Howard-Lees GST. The Treasurer has been caught out, time and again, misleading the Australian public over the GST price effect. He has consistently said that, under the GST, prices never go up by 10 per cent.

Senator McGauran—More than 10 per cent.

Senator COOK—He said it could never go up by 10 per cent. He said that it could not happen, but it has. We saw the example of Big W and the polar hockey children’s suit. Is it any wonder that the Treasurer fought so hard to avoid dual tagging being allowed by the retailers? Is it any wonder that he fought so hard to keep the truth from being revealed? We know the truth hurts, and this government dwells on dishonesty at the expense of truth—aided and abetted by the Australian Democrats. The Treasurer has told the parliament repeatedly that he did not know that this was happening. If the Treasurer of the nation, who has introduced this regressive tax, does not know what is happening, how does he expect the Australian public to know what is happening?

It does not end with the polar hockey suit. There are now endless stories of pricing up off the back of the GST. For all its bluster, when did the ACCC act and come out publicly on the Big W issue? It was only after Labor raised it in this parliament. It would appear that the only investigations it ever makes is when Labor has raised them in the parliament. We only have to look at the Big W issue and at the Accor hotel group for proof of that.

There are hundreds of horror stories in this dog of a tax. Big W and children’s clothing is just one of them. The Chairman of the ACCC, Professor Allan Fels, will jump in front of a television camera as soon as you can blink, but he is very reluctant to turn up to Senate estimates to be asked questions about the capacity of the ACCC to police this dog of a tax. He very rarely attends. Appearing before the very committee to which the ACCC is accountable is much too lowbrow, it would seem. He is more than happy, though, to be in front of a television camera, threatening business with $10 million fines for telling the truth about the GST.

Let’s look at what happened to Big W. The ACCC forced them, at government insistence, to remove the dual tags. But do we know whether Big W had priced their goods correctly or not? It is a very important question. No, we do not. Has the ACCC informed the public whether Big W had done the right thing or not? Another important question. No, we do not know. All we get is the government using the ACCC to harass and
threaten business for telling the truth. The ACCC is now the government’s price censor. Whenever a business tells the truth about the GST, send in the ACCC price police to tell them politely they have got it wrong, because the government has said so.

If people doubt that this is the approach of the government, it is telling that, after the Prime Minister wrote a ‘please explain’ letter to Mr Roger Corbett, the CEO of Woolworths, which owns the Big W chain, we had on cue Woolworths writing back to the Prime Minister saying, ‘Sorry, we got it wrong. Prices are now going up by only 1.1 per cent.’ So, before the issue became public, prices were going up by 10 per cent, but after the Prime Minister wrote a ‘please explain’ letter and the ACCC shock troops were sent in, a major chain the size of Woolworths all of a sudden decided it had made a mistake. I say to Woolworths and Big W: ‘Don’t insult our intelligence, but I understand fully why you have tried.’

This government has sought to deliberately mislead the Australian public on the price effects of the GST, but it has been found out. The public knows that prices will go up by the full 10 per cent Howard-Lees GST, but Treasurer Costello continues to believe in the fantasy that no price will go up by the full 10 per cent. The Treasurer must be the only person in the country who believes the GST will not lift prices by 10 per cent. The government said that the inflation impact of the GST would be 1.9 per cent. There is a big difference between 1.9 per cent and 10 per cent, yet the compensation package is based on a 1.9 per cent inflation outcome, not 10 per cent. Consumers will be dunned twice—dunned through higher prices and dunned through inadequate compensation.

We have the Prime Minister telling his colleagues in the party room to hold their nerve, ‘Don’t go out and break ranks; don’t back down.’ We had Minister Anthony in the other place saying that the 10 per cent tax is a great new thing, yet he is telling his electorate that he is trying to get it eased from caravan parks. This is a minister who speaks with a forked tongue. He says one thing in parliament and another thing in the electorate. Minister Anthony is the epitome of hypocrisy. Given that he represents a marginal rural and regional electorate, is it any wonder that he resorts to hypocrisy to try to save his political skin? One thing is for sure—the GST will not. The GST will be Minister Anthony’s death knell, and he knows it. All those thousands of caravan park residents cannot wait to sound it at the next election.

But there is more than just the GST. What else has the Treasurer promised the electors of Richmond? Let us look at what the Treasurer wants to do to the people who live in rural and regional electorates. At the top of his list is a desire to cut wages and put up their petrol at the same time. This is the deal that the Treasurer, with the support no doubt of Minister Anthony, has promised regional and rural Australia—lower wages with which to pay for the GST and lower wages with which to buy more expensive fuel. What a great deal for regional Australia that is! The Treasurer’s concern for rural and regional Australia is demonstrated by how often he visits—rarely. But, when he does, it is in a Commonwealth car with tinted windows, behind which he can hide from the electorate. He knows, as does Minister Anthony, that the GST is rat poison in the bush, so when he travels there on those rare occasions, he is less than keen to be recognised as the person responsible for the GST’s introduction.

Turning back to the issue of the ACCC’s harassment of business, we now know it was not only Big W that was threatened and harassed by the government and the ACCC. There was also the Accor hotel group. It has since come to light that there were some very agitated phone calls to the Accor group from the government. Once again, another business was threatened and harassed by the government for being honest when they produced a post-GST price list which showed that the full 10 per cent Howard-Lees GST was going to be fully passed on.

We were told by the government, ‘If Accor put up its rates by the full 10 per cent, you don’t have to stay there.’ The Treasurer obviously does not see the need to heed that advice, because he is booked into the Accor Novotel at Brighton-le-Sands. He is booked in there for the Olympics. The Treasurer has a booking for something like 20 days in the
King’s Suite, all paid for, GST and all, by the Australian taxpayer. This is despite the Treasurer telling John Laws that he will be at home in front of the tellie with a pizza. When will this man’s deceit ever end? I suspect a pizza ordered from the King’s Suite costs considerably more than one ordered from the local Pizza Hut.

The dual price-tagging system has demonstrated that, once people are shown what the impact of this GST will be, they will realise how much money is being ripped out of their pockets every time they make a purchase, and how much they have been deceived by this government. The opposition has tried on four different occasions to have an amendment passed that would ensure that the GST is disclosed on customer receipts, but the government and the Democrats have opposed it each and every time. The opposition asks: what do they have to hide, particularly in light of Coles-Myer’s decision that they will be mandating full GST disclosure on the receipts they issue?

I will now turn to the specific proposals contained in the bills. Firstly, the bills provide for the refunding of excess imputation credits. The dividend imputation system ended the previous double taxation of dividend income and was a major business tax reform introduced by Labor in 1986, under which companies paid dividends out of income on which they have paid company tax. These are known as franked dividends. This means that the company tax paid on the income is available as a credit to the shareholder. The tax credit can then be used to offset the income tax payable by the shareholder. Although imputation credits can be used to reduce an individual’s or superannuation fund’s income tax liability to nil, excess credits were of no value to taxpayers. This bill proposes to refund to taxpayers any excess imputation credits that may be left after offsetting the credits against their income tax liability. The classic example of such a situation is a low income person who earns a little investment income—for example, a full-rate age pensioner. They face no income tax liability on their income and therefore cannot obtain the benefit of the excess franking credits attached to the small amount of dividend income they receive. Under this proposal, they will obtain a refund of their income tax from the Taxation Office, which represents the excess imputation credits. Labor included this proposal in our taxation policy prior to the last election. Therefore, we have no difficulty supporting the proposal because it is our policy. It builds on the major reform accomplished by Labor almost 15 years ago and it improves the current taxation system faced by low income investors, especially retired Australians.

Secondly, there is the removal of the intercorporate dividend rebate on unfranked dividends. Currently, public companies obtain a rebate, known as the dividend rebate, on dividends they receive whether they are franked or not. This rebate leads to tax avoidance opportunities which cost the revenue several hundred million dollars per year. The bill proposes to remove the rebate except where dividends are paid within a company group. This will bring public companies into line with the treatment of private companies. The measure will close significant tax avoidance opportunities, and is strongly supported by Labor. This measure replaces an earlier proposal, deferred company tax, which was rejected by the Ralph inquiry because of the possible impact on foreign investment in Australia. The measure will raise significant revenue: around $600 million over the next five years, which is about $400 million less than the deferred company tax proposal that it replaces.

Thirdly, there is the provision of an income tax exemption for venture capital distribution from pooled development funds to Australian superannuation funds. The bill proposes to provide a significant stimulus to venture capital investment by Australian superannuation funds. This is achieved by providing a special rebate that allows superannuation funds to receive venture capital gains free of tax where they are earned through investments in a pooled development fund. This is a significant reform and it is in line with Australian Labor Party policy. It will provide a significant incentive to superannuation funds to invest in Australian ventures. The measure should increase the retirement income of superannuation fund members.
over the long term as they will have access to high, long run returns in the developing segments of the Australian economy.

Labor supports, and indeed has long advocated, a business tax system which fosters investment, job growth and innovation, including greater investment in venture and patient capital and in research and development. We support the greater commercialisation of Australia’s R&D and innovative effort. This measure will assist that goal. But we have also argued that more is needed than simply changes to taxation. We need to develop a venture capital-innovation culture in this country. Venture capital is an area for which we were able to get bipartisan support from the day the government announced their business tax package. The reason for that of course is that Labor took to the last election a proposal in relation to venture capital whereby we recognised the need to attract overseas pension funds to this country. Those overseas pension funds operated in their own countries in circumstances in which the capital gains tax was much lower than applied here. Of course, if it were lower than here, why would they invest here?

Our argument—because evidence had been put to us that we were missing out on investment opportunities in the development of this country, and of course the name of the game has to be about jobs and the building of our industries, and about new industries in particular—was that this was a vital area that needed to be attracted. So we proposed, going into the last election, changes to attract the US pension funds. But the notion was not just to attract their capital; there was also the notion that, if you have got their capital, you would also attract their expertise: the people who actually manage the investments—manage the venture capital—and who have experience in taking up the idea and working it through the start-up phase to commercialisation. We also require that these funds invest in partnerships with Australians so that we can instil that culture and develop the networks of expertise so that we can keep more of the inventions and the research here and develop them more here to the nation’s advantage.

This is an area in which countries like the US have had a long period of experience. We had to tap it and we needed to make the tax system, along with other programs, ensure that we did. The US has probably had some 30 years of experience in this area, and it is not an experience that can be obtained overnight—although it is very interesting that a country the size of Israel has made huge inroads into this area, as has Ireland. Both of those countries have understood the importance of attracting not only the capital but also the expertise—the means by which the capital is managed wisely. So it is against that background that we welcome the initiatives in terms of the overseas pension funds, because there was a barrier to venture capital coming to Australia.

It is also interesting to note that when we took this issue to the last election the government rubbed us on this measure—the measure that they are now agreeing with us on. They said then that it would not work. At the time, they had obviously not considered the detail. It was too much of a knee-jerk response and too much of a rejection of the notion that we should develop a bipartisan and agreed position on a number of these areas. Now they have come to the party. The government have picked up our suggestions. We legislated the foreign pension fund measures last year, and today we are dealing with the concession for Australian superannuation funds. We welcome these measures. The next area is the pooling of depreciation allowances. (Time expired)

Senator MURRAY (Western Australia) (7.57 p.m.)—This is one of those occasions on which there is going to be cross-party agreement. Frankly, I was surprised that these bills—the New Business Tax System (Miscellaneous) Bill 1999 and the New Business Tax System (Venture Capital Deficit Tax) Bill 1999—did not go into the non-controversial section. The Democrats are known to support these measures, and there has not been any controversy attached to them.

Senator Cook, in the relevant half of his speech, outlined the provisions quite well. Briefly speaking, the bills deny the intercorporate dividend for unfranked dividend payments between resident companies that are
not members of a company group. They allow refund of excess dividend imputation credits. They exempt from tax franked dividends paid to resident complying superannuation funds and similar bodies by pooled development funds. They allow items with a value of less than $1,000 to be pooled for the calculation of depreciation deductions. They also, through the venture capital deficit tax bill, impose formally a tax on a deficit in a pooled development fund’s venture capital franking sub-account and provide for the calculation of the amount of tax payable.

Having said all that, I am sure that, if anybody was bothering to listen or was observing this debate, their eyes would have glazed over. It can be frighteningly boring. Nevertheless, these measures affect probably hundreds of millions of dollars and they are a useful addition to the anti-tax avoidance measures that the government are introducing. They are a consequence of the Ralph business tax review. I think it is highly commendable of the government to have introduced these measures as rapidly as they could.

The one last remark I would make is that it is notable that the government has introduced a set of amendments. That is another example of how complex and difficult this legislation is—that even where it is agreed, there is always some need to review it and to make it even more applicable and more wide ranging. None of this legislation is easy for any but people familiar with tax legislation to read, and we must always be conscious of that difficulty which is there for the profession and for us with bills of this sort. That is all I want to say. The Democrats will support it and we will be supporting the government amendments. (Quorum formed)

Senator SHERRY (Tasmania) (8.04 p.m.)—The legislation we are considering is the New Business Tax System (Venture Capital Deficit Tax) Bill 1999 and I intend to make a few remarks about the legislation. Briefly, the bill covers five main areas: firstly, the refunding of excess imputation credits; secondly, the removal of the intercorporate dividend rebate on unfranked dividends; thirdly, providing a tax exemption for venture capital distributions from pooled development funds to Australian superannuation funds; fourthly, pooling of depreciation allowances and, fifthly, some consequential amendments flowing from the reduction in the rate of company tax. This is a part of the government’s business tax reforms which the Labor Party is supporting.

It is the third area—providing a tax exemption for venture capital distributions from pooled development funds to Australian superannuation funds—that I intend to make a few remarks about. The bill itself proposes to provide a significant stimulus to venture capital investment by Australian superannuation funds. This is achieved by providing a special rebate that allows superannuation funds to receive venture capital gains free of tax through a pooled development fund. One of the more obvious reasons that Labor are supporting this legislation is that it is in line with Labor policy. I stress that: it is in line with Labor policy. It is a policy that we took to the last election. I note in passing—I do not want to be overly negative—that the current government criticised our policy at the time in the lead-up to the election and claimed that it was unnecessary and unachievable. I note in this evening’s debate that it has decided to adopt something very similar. This change will provide a significant incentive to superannuation funds to invest in Australian ventures and the measure should increase the retirement income of superannuation fund members over the long term. I will say a little more about that later.

Before I make some detailed comments about superannuation funds and some more general comments about venture capital, I want to emphasise that the consequential amendments on the reduction in the rate of company tax relate to the dividend imputation system and the tax concessions applying to infrastructure borrowings, known as IB, that need to be adjusted when the company tax rate is changed in order to maintain the current effective treatment of the dividend imputation system and the IB concession. I make the fairly brief but firm point that it is often claimed by the current government that Labor did not carry out any major changes to the Australian tax system during its 13 years in government. That is simply not correct.
There are numerous examples of significant change, and dividend imputation is one of those very important changes that the Labor government implemented when in office. It was a very important change to the company tax system which the Liberal-National parties could not find the will or determination to support when in office prior to Labor taking government in 1983. Before passing from this issue to the next issue, we should note that prior to 1983 the current Prime Minister was Treasurer of this country for a significant period of time, but Mr Howard did not tackle this issue and other major tax issues during the period when he was the Treasurer of this country.

I would like to turn to the issue of superannuation funds and address it in a little more detail. I firstly want to make the point that the existing national superannuation system in this country is a result of Labor policy and Labor initiatives in government. I do not want to speak in too much detail on this, but I want to note that the Labor Party made significant, positive changes to superannuation when in government during that period from 1983 to 1996. One of the major changes was the introduction of the superannuation guarantee charge. It is currently at seven per cent, going to eight per cent from 1 July and moving up to nine per cent by 2002. It ensured that all Australian workers could have superannuation. At the time, in 1983, about 40 per cent of Australians had superannuation. This was a very important initiative that spread superannuation to almost every Australian employee, and it has very important consequences for long-term retirement incomes. I noticed in the media tonight some data about life expectancy in Australia. After Japan, Australia has the second longest life expectancy of any nation in the world at 73 years of age on average. That carries very significant implications for Australia’s future retirement incomes policy. So it was Labor that established an effective, comprehensive superannuation system in this country—a major reform, a critical reform, that has left us in a far stronger position to tackle the issues associated with that ageing population than most comparable economies in the world.

As the pool of superannuation funds continues to grow for the reasons that I have touched on—the superannuation guarantee, in particular—we currently have some $360 billion in superannuation funds in Australia, and this figure is rising quickly.

Senator Kemp—Tremendous growth.

Senator SHERRY—It is tremendous growth. I might say in response to the interjection from Senator Kemp that, in contrast to the very negative approach of this government to superannuation in two important areas—

Senator Kemp interjecting—

Senator SHERRY—Because of the superannuation guarantee, not because of anything you have done, Senator Kemp. I was provoked, Mr Acting Deputy President. I want to mention two important areas that the current Liberal-National government have neglected in superannuation. Actually, ‘neglect’ is the wrong word: they have made changes that have been counterproductive for Australia’s superannuation savings pool. One, of course, is the so-called superannuation surcharge—tax by another name—which broke the election promise made by Senator Kemp and others in the lead-up to the 1996 election of no new taxes and no increase in existing taxes. There is a range of other problems in respect of this matter that I have spoken about on other occasions. The Liberal-National parties are fond of talking about the l-a-w law tax cuts that Labor converted into a superannuation co-contribution of some $4.5 billion, which the current Liberal-National parties pledged to maintain. They then converted that into a savings rebate. That savings rebate was passed into l-a-w law, and it lasted all of six months. What happened to those moneys that were supposed to go into, firstly, superannuation and then into some sort of long-term savings initiative? They were delivered in the form of tax cuts—they helped to fund the tax cuts—needed to attempt to bribe the Australian population to accept the goods and services tax. So the superannuation contribution has had a very interesting history. It started out as income tax cuts. It then became a superannuation contribution for long-term savings. Under this current government, it became a
savings rebate, and then it was turned into bribes to tempt people to accept the GST. It is an interesting square that those tax cuts have travelled.

With the rapid growth of superannuation funds in Australia, it is important that we have available a mixture of asset classes for that growing pool to be invested in. It is important that there is a range of diversified alternative options that are made available to those superannuation funds. In Australia, superannuation funds typically invest between two and three per cent of assets in capital. In the United States, that figure is more than double the Australian percentage.

Labor identifies three types of opportunities in this area. The first is growth. A business has essentially exhausted its existing capital resources and needs additional funds to expand, and obviously young, growing companies fit into this category. The second is in the area of structural change, such as a management buy-out or a management buy-in, and the third, very importantly, is in the area of start-up capital. It is also important, as part of this measure, that where necessary—and I stress 'where necessary'—because Australia is a net capital importer, we are able to attract such capital from overseas, particularly from the United States. As was highlighted by my colleague Senator Cook today in question time, we have only got to look at the state of Australia's national debt, the 40 per cent increase in Australia's national debt under the Liberal and National parties, to realise that it is very important to be able to attract capital from overseas.

It is interesting to note that recently a number of pooled investment funds have been launched. At least four new major funds have been announced and opened to subscribers. Whilst obviously it is not my role to promote such funds, I think it is important to briefly touch on those that have recently been established. We have Wilshire Global Advisors, one of the largest funds in the world. They aim to raise between $100 million and $200 million. We have the Mercantile Mutual Investment Management fund, which aims to raise about $100 million; Macquarie Bank, $125 million; and the Development Australia Fund, known as DAF2, which is aiming to raise some $300 million. That is a total of about $600 million to $800 million. It is interesting to note that up until 1997 total investment in Australia and New Zealand in this area came, by comparison, to a figure of approximately $346 million. Briefly, in respect of the last fund I mentioned—the largest, the Development Australia Fund of $300 million—it is important to note that this is largely being funded by four industry superannuation funds: C-BUS, ARF, STA and HESTA. These funds and others in that industry sector make a very important contribution to capital accumulation and investment in Australia. It is a sector that the current government wrongly claims is union dominated. That is not correct. They are trustee funds with joint employer-employee trustees who have a blocking veto over each other. They are well-run funds and they are funds that this government is anxious to destroy. That is another issue that I will not go into detail on today.

Why is it important to make this tax change in the area of investment capital? I touched on the three types of opportunities that are available. It is also important that we enable businesses to remain in Australia, to grow here and, if possible, to avoid having to relocate overseas. It is very important to provide a stimulus, particularly in knowledge intensive businesses such as software, biotechnology, semiconductors, communications and Internet services. This is not an exclusive list; there are also other areas that I have knowledge of with respect to primary industry and manufacturing, particularly value adding in the manufacturing sector, where these funds can play an important role. To ensure the growth of the Australian economy and our ability to commercialise intellectual property, to convert ideas into positive, productive outcomes, it is very important that we maximise our opportunities in this particular area. As I mentioned earlier, Labor acknowledged this in its commitments prior to the last election, particularly with respect to primary industry and manufacturing, particularly value adding in the manufacturing sector, where these funds can play an important role.
argument has some validity. But at the same time we must remember that the capital gains tax is an equitable tax, introduced by a Labor government, I might say, and one which I would strongly defend. The capital gains tax is an equitable tax and it is a necessary part of an equitable tax system.

The legislation that we are considering is very important. I do understand the concerns that Senator Murray expressed earlier that sometimes when people—not too many tonight, I note—are listening to debate they get somewhat bewildered by the tax changes that we sometimes consider. I have to say to Senator Murray that I cannot blame him for thinking that in respect of the GST. We have been here on that issue hour after hour, day after day. Senator Kemp well knows the estimates process we have just been through—many hours of considering GST matters. It is certainly not a simpler tax system, and there are a lot of other problems besides that. Anyway, my colleagues and I have commented on aspects of the GST and we will continue to comment on many issues to do with it for some time to come.

In summary and in conclusion, the changes we are considering are good for business. They are necessary for business. They will encourage diversity, innovation and growth and I think also, importantly, will give some stimulus to funding that is an alternative to the banking system. It will be good for fund members whose money is invested in this particular area. I note that these types of funds do generally have a higher investment return than is averaged through other types of investment. That is a good thing. It is a good thing to maximise returns to fund members. Finally, I think it will have an effect on Australian ownership and on the Australian economy. It is good for growth and good for jobs, which is why the Australian Labor Party is supporting this legislation.

Senator KEMP—I will indulge myself slightly at the end and make a few observations on your comments, Senator, which I think you would expect. The government welcomes the strong support which the New Business Tax System (Miscellaneous) Bill 1999 and the New Business Tax System (Venture Capital Deficit Tax) Bill 1999 have received from the chamber. I do not always have the option of making that comment during the second reading debate. We welcome that support. Obviously, we are very pleased to be able to legislate business tax reforms such as those in this legislation. As all senators will be aware, the significant business tax reforms being introduced by this government are based on the Ralph review of taxation. This review undertook probably a unique consultation with industry and the business community before coming to its final recommendations. Naturally, the government carefully considered those recommendations and a wide range of measures representing the first two phases of the government’s response to the recommendations were announced in September and November. The government has acted quickly to legislate these measures so that benefits such as lower company tax rates and capital gains tax reforms can be delivered in a timely fashion to Australian businesses. The measures in these bills build on the improvements made in legislation previously considered in this place. These measures will encourage investment, reduce compliance costs and improve the structure and integrity of the business tax system. Refunds of excess imputation credits will provide considerable benefits for many investors, particularly self-funded retirees. The proposed government amendments will extend this measure.

Another measure in these bills will encourage investment that is providing for imputation credits where pooled development funds pay dividends to Australian superannuation funds from gains made on venture capital investments. The pooling scheme for low cost items of plant introduced in this legislation represents a significant diminution in compliance costs for many businesses, which all of us in this chamber will certainly welcome. In particular, the measure will benefit businesses which hold many items of
plant that either cost less than $1,000 or have been written down to a value of less than $1,000. The single pool will replace the multitude of individual records that businesses are currently obliged to keep for this type of plant. Removing the intercorporate dividend rebate on unfranked dividends is an important integrity measure. Finally, the bills contain amendments to the imputation system and the infrastructure borrowings rebate to reflect lower company rates.

Let me make a number of observations on some of the matters that Senator Sherry raised. First of all, I welcome at last the concession from Senator Sherry. Only I in this chamber will know how important that concession is. Senator Sherry knows exactly what I am going to say. Senator Sherry is now on record as recognising the really very strong growth of the superannuation industry in Australia.

**Senator Sherry**—Because of the superannuation guarantee, and don’t quote me out of context.

**Senator KEMP**—Senator Sherry, you are so sensitive for a senator. Allow me three minutes to make the point. Only I know how significant that statement is from Senator Sherry acknowledging the great growth in the superannuation industry under this government. One of my first jobs as Assistant Treasurer was to withstand a withering attack from Senator Sherry on the superannuation surcharge. This was before Senator Sherry reversed the policy, which the opposition now supports. Senator Sherry said that this would destroy confidence in superannuation, that people would not invest in superannuation. Senator Sherry took some very careful advice on this, but because time is short, I will not even mention his advisers in this area. Thank you, Senator Sherry; at last you have conceded that there has been great growth in superannuation. Then Senator Sherry said he was unhappy with the surcharge. The Labor Party supported the surcharge in the lower house and opposed the surcharge in this chamber. Then it reversed its position and went to the election supporting the surcharge. As far as I know, support for the surcharge remains Labor Party policy. All I can say to Senator Sherry is: if you do not like the surcharge, you have had an enormously long period of time in which to propose an alternative. As Senator Conroy said, you spent 96 per cent of your waking hours thinking about this surcharge.

**Senator Sherry**—That’s not true anymore.

**Senator KEMP**—That is not true anymore. He has gone down to 85 per cent of his waking hours. Never has more thought been given to a measure with less obvious work coming out. It was an astonishing period with utter confusion and a particular lack of work and activity. If the Labor Party wanted an alternative, they certainly did not produce it in the last election. They have now had some three years to come up with an alternative system and have utterly failed—a very lazy effort from the Labor Party.

Then Senator Sherry mentioned co-contribution. Excuse me, but I don’t think that was Labor Party policy at the last election. It is a bit rich to attack us for not having a co-contribution policy when it was not the policy of your own party. Senator Sherry made some outrageous comments on the government’s attitude to industry funds. Those comments are quite untrue. The government see a valid place for industry funds.

**Senator Sherry**—Rubbish. You can’t wait to get your hands around their necks.

**Senator KEMP**—Senator Sherry, it may suit your narrow union agenda to talk like this, but this government does not hold the views which you attribute to it. Finally, let me make the very obvious point that the major reform in superannuation is to provide choice.

**Senator Sherry**—How is that going?

**Senator KEMP**—Just hold on and wait. Of course, it would have all got through had the Labor Party been allowed to keep its promise. Senator Sherry opposes a major reform in superannuation. Let me go on record as saying we will have a debate on this issue at a different time.

**Senator Sherry**—Exactly.

**Senator KEMP**—Senator Sherry, I share more confidence in the capacity of the Australian worker and indeed the industry funds
than you do. Choice is a very good thing for workers.

Senator Sherry—This is not important. I didn’t go on about this.

Senator KEMP—You did go on, Senator Sherry, and I am just responding. I conclude by noting once again that I understand all senators in this chamber support the reforms that this government is bringing in in this bill.

Senator Chris Evans—They did until your speech.

Senator KEMP—Senator Evans, I will not even talk about your flip-flops recently, which were embarrassing. I commend this very important legislation to the chamber.

Question resolved in the affirmative.

Bills read a second time.

In Committee

The bills.

The CHAIRMAN (8.31 p.m.)—I have a statement to read regarding this bill. The government amendments to the New Business Tax System (Miscellaneous) Bill 1999 have been circulated as requests. There appears to be no basis for them taking the form of requests. They do not result in increased expenditure out of any appropriations and they have applied tax relief rather than increased taxation for taxpayers. They should not be requests on any possible interpretation of the relevant constitutional provisions. They will therefore be treated as amendments.

Senator KEMP (Victoria—Assistant Treasurer) (8.32 p.m.)—Madam Chair, I table a supplementary explanatory memorandum relating to the government amendments to be moved to the New Business Tax System (Miscellaneous) Bill 1999. The memorandum was circulated in the chamber on 11 May. I seek leave to move government amendments Nos 1 to 7 together.

Leave granted.

Senator KEMP—I move:

(1) Schedule 2, page 11 (after line 11), after item 6, insert:

Income Tax Assessment Act 1936
6A Section 160APA
Insert:

entity has the same meaning as in the Income Tax Assessment Act 1997.

6B Section 160APA
Insert:

exempt institution means an entity whose ordinary and statutory income (within the meaning of the Income Tax Assessment Act 1997) are exempt from income tax because of Division 50 of that Act.

(2) Schedule 2, page 11, after proposed new item 6B, insert:

6C Subparagraph 160AQT(1AB)(b)(iv)
Repeal the subparagraph, substitute:

(iv) a registered organisation; or

(v) an exempt institution whose exempt status is disregarded in relation to the dividend under section 160ARDAB; and

6D After subsection 160AQT(4)
Insert:

(4A) Disregard section 50-1 of the Income Tax Assessment Act 1997 in determining, for the purposes of this section, whether a dividend is exempt income of an exempt institution whose exempt status is disregarded in relation to the dividend under section 160ARDAB.

(3) Schedule 2, page 11, after proposed new item 6D, insert:

6E Subparagraph 160AQU(1)(b)(ii)
Repeal the subparagraph, substitute:

(ii) a trustee (other than the trustee of an eligible entity within the meaning of Part IX or of an exempt institution whose exempt status is disregarded in relation to the dividend under section 160ARDAB);

6F At the end of section 160AQU
Add:

(3) Disregard section 50-1 of the Income Tax Assessment Act 1997 in determining, for the purposes of subsection (1), the amount included under section 160AQT in the assessable income
of an exempt institution whose exempt status is disregarded in relation to the dividend concerned under section 160ARDAB.

(4) Schedule 2, page 11, after proposed new item 6G, insert:

6G Subsection 160AQW(1)

After “section 128D”, insert “of this Act or section 50-1 of the Income Tax Assessment Act 1997”.

(5) Schedule 2, page 11, after proposed new item 6G insert:

6H At the end of section 160AQWA

Add:

(2) In determining the entitlement to a rebate under section 160AQX of an exempt institution whose exempt status is disregarded in relation to the trust amount concerned under section 160ARDAB, assume that section 50-1 of the Income Tax Assessment Act 1997 had not been enacted.

(6) Schedule 2, page 11, after proposed new item 6H, insert:

6I Subparagraph 160AQX(1)(b)(ii)

Repeal the subparagraph, substitute:

(ii) a registered organisation (other than a trustee); or

(iii) an exempt institution (other than a trustee) whose exempt status is disregarded in relation to the trust amount under section 160ARDAB; and

(7) Schedule 2, page 11, after proposed new item 6I, insert:

6J After Division 7 of Part IIIAA

Insert:

DIVISION 7AA—FRANKING REBATES FOR CERTAIN EXEMPT INSTITUTIONS

160ARDAA Definitions

(1) In this Division:

ABN has the meaning given by the Australian Business Number Act 1999.

arrangement has the same meaning as in the Income Tax Assessment Act 1997.

associate has the same meaning as in section 318.

controller, in relation to an exempt institution, has the meaning given by subsections (2) to (6) (inclusive).

notional trust amount, in relation to an exempt institution, is an amount that would be a trust amount of the institution if section 50-1 of the Income Tax Assessment Act 1997 had not been enacted.

related transaction, in relation to a dividend or notional trust amount, means an act, transaction or circumstance that has occurred, will occur, or may reasonably be expected to occur as part of, in connection with or as a result of:

(a) the payment or receipt of the dividend; or

(b) the arising of the entitlement to, or the distribution or receipt of, the notional trust amount; or

(c) any arrangement entered into in association with:

(i) the payment or receipt of the dividend; or

(ii) the arising of the entitlement to, or the distribution or receipt of, the notional trust amount.

Controller of exempt institution that is a company

(2) An entity is a controller of an exempt institution that is a company if the entity is a controller of the company (for CGT purposes) within the meaning of section 140-20 of the Income Tax Assessment Act 1997.

Controller of exempt institution other than a company—basic meaning

(3) Subject to subsections (5) and (6), an entity is a controller of an exempt institution that is not a company if:

(a) a group in relation to the entity has the power, by means of the exercise of a power of appointment or revocation or otherwise, to obtain beneficial enjoyment (directly or indirectly) of the capital or income of the institution; or

(b) a group in relation to the entity is able (directly or indirectly) to control the application of the capital or income of the institution; or

(c) a group in relation to the entity is capable, under a scheme, of gaining the beneficial enjoyment referred to in paragraph (a) or the control referred to in paragraph (b); or
(d) the institution or, if the institution is a trust, the trustee of the trust:
   (i) is accustomed; or
   (ii) is under an obligation; or
   (iii) might reasonably be expected:
       to act in accordance with the directions, instructions or wishes of a group in relation to the entity; or

(e) a group in relation to the entity is able (directly or indirectly) to remove or appoint the trustee of the trust if the institution is a trust; or

(f) a group in relation to the entity has more than a 50% stake in the income or capital of the institution; or

(g) entities in a group in relation to the entity are the only entities that, under the terms of:
       (i) the constitution of the institution or the terms on which the institution is established; or
       (ii) the terms of the trust if the institution is a trust;
       can obtain the beneficial enjoyment of the income or capital of the institution.

(4) For the purposes of subsection (3), each of the following constitute a group in relation to an entity:
   (a) the entity acting alone;
   (b) an associate of the entity acting alone;
   (c) the entity and one or more associates of the entity acting together;
   (d) 2 or more associates of the entity acting together.

Controller of exempt institution that is not a company—deemed absence of control

(5) If:
   (a) at a particular time, an entity is a controller of an exempt institution that is not a company; and
   (b) the Commissioner, having regard to all relevant circumstances, considers that it is reasonable that the entity be taken not to be a controller of the institution at the particular time;
   the entity is taken not to be a controller of the institution at the particular time.

(6) Without limiting paragraph (5)(b), the Commissioner may have regard under that paragraph to the identity of the beneficiaries of the trust at any time before and at any time after the entity began to be a controller of the institution if the institution is a trust.

160ARDAB Certain exempt institutions eligible for rebates in relation to franking credits

(1) The exempt status of an exempt institution is disregarded for the purposes of determining its entitlement to a rebate under Division 6, 6A or 7 of this Part in relation to a dividend or notional trust amount if:
   (a) it satisfies subsection (2), (3), (4), (5) or (6); and
   (b) section 160ARDAC (anti-avoidance provision) does not apply to the dividend or notional trust amount; and
   (c) subsection (8) (chains of exempt institutions) does not apply to the notional trust amount.

(2) The institution’s exempt status is disregarded if the institution:
   (a) is covered by item 1.1, 1.5, 1.5A or 1.5B of the table in section 50-5 of the Income Tax Assessment Act 1997; and
   (b) is endorsed as exempt from income tax under Subdivision 50-B of the Income Tax Assessment Act 1997; and
   (c) is a resident.

Note: Paragraph (c)—see subsection (7).

(3) The institution’s exempt status is disregarded if the institution:
   (a) is endorsed under paragraph 30-120(a) of the Income Tax Assessment Act 1997; and
   (b) is a resident.

Note: Paragraph (b)—see subsection (7).

(4) The institution’s exempt status is disregarded if:
   (a) the institution’s name is specified in a table in a section in Subdivision 30-B of the Income Tax Assessment Act 1997; and
   (b) the institution has an ABN; and
(c) the institution is a resident.

Note: Paragraph (c)—see subsection (7).

(5) The institution’s exempt status is disregarded if:

(a) a declaration by the Treasurer is in force in relation to the institution under subsection 30-85(2) of the Income Tax Assessment Act 1997; and

(b) the regulations do not provide that the institution’s exempt status is not to be disregarded for the purposes of this Division.

(6) The institution’s exempt status is disregarded if the institution is prescribed by the regulations as an institution whose exempt status is to be disregarded for the purposes of this Division.

(7) For the purposes of this section, the institution is a resident if the institution has a physical presence in Australia and, to that extent, incurs its expenditure and pursues its objectives principally in Australia at all times during the year of income in which the dividend is paid or the entitlement to the notional trust amount arises.

(8) The institution’s exempt status is not disregarded in relation to a notional trust amount if the notional trust amount arises because of a dividend paid to, or a notional trust amount of, another exempt institution.

160 ARDAC Franking rebates denied in certain circumstances

(1) The exempt institution’s exempt status is not disregarded in relation to a dividend or notional trust amount if subsection (2), (4), (5), (6), (7), (9) or (10) is satisfied. None of those subsections limits any of the others.

(2) The institution’s exempt status is not disregarded if:

(a) there is a related transaction in relation to the dividend or notional trust amount; and

(b) because of the related transaction:

(i) the amount or value of the benefit derived by the institution because of the dividend is, will be, or may reasonably be expected to be, less than the amount or value of the dividend at the time when the dividend was paid; or

(ii) the amount or value of the benefit derived by the institution because of the notional trust amount is, will be, or may reasonably be expected to be, less than the amount or value of the notional trust amount at the time when the notional trust amount arose.

The amount or value of the dividend or notional trust amount is to be increased to include the value of any franking rebate to which the institution would be entitled if this section did not apply to the dividend or notional trust amount.

(3) Subsection (2) does not apply to the dividend or notional trust amount if:

(a) the only reason why paragraph (2)(b) is satisfied is that the institution has incurred, will incur, or may reasonably be expected to incur, expenses for the purpose of obtaining the dividend or notional trust amount (and the associated franking rebate); and

(b) the expenses are, in the Commissioner’s opinion, reasonable in relation to the value of the dividend or notional trust amount.

(4) Subject to subsection (11), the institution’s exempt status is not disregarded if:

(a) there is a related transaction in relation to the dividend or notional trust amount; and

(b) because of the related transaction, the institution or another entity:

(i) makes, becomes liable to make, or may reasonably be expected to make or to become liable to make, a payment to any entity; or

(ii) transfers, becomes liable to transfer, or may reasonably be expected to transfer or to become liable to transfer, any property to any entity; or

(iii) incurs, becomes liable to incur, or may reasonably be expected to incur or to become liable to incur, any other detriment, disadvantage, liability or obligation.

(5) Subject to subsection (11), the institution’s exempt status is not disregarded if:
(a) there is a related transaction in relation to the dividend or notional trust amount; and
(b) because of the related transaction:
   (i) the company that paid the dividend or an associate of that company; or
   (ii) the trustee of the trust in relation to which the notional trust amount arises or an associate of that trustee;

has obtained, will obtain or may reasonably be expected to obtain a benefit, advantage, right or privilege.

Note: Section 160ARDAE makes special provision in relation to benefits provided by an exempt institution to its controller.

(6) The institution’s exempt status is not disregarded in relation to a dividend if:
(a) the dividend to any extent takes the form of property other than money; and
(b) the terms and conditions on which the dividend is paid are such that the institution:
   (i) does not receive immediate custody and control of the property; or
   (ii) does not have the unconditional right to retain custody and control of the property in perpetuity to the exclusion of the company or an associate of the company; or
   (iii) does not obtain an immediate, indefeasible and unencumbered legal and equitable title to the property.

(7) The institution’s exempt status is not disregarded in relation to a notional trust amount that arises in a year of income if the total value of the payments of money, and transfers of property, by the trustee to the institution from the trust that:
(a) occur during the year of income; and
(b) are attributable to notional trust amounts that arose during the year of income;

are less than the total amount of those notional trust amounts.

(8) Subsection (7) does not apply to a notional trust amount if the Commissioner is satisfied, having regard to all the circumstances, that it would be reasonable to treat the notional trust amount as having been distributed to the institution during the year of income.

(9) The institution’s exempt status is not disregarded in relation to a notional trust amount if:
(a) the trustee of the trust in relation to which the notional trust amount arises makes a distribution to the institution in relation to the notional trust amount; and
(b) the distribution to any extent takes the form of property other than money; and
(c) the terms and conditions on which the distribution is made are such that the institution:
   (i) does not receive immediate custody and control of the property; or
   (ii) does not have the unconditional right to retain custody and control of the property in perpetuity to the exclusion of the trustee or an associate of the trustee; or
   (iii) does not obtain an immediate, indefeasible and unencumbered legal and equitable title to the property.

(10) Subject to subsection (11), the institution’s exempt status is not disregarded if:
(a) an arrangement is entered into as part of, or in association with, the payment of the dividend or the arising of the entitlement to, or the distribution of, the notional trust amount; and
(b) because of the arrangement the institution or another entity has acquired or will acquire (whether directly or indirectly) property, other than property comprising the dividend or notional trust amount, from:
   (i) the company or an associate of the company; or
   (ii) the trustee of the trust in relation to which the notional trust amount arises or an associate of the trustee.
(11) Subsection (4), (5) or (10) does not apply to the dividend or notional trust amount if:

(a) the institution has the choice of:
   (i) receiving payment of the dividend or notional trust amount; or
   (ii) being issued with shares in the company that paid the dividend or fixed interests in the trust estate in relation to which the notional trust amount arises; and

(b) the institution is under no obligation (whether express or implied and whether legally enforceable or not) either to choose to take, or to choose not to take, the shares or interests rather than receiving payment of the dividend or notional trust amount; and

(c) the institution chooses to be issued with the shares or fixed interests; and

(d) subsection (4), (5) or (10) would, but for this subsection, apply to the dividend or notional trust amount because the institution makes that choice; and

(e) making that choice furthers the purpose for which the institution was established; and

(f) the institution does not make that choice for the purpose, or purposes that include the purpose, of benefitting:
   (i) the company that paid the dividend; or
   (ii) the trustee of the trust in relation to which the notional trust amount arises; or
   (iii) an associate of that company or trustee (other than the institution); and

(g) any benefit obtained by the company, trustee or associate because the institution makes that choice is an ordinary incident of issuing the shares or interests to the institution or of the institution’s holding of those shares or interests; and

(h) the following deal with one another on an arm’s length basis in relation to any related transaction or arrangement in relation to the dividend or notional trust amount that, but for this subsection, would have prevented the institution’s exempt status from being disregarded in relation to the dividend or notional trust amount:
   (i) the institution;
   (ii) the company that paid the dividend or the trustee of the trust in relation to which the notional trust amount arises;
   (iii) any other entity involved in, connected with or party to the related transaction or arrangement.

Note: Subparagraph (11)(a)(ii)—for fixed interest see subsections (12) to (15).

A vested and indefeasible interest constitutes a fixed interest

(12) For the purposes of subsection (11), a taxpayer’s interest in a trust estate is a fixed interest if it is a vested and indefeasible interest in the corpus of the trust estate.

Case where interest not defeasible

(13) If:

(a) the trust is a unit trust and the taxpayer holds units in the unit trust; and

(b) the units are redeemable or further units are able to be issued; and

(c) where units in the unit trust are listed for quotation in the official list of an approved stock exchange (within the meaning of section 470)—the units held by the taxpayer will be redeemed, or any further units will be issued, for the price at which other units of the same kind in the unit trust are offered for sale on the approved stock exchange at the time of the redemption or issue; and

(d) where the units are not listed as mentioned in paragraph (c)—the units held by the taxpayer will be redeemed, or any further units will be issued, for their market value at the time of the redemption or issue; and

then the mere fact that the units are redeemable, or that the further units are able to be issued, does not mean that the taxpayer’s interest, as a unit holder, in the corpus of the trust estate is defeasible.
Monday, 5 June 2000

**Commissioner may determine an interest to be vested and indefeasible**

(14) If:
   (a) a taxpayer has an interest in the corpus of a trust estate; and
   (b) apart from this subsection, the interest would not be a vested or indefeasible interest; and
   (c) the Commissioner considers that the interest should be treated as being vested and indefeasible, having regard to:
      (i) the circumstances in which the interest is capable of not vesting or the defeasance can happen; and
      (ii) the likelihood of the interest not vesting or the defeasance happening; and
      (iii) the nature of the trust; and
      (iv) any other matter the Commissioner thinks relevant;
   the Commissioner may determine that the interest is to be taken to be vested and indefeasible.

**Effect of determination**

(15) A determination made under subsection (14) has effect according to its terms.

**160ARDAD Controller liable to pay amount in respect of refund in some cases**

(1) A controller of an exempt institution is liable to pay an amount in respect of a refund paid to the institution under Division 67 of the *Income Tax Assessment Act 1997* if:
   (a) the institution claimed the refund on the basis of an entitlement to a rebate under Division 6, 6A or 7 of this Part; and
   (b) the institution was not entitled to the rebate because of the operation of section 160ARDAC in relation to a related transaction or arrangement; and
   (c) the controller or an associate of the controller benefited from the related transaction or arrangement; and
   (d) some or all of the amount that the institution is liable to pay in respect of the refund remains unpaid after the day on which the amount becomes due and payable; and
   (e) the Commissioner gives the controller written notice:
      (i) stating that the controller is liable to pay an amount under this section; and
      (ii) specifying the amount that the controller is liable to pay.

Except as provided for in subsection (5), this subsection does not affect any liability the institution has in relation to the refund.

Note: Section 160ARDAF also provides that the exempt institution’s present entitlement to a notional trust amount is disregarded for the purposes of Division 6 of Part III.

(2) An entity that is dissatisfied with a decision of the Commissioner under subsection (1) in relation to the entity may object against it in the manner set out in Part IVC of the *Taxation Administration Act 1953*.

(3) The amount the controller is liable to pay under subsection (1):
   (a) is the amount specified under subparagraph (1)(e)(ii); and
   (b) becomes due and payable at the end of the period of 14 days that starts on the day on which the notice referred to in paragraph (1)(e) is given.

(4) The amount the controller is liable to pay under subsection (1) must not exceed the amount or value of the benefit that the controller or associate obtained from the related transaction or arrangement.

(5) The total of:
   (a) the amounts that the Commissioner recovers in relation to the refund from controllers under subsection (1); and
   (b) the amounts the Commissioner recovers in relation to the refund from the exempt institution;
   must not exceed the amount of the refund.

**160ARDAE Treatment of benefits provided by an exempt institution to a controller**

(1) A benefit given by an exempt institution to a controller of the institution, or an associate of a controller of the institution, is dealt with under this section if:
(a) the controller or associate:
   (i) pays a dividend to the institution; or
   (ii) is trustee of the trust in relation to which a notional trust amount of
        the institution arises; and
(b) the benefit is, or was, given to the controller or associate at any time
during the period that starts 3 years before, and ends 3 years after, the
dividend is paid or the notional trust amount arises.

(2) The controller or associate is taken, for the purposes of subsection
160ARDAC(5), to have obtained the benefit because of a related transaction
in relation to the dividend or notional trust amount.

(3) The controller or associate is taken, for the purposes of section 160ARDAD,
to have benefited from a related transaction or arrangement that caused section
160ARDAC to apply to the dividend or notional trust amount at least to
the extent of the benefit given to the controller or associate by the exempt
institution.

(4) Subsection (2) or (3) does not apply to a benefit if the Commissioner is satisfied,
having regard to all the circumstances, that it would be unreasonable to apply
that subsection.

160ARDAF Present entitlement of exempt institution disregarded in certain
circumstances

The present entitlement of an exempt institution to a share of trust income is
disregarded for the purposes of Division 6 of Part III if:

(a) the institution claims a refund under Division 67 of the Income Tax
    Assessment Act 1997 on the basis of a rebate under Division 6, 6A or 7 of
    this Part in relation to a notional trust amount that related to that share of
    trust income; and
(b) the institution was not entitled to the rebate because of the operation of
    section 160ARDAC in relation to a related transaction or arrangement.

Amendments agreed to.

New Business Tax System (Venture Capital Deficit Tax) Bill 1999 agreed to without amendment.
New Business Tax System (Miscellaneous) Bill 1999 reported with amendments and
New Business Tax System (Venture Capital Deficit Tax) Bill reported without amend-
ment; report adopted.

Third Reading

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

HEALTH LEGISLATION AMENDMENT (GAP COVER SCHEMES) BILL 2000

Second Reading

Debate resumed from 12 April, on motion by Senator Ian Campbell:

That this bill be now read a second time.

Senator Chris Evans (Western Australia) (8.34 p.m.)—This bill amends the National Health Act 1953 to expand the types of
gap-free policies that health funds can offer by allowing a new category of ministerial ministerially approved gap cover schemes
which are not subject to contracts but which must comply with a variety of conditions. This bill has been actively sought by the
Australian Medical Association as their pre-
ferrer option for expanding the availability of
gap cover health insurance policies. In return,
the AMA has strongly endorsed the extension
of informed financial consent so that parties
are told in advance of any costs of treatment
in excess of the schedule fee.

The impetuses for gap-free health insur-
ance were the amendments introduced by the
former health minister Carmen Lawrence and
the motion moved last year by Senator Har-
radine during debate of the private health
insurance rebate legislation. All health funds
are required to offer at least one no gap or
known gap scheme by 1 July 2000 if they are
to retain eligibility for the 30 per cent rebate
direct payment option. The major funds have
already developed no gap products under the
Lawrence amendments to meet this require-
ment. These products have had reasonable
success in the market and are attracting a
growing number of doctors. However, the
AMA has the perception that existing ar-
rangements infringe on the doctor-patient
relationship and has opposed expansion of the existing gap cover schemes.

The opposition has consistently expressed its view that gap charges remain a major disincentive to people taking out private health insurance. Gap charges are an unacceptable burden to many people coming on top of their health insurance premiums and negate the benefit of having insurance in the first place. The opposition supports measures that will widen the availability of gap-free policies, provided this does not come at the expense of sparking a new round of medical fee inflation. The opposition’s concerns about this bill are that the new schemes may allow a rise in medical fees which will flow through to higher health insurance premiums; the increased payments to doctors by the funds will not be offset by reductions in the gap payments paid by consumers, resulting in a higher overall cost to patients; the proposed form of informed financial consent may not be effective in ensuring all patients are aware in advance of any gap charges the doctor proposes to make; and the proposals may inhibit the no gap schemes already in existence.

The most important concern we have is that the new schemes do not allow a new round of inflation in doctors’ fees, which pushes up both the gap paid by patients and the health insurance premiums.

The Senate Community Affairs Legislation Committee held an inquiry into this bill. Some useful submissions were received and a half-day hearing was held on Monday, 8 May. The committee’s terms of reference were directed to some pretty specific questions. As a result, some important issues were clarified and debated by the major players. Everyone is in favour of wider availability of gap-free cover, but there are important differences between the funds, doctors, hospitals and consumers about how this can be achieved. There are also still some wide gaps in the agreed facts. The department estimates that privately insured patients paid around $215 million in gap charges for in-hospital medical services in the calendar year 1999. The AMA uses a higher figure of $249 million for all gap charges in 1997-98. The average amount paid is difficult to calculate, because of uncertainty about how many patients are charged gap fees. However, the evidence suggests that the average is between $120 and $200 per private patient and that some patients pay gap charges ranging up to thousands of dollars.

This bill takes the form of general enabling legislation, with the specifics of the scheme contained in the regulations. It is not possible to get a clear idea of what the intent of the legislation is from just reading the bill. The department emphasised the degree of discretion being left to the funds and said that it would not produce any guidelines on the form of the gap cover schemes and would only discuss the schemes if approached by the funds. This is an unsatisfactory situation because the nature of the issue requires the legislation to be more specific about how gap cover schemes are intended to work. There is also concern that the department has advised the legislation gives no certainty that a person who purchases a no gaps policy will in fact escape a gap charge if they are treated by a doctor who is a member of that scheme. The best that the legislation can offer is apparently an increased likelihood that they will not be charged a gap. There is a need for the bill to broadly describe the objectives of gap cover schemes and contain the key elements of the process for approval and revocation of a scheme. If this were not the case, the powers given to the minister could be used very broadly indeed to authorise schemes which lie well beyond the scope of what the doctors advocating these amendments would have had in mind.

There was a common recognition, even among the scheme proponents, that success of gap cover schemes depends on them not resulting in doctors simply increasing their fees. The AMA recognised that there was an onus on doctors to make the scheme work in a non-inflationary way. Dr Brand summarised his views as follows:

If all it does is inflate fees and instead of putting money in patients pockets it puts money in doctor’s pockets then the Minister, I am sure, will exercise the right that the Minister has to withdraw the schemes and put them back on the basis of a Lawrence style contract.

Unfortunately, past experience suggests there is a serious risk of fee inflation and the meas-
ures proposed do not sufficiently come to grips with inflation. It is important to distinguish the two kinds of inflation that contribute to the total cost for patients. Firstly, there are increases in total medical fees due to doctors increasing their charges in response to the higher rebates received. Secondly, there are the flow-on costs of increased rebates being recovered by increases in health insurance premiums. Both of these problems need to be solved. It would be easy for doctors to rationalise that, because they were now obtaining higher rebates from health insurers, significantly above the scheduled fee, they could still extract as a known gap a substantial direct contribution from their patient. Some have even tried to argue that both the doctor and the patient could be better off. This is nonsense. The health system, the contributors to health funds and other doctors would all be worse off if such action was condoned. Any rapid escalation of medical fees would be a serious threat to the accessibility and affordability of health services.

No satisfactory answer was given to the problem of gap fees increasing after the government introduced a special new Medicare item number for complex births in 1998 which was specifically meant to reduce gap fees. The reality is that patients are in a very poor position to bargain about charges when they are discussing surgery and there need to be some constraints to ensure that doctors’ fees are not open ended. If the gap cover schemes established under this bill are predominantly used to offer known gap products where the total medical fees are significantly increased, then they will fail both the short-term and long-term objectives. The minister should be required to ensure that the proposed scheme will not have an inflationary impact on fees or total medical costs before deciding on the approval of the scheme. The current wording is very vague on this point and there is a need for a specific provision in relation to inflation in the legislation.

The department advised that if all existing gaps were covered by health funds, the estimated premium increase would be 6.2 per cent. It is important, therefore, that the schemes not simply transfer existing charges onto the bill or there will be a sizeable increase in the cost of health insurance and a flow-on cost to the government through the 30 per cent rebate. A six per cent increase in hospital benefits by the funds would add around $200 million to the expenditure by the funds and $60 million to the government’s own costs. The major funds have indicated in their submissions that they have so far been able to extend their no gap contracts without any impact on their premiums. The 2000-01 budget proposes a new pooling arrangement to share the increased costs of gap schemes amongst funds through the reinsurance arrangements. The opposition continues to be very concerned that the government will not come to grips with the reinsurance pool issue. When we debated earlier legislation on Lifetime Health Cover I moved an amendment to require the minister to complete this process by the end of this month. At the time, the minister said this amendment was unnecessary and that the changes would occur, but I now understand that the process has stalled and there will be no changes in the short term to reinsurance arrangements apart from this particular stopgap change. I would again urge the minister to get serious about looking at the reinsurance pool arrangements that are holding back the efficiency of the sector.

A major concern of the opposition is the need to place a particular cap on the rate of increase in insurance premiums to discourage funds from engaging in behaviour which might drive up costs. The rate of increase in premiums is easier to measure, because of an opposition amendment in 1999, and is now transparent. The department of health is required to publish quarterly figures on movements and premiums. The committee heard evidence that a member of the minister’s staff had urged the health funds to defer increases prior to next year’s election for political rather than commercial reasons. This is of considerable concern because if this were done the funds would be acting without regard to their fiduciary responsibilities and the funds would be storing up a large post-election unpleasant surprise for their members. There is a need for this bill to set out in further detail how the inflationary impact is to be assessed and the extent of inflation that would trigger ministerial intervention. The
benchmark is also required to determine the standard that the scheme must meet in order to gain approval. Direct comparison to the CPI is not necessarily the most appropriate measure. Other possibilities might be the ABS index for hospital costs, which is generally in excess of the CPI, an index of salary movements for other professional groups or a figure based on the cost index used for funding the public health system. The AMA proposes that the benchmark should be that the gap cover scheme should be no more inflationary than products under the MPPAs and the PAs. The Health Insurance Association suggested the measure should be the five-year average for that fund.

The opposition’s view is that the index and the method of measurement should be clearly spelt out so that there is a level playing field between the funds and no potential for premiums to increase excessively. The details of this can be left to the government to set by regulation, but it is unacceptable to the opposition for this bill to lack any definition of what an inflationary impact will be. Some funds have already reported pressure for increases in their fund rebate schedules to match the most generous of their competitors’. In other words, the competition to attract doctors to sign up for schemes is proving inflationary, as they will sign up for the best available rates and then demand other funds to match these. The bill needs to be amended to tighten up these aspects, or the objective of reducing costs will be swept aside by an inflationary surge in fees.

The second major issue—and it is one at the cornerstone of the new arrangements for known gap schemes—is this question of informed financial consent. In simple terms, this means that whenever practical patients should be informed in advance of the gap fee that they will incur either in dollar terms or as a percentage of the total fee. There is no definition of informed financial consent in the legislation and no obligation for doctors to provide patients with a proper statement of their expected bill. However, the doctors’ representatives argue that they are firm believers in informed financial consent and agree that the logic is that it should apply to all patients and not just those dealing with the doctors under gap cover schemes. The AMA states that it strongly advises its members to provide informed financial consent, and other professionals support this view. The AMA also expressed its strong support for informed financial consent applying to all patients and not just those in gap free schemes.

The Consumer Health Forum saw a need to specify the nature of the advice provided by doctors including: that the advice to be provided in writing; that the principal practitioner inform the consumer of the fees of other practitioners involved in the treatment; and that an explanation of the circumstances under which the fees might be varied be provided. The Private Health Insurance Ombudsman provided considerable detail on his work to define informed financial consent and a draft set of forms on which consultation was proceeding for the preferred form of notification of patients of the estimate of fees. These highlighted the need for information held by the health funds to be confirmed to ensure the advice from the doctor was correct for the type of cover that the patient had. The MBF stressed the importance of gap schemes encouraging the participation of all doctors involved in an episode of care.

The opposition believes that the obligation to provide informed financial consent should be entrenched in the legislation in the form of a requirement for medical service providers to give an estimate of fees where these will exceed the MBS schedule fee. The best way of moving towards better practice nationally is through guidelines and the education of practitioners. The AMA endorsed an approach of progressively increasing the proportion of doctors providing estimates of fees. In order to maximise participation providers should be given the option of providing the estimate of fees on behalf of other providers they know will be involved, or of each provider separately providing informed financial consent to the patient. The long-term goal should be simplified fee estimates to match simplified billing.

In conclusion, the opposition is broadly supportive of no gap coverage and we will be supporting this bill in order to encourage the wider take-up of this form of cover. There are a number of problems that I have canvassed
which must be addressed when we come to
the committee stage, in particular the need
to ensure the schemes are not inflationary and
the need to entrenched informed financial con-
sent. The onus will be on doctors to make the
scheme work and to build on the market
penetration already achieved by the medical
purchaser provider agreements introduced by
Labor. If doctors abuse the new arrangements
then they will not last long because no gov-
ernment will be able to sit back and allow
open-ended claims to be made. The health
insurance sector will also need to work hard
to ensure these schemes work because unless
the public are offered genuine no gaps cover-
age they will become very disillusioned with
what they are offered by private health insur-
ance. I look forward to discussing the bill in
more detail during the committee stage.

Senator DENMAN (Tasmania) (8.49
p.m.)—I seek leave to incorporate my re-
marks and I have shown them to the govern-
ment and to Senator Lees.

Leave granted.

The speech read as follows—

I will preface these remarks by firstly congratu-
lating the minister for attempting to fix the vexing
problem of gap payments and informed financial
consent.

No one who have been following the issue of Pri-
vate Health Cover in Australia would do anything
else but applaud attempts to remedy an obstacle
that has existed for some time regarding people
taking out private health insurance.

Our views on the remedy to the Public Private
Health mix are on the record and this is not the
time to revisit the macro issues that debate.

While we agree with the general intent of the leg-
islation here are some concerns I wish to raise.

Many health professionals still have some altru-
ism left in the world created by the Howard gov-
ernment, that ranks compassion with weakness
and for those still left, I applaud you.

However history has shown us there are also those
that believe they have a right to charge what they
desire. One of the concerns raised in the submis-
sions received was that if full gap cover was of-
fered some health professionals would lift fees
even more.

This action, if it were to occur, is based on the
naive assumption that if the patient is fully cov-
ered, then it will not cost them anything, it will
cost the private health funds.

Any one with the most basic understanding of
costs will realise increased costs do not disappear,
they are merely shifted and if this bill results in
the inflation of some health professional fees the
most likely result will be premium rises.

Or in the worst case scenario, a refusal by funds to
pay the entire gap due to unrealistic fees, thus
resulting in a return to the past, out of pocket ex-

This issue could be especially pertinent in my
state Tasmania where due to the small number of
some specialists and in some parts of the state
GPS, an opportunity for inflated fees is very real.
As the normal competitive factors that can lead to
price control in major cities, are obviously not
relevant when only one specialist exists and in
some specialities, the specialist flies in from Mel-
bourne.

We feel that there should be a clearly directive
statement that ensures that there are no inflation-
ary outcomes as a result of the legislation. Thus
we have suggested that the minister be given the
discretionary powers to ensure among other things
that:

1. There is no possibility that the scheme will lead
to increasing premium costs above the normal
inflationary pressures in the general health sector.
2. That there will be a reduction in the average
known gaps charged by the participants and no
increase of total costs to fund members.

Additionally we recommend that an annual review
mechanism include a prescribed format of report-
ing by organisations that have gap free schemes. If
the scheme fails to meet well defined performance
criteria rather, than we had better rush through
something. The normal response of the Howard
government we are suggesting some forward
planning that does not come from the 1950’s fu-

To avoid the problem that was indicative in the
nursing home fiasco, that meant, those inept or
fraudulent providers were in some ways free from
prosecution, some pre-emptive actions are sug-
gested.

Essentially this would translate into a well set out
policy of action should any scheme not measure
up to the performance indicators.

This has obvious advantages for the industry, the
government and most importantly the patient. The
industry would know in advance what is expected
of it, the department would have a well-defined
action plan and the consumer would be protected
from unscrupulous operators.

Another important matter explored in the inquiry
was the issue of informed financial consent. In
most other areas of service the client is given a quote that, within reason, is expected to be the final bill.

Thus the intent of this inquiry was to endeavour to find a reasonable format for implementing the same method of arriving at charges for the health industry.

On the surface this may seem like a simple matter, it is certainly an important one. However in many operations, unforeseen circumstances arise and it is often the case that surgeons are not sure what they will find until the operation reaches a certain stage. If the operation has unforeseen complications this affects not only the surgeon’s fee but also the theatre charges the anaesthetists charges and so the list goes on.

Thus in some instances it would be unreasonable to hold to the original quote.

This however should not preclude the expectation that the patient or the patient’s representative should be provided with a reasonable estimate of what the episode of care should cost. This should, when ever viable, be given to the patient well in advance of the service being delivered.

A common complaint involves the number of bills the patient may receive after an episode of care. It is not uncommon for patients to be receiving bills from many quarters and sometimes over many months.

Accounts have been given to me of individuals receiving a bill from the hospital they pay it, then a few days or weeks later a bill from the surgeon, they pay it, then a few days or weeks later the anaesthetist bill arrives and so on it goes. As any one can understand some one recovering from an operation does not need the continual financial up and down indicative in this way of billing.

Thus we suggest when more than one health provider is involved in an episode of care, where practical that agreement should be reached between the providers enabling one nominated provider to be responsible for billing for the whole of the service. This would simplify the process for not only the patient but the provider as well.

With the Senates indulgence I would like to make some brief comments on the recently announced rural health package.

Due to the high quality of the volcanic soil found where I live, farming is one of the main industries in the North West. If my memory serves me, we are the biggest exporter of onions, potatoes and recently other crops such as poppies and pyrethrum.

Thus it was with more than a passing interest I noticed the work of the Australian Centre for Agricultural Health and Safety. The work I am commenting on concerns the dangers faced by those that put food on the tables of the nation. This work shows that farming is the most dangerous occupation, more dangerous than mining. So dangerous in fact that farming averages a death every three days.

James Houlahan the deputy director of the Centre for Agricultural Health and Safety also states that “somewhere between two hundred and six hundred injuries per one thousand farms require attention at rural hospitals each year” (source ABC rural News) This figure does not include injuries not attended to as farmers are renowned for leaving physical pain to the last moment.

One would be excused for thinking that due to need, rural and regional health centres should be well resourced and there should be a GP on every corner. This is unfortunately not the story.

An article in the Australian Journal of Rural Health titled rather aptly the “Inequitable Distribution of General Practitioners in Australia”, shows that there is not an abundance of rural GPs in the Mersey-Lyell region, my home region. As the article clearly shows, in the region of my constituents there is a full time doctor for every thirteen hundred people. However the ACT has a full time doctor for every eight hundred and seventy people. This compared with a state average in Tasmania of one full time GP for every nine hundred and forty one.

Not surprisingly ACT has the greatest ratio of GPs per person as a state average (after all they have people here to blow leaves off the footpath), but even within the Tasmanian context the city country divide is apparent with Hobart having one full time GP for close to every eight hundred people compared to the previously mentioned figure for the area I live, one GP for every thirteen hundred people.

Again the minister should be acknowledged for attempting to address the problem even if some of the policies most likely started on our side of politics, the bonded scholarships for example.

Unfortunately just painting the outside of a building that needs a complete overall has a limited chance of securing the viability of that building in the long term.

And that is what we have in the rural health package. When will the Howard government learn that with out the infrastructure to support the GPs and the families that move with them, they will not stay.

Without a vibrant public hospital where can they refer to, without vibrant schools, where do they send their kids, without decent child care how can
their partners find work, without a vibrant social and cultural life the chances of the families of GPs enjoying or even participating in the community are slim.

None of the issues mentioned above have even been acknowledged let alone dealt with in this budget. Thus I suspect that after their bonded time is over most will return to the cities many of them came from feeling burnt out, bored and completely unfulfilled.

This is one time I hope I am wrong, but I suggest unless National Well Being becomes as important as the National Gross Domestic Product for all the window dressing, nothing will really change in not only rural Australia, but also the whole of our nation.

My colleague, the member for Braddon today issued a press release on the lack of health funding in the Circular Head area. It reads:

**Lack of rural health funding**

Rural health funding in the Federal Budget does not go far enough, according to Braddon MHR Sid Sidebottom. Mr Sidebottom said communities in areas such as Circular Head were missing out. He said he was concerned that the failure to attract doctors and nurses to Circular Head may mean the loss of services such as obstetrics, and lead to a downgrading of the Smithton Hospital. He said he supported recent calls by the Circular Head Council for the Federal Government to provide greater financial assistance.

Senator LEES (South Australia—Leader of the Australian Democrats) (8.50 p.m.)—The Democrats support the general purpose and thrust of this bill. Indeed, we have argued for years under successive governments that the issue of the gap was one of the key issues for those Australians who have private health insurance or, indeed, would like to have private health insurance. Out-of-pocket expenses, particularly those that the patient had no warning of, are a great deterrent to people keeping private health insurance and, once the word spreads that people are required to pay the gap—perhaps to doctors, perhaps to hospitals—for a range of different procedures, then soon it becomes a general deterrent for all. In some cases I think the rumours have spread to the point where, indeed, it is not as big an issue as some people may believe but it certainly is a major deterrent. It seems that the cost of the gap to health fund members is somewhere around $200 million a year. That is a very large sum of money for consumers and particularly a large sum of money once consumers have already paid their premiums.

With successive governments we have argued for no known gaps. We have a legal action in South Australia that has found that patients do have the right to know when they are going to be charged an additional amount of money. This piece of legislation is another step down the road to limiting the out-of-pocket expenses for those Australians who choose to have private health insurance. We are aware of a range of schemes already available which seek to minimise or eliminate the gap for consumers. In particular in my home state of South Australia, Mutual Community has had some considerable successes with their particular gap cover schemes. I congratulate them on their achievements. I understand that they still have some way to go but they have certainly made some very positive steps.

There is a difficulty for many doctors entering into any agreement that requires a contract. This legislation moves away from requiring contracts and it allows for agreements that do not actually require a signature on the bottom line. Medical practitioners, as represented by the AMA, have expressed support for this legislation. I also note that this legislation has support from the private health insurance industry and consumer groups.

There were issues raised before and by the Senate Community Affairs Committee during the inquiry into this bill. I think these issues need to be addressed. We have picked up a couple of them. I note the Labor Party have picked up others. The first amendment that the Democrats will be moving addresses a concern raised during the inquiry that there is a potential for gap cover schemes to be inflationary. I think it is critical. It is going to cost the government a considerable amount under its present 30 per cent rebate scheme and, if premiums simply keep going up at basically the same amount as gap payments go down, we will have got nowhere. Consumers will not have benefited and the public purse will be by far worse off. The Democrat amendment will require health funds to provide to the minister for health enough information
about their proposed schemes to satisfy him or her that the scheme will not have an inflationary aspect.

The second Democrat amendment deals with the need for consumers to be fully informed about the details of the schemes. It requires that a person providing hospital treatment under this legislation must disclose to their patient any financial interest that he or she has in any products or services that they recommend the patient be provided with. This issue was raised by the ACCC in their report on anti-competitive behaviour among health funds and health care providers. They drew some comparisons between the issues raised by the Australian Broadcasting Authority in their recent commercial radio inquiry. We want consumers to be confident that their doctors are providing the best advice, which is unbiased by any commercial consideration. Obviously, the vast majority of doctors are very responsible and always have their patients’ best interest at heart, but we believe that the consumers have the right to know when their doctors stand to gain financially from a specific course of action that that doctor is recommending. So they must be required to reveal to patients any relevant financial interest when recommending further treatment.

We understand that disclosure of financial interests raises much broader issues than just direct financial interest that a treating doctor may have. With the increased corporatisation of medical practices, there are a number of potential conflicts of interests, and over time we are going to need to address these in some detail. These issues certainly go a lot broader than those dealt with by this bill relating to gap cover schemes. We will be seeking to move further amendments to general health legislation as it comes before us. I am pleased to see that the opposition are quite supportive of what we are proposing. I also acknowledge the concerns that the opposition raised during the Senate inquiry. We note that the opposition have put forward some draft amendments. I understand that we are not getting to the committee stage tonight, Mr Acting Deputy President. When we do get to the committee stage, we will be looking, in particular, at the opposition’s amendment that requires a review of the act as soon as practicable after 1 July 2002. I think this is a very useful exercise when we are looking at a process such as this.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—We have no information that we will not get to the committee stage tonight.

Senator LEES—I think we will be facing some difficulties if we do, Mr Acting Deputy President, because we have different drafts of the opposition amendments. I understand that some are still under discussion and negotiation with the government. Perhaps at the end of the second reading stage, the parliamentary secretary would be able to advise the Senate as to the status of the specific amendments. We understand that, for example, the constitutionality of one of the amendments is under some further discussion. So we wait for the outcome of these discussions, but we do concur with the concerns raised by the opposition in relation to this piece of legislation.

One final point is that, yet again, we have this government concentrating on private health insurance. We really look forward to some other legislation dealing more broadly with the health system, with the public health system, with a whole raft of different streamlining and proposals specifically dealing with some of the shortcomings. It is a matter of not just putting more money into our public hospitals and public health services but also giving some attention as far as legislation is concerned.

Senator FORSHAW (New South Wales) (8.58 p.m.)—I rise to make some comments in regard to the Health Legislation Amendment (Gap Cover Schemes) Bill 2000. I would pick up from the concluding remarks of the Leader of the Democrats, Senator Lees, when she indicated that she would welcome some legislation coming forth from the government on other areas dealing with health. Whilst I will come back to that at a later stage in my contribution, I would reiterate that call. Whilst this legislation goes to the very important issue of covering gap payments, the government is found wanting when it comes to the big issues in health—and nothing could have been clearer than that
nothing could have been clearer than that in its recent budget.

The government has made a lot of noise about its supposed initiatives for rural and regional health in the budget, but when you examine the detail you find a scheme which is long overdue, picks up an idea the Labor Party advanced some time ago and, most importantly, only goes to a narrow area of the health debate. Interestingly enough, the initiative in the budget is directed at increasing the number of medical students who will ultimately be working in rural and regional areas.

There are some major issues that impact upon health in this country. Unfortunately, this government has ignored them and in some cases has made the situation worse. The situation in our public hospitals is critical because of the policies of this government, which have focused almost exclusively on the private hospital system to the exclusion of the public health system, which is managed largely by the states. Since it has been in office, this government has ripped well over $1.5 billion out of the public hospital system. On the other side of the ledger, the government has introduced a scheme which provides a 30 per cent rebate for persons taking out private health insurance in an endeavour to lift the level of private health insurance.

I have put this on the record before and I will say it again: I happen to have private health insurance. I have had it since I was old enough to pay for it myself and no longer had to rely on the insurance provided by my parents. I come from a tradition where I was in private health insurance, and I have kept it up. But many people in Australia have found that private health insurance has become increasingly expensive and has failed to deliver the coverage that they require. Everybody can relay their own stories, as well as examples from their constituents, about people with private health insurance still having to meet costs of thousands of dollars when they have a procedure in a hospital. We all know that the cost has always been the difference between the amount charged by the doctor or the surgeon and the rebate provided by a combination of Medicare and the private health fund. People have continuously and increasingly found that private health insurance has not been delivering.

Whether you look at the area of medical coverage or at other areas, such as ancillaries, you will find, increasingly, that the value is not commensurate with the cost of the insurance, let alone the cost of the gap. Anyone who has private health insurance coverage today—and, under the current legislation, you effectively have to have it if your income is over a certain level, or you have to pay the extra levy—will find that in areas such as dentistry the difference between the amount charged and the refund received from the health fund is astronomical.

The whole point of this is that we have a problem with private health insurance, and that is that it is simply not value for money. People have increasingly been prepared to take the risk and rely on the public hospital system. What has this government done to address this issue? Firstly, it decided that it would take funds out of the public hospital system, which is its primary responsibility, and transfer them as a subsidy to the private health insurance industry in an endeavour to lift their membership. Secondly, it has opened up a situation where people can take out the cheapest private health insurance coverage available, thereby qualifying for the rebate and avoiding the levy. They then continue to rely on the public hospital system. Thirdly, the government now proposes—as requested by the AMA—an ability for funds to provide known gap cover schemes. On the surface, that looks okay. If it reduces the level of the gap or—as I think is more likely—provides an incentive for doctors to advise their patients up-front what their fees are, that could be said to be a good thing. However, when you examine it closely you find that this proposal moves the balance, again, further towards the medical profession and their interests and away from the interests of patients.

When we were in government prior to 1996, honourable senators will recall that, under the then minister for health, Dr Carmen Lawrence, we sought to introduce a system whereby cover could be provided on a no-gap basis where there was an arrangement be-
between the health fund and the medical practitioner. The basis of that was that doctors would enter into arrangements with medical funds, and hospitals would enter into similar arrangements. Patients could then go in for procedures, knowing that all of their costs would be identified up-front and would be covered by their policy. What was the reaction of the industry? The doctors would not have a bar of it. They said, ‘Hang on, this is in conflict with the privacy of the doctor-patient relationship.’ I recall there were a number of hospitals that were not all that keen on the scheme, although in large measure hospitals were prepared to enter into these arrangements with health funds but the doctors were not. So an incentive to deal with the gap problem was rejected by the medical profession.

It is in that light that you should consider this legislation. Whilst it is intended to increase the appeal of private health insurance and to improve the product by allowing gap cover schemes to be approved, in effect we are talking about known gap schemes—not no-gap schemes. That means that there will still be a gap. The only obligation on the doctor is to identify up-front the amount of that gap so that, when the patient has to undergo some procedure in a hospital, there will be an identified amount that Medicare covers and there will be a known gap that the patient will be up for. The opposition have already indicated—and Senator Evans covered this—that we are concerned that these proposals could trigger a new round of increases in the fees charged by doctors. It could have an inflationary effect; indeed, it could also lead to health premiums increasing. It has not been made clear how this legislation will prevent doctors from charging large gap fees. It will still be possible, provided that they disclose those fees in advance. If increases in doctors’ fees do come about, insurance premiums and gap fees could continue to increase, leading to further pressure on an already overburdened public health system. We have some major concerns with this proposal.

I am also intrigued that the basis behind this proposed scheme is to give effect to what essentially has been argued for by the Australian Medical Association. I have a reasonable amount of respect for the AMA. I believe that, by and large, on many issues not only are they forthright advocates of their own particular interests but also they do, on many occasions, argue in support of matters of public policy. That is clear on issues like Aboriginal health and the impact of tobacco advertising, and I think it is certainly true in respect of their concerns to improve the delivery of health services in rural and regional Australia. I and many other members of parliament have taken the opportunity on a number of occasions to attend AMA breakfasts or briefings, when they have been held in this parliament, to hear from the former leader of the AMA, Dr Brand, and other spokespersons on their views on health matters. We welcome that.

I still find it rather ironic that legislation is being put forward by the government which has been pretty much developed as an idea by the doctors’ trade union, the Australian Medical Association, which is pretty well a closed shop. I do not think membership is compulsory, but it is not far from it. I do not have any problem with the AMA seeking to represent the views of the medical profession in this country, along with the other relevant groups, but it is interesting to note that on this issue this government is quite prepared to adopt the views of the trade union for the doctors whereas on every occasion that you hear a government minister, particularly Mr Reith, speak about the interests of particular groups of workers, trade unions are anathema—they are to be avoided at all costs.

I make that point because every day now we seem to be hearing from Mr Reith about the evils of collective representation and of bargaining for the collective interest. That is what this scheme is really about: it is being put forward for the collective interests of doctors in this country to protect their incomes—probably even to enhance their incomes ultimately. If you read the second reading speech, the government talks about sitting down with the association to address further issues of concern with respect to the whole question of gap insurance. So let us not have any more of this two-faced hypocritical approach from this government when
it comes to representing the views of sectional interests in this country.

I will conclude by drawing attention to the marked difference between the approach adopted by this government and that adopted by the New South Wales government recently in respect of health. The New South Wales government, in March this year and again in the budget, announced that they would be injecting in excess of $2 billion into the New South Wales health system—a substantial real increase. The package gives health professionals more certainty, greater funding and an opportunity to be involved in the planning and implementation processes. The New South Wales government—with very little, if any, support from the federal government—are addressing the real needs of providing extra funding and services throughout New South Wales, particularly in rural and regional areas. They are the real issues that this government should be focusing its mind on, and that is what this minister for health should be focusing his attention on. But it seems that, unfortunately, we have a minister for health who is more interested in doing the bidding all of the time of the medical profession, whether it be in respect of addressing the issue of gap payments—an important issue, no doubt, but not the most critical issue—or indeed in addressing something like the provision of MRI machines.

With those remarks, I look forward with interest to the response from the federal government, particularly in the committee stage, to the important issues that have been raised by Senator Evans and Senator Lees to ensure that this legislation delivers real improvements to the patients who have to pay the gap rather than simply being a mechanism for increasing the fees of doctors and inflating health costs even further.

**Senator Quirke**—That was a known gaps policy, wasn’t it?

**Senator CROWLEY**—We got together to cover the gap very well, thank you very much, Senator Quirke. If you read the report from the Senate Community Affairs Legislation Committee on the Health Legislation Amendment (Gap Cover Schemes) Bill 2000, you will see on page 1 of the report:

Data for 1997-98 shows that the cost of medical gaps for in-hospital medical services provided to people with private health insurance was around $200 million. The average medical gap for an episode for a private patient in a private hospital was $151 and for a private patient in a public hospital was $69, though for some procedures the gap payment can be much higher.

Indeed, in other parts of this report the gap is reported to be in some cases up to $1,000—and we know that is the case. I have said it many times in this place, and we know how often we get letters from people who say things like: ‘I’ve had private health insurance for 30 years. I always thought it was the right and proper thing to do. For the first time in my life I’ve used that private health insurance and now I have a bill for $3,000. Senator, I’m a pensioner and I can’t pay. What will I do?’

I had hoped that over the years we might have gotten rid of gaps. But here we are legislating to cover the gaps, we think, by allowing doctors to charge an amount above the scheduled fee with no guarantee, of course, that that is where they will stop. No gap or known gap: ‘Good afternoon, Mrs Jones. You’re in terrible trouble. I appreciate you are going to need an operation, and I am pleased that you’ve come to see me on referral from your general practitioner. I can tell you that if you do have that operation with me in hospital Z the gap will be $1,000. Are you in? The gap will be $150. Are you still in?’ What are we talking about here: that a doctor will be able to say to a person with private health insurance—insurance which is supposed to protect them from big medical bills—‘We’ll discuss the agreement. Yes, medically you need an operation and I am pleased that you’ve come to see me on referral from your general practitioner. I can tell you that if you do have that operation with me in hospital Z the gap will be $1,000. Are you in? The gap will be $150. Are you still in?’ What are we talking about here: that a doctor will be able to say to a person with private health insurance—insurance which is supposed to protect them from big medical bills—‘We’ll discuss the agreement. Yes, medically you need an operation or a procedure. Yes, we are agreed that we can go ahead. Yes, a bed can be arranged for you in a hospital. Now what we have to do is talk about what is the no gap,’ or, in many cases,
the known gap. People who are now clearly aware that they need medical treatment will have to perhaps bargain or just cop it sweet, whatever the doctor says is the known gap: ‘I’m terribly pleased you are here. I’m very pleased to tell you that in my case the known gap is $200,’ or $500 or whatever. I find this is a remarkable achievement by the medical practitioners of this world—extremely wonderful. What have they done to make it so acceptable? They have had a minister who has introduced $2 billion worth of rebate subsidy for those with private health insurance. The pain now will be considerably less because, should these gaps contribute to inflationary pressure on private health insurance, one-third of the tab is going to be picked up by the taxpayers anyhow for everybody.

One of the things that the coalition government keep telling us is that they are good economic managers; in health care the example time and time again is that they are not. What kind of restraint on costs is it to subsidise private health premiums by 30 per cent? It turns out to be appalling economics. Indeed, we saw most of those prospective gains for people with private health insurance consumed immediately by rises in private health premiums. We have seen what happened when doctors, obstetricians, were granted by the government an increase in the Medicare rebate for complicated obstetrical procedures. What happened was that the gaps stayed the same and the doctors pocketed the difference. The increase went straight to the obstetricians. Being of the great medical profession, I suppose I am better able to speak than others about this matter. I am very proud of the medical profession and I would hate anybody to take my words to mean that all docs are out there making a quick buck. But we do know that this profession over time has established a precedent that, out of taking the money and not taking the money, many of them are in for taking the money. They are increasing the costs, pushing them up—and what is the benefit? Why on earth does it cost more to have the same procedure done in a private hospital than it does to have it done in a public hospital? The difference is stark if you compare both of those as private patients. On any examination, the costs of doing procedures in public hospitals should be more expensive. They have on-costs of education, of training doctors, of training nursing staff, of pathology services provided, of research dollars and so on. None of those costs are borne by a private hospital and yet the cost for the procedure in a private hospital is significantly more.

Nobody seems to be troubled by this. Nobody seems to ask why. I hope the patients of Australia can now start saying, ‘Why? Why can you do this to me, doctor, for a gap of $50 in a public hospital and a gap of $250 in a private hospital?’ What I think we are writing in here is the prospect of real pressure on our public hospitals. We have not seen too much to this point. We do not know of any evidence to prove it but we do know that this is likely to make people say, ‘Very good, doctor, I will have this operation in a public hospital where you are telling me the gap is going to be less.’ Same doctor, same procedure, different hospital—what is the accounting of this? Why on earth do the medical profession say that their gap has to be so much bigger in a private hospital where they do not have on-costs that are anything like the same as in a public hospital? I think these are major concerns, very significant concerns, and I am particularly troubled by the evidence of what has happened with the obstetricians: that the gap remains the same and the doctors have taken the increase. That is not going to reduce the pressure on private health insurance rebates. It is going to increase the outlays by the taxpayers of Australia, who are subsidising everybody with private health insurance to the tune of some 30 per cent. So there is not the same pressure to worry because, if the premiums do rise, one-third of the cost is being picked up by the taxpayer.

I am astounded that the minister for health, who might claim to be good at health economics, would allow such open-ended underwriting of uncontrolled, unrestricted, unlimited charges. In the end it does come back to what sort of health services we are providing. It does come back to who is paying. What is happening is that thousands—billions—of precious taxpayers’ dollars are going to subsidise rebates for private health
insurance and they are not going into our public hospitals. They are not going to provide an alternative to this private health insurance treatment process. Isn’t it interesting that private health insurance was established to protect people from overwhelming medical bills—bills that would cripple a family, cripple a patient—because most people, if they are sent a bill by their doctor, will do what they can to pay it. So private health insurance was introduced to try to protect people from those kinds of crippling debts. We now have a system that does protect people. It is called Medicare. While I hold my breath on how sincerely they mean it, even the opposition now say Medicare is a good thing.

Senator Calvert—What?

Senator CROWLEY—Yes, they do, Senator Calvert.

Senator Calvert—The opposition is saying that?

Senator CROWLEY—Sorry—you, the coalition, thank you. There we are, Senator Calvert, I beg your pardon. I am glad you actually corrected me on that. The coalition even now says it supports Medicare.

Senator Jacinta Collins—Sort of.

Senator CROWLEY—I have some quotes where Prime Minister Howard is actually on the record as saying it, which is an extremely significant change from what he was saying not too long ago at all. But, if he now believes in Medicare, that is extremely good. I am very pleased that he believes in Medicare and I think it is one of those times when we will remind him, again and again and then again and again—ad nauseam—that he actually said on record that Medicare is a good thing and it should be protected.

Senator Jacinta Collins—I just hope that it was not a core belief.

Senator CROWLEY—One has a fear that it is not a core belief. One of the things that is so good about Medicare is that people do not have a gap. They do not have to worry about other costs; there is no gap. Many speakers from the coalition have stood up in this place and told us how important it was to increase private health insurance so as to assist people to get off waiting lists and so on. The more they said it the more the people marched away from private health insurance to Medicare, because Medicare gave them protection. Medicare gave them no gap. Medicare gave them good health services in our great public hospitals and they did not have a gap. I can hear my colleagues over there ranting and raving as they go on about all of this—‘It was the Labor government plot to destroy private health insurance.’ No, it was not. We introduced a marvellous alternative and the people made very reasonable choices. I find it amazing that, for having made those good choices, they have been described as all sorts of things but in particular they have been regarded as defective—‘We must actually give them the option to pay lots of money for private health insurance premiums and then, when they get their surgical procedures and their medical procedures, they will have to pay even more, called the gap.’ So I think that the coalition is very two-faced about its policies in health care.

Senator Calvert—What about the waiting lists under your lot?

Senator CROWLEY—You know that the waiting lists were a furphy then and are a furphy now. I am pleased with that interjection from Senator Calvert, because Minister Blewett, way back then, found $40 million to provide to private hospitals, together with the states, to get the doctors to reduce the waiting lists. In my own state of South Australia—

Senator Calvert interjecting—

Senator CROWLEY—I am too busy talking to listen to your rabbiting on, Senator. But if you give me a minute, I will finish my comments and then you might want to say something sensible. The private hospitals in South Australia were delighted to have the opportunity to contribute to reducing waiting lists, but the doctors refused to participate. And that, I have to say, is extremely depressing. In the Illawarra region, New South Wales, the doctors quite differently agreed to cooperate, and they reduced the eye waiting list for pensioners by operating in the private hospitals under this arrangement. There are some other very good examples of where it happened. The coalition does not want to know about that, but it did happen. Under a
Labor government, we reduced the waiting lists.

Senator Calvert should know that there is no evidence that the increase in private health insurance numbers reduces any pressure on public hospitals. There is none—no evidence at all. What we do have is anecdotal evidence that people with private health insurance are not declaring it but are going to a public hospital where they know they will have no gap. The reason that this legislation is in here is that it has finally dawned on the coalition—they have finally accepted what has been said for years—that the gap has been a major contributor to consumer perceptions about private health insurance. Why would you pay the ever-increasing private health insurance premiums when what you cop is a big bill? If you are lucky, you only have one big bill. But many people, recovering from a procedure in hospital and not feeling well at all, have to cover not one gap but many gaps—bundles of bills that you did not know you would get, from theatre bills to whatever. Some of that is now being gathered together under a variation on legislation introduced by Dr Lawrence. And the screams then from the coalition in opposition on behalf of their medical profession colleagues! ‘We can’t cop this. This is outrageous! This is shocking and terrible!’ Now here they come with a piece of legislation that goes a long way to doing, more or less, what Minister Lawrence was then proposing.

I have grave concerns about this legislation. As I said, on the evidence of the obstetricians I believe that trusting the doctors to set fees and to stick to them is an open-ended invitation to excess, if not greed. I certainly would not hold my breath for doctors to set those limits. I find it extremely disappointing that that is apparently the best that we can do. We have ‘carroted’ and ‘sticked’ people into private health insurance, and it seems that a few people have taken the carrot. More of them are being beaten, ‘sticked’, into it as they appreciate the penalties that will occur to them if they do not do things before—

Senator Heffernan—Say that again—beaten and sticked?

Senator CROWLEY—Mr Acting Deputy President, there are some over there who seem not to understand this metaphor. They look to me as though they were probably in primary school when these things were commonly said, but if they do not understand it I can refer them to Mother Goose’s nursery rhymes or some other similar kind of reading which should give them an understanding of it. People have been thrashed into private health insurance, ‘sticked’ into it, for those over there who are not understanding. And what they are going to find, if they are lucky, is a known gap. We do not have, even still, a guarantee that that known gap will be properly and comprehensively explained to people before their medical or surgical procedure. It is a hope that it will be, but I would love to know how anyone is going to police it, to check up on it. ‘Mrs Jones, did Dr Smith tell you how much this was going to cost?’ ‘No.’ And Dr Smith will say, ‘I certainly did.’ And people who are under pressure, who are ill, who are sick, may well not hear the information or, as in times past, may not be told the information.

It may be that we have got a differently informed medical profession, but some years back I chaired an inquiry into private health insurance. It was really edifying to have the surgeons come along to that committee and give evidence! I asked them questions like, ‘What is the gap? What would a person have to pay for an appendix operation in your clever hands, doctor?’ They answered, ‘Well, that is a really good question, Senator Crowley. We don’t know.’ So I hope somebody is going to educate the surgeons of Australia, let alone the rest of the medical profession, about what the gap will be—not just what they are charging but what a person’s private health insurance coverage will be. As the doctors said back then, the doctors might be very annoyed that they are going to have to do these calculations and sums. I would imagine that that is not an unreasonable thing—they are not supposed to be doing sums like that. They are supposed to be diagnosing medical conditions rather than assessing how much the gap is going to be. But if this is the legislation and this is the way that we are going to go, then I think it behoves the doctors to get it right and to give those facts to prospective patients.
I also think it is going to be terribly important to have a look at just what has happened in this legislation in a very short period. I would make a sunset clause of six months. I see that there are some proposals that we at least have a look at it in a year’s time—and so we should. I remind senators again that the evidence of the obstetricians in very recent history should give people no comfort whatsoever. It is called in the end ‘Who’s paying for all of this?’ The medical profession insist on their right to contract between a patient and themselves. It is all a private contract, and it is largely taxpayers’ money. Never forget that—despite the fact that people will want to say that if you have your procedure in a private hospital there is no taxpayers’ money involved. Rubbish! Seventy-five per cent of the medical benefits schedule for that procedure is already covered by the taxpayer, and that will continue. A very significant cost in private hospitals is met by the taxpayer. And now that rebate for private health insurance is come-in-sucker money for private health insurance people and for people who want to put up the costs. This is one of the big concerns: as the gap grows, so will the pressure on private health insurance and so will the claims against those funds. It is clearly inflationary, and I think we should be very concerned about just how far we can let that inflation pressure go. But, as I said, if you have already had the minister set in place the rebate of 30 per cent to the tune of $2 billion, then this legislation is in its logical sequence. That, to me, is a very depressing way on which to finish.

I do not hold my breath about this legislation doing anything to contain costs. In fact, it is clearly an indication that costs will increase because the known gap element means that doctors will charge and will be allowed to charge above the schedule fee. I ask the minister whether he or she, depending on who it is—if it is Senator Tambling, then he—could provide any information to me as to why a procedure costs so much more in a private hospital when that procedure is not associated with any of the on-costs that happen in a public hospital. I have asked this question before and been told that it was irrelevant. (Time expired)
offering a no contract option to address the gap. This approach gives funds greater flexibility in their approach to gap cover. At the same time it aims to encourage a greater number of medical practitioners to participate in gap cover, and it will provide consumers with the choice of more products offering gap cover. This means better value private health insurance. The approach is entirely voluntary. Funds and doctors alike will participate on a totally voluntary basis. The schemes that funds will develop and that doctors will participate in will be those that are attractive to all parties: the funds, the doctors and the contributors.

Importantly, this legislation does not jeopardise existing agreements that funds already have in place. The government is keen for funds to continue their current efforts to address the gap. It has been very pleasing to see the work of the funds and doctors so far to address the gap using the existing legislative framework. Those doctors already participating in agreements are expected to continue to do so under the current framework. This measure will complement the current legislation by providing a no contract means for funds to cover the gap. In this way it will appeal to doctors who are not currently participating in agreements and would not do so under any circumstances due to their objections to contracts.

In order to ensure maximum benefits to consumers, the proposed gap cover schemes will be developed by private health insurance funds and will need to be approved by the Minister for Health and Aged Care before they can come into operation. Approval will be made with reference to a number of essential criteria set out in the regulations attaching to the bill. The regulations have been drafted in advance of the bill being passed to provide all parties with the opportunity to comment. In debate of the bill in the House of Representatives, the shadow minister for health referred to the fact that the bill provides for much of the detail concerning the approval and subsequent regulation of gap cover schemes in these regulations. It is precisely for this reason that the regulations have been drafted in advance of the passage of the enabling legislation, so that members and senators can consider the package in its entirety.

I will now turn to some of the key measures contained within the gap cover schemes legislative package. The approval process provided for in the legislation contains a number of protective measures that will ensure that gap cover schemes deliver maximum benefit to consumers. Most importantly, the legislation ensures that no scheme will be approved unless the health fund can demonstrate that it will not have an inflationary impact. This information will have to be provided to the minister in detail in the fund’s application for scheme approval. It is worth noting that this legislation introduces protective mechanisms that do not apply to current agreements to address the gap. The current measures to address the gap which were introduced by the opposition do not address the issue of the inflationary impact at all. In contrast, this measure has been designed very deliberately to ensure that inflationary impacts are not felt throughout the health system as a result of measures to address the gap. To further safeguard the interests of consumers, the legislation enables the minister to review the operation of schemes at regular intervals, and he may also impose conditions on the continued approval of the schemes if necessary. Schemes will also be independently monitored by the Private Health Insurance Administrative Council to determine the extent to which they will generally reduce or eliminate gap payments by consumers.

The legislation also provides for revocation of schemes if they are not delivering better outcomes for patients and do not meet the criteria as required. Revocation is considered to be a last resort. The regulations ensure that contributors are protected if a scheme is revoked, as they require funds in their application for scheme approval to demonstrate that contributors would not be disadvantaged if a scheme were revoked. As I have mentioned, the regulations attaching to the bill include a number of essential criteria that funds must address in their application for scheme approval. As well as the criteria that I have already outlined, funds are also required to show that their scheme provides informed financial consent and simplified
billing and to ensure that the professional freedom of medical practitioners is maintained to identify appropriate treatments for their patients within the scope of accepted clinical practice.

I would like to discuss in more detail the requirements for informed financial consent and simplified billing. During the debate of this bill in the House of Representatives, both the shadow minister for health and the member for Fremantle made much of the fact that neither the bill nor the regulations contain a definition of ‘informed financial consent’. Informed financial consent is to be an integral part of gap cover schemes, just as it is for existing agreements between doctors and funds. The requirement for informed financial consent states that the medical practitioner is to inform the health fund member, before treatment if possible, or as soon as practicable after treatment, of any amount they may reasonably be expected to pay.

Another criterion for the gap cover schemes is the requirement for simplified billing to be provided, where appropriate. In cases where there is no gap payment owed by the patient, it is obviously not necessary. The government is keen to encourage simplified billing and promote it where possible as a means to make private health insurance more efficient and attractive, but neither funds, hospitals nor doctors are currently required to participate in it, including under the existing gap agreement framework. This bill establishes a voluntary, no contract framework that will be attractive to the industry. It is now up to funds, hospitals and doctors to work together to produce arrangements that will make private health insurance more attractive to Australians. I commend the bill to the Senate.

Question resolved in the affirmative.

Bill read a second time.

Ordered that consideration of this bill in Committee of the Whole be made an order of the day for the next day of sitting.

ADJOURNMENT

Motion (by Senator Tambling) proposed:
That the Senate do now adjourn.

Northern Territory: Governance

Senator TAMBLING (Northern Territory—Parliamentary Secretary to the Minister for Health and Aged Care) (9.47 p.m.)—I rise to address two extraordinary attacks that Senator Murray has made on the Northern Territory in recent months. Senator Murray has twice this year attacked the system of governance in the Northern Territory, making the very serious allegation that the Northern Territory parliament is undemocratic. I have very deliberately described Senator Murray’s comments as attacks on the Northern Territory because that is exactly what they are. They are not attacks on the parliament, they are not an attack on the government, they are not an attack on the Country Liberal Party; they are an attack on each and every Territorian.

The Northern Territory does have a democratic system of government. Just because Senator Murray does not support the government that the people of the Territory elect does not mean that the system is not democratic. Senator Murray is highly critical of the fact that the Northern Territory has a unicameral system of government and claims there is a lack of checks and balances through an upper house. He cites Queensland as being the only other state in Australia with a unicameral system but fails to note that there have been many changes of government in Queensland in recent times. Does he think the Queensland parliament is undemocratic or is it a bastion of democracy only because it has had changes of government? Why does Senator Murray not attack the Queensland parliament in a similar manner? Is it because he does not want to patronise and offend Queensland voters as he has Territory voters? Is he worried that his arrogant attitude may affect the vote of his counterparts in the Senate, Senators Bartlett and Woodley?

It is no surprise that the system Senator Murray advocates—the Hare-Clarke system—is notorious for throwing up anomalous election results which make it almost impossible for any party to govern in its own right and stifles decision making and development. The governments of New Zealand, Tasmania and the Australian Capital Territory, all of which use this system, are almost moribund.
It is no surprise that this system results in an increased number of ‘minor’ party candidates such as those from the Democrats and Greens being elected, a fact, I am sure, which has not escaped Senator Murray’s notice. Senator Murray talks about the need for checks and balances on the parliament and proposes a complex parliament that involves a cumbersome committee system and two elections just to appoint a Chief Minister. Imagine the cost to voters, let alone the confusion.

In contrast, the Northern Territory parliament has many checks and balances but the most important is the will of the people. Every four years Territorians go to the polls and make the government accountable in the hardest forum of all, the ballot box. This is democracy in action. I am sorry if it offends Senator Murray that the Country Liberal Party keeps winning elections in the Territory. Perhaps he should consider that it is because the people want it to represent them. A further check is the fact that the Commonwealth parliament, as we have been reminded so painfully in recent times with euthanasia, has the power to overturn any legislation the Northern Territory parliament creates. This is the ultimate restriction placed on a democratically elected parliament, and one I hope will never be used again—particularly after the Democrats’ political wrangling over mandatory sentencing.

Senator Murray claims that a quarter of the Territory’s population—Aboriginal people—is not represented in the Northern Territory parliament. I am sure that many people in the Territory would strongly disagree with this. The Aboriginal parliamentarians John Ah Kit and Maurice Rioli might have a right to believe that they are representing their people, as would most other members of the Legislative Assembly, particularly those with large Aboriginal populations in their electorates, such as Maggie Hickey, Peter Toyne, Sid Stirling, John Elferink and Tim Baldwin. It is interesting to note that following the recent redistribution of Northern Territory electoral divisions, the seat which saw the most constituent objections was Victoria River, now to be known as Daly. This seat has a significant Aboriginal population and is held by a Country Liberal Party politician, Territory MLA and minister, Tim Baldwin. The objections were from people in the Aboriginal communities of Lajamanu, Kalkaringi and Daguragu, who wished to remain in Tim Baldwin’s electorate. Obviously, Mr Baldwin has been doing a good job of representing the people in his electorate, both Aboriginal and non-Aboriginal. This makes a mockery of Senator Murray’s claims. Perhaps if he bothered to discover anything about the Territory before going off half-cocked he would make a bit more sense. His paternalistic and patronising views regarding Aboriginal people are hypocritical in the extreme.

Senator Murray also bemoans the fact that there is a weak opposition in the Territory. This is no-one’s fault but the Labor Party’s. What is his own party doing in the Territory? To date,Territorians have rejected the few Australian Democrat candidates who have bothered to stand because their policies and personalities are not in tune with Territorians. They receive only a handful of votes because they are not in touch with Territory aspirations—as Senator Murray’s ill-informed and ill-timed comments so obviously demonstrate at the federal level. On the other hand, if you want a superior statement of commitment and principles on Territory issues, take a good, hard look at the Country Liberal Party constitution and platform. An indication of the Democrats’ true interest in the Territory and Territorians is the fact that their Territory website goes straight to the Western Australian Democrats site. They cannot even be bothered setting up a Territory specific site.

It is interesting to note that, while Senator Murray is often very critical of the Northern Territory government, the economic data and other evidence all point to the fact that the CLP government has been achieving much for Territorians. The picture painted of the Territory from any objective use of statistics and facts is that of a young, vigorous and well-informed community. Let me briefly relate some ABS statistics, mostly based on the 1996 census but also on some more recent research, to give a snapshot of the Territory’s social and economic situation.

The average age of Territorians is 28 years compared to a national average of 34 years. Unemployment in the Northern Territory av-
erages about four per cent compared to a national rate of about seven per cent. As at September 1999, 73.7 per cent of Territorians participated in the work force compared to a national average of 64 per cent. Again at September 1999, Territorians aged 15 to 24 had the highest median weekly income in Australia at $193 and the nation’s lowest youth full-time unemployment rate of 8.9 per cent. Territory participation in the arts is second only to that of the ACT. The Northern Territory has the third highest percentage of online households in Australia, with 16 per cent of households in 1998 having Internet access and 39 per cent of households frequently using a home computer.

The Territory exported an estimated 453,000 head of cattle during 1999 worth almost $92 million. In 1999 the Northern Territory had the highest exports per capita of any Australian region at $1,571 per person. Total Australian exports per capita by comparison equate to $403 per person. In 1999 the total number of visitors to the Territory was 1.294 million. The tourism industry generates almost $800 million per annum for the Northern Territory economy. In 1998-99, defence accounted for 12 per cent of the Territory’s gross state product and mining accounted for 13.8 per cent of the Territory’s GSP. The Northern Territory’s GSP increased by 7.6 per cent during 1998-99 to $6,460 million. The Northern Territory has averaged 5.6 per cent or $307.6 million growth in GSP over the past five years.

Senator Murray obviously believes that the Country Liberal Party has maintained the same policies, views and attitudes on every issue over the past 25 years to remain the most successful political party in Australia. The only thing that has stayed the same in that time is the commitment of the Country Liberal Party, which is to achieve the best for Territorians and the Northern Territory and to maintain the lifestyle that has made the Territory the envy of so many people in Australia—especially those like Senator Murray. The Territory and the Country Liberal Party have been leaders and pioneers in social policy across many fields: euthanasia; Aboriginal issues in education, health, and business and joint ventures; issues relating to remoteness; and, recently, mandatory sentencing. This innovation and drive is what makes the Territory great, and I am proud to be a part of the political party which has played such a large role in making the Territory what it is now.

Aviation Safety

Senator O’BRIEN (Tasmania) (9.57 p.m.)—The issue of aviation safety has now been on the front pages of the major newspapers for months, but it appears that the responsible minister, Mr Anderson, is not taking any notice. A number of those stories have related to airline mishaps, but in the case of Qantas flight QF1 at Bangkok and now, tragically, Whyalla Airlines, we are dealing with major aviation accidents. We are confronting safety problems at the regular passenger end of the industry, where passengers pay their fare and expect airline operators with a licence issued by CASA and an operation monitored by CASA to be safe. That is not to say that people chartering aircraft should not be entitled to hold the same view; but the minister, unfortunately, continues to sit on his hands.

The evidence that has been presented to the Senate Rural and Regional Affairs and Transport Committee to date and the aviation incidents and accidents of the last few months have put at risk Australia’s reputation as a very safe place to fly. It is important that that hard-earned reputation be restored as soon as possible. The minister has the key role in restoring this confidence in Australian aviation but, as I said, he has so far chosen not to accept that role. He must oversee the regulation of aviation to ensure that it provides an effective regulatory regime that includes effective regulation and surveillance of the industry. CASA obviously has a key role, and an important part of that role is ensuring that it has the resources and the skills to ensure that the industry operates in a safe way.

The Rural and Regional Affairs and Transport Committee also has a role to play in this process, but I would hope that it would only be a transitional one. The committee has before it a number of matters that must be properly considered. Firstly, the CASA General Manager, Aviation Operations, Mr
Leversuch, told the committee at the recent estimates hearings that CASA had met both Qantas and Ansett last August, soon after he took up his current position. He confirmed that he had told both airlines to bring their procedures for training, checking and operational matters into line with the regulations. Mr Leversuch told the committee that both airlines were keen to comply with these regulations. I for one would have hoped that they were already in compliance. In my view, the committee has no choice but to inquire further into the reason for those discussions, their nature and the actions by the airlines that have followed.

Secondly, the Australian Transport Safety Bureau has advised the committee that between January 1998 and February 2000 there were 2,946 occurrences which Qantas and Ansett had reported to it or to the Bureau of Air Safety Investigation. We have been advised that 1,032 of these have been investigated and we know that 988 of those investigations are complete and 44 are still under investigation. On the face of it, these are alarming figures and the committee must be provided with a detailed briefing from the Australian Transport Safety Bureau. That briefing may need to be in camera, if the committee so agrees. The committee has also been advised that CASA is not prepared to provide, in the estimates context, a copy of the report of an independent review of its surveillance of Qantas’s operating procedures which I think was triggered by the QF1 Bangkok accident. It is important that the issues raised by this review not only are properly addressed but are seen to be properly addressed. The committee could facilitate that process.

I note that, while CASA has so far refused to provide a copy of this audit report to the Senate, a CASA spokesperson was quite happy to provide some information to the media about its findings. The Sydney Morning Herald recently reported a CASA spokesperson as saying that the internal review found concerns about the training and checking of Qantas pilots. The person was quoted as saying:

The review talked about the need for CASA to look at training and checking procedures; that is, QANTAS training and checking for pilots.

In contrast, Mr Toller has assured me that there were no problems with that aspect of Qantas’s operations. That apparent conflict can easily be resolved if the committee is provided with a copy of that report. Again, if necessary this could be considered in camera, subject to the views of the committee.

While there have clearly been problems with the high capacity regular public transport sector, the effective regulation and surveillance of the low capacity RPT sector is of even greater concern. The circumstances surrounding the suspension and then revocation of that suspension of the air operating certificate held by the operator Air Facilities, an RPT operator based in Albury, must be properly considered. Partly to achieve that, today I gave notice of a motion requesting that all documents relating to the operation of this company be tabled by 5 p.m. this Thursday. The tabling of this material is an important starting point for such an investigation. There has also been confusion and contradictory comments from CASA about the safety record of Whyalla Airlines. This confusion and these contradictions must also be properly addressed, whether by this Senate committee or by some other agency.

A number of key issues must be addressed by Mr Anderson—or someone—if the performance of the safety regulator is to meet the expectations of the travelling public. CASA must have the resources necessary to do its job. That job is to ensure a safe aviation environment rather than simply saving the industry or the government money. CASA must have the necessary skills to ensure that the aviation regulatory regime can be effectively enforced. And CASA must ensure that its work is properly prioritised, with safety clearly placed at the top of the list. The right safety regime, properly enforced, is the most effective way of ensuring the safety of the travelling public.

Over the past few years, there has been a progressive erosion of CASA staff numbers, staff skills and staff experience. There has also been a misallocation of work priorities, at least in the high capacity and low capacity
RPT sectors of the industry. I am concerned that, even when CASA does get an appropriate regulatory regime in place, the authority will not be able to provide any effective surveillance of that regime, and I fear that we are now just seeing the beginning of the impact of that surveillance breakdown. All of these matters should have been properly addressed by the minister, Mr Anderson, but he has failed to do so. Given that it is about public safety, there is absolutely no justification for him choosing to ignore his responsibilities. It is not just a matter for the CASA board or the Director of Aviation Safety, as Mr Anderson keeps telling us; it is very much a matter for this government generally and Mr Anderson in particular. To date, Mr Anderson has shown that he is not up to the mark.

Over the past 12 months or so we have seen an authority desperately trying to get all the paperwork right in relation to high capacity and low capacity RPT operators. It appears that there is a long way to go before that goal is achieved. It has been my view for some time that, until CASA had its own books and records in order, the authority and the minister, Mr Anderson, would be badly exposed if there was a major accident. That accident has now occurred.

Zimbabwe

Senator MURRAY (Western Australia) (10.06 p.m.)—This is the first opportunity I have had since I received the communication which I am going to discuss tonight to present these views to the Senate. On 20 May, an email was sent out from Zimbabwe to some people who sent it on to me. I thought it would be useful for the Senate to get the flavour of some of the things that are going on there and surround the election there. The email was entitled ‘The game begins’. For obvious reasons I will not name anyone. It reads:

I was wondering when Mugabe would break and go for the actual election date—it has been obvious from the start that he wanted the election as soon as possible. This is contrary to the popular view that he might not even call the election. However, he has known from the start that he has to face the electorate sooner or later and that his only hope was to make sure the race was run on turf he had chosen. He also knows he is up against it and has very little going for his team. The longer he has to wait for the actual event, the greater the likelihood that people would become aware of the extent of the economic mess we are in and this would undermine any chances they might have had.

His original plan was for mid May—but the massive rush to register for the voters roll (2.5 million registrations in less than 2 months) meant that they had to extend the time allocated for the exercise. Then the new roll is so different from the old one (1995) that the Delimitation Commission has been unable to do the job in the time allocated. Justice Sandura is a stickler for procedure and has stuck to his guns and is still not finished—with 9 days to go to nomination date! So eventually his nerve broke and he went for the 24/25th June in the hope that the delimitation would be complete in time for the procedures to be complete for the nomination courts to sit to accept nominations from the political parties by the end of May.

The lateness of the final decisions of the delimitation exercise is also to his advantage in that his team have had the voters roll since 16th April when it was handed to the Delimitation Commission. Since the President gets a update on the progress of the Commission every two days, they also know where this exercise is going and have been able to plan the selection of candidates and all the other administration that goes into candidate selection and nominations.

I have just spent the morning with the MDC candidate team—nearly complete now and bruised and battered by recent violence but still determined to continue to the election date and what will follow. We still do not know what the roll looks like, what the new boundaries for constituencies are and therefore all the candidates are still only provisional as the constituencies for which they have been selected might not be there in the new dispensation. If that happens we then have to go through the whole selection process again—with days to go!! Its bizarre, and the Secretary General of the Commonwealth says he thinks the elections can still be free and fair! We have gone to Court this week to seek a delay in the Nomination Court until we can get sight of these crucial documents and I cannot see the courts not granting us that decision. This might then delay the election date but we are quite happy to have the election on the date proposed as we do not need more time for campaigning and the sooner the better as far as the country is concerned. But we must be given adequate time to study the roll and delimitation results before we can be expected to put up candidates.
But back to the candidates—we are putting up 120 candidates—one in every constituency and they all know what they have let themselves in for by standing for the MDC. There are 7 women and 4 whites in the team—not enough women from our point of view but all our candidates were selected by consensus and this was the result—achieved only after we had intervened strongly to get more women on the list. This is one of the reasons why we support a party list/proportional representation system for any new constitution for the country as we can then appoint as many women to the list as we feel is necessary. But for this election we have to live with what we have got from the constituencies.

This past week has seen widespread violence throughout the country—many homes and other property burnt to the ground and people beaten and killed. The police continue to stand aloof from all of this and in most cases do not intervene. President Mugabe has continued to support the continued presence of Zanu PF thugs on farms and in rural villages where they act as vigilantes on behalf of Zanu PF with the MDC as the principle target. He has also continued to refuse to use the police or the armed forces to bring the violence under control and the bulk of it is still being organised, financed and directed by senior people in government. This means that people are helpless to protect themselves and their assets and more than anything, this is what is so disturbing about this whole farce. The purpose of the operation is not the reallocation of land—because the land reform program cannot be undertaken by these means—the reason is purely an attempt to intimidate the rural population—who are the most vulnerable, into supporting the local Zanu PF candidates.

I continue to believe that this strategy is not going to work—the country is so much more urbanised than it was in the past, better educated and politically experienced and informed. The situation in the economy is so serious that everyone who lives here knows this is where the real problem lies. This becomes more apparent by the day as businesses close and people are thrown onto the street or you go into a shop and see the prices are still rising faster than incomes. Everywhere I go and talk to people from all walks of life, they say—‘do not worry about the intimidation’; they know what to do when we get to the election. I think Mugabe is going to receive the shock of his life this time around.

For those of you who do not know our system—we elect 120 members of Parliament by majority vote in this election. The Chiefs put up 10 candidates who are then elected to Parliament and the President appoints 20 members—8 as Governors of Provinces and 12 as ordinary members of Parliament—30 seats in all out of 150 member House. We therefore need 76 seats to control parliament. 101 seats to change the constitution. In either case we would expect Mugabe to resign from the Presidency and to call a presidential election which would run within 35 days. Under normal circumstances I would have said that such majorities were unlikely, however, given the political culture within which we operate and the present circumstances, I have little doubt that we will gain sufficient majority to achieve the above.

What has happened in recent weeks is a distinct hardening of opinions to the effect that Mugabe should not be allowed to retire without retribution for what he has done in the last 3 months. If I were Mugabe I would keep my helicopter full of fuel and next to the house.

That is the end of the email. I know the person who wrote that. I knew him a couple of decades ago, and he is a very well informed and very brave person. I do hope that his optimism is rewarded and that democracy in the fullest multiparty sense is restored to Zimbabwe. I thought that the Senate might like to have a situation report from the front, as it were. Thank you, Madam President.

Estimates: Evidence

Senator ROBERT RAY (Victoria) (10.14 p.m.)—Tonight I want to make some comments about events in estimates committees in the last few weeks, in particular about the standard of evidence given by ministers and officers at the table. It has been my experience that some of those answers have been dissembling, some have been obstructionist and some have bordered on being misleading. I want to particularly highlight the question that came up in the Finance and Public Administration Committee and the Treasury estimates. The issue we were considering, brought out by the opposition in its questioning, was the intention of the government to have a direct mail-out letter from the Prime Minister, via the tax office, based on the AEC providing the tax office with an electronic version of the roll. I want to assert here that I believe the activities by the tax commissioner and the Electoral Commissioner are unlawful. I will follow that issue through later in the week. I am not going to address that tonight.
In the course of cross-examination of the Australian Electoral Commission on 26 May, we proceeded along a certain line of questioning. I want to share that with the chamber tonight, before I move on to the Treasury and the tax office. For the purposes of this first quote, the three characters involved are me, Senator Hill and the Australian Electoral Commissioner, Mr Becker. It goes like this:

Senator ROBERT RAY — So has Mr Carmody given you an indication of what is going to be in the mail-out?

Mr BECKER — None at all.

Senator ROBERT RAY — None at all?

Mr BECKER — Not to me, no.

Senator HILL — That is what his answer was. You do not have to repeat it.

Senator ROBERT RAY — He did not indicate to you it might be a direct mail letter from the Prime Minister to those 12 million people?

Senator HILL — He said ‘none at all’.

Senator ROBERT RAY — What do you think? Do you know that, Senator Hill, as part of government policy?

Senator HILL — He said ‘none at all’.

Senator ROBERT RAY — I am asking you now as the minister at the table.

Senator HILL — What is the question you want to ask me?

Senator ROBERT RAY — What is in the mail-out?

And finally —

Senator HILL — I don’t know what is in the mail-out.

There is the evidence we got on 26 May. So we went and saw the tax commissioner on 30 May.

Madam President, it is too long and tedious to stretch your patience tonight by reading the whole record, so I will just read a few highlights. I am not distorting what was said. I have been very careful in selecting some of these quotes. I had Mr Carmody in front of me and I asked him about this mail-out:

Does it have a message in it from any individual?

Mr CARMODY — There are considerations of that but, as I understand what I am being told at the moment, the final details are being settled.

Another question later, Senator Kemp comes into the play and says:

As far as I am aware, these matters are still under consideration at the moment and they will be determined closer to the event.

We proceeded with a few more questions along the same line to try to evince some sort of answer. Senator Kemp enters the list again and says:

As I said, this is a matter that the government, and the tax office ultimately, will determine closer to the event. Clearly, there are a number of options which are being considered. This is a matter for the tax office and for the government’s consideration.

We go another page and a half trying to find out what is in this mail-out and whether it is a letter from the Prime Minister. I put the question one last time:

Senator ROBERT RAY — Just one last question on that: you are not willing to say here whether you have been approached to have the Prime Minister send out a direct mail letter in this direct mail-out?

Senator Kemp obstructs for a few more lines.

Mr Carmody comes back in and says:

My only observation at this moment is that the campaign is designed to be effective. Part of that effectiveness is the personalised nature of it.

I am not going to go through any further parts of that evidence, but it is clear that we were not answered directly.

The Prime Minister himself was asked a question in another place the same day that the tax commissioner appeared before the committee. He talked about the tax office mailing out a booklet. There was no mention in that answer that it was going to be a direct mail letter to every elector in Australia from himself at a cost of $10 million. There was no mention at all. However, later that night on the 7.30 Report — and I must say that he was on for other reasons — he was ambushed with that question and he fessed up and said, ‘Oh, yes, I am going to send that letter out.’

Looking back at that evidence, Mr Becker clearly said that he had no knowledge of the Prime Minister’s mail-out. Mr Carmody said it was still under consideration. Remember the effective dates: 26 May for Mr Becker and 30 May for Mr Carmody. Yet today we received in a letter from Mr Becker 17 corrections to the Hansard or to the evidence given on Wednesday, 26 May. There were 17
corrections, but I want to share an absolute highlight with you, which is point 16. This is a letter signed by Mr Becker on 31 May. He writes:

16. At page 366, Senator Ray asked a series of questions concerning the mailout, starting with the question:

‘So has Mr Carmody given you an indication of what is going to be in the mail-out?’

Mr Becker went on to say:

Since last week’s hearing I have become aware that in Mr Carmody’s letter of 19 April—

that is 37 days before Mr Becker appeared and 41 days before Mr Carmody appeared—

he indicated that the mailout would include an information booklet ‘along with a letter from the Prime Minister’. Although the letter was addressed to me, I was not in Canberra when the letter was received by the AEC and I have no recollection of having seen Mr Carmody’s letter before last week’s hearing. I apologise that I was not able to assist the Committee at the time of hearing.

So here we have a letter from the tax commissioner to the Electoral Commissioner well over a month before both hearings. But when we ask them questions about it, Mr Becker has never heard of it, and Mr Carmody does not answer the questions, on both occasions massively aided and abetted by ministers at the table. The ministers at the table have not come into this chamber and corrected the record—and they should correct it. We even went as far as saying that there was a cover-up here. Little did we guess how close to the truth we were. There was a cover-up. The tax commissioner knew and wrote about a letter from the Prime Minister but did not divulge it as evidence when questioned before the estimates committee.

Mr Becker, of course, says he did not know. I ask you: how could the Australian Electoral Commissioner not read correspondence from the tax commissioner? How could he not remember it, as he says, even if he did view it? Surely the Electoral Commissioner would remember a request to provide 12 million names for the purposes of a mailout that included a letter from the Prime Minister. It really stretches the imagination to think that Mr Becker forgot about that, but I have to believe him; he has corrected the record. It really stretches the imagination that a decision was still pending, according to Mr Carmody, when, 41 days before, he wrote to Mr Becker and asked for the electoral roll so he could use it for a mail-out.

We often hear complaints from coalition ministers that estimates takes too long. No wonder it takes so long, when we are given such dissembling and dishonest answers. If you want a further example of that, have a look at the evidence given by the tax office as to whose idea this mail-out was. Remember, it was an unprecedented mail-out of 12 million people, eight million addresses, $10.2 million—and guess what? No-one in the tax office can remember whose idea it was. They say they think it is an iterative process. I cannot believe that public officials could agree to spend $10 million on such a massive project and not remember where the idea came from. I can tell them where the idea came from; maybe I can refresh their memory. The idea came from the Prime Minister’s office, and the idea came from Mr Mark Pearson, the Liberal Party advertising agent who is currently being paid $195,000 to coordinate the GST advertising package. That is where it came from. I do not believe the tax commissioner, I do not believe the Electoral Commissioner, and I do not believe those tax officials who tell me they cannot remember where the idea came from. If they want to mislead committees like that, I think they are going to have to face the consequences.

Women’s Forum 2000

Senator COONAN (New South Wales) (10.24 p.m.)—One of the more rewarding tasks that I have as a senator for New South Wales is to be my state’s representative for Senator Jocelyn Newman, the Minister Assisting the Prime Minister for the Status of Women. To that end, it was my pleasure to recently host a women’s roundtable in Sydney, Women’s Forum 2000. The forum gathered women from peak bodies as diverse as the Australian Council of Business Women, the Country Women’s Association, New South Wales Women in Agriculture, and Women in Super—to mention a few.

The purpose of the forum was twofold: the first was to disseminate information to ensure that government policy initiatives impacting
on women are both known and understood, and the second was to provide a conduit to the minister and senior policy advisers to convey feedback and assess concerns. It is, of course, a two-way process, and input from those outside the government but expert in their field and from those representing peak bodies is valued. The forum built on this two-way process by linking non-government organisations with government.

In the year 2000 it is time to assess and to set new priorities for women. We have seen the first wave and the second wave of political activity by women, and a great deal has been achieved. But there is still more to be done, including the setting of new priorities. I would like to take this opportunity to thank those advisers from ministerial offices who participated in the forum: Catherine Murphy, of the Prime Minister’s department; Jo Calwell, Acting Assistant Secretary representing the Office of the Status of Women; and Mary Jo Fisher, Senior Adviser to the Minister for Employment, Workplace Relations and Small Business, Peter Reith. I would also like to thank Vicki Toovey, of Minister Newman’s office, for all her assistance; Sue White, from Agriculture, Fisheries and Forestry; and Carolyn Swindell, from the office of the Minister for Aged Care. Also in attendance was Ms Gillian Skinner, shadow minister for health in New South Wales, who represented the Leader of the Opposition, Mrs Kerry Chikarovski.

The forum consisted of three sessions dealing with specific policy areas. The first was Women and the Workplace and Women and Families, addressed by the Director of Equal Opportunity for Women in the Workplace Agency, Ms Fiona Krautil. Often new priorities are set as a response to changes in the workplace. New figures show the number of female business operators grew by almost 10 per cent between 1995 and 1997, compared with less than three per cent growth for men. Women opened almost 40,000 businesses in that time, and the number of businesses opened by women is increasing three times faster than the number of businesses opened by men. These figures in themselves dictate changing priorities.

Women now make up 44 per cent of the work force, compared with 28 per cent in 1964. Fifty-nine per cent of mothers in two-parent families with dependent children are employed, while 47 per cent of women in single-parent families are employed. These figures clearly reveal the need to address the role that the workplace plays in the daily lives of working women and their families. Currently, approximately 68 per cent of certified agreements and 79 per cent of Australian workplace agreements approved under the Workplace Relations Act include one or more family friendly measures. Specific measures have been designed to overcome perceived disparities in workplace relations. The Affirmative Action Agency was one of those measures. The government’s Equal Opportunity for Women in the Workplace Act was passed in December 1999, as a result of a review of the old AAA. The new act formally recognises pregnancy and breastfeeding as significant issues for working women and will extend the educative and assistance role of the agency.

The coalition is committed to strengthening the position of women in society, most particularly by ensuring a strong economy that provides low interest rates, low inflation and real jobs. For example, female unemployment has dropped from eight per cent in March 1996 to 6.8 per cent in January 2000, with over 345,000 more women employed in January 2000 than in March 1996.

Another priority that was reinforced by these discussions was the ongoing need for child-care facilities. When the coalition came to office in 1996, it inherited a situation that saw many child-care places being allocated inequitably. The government considers child care an essential element of the commitment to Australian families which assists family members to participate in the work force and to balance their commitments. With that in mind, the government has allocated $5.3 billion over four years, to 2002-03, to support child care. The launch of the Stronger Families and Communities Strategy package saw an additional $65.4 million for child care over the next four years to support the needs of families who have difficulty accessing conventional child-care arrangements. This
will particularly help those in rural and regional areas and indeed even remote areas.

The second session of the forum, which I found challenging due to my personal interest in rural and regional affairs, focused on issues facing women outside metropolitan areas. This session was addressed by Mrs Margaret Smith, the Director of the Foundation for Regional and Rural Renewal, and Ms Jenny Hawkins, a farmer and mother of four young children as well as a member of the Regional Women’s Advisory Council. One of the matters raised was that of a lack of leadership programs for women in the bush. The government has provided $37.1 million over four years in the recent budget for the Potential Leadership in Local Communities Program, which will identify and support community leaders from outside industry and government structures. The session was invaluable as an important part of developing policy adapted to rural and regional areas. It is important we receive input from women who may have a very different set of priorities to their urban counterparts.

The third session of the forum examined how younger and older women related to one another and how discrimination against both groups, somewhat paradoxically, can be similar—for example, on the basis of pregnancy, body image and age. Ms Sabina Lauher, Director of the Sex Discrimination Unit of the Human Rights and Equal Opportunity Commission, gave a fascinating speech on these related topics. One in every 200 Western women are affected by eating disorders, with 10 per cent of those dying in the pursuit of a supposedly perfect body image, all fanned by the fashion media.

Older women and their re-entry into the work force was also the topic of lively discussion. The government has recently committed $24 million over four years to fund the Return to Work Program, which aims to provide skills assistance, to build confidence and to increase familiarity with current technology for people seeking to re-enter the work force after an absence of two or more years due to their roles as primary caregivers. We in government are serious about ensuring that no-one is excluded from contributing to the work force if that is their choice.

The government is also providing $6.1 million over four years to progress the National Strategy for Ageing Australia, to build on the achievements of the International Year of Older Persons. It is a whole-of-government approach to the ageing, including more positive images of older Australians and research into mature age employment, to name a few. The barriers to advancement may be subtle, but they are just as real for the self-conscious teenager as they are for the harried mother who has simply got off the gravy train to care for her family and lost not only her skills but also her self-confidence and self-esteem.

The forum was a great success, with many participants establishing new contacts, creating their own links and building links between government, rural and regional New South Wales and the non-government sector. These forums are a very valuable way for those of us who represent others to become accessible, to get out of our own comfort zones and to open up the channels of communication to very good effect.

**World Environment Day**

**Senator CROSSIN (Northern Territory)**

(10.33 p.m.)—Today being 5 June, Australia celebrates World Environment Day, and we are the host for this international event. It is a fitting day to reflect on our nation’s contribution to environment protection. Tonight I want to examine the present government’s recent record in protecting the environment in my own electorate of the Northern Territory.

World Environment Day is an official United Nations Environment Program. Adelaide, the capital of the state of South Australia, has been selected to host the international events associated with this program. Australian governments at state and federal levels are using the day to promote positive images of their environmental and social justice management. In Australia, like in most countries, the government of the day have used the opportunity to promote themselves as good managers of the country when it comes to environmental issues. While community, environment and education groups here in Australia work hard to repair the damage to our environment, this federal gov-
ernment continues to obstruct international environmental negotiations, as well as moving to substantially weaken environmental protection both locally and nationally.

I believe that most Australians are strongly behind the principle of protecting our environment and that they support efforts to maintain Australia's biological diversity, but I believe that many, if not most, people in the Northern Territory would see additional reasons for protecting the environment. Those reasons are the strong and increasing importance of ecotourism and recreational fishing to the Territory's economy. For economic and environmental reasons, you would imagine that the Northern Territory government would be at pains to protect the environment and in particular coastal and inland waters. You would expect that the federal government would be vigorous and vigilant in regulating environmental protection in the states and territories. However, a recent event in the Northern Territory raises difficult questions about this government's commitment to protecting our environment. Recently an export licence to harvest jellyfish in the Northern Territory was granted to a Chinese company. Under the federal Wildlife Protection (Regulation of Exports and Imports) Act 1982, such a licence requires an effective fishery management program to be submitted for scrutiny by the Department of the Environment and Heritage. It seems that a plan of sorts was submitted, but I understand that it contained little more than the names of the two jellyfish species and the conditions of the development export licence, which includes that an amount not exceeding 1,500 tonnes of jellyfish be harvested per year, that only hand scoops or dip nets be used, and that NT Fisheries staff observe the operation of the fishery on only five single days per year.

In May of this year the Borroloola police confiscated fifteen 100-metre nets from the operators following a rescue operation involving one of the jellyfish vessels. You may be aware that the use of these nets would constitute a clear breach of the Northern Territory government's fishery regime for the operation. The operators have also established a jellyfish processing plant at King Ash Bay near Borroloola. I have been advised that the processing plant, which is using salt and alum, has no waste management plan in place. I have also been advised that septic waste has been used for dust control on the sealed road leading into the plant. One has to wonder what questions, if any, the minister's department put to the Northern Territory government about their management program before they gave it a big tick. How did they imagine the local fisheries department would or could monitor the effect of the jellyfish harvesting if they had not bothered to try to find out anything about the ecology of the species in the first place?

When interviewed on radio on 10 May this year, Mr Deng from the David Glory Group—the group responsible for this jellyfish operation—said, when asked about the use of chemicals in the process:

> It won't have any impact on the environment because we got the licence in Victoria and Queensland you know. I mean the research has been done in all the other states. It's new in the Territory but it's not new in other states.

In other words, he is inferring there that, because research on the impact on the environment may well have been done in states other than the Territory, it was good enough to just simply lift that research and its results—if of course there were any results and if of course there was any research done in those states—and apply that to the situation in the Northern Territory. In the same interview, Mr Palmer, the Northern Territory Minister for Primary Industries and Fisheries, said:

> I mean it is a development licence and it is very difficult to assess what impact it might have taking a few ton of jellyfish on a very large system unless you actually go and take some. There is not an abundance of scientific literature on the jellyfish that are being harvested, but reports have been published both here and abroad. We should be concerned about what has been published because it suggests that jellyfish may be an important habitat for other species of juvenile coastal fish as they grow and mature to the next stage of the life cycle. While this research is not conclusive, it suggests that we should be careful about jellyfish harvesting operations because of the negative impact it might have on other fish. At the very least, we should be
investigating for these possible impacts. The effect of bycatch, which is the unintentional catching of other fish through jellyfish harvesting, is another concern. It is hard to imagine that five days observation over a year—only five days—would be an adequate period for assessing the extent of bycatch and its possible impact on the population of other species.

Finally, it is known that leatherback turtles, which are in decline globally, feed on one of the species of jellyfish that are to be harvested. In January of this year it was reported in Nature—the world’s most authoritative scientific journal—that the Pacific population of these turtles will disappear within a decade. In light of this, we should be concerned about preservation of leatherback turtles in Australian waters. When the Northern Territory minister, Mr Palmer, was asked on 16 May by the local member for Barkly, Ms Maggie Hickey, a question on notice in the Northern Territory Legislative Assembly about the turtles, he said:

What about the turtles? There is absolutely no indication that the taking of a few jelly fish is going to impact upon the turtle stocks.

If we are serious about preserving the leatherback turtles in the gulf, we need research on the importance of the jellyfish to the turtle diet. In light of the evidence I have presented tonight, I call on the minister to review the decision to issue the jellyfish export licence. I also ask him: will the regulations under the new act prevent this kind of mistake happening again? It would seem that both the process of approving the development export licence and the current operation of the fishery and processing plant require urgent investigation.

It is interesting to note that, as the federal government hosts the World Environment Day festivities for the whole world is a little like having Peter Reith leading a May Day march or having John Howard and John Herron hosting a conference about a treaty with indigenous Australians. He went on to say:

Our Federal government has a woeful environmental track record. There has been precious little action on many issues of national importance. Further, at many international negotiations, Australia has acted like an environmental dinosaur.

When it comes to jellyfish harvesting in the Northern Territory it would seem that that is an accurate observation and that the federal government’s record on the environment in this instance is as wobbly as ever.

**Employment: Youth**

Senator LUNDY (Australian Capital Territory) (10.43 p.m.)—Labour market strategies are desperately needed to increase the level of acceptance of young people into the full-time paid work force. Australia-wide, the unemployment rate of young people aged 15 to 19 years looking for full-time work was 21.3 per cent in April. At the same time, skills shortages exist in many areas of employment, including information technology, child care, construction work and automotive and engineering work. The federal government exacerbated skills shortages with its cuts of $240 million from the TAFE sector and $1 billion from universities and with its dismantling of the labour market programs put in place by the former Labor government. Now, in an attempt to overcome some of the skills shortages caused by the federal government’s cuts, the Victorian government has announced a $47 million work skills employment program. The Victorian program is expected to fund 6,000 new trainees and apprentices over the next four years.

The government’s announcement in this budget of increased funding for the New Apprenticeships program and for the TAFE and off-the-job vocational training is welcomed but belated. It will take time now to rebuild and to address the skills shortages. Overall, this budget has badly disappointed young people. Excluding the New Apprenticeships program, the estimated total funding under the Vocational Education and Training
Funding Act 1992 is less for 2000-01, at $944.5 million, than it was for 1999-2000 where it stood at $981.2 million. Also, despite featuring in Dr Kemp's budget press release, the language, literacy and numeracy for the unemployed program will attract less funding in 2000-01, at $30.4 million, than in 1999-2000 where it stood at $44.1 million. The low rates of youth allowances and the punitive family income test levels place many young people in poverty and crisis.

In Tasmania, the unemployment rate of young people aged 15 to 19 years looking for full-time work was 29.5 per cent in April. In common with many, perhaps most, of our regional areas, Bass suffers from the perception of its young people that the area lacks opportunities for them. A youth forum held last July gave many young participants the opportunity, through their local federal member Michelle O’Byrne, to present their views to politicians and governments. They believe that the unemployment of young people is continually being given bandaid attention when what is needed is government support and encouragement to assist young people to develop their skills and to help them to set up small business initiatives. The Enterprise Education Program, announced in the budget, has some of these aims but $25 million over four years will go very little way towards catering for the total need and demand.

Tonight I want to talk about one opportunity that does exist in the Bass area. It is the type of initiative that forms an excellent example of what can be done. The Launceston Student Workshop is a small, competitive manufacturing business staffed by specialist trades instructors. Students learn about the world of work by actually working in this small business, creative environment. They alternate with a full week at school and then a full week at the workshop. At the workshop they are rostered around the different sections, such as metalwork, woodwork, the spray bay and stores.

The Launceston Student Workshop was established in 1978 with the aid of a Commonwealth Schools Commission Special Projects (Innovations) Grant. Funding now comes, firstly, from self-generated income, which includes the sale of goods produced, and also from state Department of Education funding, funds from the Commonwealth-State Disability Agreement and, currently, some funding from the Australian Schools Traineeships Foundation. The workshop provides a form of alternative education for students in the 14 to 16 years age group, that is, years 9 and 10. These are students who may not succeed in formal academic schooling. Students gain accreditation for their workshop participation. Tasmanian Certificate of Education syllabus subjects, each of 100 hours training, provided at the Launceston Student Workshop are industrial woodwork, industrial metalwork, industrial health and safety, and industrial workshop practices. Students gain accreditation for these subjects, adding to those subjects taken at the student's base school. The workshop is now a registered training organisation, or RTO, under the national Australia Recognition Framework. This enables it to provide specific vocational training to certificate 2 level. Support from employers of students and from customers is essential to the ongoing success of the program. To ensure this, the workshop insists on standards of excellence to maintain its high reputation. The workshop produces high quality timber and metal products and has recently established a retail section and moved to new premises. In terms of its students, the Launceston Student Workshop has an outstanding success rate. The majority of these formerly 'underachieving' students gain either apprenticeships or jobs. I think this demonstrates that academic measures are sometimes an inappropriate and useless form of determining what constitutes success for many young people.

The Launceston Student Workshop is one example of the types of initiatives supported by Labor in targeting youth unemployment. Students here experience first-hand knowledge of the employment market, career paths, job interview and people skills, workplace responsibilities and the rights of the employee. Young people here realise how important education is in developing marketable skills. But they cannot always find the type of training or develop the skills they need. Such job focused education should be available through a wide range of outlets, including schools and community groups. The
Howard government dismantled many of the youth labour market programs which were making real inroads into youth unemployment and were aiding the employability of young people. The positive programs axed by this government included the Working Nation programs, such as the National Training Wage Subsidy Scheme, set up to assist young people, and structured training programs such as LEAP, the Landcare and Environment Action Plan. In their place programs such as Green Corps have catered only for a fraction of the numbers of young people previously assisted under Labor. Labor’s job initiatives will involve different emphases for different age groups, striking an appropriately targeted balance between education and training measures, direct job creation and income support. School to work transition programs, expanded work experience opportunities, work oriented careers education in secondary schools, apprenticeships and traineeships, and case management and extended job preparation programs for the unemployed will be implemented by Labor to assist the individual needs of unemployed young people.

Young people face a disproportionately high rate of unemployment due to the disappearance of many entry level jobs. Therefore, the restoration and creation of new employment opportunities for young people, as well as apprenticeships, traineeships and skills programs, remains a high priority. As a community, we need to value the skills of young people. We need to work towards providing wages based on the level of skills and experience, not merely on age. And, importantly, we need to ensure that all schemes which employ young people at lower rates, such as Work for the Dole, incorporate meaningful training components. Schemes such as the Launceston Student Workshop are to be commended and, I hope, widely emulated throughout Australia.

Senate adjourned at 10.51 p.m.

DOCUMENTS

Tabling

The following documents were tabled by the Clerk:


Aged Care Act—

Residential Care Subsidy Amendment Principles 2000 (No. 1).

User Rights Amendment Principles 2000 (No. 1).


Civil Aviation Act—Civil Aviation Regulations—Civil Aviation Orders—

Civil Aviation Amendment Order (No. 5) 2000.

Civil Aviation Amendment Order (No. 6) 2000.

Directive—Part—


106, dated 2 and 5 May 2000.


Exemption No. CASA EX27/2000.

Instruments Nos CASA 06/00, CASA 184/00, CASA 193/00 and CASA 213/00.


Customs Act—Regulations—Statutory Rules 2000 Nos 74 and 75.

Defence Act—
Defence Force Remuneration Tribunal—Determination No. 3 of 2000.
Income Tax Assessment Act 1936—
RHQ Company Determination 2000 (No. 1).
Lands Acquisition Act—Statements describing property acquired by agreement under sections 40 and 125 of the Act for specified public purposes [2].
Migration Act—Statements for period 1 July to 31 December 1999 under section 33, dated 7 May 2000 [2].
Native Title Act—
Native Title (Approved Gold or Tin Mining Acts —Queensland) (Surface Alluvium (Gold or Tin) Mining Leases) Determination 2000.
Recognition of Representative Aboriginal/Torres Strait Islander Body 2000 (No. 6)-(No. 9).
Nuclear Non-Proliferation (Safeguards) Act—Regulations—Statutory Rules 2000 No. 69.
Product Rulings PR 2000/55-PR 2000/64.
Radiocommunications Act—Radiocommunications Licence Conditions (Fixed Licence) Amendment Determination 2000 (No. 1).
Remuneration Tribunal Act—Determination 2000/01: Remuneration and allowances for holders of public office.
Sales Tax Ruling SST 19.
Superannuation Guarantee Determination SGD 2000/1.
Sydney Airport Curfew Act—Dispensation granted under section 20—Dispensation No. 7/00.
Taxation Administration Act—
Notice under section 17C—Metropolitan Ambulance Service Royal Commission, dated 1 June 2000.
Regulations—Statutory Rules 2000 No. 73.
Taxation Determination—
TD 2000/23.
TD 92/152 (Notice of Withdrawal)

Taxation Ruling—
(Old Series) IT 2683 (Notice of Withdrawal).
TR 97/17 (Addendum).

Telecommunications Act—
Telecommunications (Annual Numbering Charge —Late Payment Penalty) Determination 2000.
Telecommunications Numbering Plan Amendment 2000 (No. 1).

Textile, Clothing and Footwear Strategic Investment Program Act—Textile, Clothing and Footwear Strategic Investment Program Scheme Amendment 2000 (No. 1).


Veterans’ Entitlements Act—
Determination under section 88A—

Instrument under section—
90—


The following document was tabled pursuant to the order of the Senate of 30 May 1996, as amended 3 December 1998:

Indexed lists of departmental and agency files for the period 1 July to 31 December 1999—Statements of compliance—Attorney-General’s portfolio.

PROCLAMATIONS

Proclamations by His Excellency the Governor-General were tabled, notifying that he had proclaimed the following Act and provisions of an Act to come into operation on the dates specified:


Migration Legislation Amendment Act (No. 1) 2000—28 April 2000—
(a) Schedules 1, 2, 3, 4, 6, 7 and 8;
(b) Part 1 of Schedule 5.
(Gazette No. S 216, 28 April 2000).

QUESTIONS ON NOTICE

The following answers to questions were circulated:

Magnetic Resonance Imaging: Medicare Rebates
(Question No. 1650)

Senator Chris Evans asked the Minister representing the Minister for Health and Aged Care, upon notice, on 29 September 1999:

(1) On how many occasions did the Minister meet with the following people, either together, individually or in smaller groups, in the period between 1 October 1997 and 30 May 1998 to discuss the agreement on radiology and the extension of Medicare rebates to magnetic resonance imaging (MRI) equipment: (a) Dr Phillip Dubois, a radiologist of Queensland X-Ray Services; (b) Dr Peter Carr, a radiologist at North Shore Diagnostic Centre and Pittwater Radiology in Sydney; (c) Dr George Klempfner, a radiologist of Radclin Medical Imaging; (d) Dr Chris Atkinson, a radiologist with the Victorian Imaging Group; (e) Dr Martin, a radiologist with the Victorian Imaging Group; (f) Dr Chris Ingle, a radiologist in the practice of Kos, Ingle and Gordon; (g) Dr Donald Robertson, a radiologist of Geelong Radiological Clinic; (h) Dr Chris Harper, a radiologist of Perth Imaging Centre; and (i) Dr Sprague, a radiologist of Perth Radiological Clinic.

(2) On how many occasions did officers from the department meet with the following people, either together, individually or in smaller groups, in the period between 1 October 1997 and 30 May 1998 to discuss the agreement on radiology and the extension of Medicare rebates to magnetic resonance imaging (MRI) equipment: (a) Dr Phillip Dubois, a radiologist of Queensland X-Ray Services; (b) Dr Peter Carr, a radiologist at North Shore Diagnostic Centre and Pittwater Radiology in Sydney; (c) Dr George Klempfner, a radiologist of Radclin Medical Imaging; (d) Dr Chris Atkinson, a radiologist with the Victorian Imaging Group; (e) Dr Martin, a radiologist with the Victorian Imaging Group; (f) Dr Chris Ingle, a radiologist in the practice of Kos, Ingle and Gordon; (g) Dr Donald Robertson, a radiologist of Geelong Radiological Clinic; (h) Dr Chris Harper, a radiologist of Perth Imaging Centre; and (i) Dr Sprague, a radiologist of Perth Radiological Clinic.

Senator Herron—The Minister for Health and Aged Care has provided the following answer to the honourable senator’s question:

(1) Departmental records show that, of the nominated persons, the Minister met with Dr Phillip Dubois on 10 March 1998, Dr Peter Carr on 6 May 1998, and Dr George Klempfner on 13 October 1997.

(2) Departmental records show that officers from the Department met with the nominated persons on the indicated number of occasions:

- Dr Phillip Dubois—7 times
- Dr Peter Carr—one time
- Dr George Klempfner—3 times

Magnetic Resonance Imaging: Task Force
(Question No. 1651)

Senator Chris Evans asked the Minister representing the Minister for Health and Aged Care, upon notice, on 29 September 1999:

(1) Was Dr Phillip Dubois, a radiologist of Queensland X-Ray Services, the Chair of the magnetic resonance imaging (MRI) task force established by the Royal Australian and New Zealand College of Radiologists (RANZCR).

(2) Was each of the following people a member of the MRI task force established by the RANZCR: (a) Dr Peter Carr, a radiologist at North Shore Diagnostic Centre and Pittwater Radiology in Sydney; (b) Dr George Klempfner, a radiologist of Radclin Medical Imaging; (c) Dr Chris Atkinson and Dr Martin, radiologists with the Victorian Imaging Group; (d) Dr Chris Ingle, a radiologist in the practice of Kos, Ingle and Gordon; (e) Dr Donald Robertson, a radiologist of Geelong Radiological Clinic; (f) Dr Chris Harper, a radiologist of Perth Imaging Centre; and (g) Dr Sprague, a radiologist of Perth Radiological Clinic.

(3) Was each of the following people a member of the Executive of the RANZCR:
(a) Dr Chris Atkinson and Dr Martin, radiologists with the Victorian Imaging Group;
(b) Dr Chris Ingle, a radiologist in the practice of Kos, Ingle and Gordon; (c) Dr Donald Robertson, a
radiologist of Geelong Radiological Clinic; (d) Dr Chris Harper, a radiologist of Perth Imaging Centre;
and (e) Dr Sprague, a radiologist of Perth Radiological Clinic.

Senator Herron—The Minister for Health and Aged Care has provided the following an-
swer to the honourable senator’s question:

(1 and 2) The answer to this question has been provided previously in response to Question 131 of
the Portfolio Additional Estimates hearings, 8 February 1999.

(3) The RANZCR has advised that Dr Chris Atkinson and Dr Donald Robertson were members of
the Executive Council of the RANZCR in the 12 months to October 1998.

Australian National Estate: Mount Jerrabomberra
(Question No. 1815)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 9
December 1999:

(1) Does the Minister believe Australia’s National Estate should be protected; if so, what steps are
being taken to preserve Mount Jerrabomberra, in Queanbeyan, New South Wales.

(2) Does the Minister support a proposal for the Federal Government to co-purchase parts of Mount
Jerrabomberra, along with the New South Wales Government and the Queanbeyan City Council, in
order that this heritage-listed site be preserved.

(3) Given that the Environment Protection and Biodiversity Conservation Act 1999, which is likely
to come into force in the middle of 2000, will enable the Minister to require that there is a recovery plan
set in place for the threatened species on Mount Jerrabomberra, what will the Government do in the
interim to protect the species on this mountain from further degradation.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) Entry of Mount Jerrabomberra as a place in the Register of the National Estate (RNE) is a way of
publicly recognising its heritage values and its special significance to present and future Australians.

Under Section 30 of the Australian Heritage Commission Act 1975, the Commonwealth Government
is prohibited from taking any action which would adversely affect a place in the RNE, unless there are
no feasible and prudent alternatives to the action. This provision sometimes affects the decisions of
other government or business organisations where a Commonwealth decision is required. In this regard,
the Commission has recently provided conservation advice to Queanbeyan City Council in relation to a
Development Application by Cable & Wireless Optus for a telecommunications base station on Mount
Jerrabomberra.

(2) I am not aware of any application under the Natural Heritage Trust’s National Reserve System
Program to purchase parts of Mount Jerrabombera. If an application was submitted it would be as-
sessed by my Department as to its priority for inclusion in the National Reserve System in accordance
with the NHT Guidelines and the Australian Guidelines for Establishing the National Reserve System. I
would consider the Department’s recommendation including the funding contributions from the other
parties before reaching my decision.

(3) I am aware of only one nationally threatened plant species that occurs at Mount Jerrabomberra.
The recovery plan for the endangered button wrinklewort, Rutidosis leptorrynchoides was “administra-
tively approve” under the Endangered Species Protection Act 1992 (ESP) on 22 May 1998. This recov-
ery plan will need to be re-examined when the new Act comes into force to assess whether it complies
with the requirements of the Environment Protection and Biodiversity Conservation Act (EPBC). If the
recovery plan complies then it will be adopted under the EPBC Act.

The recovery plan refers specifically to “The Poplars”, a site on the west side of Mount Jerra-
 bomberra.

According to the recovery plan:

• NSW National Parks and Wildlife Service (NPWS) has negotiated with Queanbeyan City
Council (QCC) and the landowner of “The Poplars” to have the area supporting button wrinklewort
rezoned for nature conservation.
• Following rezoning, this site will be fenced to exclude stock.
QCC has prepared a draft plan of management for "The Poplars" site.
As Mount Jerrabomberra is not Commonwealth land and no Commonwealth decision or action is involved, the ESP Act does not come into play and the Commonwealth Endangered Species Program is currently not funding any work on button wrinklewort. However, as the species is also listed as endangered under NSW threatened species legislation, approval of any development would require the consent of the Director NSW NPWS.

**Airservices Australia: Rescue and Firefighting Service Staff**
*(Question No. 1848)*

Senator O’Brien asked the Minister representing the Minister for Transport and Regional Services, upon notice, on 20 December 1999:

(1) What were the Airservices Australia rescue and firefighting service staffing levels between March 1998 and December 1999 as required under the enterprise agreement.

(2) Over the above period: (a) what were the actual staff numbers; and (b) what were the minimum staff numbers, that is, the number of staff below which global staff numbers are not allowed to fall at any time.

Senator Ian Macdonald—The Minister for Transport and Regional Services has provided the following answer to the honourable senator’s question:

(1) (i) Airservices advises that Aviation Rescue and Fire Fighting (ARFF) service staffing levels for the period March 1998 to May 1998 were determined by the 1995 Enterprise Agreement. The staff levels for this period were as follows:

| Normal (1) | 595 |
| Minimum (2) | 544 |

Normal staffing levels refers to the maximum staffing levels agreed to in the Enterprise Agreement.

(2) Minimum staffing levels are those required to meet CASA regulatory requirements and International Civil Aviation Organisation (ICAO) standards and recommended practices.

(ii) Airservices advises that the ARFF staffing levels for the period June 1998 to December 1999 were determined by the 1998 Certified Agreement. The Certified Agreement specifies the minimum staffing levels required to meet CASA regulatory requirements and ICAO standards and recommended practices for a category of service. The staffing levels for a particular category are detailed below:

**Category staffing levels per shift**

<table>
<thead>
<tr>
<th>Airport Category (1)</th>
<th>Number of Airport Fire Officers (2)</th>
<th>Number of Airport Fire Fighters (2)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Category 9</td>
<td>2</td>
<td>8</td>
</tr>
<tr>
<td>Category 8</td>
<td>2</td>
<td>5</td>
</tr>
<tr>
<td>Category 7</td>
<td>2</td>
<td>4</td>
</tr>
<tr>
<td>Category 6</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>Category 5</td>
<td>1</td>
<td>2</td>
</tr>
</tbody>
</table>

Airport Category refers to the level of ARFF service required for particular regular public transport aircraft types and numbers of aircraft movements through an airport.

The Certified Agreement provides for some extra staff at certain locations to meet specific requirements and/or for non-aircraft related emergencies.

(2) (a) Airservices advises that actual staff numbers for the period March 1998 to December 1999 were:

**1998**

<table>
<thead>
<tr>
<th></th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>Jun</th>
<th>Jul</th>
<th>Aug</th>
<th>Sep</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
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<tbody>
<tr>
<td>Total</td>
<td>579</td>
<td>579</td>
<td>572</td>
<td>560</td>
<td>537</td>
<td>530</td>
<td>526</td>
<td>525</td>
<td>525</td>
<td>524</td>
</tr>
</tbody>
</table>

**1999**

<table>
<thead>
<tr>
<th></th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>Jun</th>
<th>Jul</th>
<th>Aug</th>
<th>Sep</th>
<th>Oct</th>
<th>Nov</th>
<th>Dec</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total</td>
<td>522</td>
<td>520</td>
<td>520</td>
<td>518</td>
<td>517</td>
<td>517</td>
<td>512</td>
<td>509</td>
<td>505</td>
<td>502</td>
<td>502</td>
<td>502</td>
</tr>
</tbody>
</table>
(b) Airservices advises that minimum agreed “global” staffing number between March and June of 1998 was 544 as provided for in the Enterprise Agreement (see answer to 1 above). The Certified Agreement which commenced in late May 1998 does not contain global staffing numbers.

Antarctica: Casey Base Quarry
(Question No. 1995)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 6 March 2000:

With reference to the quarry at Casey Base, Antarctica:

(1) (a) What environmental impact assessment into the effect of the quarry has been carried out; and
(b) by whom.

(2) What effect will the quarry have on Snow Petrels and other wildlife in the vicinity.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1)(a) The Protocol on Environmental Protection to the Antarctic Treaty (Madrid Protocol) is given effect in Australian law by the Antarctic Treaty (Environment Protection) Act 1980. This Act does not apply retrospectively and, consistent with the Madrid Protocol, pre-existing activities do not require assessment of their impacts unless there is a change in the activity. Casey station quarry pre-dates the Act and on this basis did not require assessment.

The Australian Antarctic Division (AAD) reviewed the operation of all of its quarry sites in 1996 and geographical limits were set on future extension of the quarry at Casey. A further review of the Casey quarry was completed in October 1999. The 1999 review recommended a number of measures to reduce the need for crushed rock and to move toward closure and rehabilitation of the existing quarry site at Casey. Assessment of and implementation of the recommendations of this report are currently underway.

(2) Snow petrels breed successfully in the vicinity of the quarry at Casey. Detonations in the quarry are infrequent, strictly controlled and do not take place in the important snow petrel courtship-laying period.

Snow petrels are the only wildlife present in the vicinity of the quarry and there is no indication that quarrying activities are affecting any other species. Snow petrels are a widespread and common species in Antarctica and are not recorded as being under threat over its range.

Department of Employment, Workplace Relations and Small Business: Contracts with Deloitte Touche Tohmatsu
(Question No. 2002)

Senator Robert Ray asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 7 March 2000:

(1) What contracts has the department, or any agency of the department, provided to the firm Deloitte Touche Tohmatsu in the 1998-99 financial year.

(2) In each instance: (a) what was the purpose of the work undertaken by Deloitte Touche Tohmatsu; (b) what has been the cost to the department of the contract; and (c) what selection process was used to select Deloitte Touche Tohmatsu (open tender, short-list or some other process).

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

Department of Employment Workplace Relations and Small Business

(1) In the 1998-99 financial year, the department awarded one contract to Deloitte Touche Tohmatsu.

(2) (a) Deloitte Touche Tohmatsu were contracted to assist in the implementation of the department’s financial and human resource management system, SAP System R3.

(b) The cost to the department of the contract was $999 558.

(c) A request for tender was sent to SAP certified vendors.

Australian Industrial Registry

(1) Two contracts were provided to Deloitte Touche Tohmatsu in the 1998-99 financial year.
In the first contract:
(a) Deloitte Touche Tohmatsu were engaged to:
   . specify AIRC/AIR requirements for a case management system
   . develop evaluation criteria and benchmarks for selection of a prime contractor
   . prepare a request for tender
   . prepare documentation of the proposed evaluation process
(b) The cost in 1998-99 was $85,000.
(c) Deloitte Touche Tohmatsu were selected following compilation of an Information Management and Technology Report by Deloitte Touche Tohmatsu in June 1998 which established a framework strategy for improving AIRC information management and technology systems.

In the second contract:
(a) Deloitte Touche Tohmatsu were engaged to conduct a gap analysis of a proposed case management system against AIRC/AIR functional requirements to identify where enhancements are required to meet AIRC case management requirements.
(b) The cost in 1998-99 was $101,730.
Deloitte Touche Tohmatsu were selected by open tender.

COMCARE
None

Defence Force Remuneration Tribunal
None

Equal Opportunities for Women in the Workplace Agency
None

National Occupational Health and Safety Commission
None

(1) Deloitte Touche Tohmatsu were provided two contracts in the 1998-99 financial year.
(i) Business Planning; and
(ii) Internal Audit.
(a) (i) provision of business planning services; and
(ii) provision of internal audit services over three years.
(b) (i) Total amount committed is $80,900.
(ii) Total amount committed is $139,050.
(c) (i) & (ii) Both select tender, drawn from the Department of Finance and Administration’s ‘Panel of Competitive Tendering and Contracting (CTC)’ consultants.

Office of the Employment Advocate
None

Department of Immigration and Multicultural Affairs: Contracts with Deloitte Touche Tohmatsu

(Question No. 2011)

Senator Robert Ray asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 6 March 2000:

(1) What contracts has the department, or any agency of the department, provided to the firm Deloitte Touche Tohmatsu in the 1998-99 financial year.

(2) In each instance: (a) what was the purpose of the work undertaken by Deloitte Touche Tohmatsu; (b) what has been the cost to the department of the contract; and (c) what selection process was used to select Deloitte Touche Tohmatsu (open tender, short-list, or some other process).

Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator’s question:

(1 and 2) There is no record of any contracts with the firm Deloitte Touche Tohmatsu.
Department of Employment, Workplace Relations and Small Business: Contracts with PricewaterhouseCoopers
(Question No. 2021)

Senator Robert Ray asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, 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 Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

Department of Employment Workplace Relations and Small Business

(1) In the 1998-99 financial year, the department awarded six contracts to PricewaterhouseCoopers. This included a purchase order for consultancy services issued on 28 August 1998 by the (then) Department of Employment, Education, Training and Youth Affairs (DEETYA) under Standing Offer Agreement 97/10148 dated February 1998, which formed a binding contract between the Commonwealth of Australia and PricewaterhouseCoopers. As a result of the Machinery of Government changes of 21 October 1998, this contract was transferred to the newly formed Department of Employment, Workplace Relations and Small Business (DEWRSB).

(2) (a) PricewaterhouseCoopers were contracted to streamline the processes which relate to the registration, assessment and referral of job seekers to Job Network and covering the period from the initial contact with Centrelink to the initial contact with the Job Network member or relevant program. Also to cost the optimal or best practice processes using an agreed costing model and, as a priority, make recommendations about implementing optimal processes within the period of the current Service Arrangement (i.e. to June 1999) as well as recommendations for long term improvements.

(b) The total cost to the department of this contract was $100,000.

(c) The department invited submissions from a number of consultants from the Contact for Contracts (CTC) Panel established by the Department for Finance and Administration in 1998. Of those invited, three submissions were received and assessed by a panel comprising departmental and Centrelink representatives.

(ii) (a) PricewaterhouseCoopers were contracted to develop an effective Management reporting capability including:

. developing management reporting formats which represent ‘Best Practice’;
. developing processes and controls for preparing the management reports;
. preparing the management reports for April, May and June 1999; and
. re-implementing the department’s Financial Management system to support the reporting model.

(b) The cost to the department of the contract totalled $227,625, of which $92,925 was paid in the 1998-1999 financial year with the remainder ($134,700) paid in the 1999-2000 financial year.

(c) The department considered the procurement question on its merits and decided to select PricewaterhouseCoopers and avoid the costs of a more involved procurement process after considering:

the corporate knowledge gained by PricewaterhouseCoopers in the preparation of the financial statements for the former DEETYA and former Department of Workplace Relations and Small Business (DWRSB) prior to the Administrative Arrangements Order change which created DEWRSB; and the potential benefits of a more involved procurement.

(iii) (a) PricewaterhouseCoopers were contracted to prepare Financial statements for the department for the year ended 30 June 1999 including finalising financial details relating to the transfer of staff, assets and funds between the former DEETYA and DEWRSB.

(b) The cost to the department of the contract was $173,100.

(c) The department considered the procurement question on its merits and decided to select PricewaterhouseCoopers and avoid the costs of a more involved procurement process after considering:
the corporate knowledge gained by PricewaterhouseCoopers in the preparation of the financial statements for the former DEETYA and DWRSB prior to the Administrative Arrangements Order change which created DEWRSB; and

the potential benefits of a more involved procurement.

(iv) (a) The remaining three contracts were for services relating to the implementation of the department’s financial and human resource management system, SAP System R3.

(b) The cost to the department of the three contracts relating to the implementation of the SAP System R3 totalled $731,242.

(c) For the three contracts relating to the implementation of the SAP System R3 a request for tender was sent to SAP certified vendors.

### Australian Industrial Registry
None

### COMCARE
None

### Defence Force Remuneration Tribunal
None

### National Occupational Health and Safety Commission

1. PricewaterhouseCoopers had an ongoing contract which was awarded prior to the 1998-99 financial year.

   (a) Internal Auditing.

2. (a) Provision of internal audit services.

   (b) Total amount paid in 1998-99 was $17,155.

   (b) Select tender.

### Equal Opportunity for Women in the Workplace Agency
None

### Office of the Employment Advocate

1. 1 contract

2. (a) Workflow improvements review of the processing of Australian workplace agreements

   (b) $65,721

   (c) Open Tender

### Department of Immigration and Multicultural Affairs: Contracts with PricewaterhouseCoopers

#### (Question No. 2030)

Senator Robert Ray asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 6 March 2000:

1. What contracts has the department, or any agency of the department, provided to the firm, PricewaterhouseCoopers in the 1998-99 financial year.

2. In each instance: (a) what was the purpose of the work undertaken by PricewaterhouseCoopers; (b) what has been the cost to the department of the contract; and (c) what selection process was used to select PricewaterhouseCoopers (open tender, short-list, or some other process).

Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator’s question:

1 and 2) The Department had the following contractual arrangements with the firm PricewaterhouseCoopers.

<table>
<thead>
<tr>
<th>PURPOSE OF WORK</th>
<th>COST</th>
<th>SELECTION PROCESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provision of general accrual financial assistance or advice</td>
<td>$47,000</td>
<td>Open tender process</td>
</tr>
</tbody>
</table>
Department of Employment, Workplace Relations and Small Business: Contracts with KPMG

(Question No. 2040)

Senator Robert Ray asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, 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 Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

Department of Employment Workplace Relations and Small Business

None

Australian Industrial Registry

(a) KPMG were engaged to conduct a financial management reform impact scoping study, in particular evaluating the impact of accrual accounting; and assisted in preparing the Australian Industrial Registry’s 1999-2000 Portfolio Budget Statement.

(b) The cost in 1998-99 was $24,935

(c) KPMG were selected from a list of preferred consultants recommended by the Department of Finance and Administration.

Comcare

None

Defence Force Remuneration Tribunal

None

Equal Opportunity for Women in the Workplace Agency

None

National Occupational Health and Safety Commission

None

Office of the Employment Advocate

2 contracts

Contract 1

(a) Internal Audit Report and Update of business risk assessment

(b) $50,770

(c) Select tender

Contract 2

(a) Review of Budgeting and Financial reporting

(b) $8,000

(c) Quotation

Department of Immigration and Multicultural Affairs: Contracts with KPMG

(Question No. 2049)

Senator Robert Ray asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 6 March 2000:

(1) What contracts has the department, or any agency of the department, provided to the firm KPMG in the 1998-99 financial year.
(2) In each instance: (a) what was the purpose of the work undertaken by KPMG; (b) what has been the cost to the department of the contract; and (c) what selection process was used to select KPMG (open tender, short-list, or some other process).

Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator’s question:

(1&2) The Department had the following contractual arrangements with the firm KPMG:

<table>
<thead>
<tr>
<th>PRENOSE</th>
<th>PAYMENT</th>
<th>SELECTION PROCESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>PURPOSE</td>
<td>98/99</td>
<td>PROCESS</td>
</tr>
<tr>
<td>WORK</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Audit advice during the development of the computer based finance and administration system for TIS (Translating and Interpreting Service)</td>
<td>$16,563</td>
<td>Select tendering process</td>
</tr>
<tr>
<td>Services provided in respect of the FBT tax return</td>
<td>$5,320</td>
<td>Quotations sought; firm competitive</td>
</tr>
<tr>
<td>Provision of training to Business Centre staff (NSW) on analysing/understanding business financial statements following introduction of accrual accounting</td>
<td>$3,600</td>
<td>Quotations sought; firm competitive</td>
</tr>
</tbody>
</table>

Department of Employment, Workplace Relations and Small Business: Contracts with Arthur Andersen

(1&2) The department awarded ten contracts to Arthur Andersen in the 1998-99 financial year.

(2) (i) (a) Six contracts were awarded for information technology maintenance services.

(b) The cost to the department of the information technology maintenance contracts totalled $183,700.

(c) For all six contracts a request for quote was sent to a restricted list of endorsed suppliers.

(ii) (a) Four contracts were awarded for information technology application development services.

(b) The cost of the information technology application development contracts totalled $175,921.

(c) For all four contracts a request for quote was sent to a restricted list of endorsed suppliers.

No contracts were awarded to Arthur Andersen by any agency of the department in 1998–99.

Department of Immigration and Multicultural Affairs: Contracts with Arthur Andersen

(1&2) The department asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 6 March 2000:

(1) What contracts has the department, or any agency of the department, provided to the firm Arthur Andersen in the 1998-99 financial year.

(2) In each instance: (a) what was the purpose of the work undertaken by Arthur Andersen; (b) what has been the cost to the department of the contract; and (c) what selection process was used to select Arthur Andersen (open tender, short-list, or some other process).
Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator’s question:

(1 and 2) The Department had the following contractual arrangements with the firm Arthur Andersen.

<table>
<thead>
<tr>
<th>PURPOSE OF WORK</th>
<th>PAYMENT 98/99</th>
<th>SELECTION PROCESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provision of management and marketing advice in relation to implementation of the productive diversity partnership program</td>
<td>$19,190</td>
<td>Selected under DOFA Deed of Standing Offer (Agreement 97/10148)</td>
</tr>
<tr>
<td>Training for business skills case officers to assist in understanding and interpreting evidentiary documentation tendered in support of business skills applications (Pretoria)</td>
<td>$2,210</td>
<td>Training available in the time-frame required from firm in Johannesburg</td>
</tr>
</tbody>
</table>

Department of Employment, Workplace Relations and Small Business: Contracts with Ernst and Young

(Question No. 2078)

Senator Robert Ray asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 7 March 2000:

(1) What contracts has the department, or any agency of the department, provided to the firm Ernst and Young in the 1998-99 financial year.

(2) In each instance: (a) what was the purpose of the work undertaken by Ernst and Young; (b) what has been the cost to the department of the contract; and (c) what selection process was used to select Ernst and Young (open tender, short-list or some other process).

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

The Department of Employment Workplace Relations and Small Business

(1) In the 1998-99 financial year, the department awarded four contracts to Ernst and Young.

(2) (i) (a) Ernst and Young were contracted to develop:

- an initial framework for cash management and agency banking arrangements for the department; and
- an implementation strategy for the cash management framework.

(b) The cost to the department of the contract was $19,883.

(c) The department considered the procurement question on its merits and decided to select Ernst and Young and avoid the costs of a more involved procurement process after considering:

- the tight deadlines to implement agency banking arrangements; and
- the experience that Ernst and Young had gained in working with the Department of Finance and Administration on the Agency Banking Framework for the Commonwealth;

- the costs of the contract; and
- the potential benefits of a more involved procurement.

(ii) (a) Ernst and Young were contracted to provide substantial on the ground support and expertise to assist with the implementation of cash management and banking arrangements in the department.

(b) The cost to the department of the contract was $68,973.

(c) The department considered the procurement question on its merits and decided to select Ernst and Young and avoid the costs of a more involved procurement process after considering:

- the short time frames involved given the need was identified less than 3 months prior to the deadline for project completion;
Ernst and Young had gained a detailed knowledge of the department’s circumstances and banking requirements through their work on the initial contract; the costs of the contract; and the potential benefits of a more involved procurement.

(iii) (a) Ernst and Young were contracted to assist in the implementation of the department’s financial and human resource management system, SAP System R3.
(b) The cost to the department of the contract was $20 000.
(c) A request for tender was sent to SAP certified vendors.

(iv) (a) Ernst and Young were contracted to develop a Compliance Manual to assist franchisers and advisors complete a disclosure document associated with the Franchising Code of Conduct.
(b) The cost to the department of this contract was $38 500.
(c) The selection process used for Ernst and Young was that of limited tender. Three firms were invited to tender for this contract, KPMG, Ernst and Young and Coopers and Lybrand. The reason for using this process was the short timeframe in which to develop the manual following the introduction of the Franchising Code of Conduct on 1 July 1998.

Australian Industrial Registry
(a) Ernst and Young were engaged to undertake a Fraud Risk Assessment and complete a Fraud Control Plan.
(b) The cost in 1998-99 was $18 002.
(c) Ernst and Young were selected from a list of preferred consultants recommended by the Law Enforcement Coordination Division of the Attorney – General’s Department.

No contracts were awarded to Ernst and Young by any other agency of the department in 1998-99

Department of Immigration and Multicultural Affairs: Contracts with Ernst and Young
(Question No. 2087)

Senator Robert Ray asked the Minister representing the Minister for Immigration and Multicultural Affairs, upon notice, on 6 March 2000:

(1) What contracts has the department, or any agency of the department, provided to the firm Ernst and Young in the 1998-99 financial year.
(2) In each instance: (a) what was the purpose of the work undertaken by Ernst and Young; (b) what has been the cost to the department of the contract; and (c) what selection process was used to select Ernst and Young (open tender, short-list, or some other process).

Senator Vanstone—The Minister for Immigration and Multicultural Affairs has provided the following answer to the honourable senator’s question:

(1 and 2) The Department had the following contractual arrangements with the firm Ernst and Young.

<table>
<thead>
<tr>
<th>PURPOSE OF WORK</th>
<th>PAYMENT 98/99</th>
<th>SELECTION PROCESS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Internal audit services</td>
<td>$653,893</td>
<td>Select tender</td>
</tr>
<tr>
<td>Services in connection with the taxation affairs of the Department</td>
<td>$6,565</td>
<td>Selected as part of internal audit and other related services contract</td>
</tr>
<tr>
<td>workplace relations advice</td>
<td>$4,000</td>
<td>Selected from DOFa’s CTC (Competitive Tendering Committee) panel</td>
</tr>
<tr>
<td>- conditions of service advice</td>
<td>$5,000</td>
<td>Inter-agency submission, (efficiencies in using the same firm). Selection made jointly by agencies</td>
</tr>
</tbody>
</table>
Antarctica: Australian Rubbish Clean-up

(Question No. 2092)

Senator Brown asked the Minister for the Environment and Heritage, upon notice, on 6 March 2000:

With reference to the Madrid Protocol, which requires Australia to clean up its rubbish in Antarctica:

(1) Does the Minister support the call made on 17 February 2000 by Senator Lightfoot, Chair of the Joint Standing Committee on the National Capital and External Territories, for the Madrid Protocol to be renegotiated so Australia can dump rubbish in Antarctica.

(2) (a) What action has been taken to clean up rubbish and contamination at each of Australia’s bases; and (b) how much money has been spent in each of the past 5 years.

(3) (a) What else is required for Australia to comply with the Madrid Protocol; and (b) what is the estimated cost.

Senator Hill—The answer to the honourable senator’s question is as follows:

(1) No.

(2) (a) The Madrid Protocol, as implemented in Australian law, states that removal of waste material should not be undertaken where its removal would result in a greater adverse environmental impact than leaving the waste material in its existing location. Australia is undertaking research at Casey to determine the most appropriate methods for dealing with the old tip sites at its stations, to ensure that contaminants in them are not further dispersed into the Antarctic environment.

At Casey larger items of rubbish have been removed and returned to Australia for disposal. The remaining smaller items of rubbish are mixed with local gravel and contaminated soil and for most of the year are frozen in permafrost which makes their removal very difficult. Removal and treatment of this material will be dependent on the outcome of the research, currently being undertaken, on clean-up and remediation procedures appropriate for Antarctica.

The abandoned Wilkes station and associated tip have not previously been disturbed and are covered with snow and ice for most of the year. No attempt to clean-up this site will occur until appropriate procedures have been developed and tested at Casey.

At Mawson the tip site was on rock and this has allowed the majority of the rubbish to be returned to Australia for disposal. In earlier years rubbish was dumped onto the sea ice and subsequently, when this melted, into the ocean. It is impractical to recover this material. This practice has been discontinued.

At Davis the tip site is largely untouched, although the rubbish has been covered with soil to prevent it being blown into the surrounding environment. A contamination assessment of the site has been undertaken. Further management of this site is dependant on the outcome of current research at Casey.

(b) It is not possible to provide an exact figure for the amount spent on clean-up operations in the past five years as many of the costs incurred, for example ship charter costs, large items of plant and personnel, are shared across a number of program areas.

(3) (a) As a result of the research at Casey the Australian Antarctic Division is currently refining procedures for the clean-up of the remaining tip sites. Procedures which are potentially feasible include:

- excavation of frozen material to reduce the dispersion of contaminants by melt water;
- use of semi-permeable barriers to further prevent dispersion of contaminants; and
- in-situ bioremediation of contaminated soils using Antarctic micro-organisms to degrade contaminants.

(b) The Australian Antarctic Division has convened a task force to determine detailed costs for a range of clean up scenarios. The task force is due to report on its findings in May 2000.

Worker Entitlement Provisions

(Question No. 2095)

Senator Brown asked the Minister representing the Minister for Employment, Workplace Relations and Small Business, upon notice, on 7 March 2000:
(1) Can a business put workers’ entitlements into a separate account, closed off from other company monies, week by week, without entailing a taxation penalty.

(2) Is this money currently taxed as company profit.

(3) What legislation would be required to alter this situation.

(4) Will the Minister table legislation that not only enables but requires all companies to do this and remove any tax penalties that ensue.

Senator Alston—The Minister for Employment, Workplace Relations and Small Business has provided the following answer to the honourable senator’s question:

(1) I am advised that workers’ entitlements could be put into such an account without involving taxation penalties.

(2) I am advised that earnings on such an account would be taxed on the same basis as any other bank account held by the company.

(3) The legislation required would depend on the intended alteration.

(4) The Government has no present intention of requiring all companies to put workers’ entitlements into a separate account. The Government is continuing to seek the cooperation of the States in the Employee Entitlements Support Scheme under which the States would contribute 50 per cent of the entitlements guaranteed under that scheme.

Moran, Mr Mark: Employment
(Question No. 2109)

Senator Faulkner asked the Special Minister of State, upon notice, on 15 March 2000:

(1) Was Mr Mark Moran employed by Mr Bob Woods, the former Member for Lowe, under the Members of Parliament (Staff) Act; if so, what were the commencement and termination dates for this employment.

(2) (a) At what employment classification was Mr Moran employed; and (b) at what salary point.

(3) (a) What was the total salary received by Mr Moran for this employment; and (b) can all the amounts be specified that were received for overtime claimed, any other salary allowances, and travel allowance claimed.

(4) What duties did Mr Woods specify Mr Moran would be undertaking during this employment.

(5) Is there any restriction on staff employed under the Act in regard to their receipt of salary in addition to that received from the Commonwealth, for either full-time or part-time employment; if so: (a) what is the nature of that restriction; and (b) how is this restriction enforced.

(6) Is there any restriction on staff employed under the Act in regard to their receipt of any remuneration or consideration which could constitute a conflict of interest with their employment by the member of Parliament; if so: (a) what is the nature of that restriction; and (b) how is this restriction enforced.

(7) Is the Ministerial and Parliamentary Services Branch aware of whether Mr Moran disclosed to the Commonwealth or to his employing member of Parliament that he was in receipt of salary or remuneration in addition to that received from the Commonwealth, or which may have constituted a conflict of interests; if so, what was the nature of the disclosure.

Senator Ellison—The answer to the honourable senator’s question is as follows:

(1) No.

(2) to (7) Not Applicable.

East Timor: Australian Federal Police Deployment
(Question No. 2112)

Senator Bourne asked the Minister for Justice and Customs, upon notice, on 17 March 2000:

With reference to the deployment of Australian Federal Police (AFP) during the time of the popular consultation in East Timor:
(1) Are there any plans to recognise the outstanding service, in extremely hostile and difficult conditions, of the members of the AFP in East Timor, by way of a community reception or other mark of recognition.

(2) Can the Minister comment on claims made: (a) that members of the AFP were involuntarily transferred to other AFP positions upon return to Australia; and (b) that some members returned to work on lesser terms and conditions upon their return to Australia; if so, what are the reasons for this occurring.

(3) (a) Is the Minister aware that during the United Nations (UN) mission in Cambodia, the Australian Government gave both the Australian Defence Force and the AFP tax-free status on their salaries; and (b) why is it that, in East Timor, the members of the AFP did not receive the same benefits as their defence colleagues, including tax-free salary allowances, free postage, access to home loan assistance and care packages.

Can the Minister comment on: (a) whether AFP members have now received their final payment from the UN of their outstanding mission subsistence; and (b) the reasons for the delay.

Can the Minister outline any plans to compensate members of the AFP who lost all their personal belongings when they had to evacuate East Timor on or around 4 and 5 September 1999.

(6) (a) Can the Minister confirm that members of the AFP contingent were only paid a medium threat level for all but the last 2 weeks of the mission; (b) what is the criterion for assessing such a status; and (c) did the AFP consult with the AFP members in East Timor to establish what risks and danger they were actually experiencing.

With reference to the payment of the AFP members’ travel allowance, can the Minister confirm whether this allowance has now been paid; if the payment has not yet been made, can the Minister outline what steps are being taken to remedy the problem and outline a timetable for resolution; if the payment has been made, can the Minister detail why the delay has occurred and what steps are being taken to ensure that problems such as this do not arise in the future.

Senator Vanstone—The answer to the honourable senator’s question is as follows:

(1) The AFP members who have served in East Timor have received media and public recognition of their service since their return, and have been praised by the Prime Minister, myself and other Members of Parliament. Members attended a reception at Parliament House which I hosted and which was attended by the Prime Minister and later at a function at the AFP College in Canberra I had the pleasure of presenting them with a Distinguished Service Award Certificate signed by Commissioner Mick Palmer. The Police Overseas medal/clasp is to be awarded to all members in recognition for their outstanding contribution to the ultimate independence of East Timor.

Police members have also been included in public marches and celebrations conducted.

(2) (a) On their return to Australia, all members but one were returned to their original positions. That one member was transferred to a different Region as a result of an application he submitted. I am advised that no members were involuntary transferred to other positions.

(b) The conditions of members on their return were the same as those of all members of the AFP. No changes had occurred.

(3) (a) Yes.

AFP members and ADF personnel serving in East Timor received different entitlements due to the differing nature of their employment and deployment conditions. I am advised that AFP members received a range of allowances which compensated for conditions of their specific deployment including a mission allowance, commuted allowance for penalties and overtime payments and a UN mission subsistence allowance.

The tax status is a matter the Government has under review.

(4) (a) A number of members have yet to receive their final mission subsistence from the UN. The AFP has advised that members from later Detachments, including those who returned to Australia in November and February, have yet to receive final payments.

(b) The reasons for the delay lie with the UN. I have been assured that every effort is being made by the AFP to expedite this issue. The AFP has also advised that in view of this delay by the UN arrangements are being made for members to submit their claims to the AFP for assessment and payment.
(5) Members were instructed prior to departing Australia not to take valuable items of a personal nature with them, due to the possibility of loss or destruction. I am advised that all members have been paid $200 compensation and some claims are being pursued through the UN and/or the AFP. The Insurers are assessing these claims on behalf of the AFP.

(6) (a) The mission allowance threat level was increased from medium to high with effect from the date of the ballot.

(b) The threat level on which the mission allowance is based is determined having regard to a threat assessment provided independently by the Department of Defence. This process has been established to ensure a rigorous and objective assessment is available and has been used since 1994.

(c) communications were maintained where practicable with the Detachment Commander.

(7) Travel allowance has been paid in accordance with the AFP’s Overseas Conditions of Service. There was a delay as it was unclear when the UN mission subsistence allowance was to be paid and what period it covered.

Child Disability Allowance: Families of Phenylketonuria Sufferers
(Question No. 2128)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 4 April 2000:

(1) How many families of children suffering from Phenylketonuria (PKU) were receiving the Child Disability Allowance prior to the introduction of the new assessment tool in July 1998.

(2) How many families of children suffering from PKU are currently receiving the Carer Allowance.

(3) What were the budgetary savings made as a result of removing this condition from automatic inclusion.

(4) How many applications for the Carer Allowance, from families of children suffering from PKU, have been received since the introduction of the new assessment tool in July 1998.

(5) During the post implementation review of the Carer Payment for Profoundly Disabled Children and the evaluation of the Child Disability Assessment Tool, was consideration given to including PKU on the list of manifest conditions that give automatic entry to the allowance.

Senator Newman—The answer to the honourable senator’s question is as follows:

(1) Information was not recorded prior to 1 July 1998 on Child Disability Allowance (CDA) customers by disability or medical condition.

(2) This information is not currently available. To extract the data requested from over 110 000 records would require significant effort and analysis. I am not prepared to authorise the expenditure of resources and effort that would be involved.

My department is currently revising data and the way that it is broken down. From September 2000 data relating to Carer Allowance and children with PKU will be available.

Carers of children with PKU who were in receipt of CDA prior to 1 July 1998, will continue to receive the allowance until June 2003, unless their circumstances change.

(3) For the reasons noted in my answer to question two, this information is not currently available. There was no intention in the development of the new administrative arrangements for the Carer Allowance program to exclude children with any particular disability or medical condition.

(4) This information is not currently available. To undertake data collection for this item would be very expensive and is not warranted at this time.

(5) Carer Payment for profoundly disabled children does not have a list of manifest conditions. The post implementation review of the measure to allow access to Carer Payment for those providing care for profoundly disabled children focused on how well the measure had succeeded in reaching its intended target group. The measure has been successful with projected customer numbers exceeded.

The evaluation of the Child Disability Assessment Tool and the new assessment arrangements for Carer Allowance (child) by a reference group of experts, including paediatricians, was recently completed. The scope of the evaluation included the operation and effectiveness of the assessment tool. The possible inclusion of conditions such as PKU on the list of manifest conditions that give automatic entry to the program was considered in the evaluation process.
Disability Support Pension: Breach of Rules
(Question No. 2131)

Senator Chris Evans asked the Minister for Family and Community Services, upon notice, on 5 April 2000:

With reference to the Disability Support Pension and the estimated $131 million the Government will recoup from social security recipients who breach welfare rules in the financial year 1999-2000:

(1) How many people fined in the above period have been in receipt of a disability support pension.
(2) How does that figure compare to those receiving other benefits.
(3) (a) What were the main reasons the fines were being imposed; (b) what was the average amount of the fine imposed; and (c) how is the amount of the fine determined.
(4) Can the department confirm that a social security recipient who failed to declare her full earnings, resulting in an overpayment of $51.70, was fined a massive $763.00.

Senator Newman—The answer to the honourable senator’s question is as follows:

(1) None
(2) Not applicable – see response (1)
(3) Not applicable
(4) Centrelink cannot confirm this as the customer’s details are not known.